GILS

GRATA INTERNATIONAL LEGAL SERIES

EMPLOYMENT LAW

GRATA INTERNATIONAL

The GRATA International Legal Series (GILS) is a distinctive legal handbook presented in a Q&A format, offering essential legal insights and practical tips for conducting business across jurisdictions where GRATA International operates.

Legal experts within the GILS framework have compiled an overview of the legislative structures across different legal environments.

The first edition of GILS is dedicated to employment law and covers key issues of employment legislation in 17 jurisdictions: Azerbaijan, Belarus, China, Armenia, Georgia, Cyprus, Kazakhstan, Kyrgyzstan, Moldova, Mongolia, Russia, Turkey, Turkmenistan, Tajikistan, the United Arab Emirates, Uzbekistan and Ukraine.

In this edition of GILS you will find out what problems employers face in each jurisdiction: employees and their rights for leave, termination of an employment contract, issues of personal data protection and employee privacy, court practice and procedures, work permits for foreign employees and tax issues.

GRATA International provides a full range of services in the field of employment law, including consulting on topical issues of employment legislation, the development of employment contracts and policies, support for personnel records management, complex layoffs, HR audit, etc.

Content

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1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

Maternity leave lasts 126 days: seventy (70) calendar days prior to the anticipated date of childbirth and concluding fifty-six (56) calendar days following childbirth. In cases of complicated or multiple births, women are entitled to an additional seventy (70) days of maternity leave following childbirth.

1.2 What are the rights of a parent when returning to work after parental leave?

As per the general rule, while on leave, the employee is entitled to retain their workplace, position, and average salary in accordance with the Labor Code. Consequently, upon the completion of the leave, the employee maintains the right to resume their previous job duties in their former position.

Moreover, the employer is forbidden from initiating termination of the employment contract or imposing disciplinary measures.

Additionally, an employee caring for a child has the option to use partially-paid social leave either in full or partially at their own discretion.

Women with children under the age of one and a half years shall receive additional breaks for breastfeeding, in addition to the standard breaks for rest and meals during working hours. Each such break must occur at least every 3 hours and last for a minimum of 30 minutes. If a woman has two or more children under the age of one and a half years, each break must be at least one hour long.

Breaks for breastfeeding are considered part of the working time, with the employee retaining their average wage.

Upon request, breastfeeding breaks may be combined with lunch and rest breaks or used at the beginning or end of the shift. If a woman chooses to combine breastfeeding breaks and use them at the end of her shift, her working day will be shortened by the total duration of these breaks.

Besides the stated, women with a child under the age of one-and-a-half are entitled to reduced working hours, capped at 36 hours per week.

1.3 Do fathers possess the right to take paternity leave?

According to Article 127.1 of the Labor Code, one of the parents or another family member directly caring for the child until the child reaches the age of 3 years has the right to use partially paid social leave for childcare, with an allowance determined by law. Therefore, yes, fathers can benefit from partially paid social leave.

1.4 Are there any additional parental leave rights that employers must adhere to?

In one working year, fathers have the entitlement to take 14 days of unpaid leave following the birth of a child. Alternatively, they can opt for 7 days of unpaid leave to address family, domestic, or other social matters. It's important to note that these regulations do not constitute a parental leave scheme but rather fall under the umbrella of unpaid leave.

Regardless of the duration of employment with the company, an employee whose wife is on maternity leave can request to take annual leave, as stipulated in Article 133.4 of the Labor Code.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

Flexible work schedule is not provided for by the Labor Code of the Republic of Azerbaijan. However, it is worth noting that the Labor Code establishes minimum norms of rules ensuring labor rights of individuals and the exercise of these rights.

The parties may define in an individual employment contract the conditions that do not contradict the labor legislation and do not infringe the rights of the employee in comparison with the norms of the labor legislation.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

Various statutory terms apply depending on the grounds of termination.

If the employment agreement is terminated by the employer due to the probationary period not being passed, the notice shall be provided within three days before the end of the probationary period.

Upon downsizing or staff reduction, before the employer terminates the employment contract, the employee must be officially notified by the employer within the following periods, depending on the years of service, established in accordance with the employment contract(s) with this employer:

- Less than one year of service: at least two calendar weeks' notice in advance;
- One to five years of service: at least four calendar weeks' notice in advance;
- Five to ten years of service: at least six calendar weeks' notice in advance;
- More than ten years of service: at least nine calendar weeks' notice in advance.

In the event of a change in employment conditions, the employee must be informed accordingly. This notification must be provided in writing and at least one month in advance. If the employee chooses not to continue employment under the new conditions, they must be offered transfer to another position. Only if transferring the employee is not feasible, s/he can be dismissed under Article 68.2 (c).

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

The concept of "garden leave" is not recognized under the Labor Code of Azerbaijan. Employees who have been terminated or have resigned are typically required to work out their notice period unless otherwise agreed upon by both parties.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

In Azerbaijan, employees have safeguards against dismissal, which can vary depending on the grounds for termination. These safeguards typically include protection against unjustified dismissal, entitlement to notice periods, potential eligibility for severance pay, adherence to dismissal procedures as outlined in the Labor Code, and the right to appeal dismissals through appropriate legal avenues.

The employee is considered to be dismissed once the notice of termination of an employment contract is entered into the electronic information system using an enhanced electronic signature and directed electronically to the employer.

Prior consent must be obtained from the trade union operating within the enterprise in order to terminate an employment agreement under Article 70(b) and Article 70(ç) of the Labor Code with an employee who is a member of the trade union.

2.4 Are there specific employee categories enjoying special protection against dismissal?

The following group of workers is protected against dismissals, except in cases where the enterprise is liquidated or the contract's term expires. Those are:

- pregnant women and women with child under age three, single fathers raising a child of up to 3 years of age;
- employees whose only income source is the enterprise where they work and who are single parents raising up children under school age;
- employees temporarily disabled;
- employees with pancreatic (insular) diabetes or multiple sclerosis;
- individuals because they are members of trade unions or other political parties;
- workers with dependent family member who is a person with a disability diagnosed before the age of 18 or with a diagnosed disability due to 81-100% impairment of bodily functions;
- employees on vacation, on a business trip or engaged in collective negotiations.

Except in cases of liquidation of an enterprise, regardless of the term, the employer may not terminate an employment contract concluded with persons with disabilities undergoing treatment in a rehabilitation institution and other rehabilitation entities, or with an employee specified in Article 24.1 of the Law of the Republic of Azerbaijan "On the Rights of Persons with Disabilities".

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

The Labor Code outlines various grounds for termination of employment contracts. These include:

a) Liquidation of the enterprise;
b) Personnel cutbacks at the enterprise;
c) Determination by a competent body that the employee lacks professional skills for their position;
d) Failure of the employee to fulfill job duties as defined by the employment contract, or gross violation of job description without valid reason;
e) Failure to meet expectations during the probation period;
f) Initiatives of one of the parties;
g) Expiration of the employment contract;
h) Changes in terms and conditions of employment;
i) Changes in ownership of the enterprise;
j) Other circumstances beyond the control of the parties;
k) Agreed-upon cases established in the employment contract.

These grounds for dismissal can be categorized into two groups: business-related and individual needs.

Upon termination of the employment contract due to the enterprise's liquidation or staff redundancy, the employer typically provides severance pay based on the employee's years of service, as stipulated in their employment contract(s) with the employer. Additionally, on the last working day, the employee must receive compensation for unused vacations.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

When dismissing an employee, the employer must adhere to the followings:

1. Issue a dismissal order and provide it for the employee's signature;
2. Ensure that all payments due to the employee from the employer, including compensation for unused vacation days, are made on the day of dismissal;
3. Provide the employee with a labor book;
4. Make necessary updates to the electronic portal on employment and insurance.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

In Azerbaijan, if an employee is dismissed unlawfully, they may pursue various claims against their employer. If the dismissal violates the provisions of the Labor Code or the terms of the employment contract, the employee may seek reinstatement to their position and compensation for wrongful termination.

Additionally, the employee may pursue various entitlements such as unpaid wages, severance pay, overtime pay, and annual leave pays. Remedies available for a successful claim may include:

- Reinstatement: If the employee proves that the dismissal was unjustified or unlawful, the court may order the employer to reinstate the employee to their former position;
- Compensation: The court may award financial compensation to the employee for lost wages, benefits, and other damages resulting from the dismissal;
- Legal costs: In some cases, the court may order the employer to reimburse the employee for legal costs incurred during the dispute.

To initiate a successful claim, the employee must first engage in mediation, which is a prerequisite before filing a lawsuit. If an agreement is not reached during the mediation process, the employee may proceed with filing a lawsuit.

2.8 Can employers resolve claims before or after they are initiated?

The law in Azerbaijan does not prohibit the settlement of claims either before or after they are initiated.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

In the event of a change of ownership by a new owner or employer, it is imperative to prevent the indiscriminate termination of employment contracts on a large scale, especially when such termination is not based on the lack of professional competence, ability to perform job functions, or the incompetence of the employee. Such actions, aimed at abusing business activities and legal provisions, may adversely affect the business operations of the owner and must not be permitted.

The new owner or employer is required to conduct a certification of workplaces and employees to ascertain the professional capabilities of the workforce and the necessity of retaining existing positions within the enterprise for their continued entrepreneurial activities.

Article 67.3 of the Labor Code also prohibits mass layoffs as a result of workplace certifications.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees can enforce their rights regarding mass dismissals by taking legal action, filing complaints with government agencies, or using mediation. Consequences for non-compliance by employers include legal penalties, compensation payments to affected employees, reinstatement orders, damages, and reputational damage.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

According to Article 14.2 of the Personal Data Law, cross-border transfer of personal data shall be prohibited in the following cases:

- in case of existence of threat to national security of the Republic of Azerbaijan;
- in case if the legislation of the country, to which personal data is transferred, fails to ensure legal protection of this data in the level provided for in the legislation of the Republic of Azerbaijan.

The cross-border transfer of the personal data may be performed regardless of the level of legal protection in cases:

- when the data subject has given his/her consent for such a transfer of personal data;
- when transfer of personal data is required for protection of life and health of the data subject (Article 14.3 of the Personal Data Law).

Additionally, pursuant to Article 88 of the Labor Code, the employer may only send data on the employee's identity or employment history to another employer or relevant authority or to another location upon written request and with the consent of the employee. It is prohibited for an employer to send characterizations, recommendations, personal documents of the employee, their copies, and other documents to another location without first allowing the employee to familiarize themselves with the contents. However, it is permissible to send a positive characterization or recommendation to another location without the employee's familiarization. In such cases, the employer must inform the employee of where these documents have been sent.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Following the requirement of Article 88.1 of the Labor Code, the employer is obliged to provide the documents related to the employee's labor activity upon the employee's request. This may include extracts from the employment record book, wage statements, and copies of other personal documents.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

When hiring an employee, the employer is required to request the documents specified in Article 48 of the Labor Code. This includes a document confirming the identity and the labor book. However, the employment contract can be concluded without the labor book in certain cases as provided for in the Labor Code. Additionally, upon concluding an employment contract, the employer shall be provided with the relevant education document in cases where the specifics of the employee's job function require professional training or education. In workplaces with difficult, harmful, and dangerous working conditions that adversely affect the employee's health, as well as in order to protect public health in sectors such as the food industry, public catering, health care, trade, and other similar workplaces, employees must also submit a health certificate.

An employee entering into an employment contract shall not be obligated to submit any additional documents beyond those specified by the Labor Code. This includes documents unrelated to their employment duties or position.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

Employers generally have the right to monitor employee's company-owned devices, provided that such monitoring is conducted in compliance with applicable laws and regulations.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Employers may control the employees' use of social media during working hours to ensure productivity, protect company reputation, and maintain confidentiality. However, restrictions on employees' use of social media outside of working hours on personal devices is not controlled by the employer.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

In Azerbaijan, there are no specialized courts exclusively dedicated to handling labor disputes, including those related to employment. Instead, all individual labor disputes are resolved by the district courts. The composition of the court varies depending on the stage of the legal process:

- In the court of first instance, a labor dispute is resolved by a single judge.
- In the courts of the second and third instance, labor disputes are reviewed collectively by a panel of judges.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

According to Article 4.6 of the Civil Procedure Code, parties involved

in commercial disputes, as well as those arising from family and labor relations, are required to participate in a preliminary mediation session in accordance with the procedure outlined in the Law of the Republic of Azerbaijan "On Mediation" before applying to court. If the parties do not reach an agreement during the preliminary mediation session, they are then permitted to file a lawsuit in the appropriate court.

The remuneration for the provision of mediation services during the initial mediation session for disputes arising from labor relations is set at 50 manat.

4.3 What is the typical duration for resolving employment-related complaints?

Cases concerning reinstatement at work are typically addressed and resolved within a period of up to two months from the date the application is accepted for court proceedings.

Other employment-related disputes are considered and resolved within four months from the date of receipt of the application by the court of first instance. However, this timeframe may be extended by up to two months through a relevant resolution of the court.

Courts of the second and third instances are obligated to review the case no later than three months from the date of its receipt.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

An appeal must be lodged within 30 days from the date of receipt of the decision issued by the court of the first instance by the parties. Courts of the second and third instances are obligated to review the case no later than three months from the date of its receipt.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

Individuals holding a work permit in Azerbaijan are generally subject to some restrictions and limitations that include:

1. Work permits in Azerbaijan are typically issued for specific job positions or occupations. Therefore, individuals holding a work permit are generally restricted to performing the job duties specified in their permit. Engaging in activities outside of the permitted job duties may require additional authorization;
2. Individuals holding a work permit are usually tied to the employer who sponsored their permit. Changing employers may require obtaining a new work permit;
3. Work permits in Azerbaijan are typically issued for a period of 1 year, and if the employment contract is to be concluded for a period of less than 1 year, it is issued for the same period. Individuals holding a work permit may need to renew their permit before it expires to continue working legally in the country.

5.2 What are the requirements for obtaining a work permit?

Obtaining a work permit in Azerbaijan typically involves meeting certain requirements outlined by the Migration Code. While specific requirements may vary based on the grounds of obtaining a work permit, some common requirements include:

- Employers, including legal entities, individuals engaged in entrepreneurial activities, branch offices, and representations of foreign legal entities, are responsible for applying for a work permit on behalf of the applicant;
- Applicants must demonstrate the necessary qualifications, skills, and experience required for the job position, which may include educational degrees, professional certifications, and relevant work experience;
- The employer is required to submit the necessary documents for obtaining a work permit as outlined in Article 65 of the Migration Code;
- Upon receiving a positive decision from the State Migration Service, the applicant is required to pay the applicable state duty as stipulated by legislation.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

On May 16, 2023, the President of the Republic of Azerbaijan signed the Law of the Republic of Azerbaijan "On Amendments to the Migration Code of the Republic of Azerbaijan".

The recent amendment has revised the conditions for obtaining temporary residence permits under Article 45.1.6-1 of the Migration Code in Azerbaijan. Thus, if before the changes, a foreigner held the position of head and deputy of a legal entity established in the Republic of Azerbaijan and at least one of the founders was a foreign legal entity or natural person, he could apply for a temporary residence permit in the territory of the country. After the new law came into force, the head of a foreign-invested legal entity registered in Azerbaijan, with paid-up shared capital not less than 50.000 manats, or the founder who owns at least 51% of the shares of that legal entity can apply for a temporary residence permit. Consequently, deputy heads are no longer exempt from the requirement and must obtain a work permit.

This amendment signifies a stricter criteria for obtaining temporary residence permits and requires certain individuals to acquire work permits where previously exemptions were granted.

Additionally, a new case has been added to the list of cases that are the basis for obtaining a temporary residence permit in the territory of the Republic of Azerbaijan. Thus, foreigners and stateless persons who own state securities with a nominal value of at least 100,000 manats or investment securities of legal entities in which 51% or more of their shares belong to the state can apply for a temporary residence permit in the country.

According to Article 45.1.7 of the Migration Code (engaging in entrepreneurial activity), new concessions are established for obtaining a temporary residence permit. According to the conditions before the change, in order to obtain a temporary residence permit, a foreigner engaged in entrepreneurial activity had to sign (hire) an employment contract with at least 5 (or 10 in the case of part-time work) people, with at least 80% of his employees being citizens of Azerbaijan. After the change, at least 80% of employees shall be Azerbaijani citizens, as well as persons with permanent residence permits, persons married to Azerbaijani citizens, guardians of Azerbaijani citizens who are under the age of 18 or disabled due to 81-100% impairment of body functions, also foreigners who seek asylum, are considered victims of human trafficking, or provide assistance to law enforcement agencies.

It should be noted that Articles 45.1.6-1 of the Migration Code (the right of the founder or head of legal entities to obtain a temporary residence permit) and Article 45.1.7 (obtaining residence permit on the ground of doing business in Azerbaijan) are considered as acceptable the basis for obtaining a temporary residence permit (extending the period) for a foreigner or stateless person who has lived in Azerbaijan for at least 1 year on the said grounds, provided that their annual turnover (revenue) is not lower than the prescribed limit.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Article 64 of the Labor Code outlines cases in which individuals are exempted from the requirement of obtaining a work permit. These cases are:

1. foreigners who possess permanent residence permit in Azerbaijan;
2. those engaged in entrepreneurship activity in Azerbaijan;
3. employees of diplomatic representations and consulates;
4. employees of international organizations;
5. managers of the organizations established under international agreements and their deputies;
6. those employed by relevant executive power;
   6.1. military personnel and experts, invited to the service or work in the Armed Forces of the Republic of Azerbaijan and other armed groups, established in accordance with the legislation of Azerbaijan;
7. employees of media entities accredited in Azerbaijan;
8. those who are seconded for a missions to the Republic of Azerbaijan with total duration of 90 days within a year on activity fields defined by Decision of the Cabinet Ministers of Azerbaijan;
   8.1. specialists in categories determined by the respective executive authority and invited by citizens of the Republic of Azerbaijan or legal entities incorporated in the Republic of Azerbaijan for the purpose of rendering services or performing works in fields determined by the respective executive authority;
9. sailors;
10. professors and tutors invited to universities (higher educational institutions) for delivering lectures and lecturers;
11. art workers, coaches and athletes invited to work in sport clubs and registered at relevant executive authority;
12. those who perform professional religious activities in the officially registered religious institutions;
13. heads of branch offices and representations of foreign legal entities in the Republic of Azerbaijan and their deputies;
    13.1. heads of legal entities which are registered in the Republic of Azerbaijan and the founder or at least one of the founders of which is a foreign legal entity or individual, and the founder having not less than 51 percent of shares (stocks) in the authorized capital of the said legal entity (if he carries out activities in the legal entity founded by him);
14. those married with the citizen of the Republic of Azerbaijan, subject to registration of that citizen in the territory of the Republic of Azerbaijan at the place of residence;
15. those, who applied for IDP status, received IDP status or was granted a political asylum;
    15.1. persons recognized as victims of trafficking or assisting criminal prosecution bodies;
16. those who patronize persons being citizens of the Republic of Azerbaijan under 18 years old or individuals with an established disability due to 81-100% impairment of bodily functions;
17. persons involved in labor activity in cases defined by the relevant executive authorities;
18. persons involved in the work on the territory of the Alat Free Economic Zone, by the competent structure, administrative institution and legal entities of the Alat Free Economic Zone, as well as to the representatives of these legal entities;
19. resident of the technological park (in relation to a legal entity - persons holding the position of its head and deputies) and specialists with experience in information and communication technologies and involved by the resident to work in the territory of the Republic of Azerbaijan.

5.5 What is the ratio of foreign and local labor?

According to Article 51 of the Migration Code, issuance of a work permit is carried out within the framework of labor migration quota approved by the Cabinet of Ministers of the Republic of Azerbaijan.

As per Decree of the Cabinet of Ministers of the Republic of Azerbaijan dated 14.03.2016 under No. 124 on approval of the "Procedure for determining the quota of labor migration" the labor migration quota (hereinafter "quota") represents the maximum limit on the number of foreign individuals permitted to engage in paid labor activities within the territory of the Republic of Azerbaijan within a given calendar year.

There are quotas in different business areas. For example, construction field – 1800, education – 400, mining industry - 1200 and etc.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

Personal income tax (PIT)

The rates of PIT applied to salaries of employees vary depending on whether the employee is working in the oil-gas and public sectors or not.

According to Resolution #56, the below entities are qualified as operating in the oil-gas and public sectors:

1. State Oil Company of the Republic of Azerbaijan (including its structural subdivisions), and contractors and operating companies that are engaged in Production Sharing Agreements (PSAs), agreements on main pipeline and other similar agreements;
2. local and foreign subcontractors, which provide goods, works and services to the legal entities indicated in clause (i) above if the volume of their annual income (without taking into account expenses) received during the previous calendar year for goods, works and services provided to these entities exceeds 50% of total annual income; and
3. public legal entities established by the state, budget organizations and other entities and organizations funded by the state budget, as well as state-owned funds in the Republic of Azerbaijan, and legal entities in which the state directly or indirectly holds a controlling package of shares (51% or more).

PIT at the below rates applies to salaries of employees working in oil-gas and public sectors (Article 101.1 of the Tax Code):

#	Taxable monthly income	PIT rate
1	Up to AZN 2,500	(taxable monthly income – AZN 200) * 14%
2	Over AZN 2,500	AZN 350 + 25% of the amount exceeding AZN 2,500

According to Article 101.1-1 of the Tax Code, salaries of employees (up to AZN 8,000 monthly) working in non-oil-gas and non-public sectors are taxed with PIT at a rate of "0" percent from 1 January 2019 for a period of 7 years. Therefore, PIT at the below rates applies to salaries of employees working in non-oil-gas and non-public sectors:

#	Taxable monthly income	PIT rate
1	Up to AZN 8,000	0%
2	Over AZN 8,000	14% of the amount exceeding AZN 8,000

Insurance contributions

The rates of insurance contributions applied to salaries of employees vary depending on whether the employee is working in the oil-gas and public sectors or not.

Insurance contributions at the below rates apply to salaries of employees working in the oil-gas and public sectors:

1. Social security contributions (Article 14.3 of the Social Insurance Law):

Accrued monthly income	SSC rate		
	Total	From employees	From employers
N/A	25%	3%	22%

2. Unemployment insurance contribution (Article 9 of the Unemployment Insurance Law):

- 0.5% of the calculated salary fund of the employer – from the employer;
- 0.5% of the employee's salary – from the employee.

3. Health insurance fees (Article 15-10.1.2 of the Health Insurance Law):

#	Accrued monthly salary fund	Insurance fees
1	Employees with monthly salary up to AZN 8,000	Employer & Employee: 2% (each separately)
2	Employees with monthly salary over AZN 8,000	Employer & Employee: AZN 160 + 0.5% of the amount exceeding AZN 8,000 (each separately)

Insurance contributions at the below rates apply to salaries of employees working in the non-oil-gas and non-public sectors:

1. Social security contributions (Article 14.4 of the Social Insurance Law):

Accrued monthly income	SSC rate		
	Total	From employees	From employers
Up to AZN 200	25%	3%	22%
Over AZN 200	25%	10% of the amount exceeding AZN 200 plus 6 AZN	15% of the amount exceeding AZN 200 plus AZN 44

2. Unemployment insurance contribution (Article 9 of the Unemployment Insurance Law):

- 0.5% of the calculated salary fund of the employer – from the employer;
- 0.5% of the employee's salary – from the employee.

3. Health insurance fees (Article 15-10.1.2 of the Health Insurance Law):

#	Accrued monthly salary fund	Insurance fees
1	Employees with monthly salary up to AZN 8,000	Employer & Employee: 2% (each separately)
2	Employees with monthly salary over AZN 8,000	Employer & Employee: AZN 160 + 0.5% of the amount exceeding AZN 8,000 (each separately)

6.2 What is the percentage of withholding tax?

Please see the tax rates applicable to income of employees above.

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1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

Duration of maternity leave, as a general rule, is 126 calendar days; in cases of complicated births, including births of 2 or more children - 140 calendar days. For women permanently (predominantly) residing and (or) working in the radioactively contaminated area - 146 calendar days (in cases of complicated births, including births of 2 or more children - 160 calendar days).

1.2 What are the rights of a parent when returning to work after parental leave?

An employee retains his or her previous job during the parental leave, thus, once the parental leave is over, the employee may start working in his or her previous position.

In case of impossibility to perform their previous work, women, who have children under the age of 1,5, are transferred to another job with the average salary of their previous job until the child reaches the age of 1,5 (par. 3 of Art. 264 of the Labor Code).

A mother (stepmother) or father (stepfather), guardian bringing up:

- A child with disabilities up to the age of 18, upon the written application, is granted 1 additional day off each month with the average salary paid from the funds of the state social security following the procedure and under the conditions determined by the republican body of state administration implementing policies in the field of labor;
- A child with disabilities under the age of 18 years or 3 or more children under the age of 16, upon the written application, is granted 1 additional day a week with the average salary, or upon agreement with the employer, if it does not interfere with the normal activities of the organization, the established duration of work (shift) is reduced by 1 hour with salary determined by the republican body of state administration implementing policies in the field of labor;
- 2 or more children under the age of 16, upon the written application, are granted 1 additional day off work each month. A collective agreement or other internal legal act may include conditions on payment of the average salary for this day which is not granted by default (Art. 265 of the Labor Code).

Women with children under the age of 1,5 are provided, in addition to the general break for rest and meals, with additional breaks for feeding the child, which are included in working time and paid at the average salary (Art. 267 of the Labor Code). With the consent of the employee, the employer is obliged to extend the term of the contract or conclude a new contract:

1. with a working woman who is on maternity leave, a mother (father of a child instead of a mother, or guardian) who is on parental leave to care for a child up to the age of 3 - for a period not less than the end of the said leaves;
2. with a working mother (father of a child instead of the mother, or guardian) who started working before or after the end of the parental leave to care for a child up to the age of 3 years - for a period not less than the child's reaching the age of 5 (par. 3 of Art. 261-5 of the Labor Code).

1.3 Do fathers possess the right to take paternity leave?

Fathers have the right to parental leave (Art. 185-2 of the Labor Code: a parental leave to care for a child until the child reaches the age of 3 is granted at the discretion of the family to the working father or other relative or a family member). In addition, when a child is born and brought up in a family, the employer is obliged, at the request of the father of the child, to grant him a leave without pay for a maximum of 14 calendar days (Art. 186 of the Labor Code).

1.4 Are there any additional parental leave rights that employers must adhere to?

As was mentioned, parental leave to care for a child until the child reaches the age of 3 may be granted at the discretion of the family to a working father or other relative, family member, or guardian of the child who is caring for the child (under certain conditions). Parental leave to care for a child up to the age of 3 is granted to a stepmother if such leave is not granted to the child's working father or other relative or family member.

Parental leave to care for a child until the child reaches the age of 3 is also granted to specified individuals if the mother is unable to care for the child because of a group I disability or an illness that prevents her from caring for the child, confirmed by the conclusion of a medical advisory commission.

Working fathers, other relatives, or family members caring for a sick child under the age of 14, a child under the age of 3, and a child with disabilities under the age of 18 in case of the mother's illness, as well as the child's guardian, are entitled to temporary disability allowances following the procedure and under the conditions stipulated by law.

Working fathers on parental leave are provided with additional guarantees (termination of the employment contract on the employer's initiative is not permitted in certain cases provided for by law) (Art. 271 of the Labor Code).

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

The flexible working arrangements are regulated by Art. 128-129 of the Labor Code. They are established by the employer upon individual or collective requests by the procedure determined by local legal acts under the condition that it takes into account the interests of production, does not lead to complications in the work of the organization, and does not disrupt normal activities and production rhythm. If the specified conditions are met, employees caring for dependents have the right to flexible working arrangements.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

Generally, the employer is not required to notify employees of the intention to terminate employment relations with them. However, the legislation of the Republic of Belarus provides for some cases when such notification is the responsibility of the employer.

Thus, the employer must notify the employee in writing of the upcoming dismissal:

1. in case of liquidation of the organization; closing a branch, representative office, or other organizational unit of the organization located in another area; workforce or staff reduction;
2. in case of termination (suspension), under the legislative acts, of the activity of a notary, performing notarial activities in a notary bureau; of an individual providing services in the field of agro-tourism; of an entrepreneur (except termination (suspension) of activities in connection with their conscription, referral to an alternative service) (par. 3 of Art. 43 of the Labor Code).

In such cases, notification must be sent by the employer to the employee at least 2 months before the dismissal, unless longer periods are provided for in the collective bargaining agreements or other agreements.

If a fixed-term employment contract is concluded the employer must notify the employee about the decision to continue or terminate the employment relationship with it no later than 1 month before the expiration of a contract period (par. 2 of Art. 261-3 of the Labor Code).

An employment contract with domestic workers may be terminated by the party agreement with a 3-day notice to the other party of a contract (par. 1 of Art. 311 of the Labor Code).

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

"Garden leave" is a concept inherent to the countries of the Anglo-Saxon legal system. The essence of this leave is that during the notice period of termination of the employment contract the employee is not allowed to the workplace, official information, or client base and to communicate with clients to protect the employer's interests from possible negative influence or behavior of the dismissed employee. At the same time, such an employee continues to be employed and to receive a salary.

The legislation of the Republic of Belarus does not provide for this type of leave.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

If the employee believes that he/she was illegally dismissed, he/she has the right to apply to the court with a corresponding lawsuit for reinstatement, recovery of average salary for the time of forced absenteeism, compensation for moral damage, and other claims.

The term of appeal is 1 month from the date of delivery of a copy of the dismissal order, or from the date of issuance of the employment record book which contains the reason for termination of the employment contract, or from the date of refusal to issue these documents (par. 1 of Art. 242 of the Labor Code). In case of missing this term for valid reasons, it may be restored by the court (par. 4 of Art. 242 of the Labor Code).

Dismissal of an employee, as a rule, takes place after issuance of a dismissal order, the employment record book, and making a final settlement. The day of dismissal of an employee is the last day of their work (par. 6 of Art. 50 of the Labor Code).

In cases stipulated by the legislation collective bargaining agreements or other agreements, dismissal of an employee is possible only with prior notification of the trade union or with its consent (Art. 46 of the Labor Code).

2.4 Are there specific employee categories enjoying special protection against dismissal?

The employer can not initiate termination of the employment contract with the following categories of employees:

1. pregnant women;
2. persons on maternity leave caring for children under the age of 3;
3. a parent caring for a child under the age of 3 to 14 (disabled child - up to 18).

In case of workforce or staff reduction, priority right to remain at work is given to the following categories of employees (with the same labor productivity):

- who diseased and suffered radiation sickness as a result of the disaster at the Chernobyl Nuclear Power Plant;
- who participated in the liquidation of consequences of the disaster on the Chernobyl Nuclear Power Plant in 1986-1989 in the evacuation (exclusion) zone, or 1986-1987 in the zones of priority or subsequent relocation;
- disabled;
- other categories of employees stipulated by legislation, collective bargaining agreement or other agreements.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

The reasons for termination of the employment contract on the initiative of the employer are provided for by Art. 42 of the Labor Code:

1) related to the particular employee:

- non-compliance with job position or the work performed because of health status or insufficient qualifications that prevent the continuation of this work;
- non-appearance at work for more than 4 consecutive months because of temporary disability (not including maternity leave), unless the legislation establishes a longer period of retention of a workplace, or job position in case of a certain disease;
- failure to perform employment duties without a valid reason by the employee who has an unspent (unredeemed) disciplinary sanction;
- a single gross violation of employment duties, recognized as such according to the legislative acts;
- causing property damage to the state, legal entities and (or) individuals while performing employment duties (the damage must be established by a judgment that has entered into force), etc.

2) business-related:

- liquidation of the organization; closing a branch, representative office, or other organizational unit of the organization located in another area; workforce or staff reduction;
- termination (suspension), under legislative acts, of the activity of a notary, performing notarial activities in a notary bureau; of an individual providing services in the field of agro-tourism; of an entrepreneur (except termination (suspension) of activities in connection with their conscription, referral to an alternative service).

If the reason for dismissal is as specified in par. 1, 2 of Art. 42 of the Labor Code (business-related), the employee is paid severance pay in the amount of at least 3 average monthly salary.

The employee is paid severance pay in the amount of at least 2 weeks of average salary if the reason for dismissal is:

- refusal of the employee to transfer to another location together with the employer; to continue work because of changes in essential working conditions; refusal to continue work because of changing the owner of the property and (or) reorganization of the organization; the lease of the property complex or transfer to trust management of shares of the organization;
- non-compliance with the job position or the work performed because of health status or insufficient qualifications that prevent the continuation of this work.

Severance pay is also paid in other cases provided for by the Labor Code, other legislative acts, collective bargaining agreement, and other agreements (Art. 48 of the Labor Code).

Also, an employee who has not used or has not used the entire leave is paid compensation regardless of reason for their dismissal. Compensation for full-time leave is paid, if by the day of dismissal, the employee has worked for the entire working year (12 months minus the total duration of the leave to which the employee is entitled). If by the day of dismissal, the employee has worked part of the working year, compensation is paid in proportion to the time worked (par. 1-3 of Art. 179 of the Labor Code).

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

When dismissing an employee, the employer must meet the following requirements:

1. notify the employee (in cases provided for by law);
2. notify the trade union (in cases provided for by law) or obtain its consent to the employee's dismissal (if such an obligation is provided for by a collective bargaining agreement or other agreements);
3. issue a dismissal order that must be signed by the employee;
4. make all payments that the employee must receive from the employer on the day of dismissal, including payment for unused leave;
5. pass the employment record book.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

Depending on what rules are violated by the employer on dismissal, the employee has the right to apply to the court with a corresponding demand for:

1. reinstatement and recovery of an average salary during forced absenteeism;
2. changing the reason for dismissal, recovery of an average salary during forced absenteeism;
3. recovery of a final settlement and an average salary to delay such a settlement;
4. passing the employment record book, recovery of an average salary during forced absenteeism and changing the date of dismissal to the day of passing of the employment record book;
5. passing a work certificate (for example, the experience or salary certificate).

If the court considers the claim justified, it will commit or oblige the employer to commit appropriate actions aimed at restoring the rights of the employee. At the same time, when considering a claim for reinstatement, the court may find such reinstatement impossible or inexpedient. In such a situation, the court, with the consent of the employee, has the right to impose on the employer the obligation to pay compensation of 10 months' average salary.

2.8 Can employers resolve claims before or after they are initiated?

The employer has the right to settle an individual employment dispute both before and after the initiation of proceedings. If the dispute is settled, the employee has the right to withdraw the lawsuit. Otherwise, the dispute will be considered and the court will issue a judgment against the employee.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

A mass dismissal during the liquidation of an organization or workforce reduction is the dismissal of 25 people or more.

In case of a mass dismissal no later than 3 months in advance the employer must inform:

1. relevant trade unions (if they are set up in the organization);
2. labor, employment, and social protection authorities at the employer's location.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

If the employer fails to comply with its obligations, employees can apply to the court with a claim for their reinstatement. If reinstatement is impossible, employees can demand compensation in the amount of a tenfold salary.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

According to the Law on Personal Data Protection, personal data processing in the course of employment (service) relations, as well as in the course of employment (service) activities, is carried out without obtaining the consent of the employee.

Cross-border data transfer is prohibited if the territory of a foreign state fails to ensure an adequate level of protection of the rights of personal data subjects, however, personal data may be transferred to a foreign state:

1. with the consent of the employee, taking into account that the employee has been previously informed of the possible risks;
2. personal data is obtained based on a contract concluded (to be concluded) with the subject of personal data to perform actions established by this contract;
3. personal data may be obtained by any person by sending a request;
4. such transfer is necessary for the protection of life, health, or other vital interests of the subject;
5. in other cases, when it is carried out by the competent authorities for the purposes established by Art. 9 Law on Personal Data Protection.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

According to Art.11 of the Law on Personal Data Protection, the data subject, without reasoning his/her interest, may request information in writing or electronically from the operator regarding the processing of his/her data, including information about the operator, what personal data of the data subject are processed, for what purpose and for what period they have been collected.

The employer is obliged to provide the requested information in an accessible form within 5 working days (there is no prohibition to provide a copy, so it is possible to transmit the information in this way), or justify the refusal to provide the data.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

In cases where the company needs information about a potential employee, it may make requests to state authorities and other institutions. In addition, in cases stipulated by law, the employer must request a profile from the previous place of work. The issues of acceptable boundaries in conducting preliminary checks are not regulated (except for state authorities) and are decided by companies in the absence of violations of the legislation, including violations of the law on personal data and their redundancy. In cases stipulated by the legislation, for certain categories of employees, it is necessary to request information on the absence of a criminal record. Information on criminal records is provided by the information unit of the Ministry of Internal Affairs at the request of the employer. This information is provided to the employer free of charge.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

The employer has a right to check corporate e-mail, telephone calls, and equipment for control over compliance with labor discipline, safety of confidential information, and in other cases stipulated by the legislation. The procedure for conducting an inspection shall be fixed in a local legal act, with which employees shall be informed under signature. Personal calls and e-mail should not be used and checked by the employer in any way, as this is a direct violation of the constitutional rights and freedoms of any employee.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

During working hours, the employer has the right to control the employee's use of social media, as the employee has to perform his/her work duties during working hours at the workplace. In other words, the employee is not allowed to use social media during working hours, unless his/her duties are directly related to social media. The use of social media outside working hours and the workplace is not controlled by the employer.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

In the Republic of Belarus, there are no courts and tribunals specializing exclusively in the consideration of labor disputes, including employment-related. All individual labor disputes are resolved by the courts of general jurisdiction.

The composition of the court varies depending on which court is considering the relevant claim. In the court of first instance, a labor dispute is resolved by a judge alone, in the court of the 2nd and 3rd instance - collectively.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

There is no mandatory conciliation before consideration of employment-related disputes in the court. It is also not required to claim the employer before going to the court. But if a labor Dispute Commission (non-judicial body for consideration of labor disputes, hereinafter, LDC) is set up in the organization and the employee is a member of the trade union, consideration of the dispute in the LDC is mandatory before going to court.

Employment-related disputes are considered in the court in the order of action proceedings. To initiate a case of such category a claimant must file a lawsuit to the appropriate court and attach the necessary documents to it.

The state fee is not paid in this case even if the judgment is not made in favor of a claimant.

4.3 What is the typical duration for resolving employment-related complaints?

The court of the 1st instance must consider labor disputes within 1 month from the date of initiation of proceedings (par. 2 of Art. 158 of the Code of Civil Procedure of the Republic of Belarus).

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

A judgment of the court of the 1st instance that has not entered into force may be appealed to the Judicial Collegium for Civil Cases of the relevant regional court or Minsk City Court. A judgment that has entered into force may be reviewed in order of supervision first by the Presidium of the Supreme Court of the Republic of Belarus, then - by the Plenum of the Supreme Court of the Republic of Belarus.

An appeal against a judgment of the court of the 1st instance that has not entered into force, including a judgment on a labor dispute, must be considered within 1 month from the date of its receipt by the court (par. 1 of Art. 416 of the Civil Procedure Code of the Republic of Belarus). In case of further appeal of a judgment of the court of first instance together with a judgment of the appeal instance to the Presidium of the Supreme Court of the Republic of Belarus, the term of consideration of the case should not exceed 1 month, and to the Plenum of the Supreme Court of the Republic of Belarus - 3 months from the date of its receipt by the court (par. 8 of Art. 445 of the Civil Procedure Code of the Republic of Belarus).

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

Job duties in employment do not depend on the citizenship of employees, all employees are guaranteed equal labor rights, and limitations apply only to the procedure of registration of the employee for employment and the possibility of occupying certain positions.

In case of a change of employer, a foreign worker must obtain a new special permit regardless of the previous permit. Foreign citizens are subject to certain limitations in the positions and spheres of activity (civil service, work related to access to state secrets).

The duration of stay (temporary residence) in the country depends on the period for which the special permit is issued. A special permit is issued, as a rule, for a period not exceeding 1 year, respectively, the term of a temporary residence permit - up to 1 year. The special permit may be extended for the same period, and the temporary residence permit is also extended for 1 year. A 2-year term of the special permit is valid for highly qualified workers.

5.2 What are the requirements for obtaining a work permit?

A special permit is issued to foreign citizens to work in Belarus. An

application for the issuance of a special permit is submitted by the employer to the citizenship and migration unit at the employer's location (place of residence) in the prescribed form with the following documents attached:

- a copy of the passport or other document replacing it, intended for traveling abroad;
- a document on payment of the state fee.

The special permit is issued based on the conclusion of the labor, employment, and social protection bodies on the possibility of the foreigner carrying out labor activity. To obtain the conclusion, the employer is obliged to place a vacancy in the republican vacancy bank on the website of the state employment service, which must be there for at least 15 working days. It is impossible to hire a foreign citizen before the expiration of this period.

Based on the documents submitted by the employer, the unit for citizenship and migration applies to the bodies for labor, employment, and social protection at the location of a free workplace (vacancy) with a request to obtain an opinion on the possibility of a foreigner to perform labor activities under a labor contract in the Republic of Belarus. In the presence of a positive conclusion, the citizenship and migration department issues a special permit.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

From 01.07.2023 a new version of the Law on Labor Migration came into force. Since that date, the procedure of issuing a permit to attract a foreign labor force to the Republic of Belarus has been abolished.

When using the labor of foreigners, the employer is obliged to :

- obtain a special permit for the right to engage in labor activity for each foreigner;
- conclude a fixed-term labor contract with each immigrant worker (previously, the type of labor contract was not specified);
- notify the Citizenship and Migration Department in the prescribed form in writing or in the form of an electronic document about the conclusion and termination of the labor contract with the worker (previously it was necessary to register the labor contract with the Citizenship and Migration Department).

The list of foreigners, who don't need to obtain a special permit and with whom any type of labor agreement (e.i., a contract) can be concluded, has been adjusted. In particular, it is supplemented with foreigners engaged in professions of workers (positions of employees) included in the list of professions of workers (positions of employees) for which foreigners are engaged without taking into account restrictions on the protection of the national labor market. The list will be approved annually by February 1 of the year following the expired calendar year.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

In Belarus, for certain special legal regimes and professions, there are other requirements for obtaining a special permit. For example, residents of the Belarus Hi-Tech Park, managers, and specialists who are highly qualified employees of the Great Stone China-Belarus industrial park are not required to obtain a special permit. In addition, foreigners employed in the professions of workers (positions) included in the list approved by The Ministry of Labor and Social Protection are not required to obtain a special permit.

5.5 What is the ratio of foreign and local labor?

According to the statistics for 2022, there were 11 thousand foreign workers in Belarus, which amounted to about 0.26% of the total number of persons involved in the economy.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

As a general rule, employers are obliged to pay mandatory insurance contributions for pension insurance in the amount of 35% of the salary: 29% of mandatory insurance contributions for pension insurance (28% at the expense of the employer and 1% at the expense of the employee) and 6% for social insurance. There is a determined amount of payments above which contributions to the Social Security Fund are not charged. This amount is 5 times the average salary of employees in the country, for the month, prior to the month for which compulsory insurance contributions are paid.

6.2 What is the percentage of withholding tax?

As a general rule, an income tax rate of 13% applies to a salary. At the same time, tax legislation provides benefits to support employees whose salaries do not exceed a certain level.

For example, if the amount of income is less than 1054 Belarusian rubles per month (which is approximately 300 euros), a tax deduction of 174 Belarusian rubles (which is approximately 50 euros) is applied, and income tax is charged on the difference between the income and the tax deduction, i.e. for the income 1054 Belarusian rubles, on the amount of 880 Belarusian rubles (which is approximately 250 euros). As mentioned above, an additional 1% of mandatory pension insurance contributions is withheld from the salary.

ARMENIA

Meri Artashesyan
Associate

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

By Republic of Armenia labor legislation it's called "pregnancy and maternity leave":

Duration:

1. 140 days (70 days of pregnancy, 70 days of maternity);
2. 155 days (70 days for pregnancy, 85 days for childbirth) in case of complicated childbirth;
3. 180 days (70 days for pregnancy, 110 days maternity) in case of having more than one child at the same time.

1.2 What are the rights of a parent when returning to work after parental leave?

Employees taking care of a child up to 1 year old can:

- not to participate in overtime work without her consent;
- work on weekends, non-working holidays and memorial days only with their consent;
- not involve in heavy, harmful, especially heavy, especially harmful works.

1.3 Do fathers possess the right to take paternity leave?

Yes, paid leave:
Within 30 days after the birth of the child, at the request of the father of the newborn, a paid leave of 5 working days is provided.

Unpaid leave:
The husband of a woman on leave to care for a child up to one year old. The total duration of that vacation cannot exceed 2 months.

1.4 Are there any additional parental leave rights that employers must adhere to?

The essential working conditions of the child's actual caregiver, who is not on leave, during the entire period of caring for a child up to one year old, cannot be changed to less favorable conditions, except for the job title and (or) categories.

The employment contract can not be terminated (by Employer) of the child's actual caregiver, who is not on leave, during the entire period of caring for a child up to one year old, in some cases foreseen by legislation.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

Yes, a woman who has a child up to 2 years of age, in addition to the break hours provided for rest and feeding, is given an additional break of not less than half an hour every three hours. At the request of the woman, these breaks can be combined with a break for rest and food, or provided at the beginning of the working day or moved to the end of the working day with a corresponding reduction in the length of the working day.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

Yes, the notice submitting is mandatory.

The termination notice should be submitted not later than 60 days before (it depends on the base of the contract termination, could be 2, 3, 14, 35,49 days).

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

Not applicable.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

The employer has the right to terminate the employment contract concluded with the employee for an indefinite period, as well as the employment contract concluded for a definite period before its expiration date:

1. in cases of liquidation (cessation of activity) of the employer, removal from the state register, in the case of a notary employer, dismissal from office;
2. in the case of changes in the scope of work and (or) economic and (or) technological and (or) work organization conditions and (or) reduction of the number of employees and (or) positions due to production necessity;
3. in case of non-compliance of the employee with the position held or the work performed;
4. in case of reinstatement of the employee to the previous job;
5. in case of regular non-fulfillment of the duties assigned to him by the employment contract or internal disciplinary rules by the employee without a valid reason;
6. in case of loss of trust in the employee;
7. in case of long-term incapacity of the employee (if the employee has been temporarily incapacitated for more than six months in a row or for more than 180 days during the last twelve months, excluding days of pregnancy and maternity leave);
8. in case the employee is under the influence of alcoholic beverages, narcotics or psychoactive substances at the workplace or performing work functions at the workplace or outside the workplace;
9. in case the employee does not show up for work during the entire working day (shift) due to a disreputable reason;
10. in case of employee's refusal or avoidance of mandatory medical examination;
11. in case the foreigner's residence status is declared void or invalid;
12. in the event that an employee fails to perform his work duties for more than 10 working days (shifts) in a row or during the last three months for more than 20 working days (shifts) as a result of not being allowed to work.

No need for third party consent before dismissal by the employer.

2.4 Are there specific employee categories enjoying special protection against dismissal?

The Termination of the employment contract of the below mentioned cases (employees categories) at the initiative of the employer is prohibited:

1. during the period of the employee's temporary incapacity for work, except for the some cases foreseen by RA Labor code (clause 7 of part 1 of Article 113);

2. during the employee's vacation;
   2.1. with pregnant women, from the date of submitting a certificate of pregnancy to the employer until the expiration of one month after the date of termination of pregnancy and maternity leave;
   2.2. the actual caregiver of the child, a person who is not on vacation during the entire period of caring for a child up to 1 year old, except for the provisions of clauses by RA labor code (1, 5, 6, 8 and 10 of Article 113, Part 1);
3. after the adoption of the decision to declare a strike and during the strike, if the employee participates in the strike in accordance with the procedure established by RA Labor code;
4. during the performance of duties imposed on the employee by the state or local self-government bodies, (except for the cases foreseen by RA Labor code (part 1 of Article 124 of this Code);
5. during the period of prevention of natural disasters, technological accidents, epidemics, accidents, fires and other cases of an emergency nature or immediate elimination of their consequences, if, due to these cases, the employee did not report to work;
6. during the period of unplanned transfer or unplanned provision of holidays for educational (including pre-school) institutions, if the employee did not report to work in order to organize the care of a child under the age of 12.

In case the contract terminates due to changes in the scope of work and (or) economic and (or) technological and (or) work organization conditions and (or) reduction of the number of employees and (or) positions due to production necessity, in the presence of other equal conditions, the right of preference to stay at work is given to a former military officer entitled to a disability pension, as well as a family member (spouse, child) of a former serviceman receiving a disability pension with a deep degree of functional limitation or a deceased (deceased) or missing or declared dead military officer, father, mother, relative sister, relative brother, grandmother, grandfather), if he:

1. is engaged in the care of a former military officer receiving a disability pension with a deep degree of functional limitation, or in the care of the children, grandchildren, brothers or sisters of a deceased (deceased) or missing or declared dead military officer until the latter reach the age of 18;
2. has a disability;
3. is the only able-bodied employee of the family who has reached the age defined by legislation.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

See the answer of clause 2.3. (Termination of employment) (1,2).

In the case of termination of the employment contract on the grounds foreseen by RA Labor Code, the employer shall pay the employee a severance allowance in the amount of his average salary for one month, and the employer, taking into account the employee's continuous work experience with the given employer, shall pay the employee severance pay benefit:

1. in the case of working for up to one year, in the amount of ten times the average daily salary;
2. in the case of working for one to five years, in the amount of twenty-five times the average daily salary;
3. in the case of working for five to ten years, in the amount of thirty times the average daily salary;
4. in the case of working for ten to fifteen years, in the amount of thirty-five times the average daily salary;
5. in the case of working for fifteen years or more, in the amount of forty-four times the average daily salary.

The collective or labor contract or the written agreement of the parties may provide for the payment of severance pay for a longer period or in a larger amount.

Yes, employees receive compensation upon dismissal by employer initiative.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Yes, the procedures established by the Labor code of the RA, employment contract signed between the employer and the employee and internal legal acts of employer.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

Depending on which basis the employer terminates the employment contract. If dismissal is illegal, the employee can file a claim to the court asking to reinstate him in his previous job and to collect the average salary from the employer for the benefit of the employee for the entire period of forced downtime.

2.8 Can employers resolve claims before or after they are initiated?

Yes, they can reach an agreement with the employee before the latter files a claim, or reconcile after the claim or accept the claim.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

Not applicable.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

In case of a mass dismissals of employees or positions, the employer is obliged not later than two months before the termination of the employment contracts, to provide data on the number of employees to be released (according to professions and gender-age composition) to submit to the state body authorized by the government of the Republic of Armenia and the employee representative in the field of employment, if it is planned to lay off more than ten percent of the total number of employees within two months, but not less than 10 employees (mass layoffs).

In case of Employer fails to comply with the said obligation, the respective control body (Labor inspection) will determine a fine (penalty) or the case should be settled by judicial procedure.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

There is a whole chapter (16) on protection of personal data of employees.

Particularly, when transferring the employee's personal data, the employer is obliged to comply with the following requirements:

1. not to disclose the employee's personal data to third parties without the written consent of the employee, except when it is necessary to prevent the threat to the life and health of the employee, as well as in other cases provided by law;

2. not to disclose his personal data for commercial purposes without the employee's written consent;
3. to warn the persons receiving the employee's personal data and to request certification that these data can be used only for the purposes for which the employees are informed. Persons receiving personal data of employees are obliged to maintain confidentiality. This provision does not apply to the transfer of personal data of employees in accordance with the law;
4. transfer personal data of employees to the employer in accordance with the internal legal acts of the employer;
5. to reserve the right to get to know the personal data of employees only to persons with such powers, moreover, these persons can receive only the personal data of the employee, which are necessary to perform a certain function;
6. not to request information about the employee's health, except for the data related to the employee's ability to perform work functions;
7. when transferring the employee's personal data, including to the employees' representatives, to be limited to only that data, the transfer of which results from the purposes of personal data processing or is necessary for the realization of these purposes.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

All personal data should be provided from employees to the employer, otherwise only by written consent of the employee to receive it from a third party.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Yes, in case the employer has a respective normative document (Policy) on making security checks of potential employees.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

In case the employer has such a normative document (Policy) and there is an employee's written consent on it.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Nothing foreseen by the RA legislation on Employer's such control.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

First Instance Civil Court of the RA, by a single judge or Arbitration, if an agreement has been concluded between the Employee and the Employer.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

Employment-related complaints are regulated by the Labor Code of the RA and other related legal acts. Conciliation is not mandatory. Employees are exempted from the obligation to pay any fee.

4.3 What is the typical duration for resolving employment-related complaints?

Considering the overload of the courts for about 1 year.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

Yes, possible, the appeal should be submitted within one month from the publication of the judgment. The complaint examination and publication of the decision will take about 6-10 months, in some cases more.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

The period of stay in the Republic of Armenia depends on the agreement signed between the country and the Republic of Armenia, the type of residence status of a person in the Republic of Armenia. The right of residence in RA is granted for 1 year, 5 years and 10 years. In all cases, the given period can be extended if there is an appropriate basis. There are no other restrictions connected with citizenship or other criteria.

5.2 What are the requirements for obtaining a work permit?

On January 1, 2022 work permit.am platform was launched, which is addressed to digitalize the whole process of granting work permit and residence status to foreigners in Armenia. The process starts with an online employer registration. Any person authorized by the head of the executive body of the employing company can act on the system on behalf of that legal person (employer) registered on the system. Maybe there will be a need to visit the migration service to register an account and gain access. The employer presents a request for getting residence status on the work base for the foreigner via this system. The description of the vacancy should be filled in. To hire a foreign candidate for the presented vacancy, confirmation is needed from the Ministry of Labour and Social Affairs. After this confirmation, the foreigner's data should be filled in. Next, the foreigner gets an e-mail notification on getting residence status on a work basis.

To apply for work permit, the document requirements are the following:

- Passport which is valid during all period of residence;
- SSN, which can be received in Armenia;
- Labor contract.

Migration service can also present other additional requirements if it will be necessary.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

There are no significant changes since January 1, 2022. The valid process and requirements are described above.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

According to Article 23 of the law of RA on Foreigners, there are the following exceptions concerning obtaining a work permit.

The following persons may work in the Republic of Armenia without a work permit:

(a) those holding permanent and special residence status of the

Republic of Armenia, as well as those holding temporary residence status of the Republic of Armenia on the grounds provided for in Article 15(1)(d) of this Law;
(b) those holding temporary residence status of the Republic of Armenia on the grounds provided for in Article 15(1)(c) of this Law, for a period not exceeding the term of residence;
(c) family members of employees of diplomatic representations and consular offices, international organizations and their representations accredited in the Republic of Armenia, based on the reciprocity principle;
(d) workers of border regions as well as culture and sport specialists arriving for a short term;
(e) founders, directors, or authorized representatives of commercial organizations with foreign capital;
(f) employees of commercial organizations of a foreign State, to work in representative offices of those organizations located in the Republic of Armenia;
(g) foreign specialists arriving for a term not exceeding six months, to train employees for installing, repairing, and exploiting machines, equipment, and machine tools delivered to its branch or representative office by a foreign commercial organization, or purchased from foreign commercial organizations;
(h) specialists or other persons arriving based on the international treaties of the Republic of Armenia;
(i) lecturers of foreign education institutions invited to deliver lectures at educational institutions of the Republic of Armenia; accredited representatives of foreign media organizations;
(j) foreign citizens and stateless persons holding refugee status, having obtained political asylum in the Republic of Armenia, for a period not exceeding the term of residence;
(k) students performing work in the framework of work exchange programmed during holidays based on relevant international treaties.

Also, citizens of the EAEU member states who work in the Republic of Armenia, as well as their family members are exempted from the requirement to obtain any permission-type document for the whole period of their employment contract in accordance with the Treaty on the EAEU.

5.5 What is the ratio of foreign and local labor?

Although, it is generally observed that the majority of the labor force in Armenia consists of local workers, during the last 2 years many foreigners relocated to Armenia from different countries. Foreign labor is typically seen in sectors such as IT, and hospitality.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

Income tax must be paid by the employer up to and including the 20th of the following month. Salary and payments equal to it are calculated on an accrual basis (taxed in the month for which they are calculated, regardless of the circumstances of payment), and the allowance is cash-based (taxed in the month in which it is paid).

6.2 What is the percentage of withholding tax?

The percentage of withholding tax in Armenia is 20%.

CHINA

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1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

According to the Special Provisions for Female Employees, female employees who give birth in compliance with PRC birth control policies ("Eligible Female Employees") are entitled to 98 days of maternity leave, of which 15 days may be taken before delivery. The leave can be extended by an additional 15 days under special circumstances such as dystocia and multiple births (i.e. 15 days for each additional baby). Additionally, extra maternity leave is granted by local regulations where the specific length varies from city to city. For example, in the Beijing and Shanghai municipalities, the total length of maternity leave is 158 days, including a base 98-day period per national law and 60 days granted by local regulations.

An eligible female employee who suffers a miscarriage during the first four months of pregnancy shall be entitled to 15 days of maternity leave, and those who suffer a miscarriage after four months of pregnancy shall be entitled to 42 days of maternity leave.

1.2 What are the rights of a parent when returning to work after parental leave?

According to the Special Provisions for Female Employees, for a female employee whose baby is below the age of one years old, the employer shall not extend her working hours or assign her to a night shift. Instead, the employer must arrange a one-hour breastfeeding time on each working day for the female employee during her nursing period which lasts one year counting from the date of birth. In the event of multiple births, an additional hour of breastfeeding time is granted for an additional baby. Furthermore, an employer who employs a large number of female employees shall, depending on the needs of female employees, establish facilities including a female washroom, maternity rest room and breastfeeding room to properly facilitate female employees' difficulties in physical health and breastfeeding.

Additionally, according to the Employment Contract Law, a female employee who is enjoying the nursing period is prohibited from being unilaterally terminated by her employer under certain circumstances such as incompetency, mass layoff, etc.

1.3 Do fathers possess the right to take paternity leave?

There is no unified national legislation on paternity leave for male employees in the PRC. Paternity leave is only stipulated in local regulations on a municipal or provincial level. For instance, paternity leave for male employees in Beijing is 15 days and for male employees in Shanghai it is 10 days.

1.4 Are there any additional parental leave rights that employers must adhere to?

According to the Population and Family Planning Law of the PRC amended in 2021, the state encourages local authorities to introduce parental leave if conditions permit. Parental leave is granted by local regulations only. For instance, both Beijing and Shanghai have introduced parental leave (childcare leave) which entitles eligible parents to five days (working days) of full-paid leave each year till the child reaches three years of age.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

If the dependents are children under three years of age, eligible employees are entitled to the above-mentioned parental leave according to national laws as well as local regulations.

If the dependents are parents, eligible employees may be entitled to the elder care leave granted by local regulations of some provinces and municipalities. For example, in Beijing, an employee who is the only child in his/her family is entitled to no more than 10 working days of full paid elder care leave per calendar year to take care of his/her parents who are in need of nursing care due to illness, injury or disability.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

The PRC Employment Law provides limited grounds for the termination of an employment relationship. Whether a prior notice is necessary depends on the specific statutory ground for the termination.

Under any of the following circumstances, an employee must be given a 30-day prior written notice or one month's salary in lieu of notice:

1. the employee suffers from an illness or a non-work related injury and is unable to take up the original work (or any other work) assigned by the employer to them after the statutory medical treatment period expires;
2. the employee is incompetent and remains incompetent after training or there is an adjustment of job position;
3. there has been a major change to the objective circumstances under which the employment contract was executed which renders the contract impossible to perform, and the employer and employee fail to reach an agreement on amending the contract ("Major Change to the Objective Circumstances").

In terms of economic layoffs (i.e. mass layoffs), employers shall explain the situation to the trade union or all of its employees 30 days in advance (which can be regarded as a form of prior notice) and seek their opinions before reporting the proposed layoffs to local administrative authorities.

Additionally, though not required by the Employment Contract Law, some local regulations of cities such as Beijing require the employer to give prior notice (or salary in lieu of notice) to employees when the term of an employment contract expires and the employer decides not to renew it.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

PRC law does not have the concept of garden leave; however, it is used by some companies in practice, as long as: 1) such arrangement has been prescribed by the effective internal policies of the employer; or 2) such arrangement has been agreed by the employee and the employee has been paid with normal salaries during the leave.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

Employers must inform the trade union when they are planning to unilaterally dismiss an employee. If the trade union considers that the proposed dismissal is not compliant with legal requirements, the trade union can request the employer to rectify the situation. The employer must consider the trade union's opinions and notify the trade union in writing of its final decision on the termination. Furthermore, judicial remedies are also available to employees who consider that they have been wrongfully dismissed by employers.

An employer's decision to dismiss an employee must be clearly expressed to that employee. Under no circumstances should an employee be treated as being dismissed if there is no such clear expression.

Consent from a third party is not required before an employer can proceed with the dismissal.

2.4 Are there specific employee categories enjoying special protection against dismissal?

According to the Employment Contract Law, the following categories of employees are protected against being terminated unless the termination is based on a ground stipulated in Article 39 of the Employment Contract Law such as employee's severe misconduct, gross neglect of duty, etc.:

1. an employee who has been exposed to occupational disease hazards and has not received any occupational health check-up, or who is suspected of having contracted an occupational disease and is being diagnosed or is under an observation period;
2. an employee who has been confirmed as having lost (or partially lost) their capacity to work as a result of contracting an occupational disease or sustaining a work-related injury with their current employer;
3. an employee who has contracted an illness or sustained a non-work-related injury and his/her medical treatment period has not expired;
4. a female employee during a pregnancy, maternity or nursing period;
5. an employee who has been working for 15 years consecutively for the current employer and will reach statutory retirement age in less than five years' time.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

1. Employers can dismiss employees for the following reasons related to individual employees:

1.1. when the employee fails to meet the recruitment requirements during the probation period;
1.2. when the employee commits severe misconduct;
1.3. when the employee commits a serious dereliction of duty or engages in corrupt practices, causing substantial damage to the employer's interests;
1.4. when the employee establishes an employment relationship with another employer, which has a severe impact on the performance of tasks assigned by the employer, or the employee refuses to correct the wrongdoing as requested by the employer;
1.5. when the employee is subject to criminal liabilities;
1.6. when the employee uses means such as deception, coercion or taking advantage of a vulnerable position to cause the employer to enter into the employment contract or amend the employment contract contrary to the employer's true intent;
1.7. when the employee suffers from an illness or a non-work related injury and is unable to take up the original work (or any other work) assigned by the employer to them after the statutory medical treatment period expires;
1.8. when the employee is incompetent and remains incompetent after training or an adjustment of job position.

Employees are not entitled to any severance when being dismissed for the above reasons 1–6, while employees shall be entitled to statutory severance when being dismissed for the above reasons 7 and 8. The severance is usually one month's salary for each year of service with the employer. A service period of at least six months but less than a year will be counted as one year, and a service period of less than six months will be counted as half a year. The one month's salary is calculated based on the employee's average monthly salary during the 12 months prior to termination which is capped at three times the average monthly salary of local employees, as determined by the local government.

2. Employers can dismiss employees for the following business-related reasons:

2.1. Major Change to the Objective Circumstances (see question 6.1 above) such as business relocation, merger and acquisition, asset transfer, etc.; or
2.2. economic layoffs (see question 6.9 below).

Employees are entitled to statutory severance when being dismissed due to the above business-related reasons.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Procedural requirements for individual dismissal are as follows:

1. notifying the trade union of the termination ground;
2. delivering the termination notice to the employee and making the statutory severance payment if needed;
3. registering the termination with labour authorities if so required by local regulations, and assisting with the social insurance and housing fund transfer for the employee; and
4. issuing an employment certificate to the employee.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

An employee being dismissed can bring a wrongful dismissal claim in the judicial authorities, and if his/her claim is upheld, possible remedies include: 1) reinstatement of employment (in which case the employer must also make up the remuneration applicable to the entire period of the judicial proceedings); or 2) double statutory severance payment.

2.8 Can employers resolve claims before or after they are initiated?

Yes, employers can settle with employees by means of mediation or conciliation at any time before or after the claims are initiated.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

According to Article 41 of the Employment Contract Law, if an employer proposes to unilaterally reduce its workforce by 20 persons or more, or by 10% or more of the total number of its employees under specific circumstances, the employer must complete the following procedures before making any redundancies:

1. to explain the circumstances to its trade union or to all employees 30 days in advance;
2. to consider the opinions of the trade union or the employees; and

3. to report the redundancy plan to the competent labour administrative authorities.

In addition, employees with long fixed-term employment contracts, open-ended employment contracts or those who are the sole income earners in a family with dependent children or elderly people must be retained with priority during the redundancies.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees who consider that they have been wrongfully dismissed may bring the wrongful dismissal claim to the judicial authorities individually or through class actions. If their claim is sustained, employees will be entitled to either reinstatement of employment or double severance payment.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

With the PRC Personal Information Protection Law ("PIPL"), rules and regulations relating to processing personal information are stipulated with more clarity. Employers, as data processors, shall also comply with the PIPL and other data protection laws when collecting and processing the personal information of employees.

There are specific requirements for cross-border data transfer in the PIPL, such as obtaining each employee's separate and informed consent, entering into a contract with the overseas recipient and conducting personal information protection impact assessment, etc.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Yes, according to the PIPL, the employee has the right to obtain copies of his/her personal information which is held by the employer.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Employers can carry out pre-employment checks on prospective employees; however, the checks must be within a reasonable scope and on a necessity basis. Whether an employer can take the initiative to check employees' criminal records will depend on the nature of the employer and the position applied for. For example, the current law expressly prohibits persons who have received criminal penalties from working in the People's Bank of China, and so the bank is permitted to conduct criminal record checks on prospective employees. It is good practice to obtain the prospective employees' informed consent before conducting such checks.

According to the Criminal Law of the PRC, employees must faithfully disclose their criminal records to employers, except for those who were under the age of 18 at the time the crime was committed and were given penalties lighter than imprisonment of five years.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

Considering that the employees' expectation of privacy on work-related issues is relatively low, employers are generally entitled to monitor the employee's work-related emails and telephone and computer system if there is a reasonable ground for such monitoring.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

The company may have the right to prohibit its employees from using social media for private purposes during business hours. Employees can use social media at private times but his/her use of social media must not violate his/her obligations towards the company such as confidentiality and no defamation, nor should such use cause any negative impact on the company. Otherwise, any misuse by an employee even outside the workplace and business hours may account to misconduct which an employer can take disciplinary actions towards him/her, provided that the company's internal rules have clear provisions on this issue.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

According to the Employment Dispute Mediation and Arbitration Law of PRC, before filing an employment dispute with court, it is mandatory to submit the dispute to the competent local employment dispute arbitration committee, an institution specialising in hearing employment dispute cases. The committee is composed of representatives of labour administration departments, trade unions and enterprises. In practice, most of the cases are usually heard by a sole arbitrator sitting alone.

If any party is unsatisfied with the arbitration award which is not final, the party is entitled to bring the lawsuit to the competent people's courts (the first instance courts and then the second instance court). The first instance tribunal is usually composed of judges and/or jurors, and the total number shall be odd. Jurors performing jury duties shall have equal rights and obligations as judges. For simple cases, the summary procedure may apply by the first instance court and the case will be tried by one judge. The second instance tribunal is composed of judges, the number of which must be odd too.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

Under PRC law, most of the employment-related disputes are solved under a two-stage framework: arbitration and litigation. Without going through arbitration procedures, parties cannot commence litigation procedures for disputes. When there is a dispute, the party will usually file a claim at the arbitration committee first, and if any party is unsatisfied with the arbitral award, it can bring the case to the courts. However, the arbitral awards regarding the following employment disputes are exemptions:

1. claims for labour remuneration, medical fees for a work-related injury, severance pay or damage compensation of no more than the amount of local minimum monthly wages multiplied by 12 months; or
2. disputes in respect of working hours, rest and leaves, or social insurance, arising from implementing national labour standards.

For the above two types of cases, an employee still has the right to bring a lawsuit before court within 15 days after receiving the awards. In contrast, the employer has no right to bring a lawsuit over the same arbitral awards before court.

Under PRC law, an employer and employee are encouraged to consult with each other and to reach a conciliation agreement on employment dispute settlement. Even though the employment disputes had been submitted to arbitration or litigation, an employer and employee still could negotiate and reach a conciliation

agreement, as long as the final arbitral award or court decision has not been made. The conciliation is not mandatory and must be based on both parties' voluntariness. The parties may choose to directly submit their employment disputes to arbitration without any pre-claim conciliation.

All the employment dispute arbitrations are free of charge. The litigation cost is RMB 10 for the first instance trial and RMB 5 for the second instance trial, and are usually borne by the losing party.

4.3 What is the typical duration for resolving employment-related complaints?

For arbitration, the arbitral committee shall finish making the award within 45 days from the date when it accepts the arbitration application. If an extension is needed due to the complexity of the case, an additional 15 days will be granted.

At the stage of litigation, the case in the trial of first instance shall be completed within six months and the case in the trial of second instance shall be completed within three months.

Therefore, it usually takes around one year for a case to go through both arbitration and litigation until the parties can get the final judgement. However, long delays in hearing cases happen frequently as a result of the explosion of employment dispute cases in recent years.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

Yes. If the party is dissatisfied with the judgement of the first instance court, it has the right to file an appeal with the higher-level people's court within 15 days from the date of service of the judgement. The second instance proceedings should be completed within three months but can be extended subject to the approval of the president of the court. The judgments made by the courts of second instance are final and take effect upon its serving upon the parties.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

According to Article 43.2 of the Exit-Entry Administration Law of the People's Republic of China, individuals holding a work permit are limited to performing the job duties specified in their work permit application. Changing employers typically requires obtaining a new work permit.

The duration of stay for individuals with work permits is tied to the validity of the work permit. Generally speaking, the work permit for foreigners should be valid for 1 year but varies from case to case. According to the Notice on the Comprehensive Implementation of the Work Permit System for Foreigners in China issued jointly by the State Administration of Foreign Experts Affairs, the Ministry of Human Resources and Social Security, the Ministry of Foreign Affairs, and the Ministry of Public Security, work permits for foreigners coming to China are divided into three types: A, B and C. For Category A for high-end talents, the foreigners can apply for the work permit for up to 5 years; for category B for professionals, the foreigners can apply for the work permit for up to 2 years; and for category C, the work permit is valid for 1 year.

Work permit of Category A for foreign high-end talents: applied for senior managers, professional and technical talents, and other talents with important influence. It usually requires a high degree of education, professional skills, or extensive work experience, as well as a proven track record in a related field. The work permit of Category A is usually approved by a national department or a relevant senior talent management agency.

Work permit of Category B for foreign professionals: applied for foreigners who are engaged in industries such as technology, education, medical care, culture, sports, finance. Applicants need to meet the relevant academic qualifications, work experience and occupation requirements, and be sponsored by an employer in China.

Work permit of Category C: usually for foreigners in the case of short-term work, internships, cultural exchanges, etc. Applicants need to meet specific requirements, such as age restrictions, skill requirements, or the needs of a particular project.

5.2 What are the requirements for obtaining a work permit?

1. Some common requirements for the employees include:
   1.1. Employment Contract: A valid employment contract with a Chinese employer;
   1.2. Educational Qualifications: Typically, a bachelor's degree or higher is required, although there may be exceptions for certain specialised professions;
   1.3. Work Experience: Relevant work experience in the field may be required for certain positions;
   1.4. Health Examination: A health examination conducted at a designated hospital or clinic in China;
   1.5. Clean Criminal Record: A clean criminal record from the individual's home country or any other countries where they have lived;
   1.6. Employer Sponsorship: The employer in China initiates the work permit application process and provides necessary support and documentation.

2. Employers must meet the following basic conditions for applying for a foreigner's work permit in China:
   2.1. established legally in accordance with Chinese law, with no record of serious violations and untrustworthiness;
   2.2. the positions for the employed foreigners should be those with special needs, for which there is a temporary shortage of suitable candidates in China, and which do not violate the relevant provisions of the state; the wages and salaries paid to the foreigners hired shall not be lower than the local minimum wage; and where laws and regulations stipulate that there should be prior approval, approval is required.

The requirements for obtaining a work permit in China might vary depending on factors such as the individual's nationality, the type of work they will be doing, and the regions.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

On January 24, 2024, the Ministry of Human Resources and Social Security of Chinese held a press conference for the fourth quarter of 2023, pointing out that it will promote the one-window acceptance, parallel examination and approval, and joint handling of two certificates for foreigners' work permits and work-type residence permits in China, improve the service guarantee mechanism for foreign experts, and work with relevant departments to optimise policies and measures and strengthen contact services. This will be more convenient for applications for work permits.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

The following four categories of persons are exempt from applying for a foreigner's work permit:

1. foreign professional and technical management personnel directly funded and hired by the Chinese government, or foreign professional and technical management personnel funded and hired by state organs and public institutions, with senior technical titles or special skill qualification certificates confirmed by national or international authoritative technology management departments or industry associations. In general these foreigners should hold the Foreign Expert Certificate issued by the Bureau of Foreign Experts;
2. foreign workers who hold the "Permit for Foreigners to Engage in Offshore Petroleum Operations in the People's Republic of China" to engage in offshore oil operations, do not need to land, and have special skills;
3. foreigners who have been approved by the Ministry of Culture to carry out commercial theatrical performances with the "Temporary Business Performance Permit"; and
4. foreigners who hold China's Foreigner's Permanent Residence Permit.

5.5 What is the ratio of foreign and local labor?

The specific Ratio was not found in the government's official reports, however, according to an unofficial report published online dated January 4, 2024, the number of work permits issued by China for foreigners has reached 484,000, indicating that the proportion of foreign high-end talents is as high as 23.4%. This influx of foreign professionals to China is mainly active in key fields such as education, finance, science and technology, and culture, and is mainly concentrated in economically developed regions such as Beijing, Shanghai, and Guangdong.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

According to the Law of the People's Republic of China on the Administration of Tax Collection, employers have several legal obligations and requirements regarding individual income tax paid by employees. Some of the key obligations and requirements include:

1. Withholding Tax: Employers are responsible for withholding individual income tax from their employees' salaries and wages based on the applicable tax rates and tax brackets;
2. Tax Calculation and Reporting: Employers must accurately calculate the amount of individual income tax to be withheld from each employee's salary or wages based on the employee's income level and any applicable deductions or exemptions;
3. Monthly Reporting and Payment: Employers are required to report and pay the withheld individual income tax to the tax authorities on a monthly basis. This typically involves submitting tax reports and payments to the local tax bureau;
4. Annual Reconciliation: At the end of each year, employers are required to reconcile the individual income tax withheld from employees' salaries and wages with the total annual income tax liability. Any discrepancies must be corrected, and annual tax reconciliation reports must be submitted to the tax authorities;
5. Employee Records: Employers must maintain accurate records of individual income tax withholding for each employee, including salary/wage payments, tax withheld, and any applicable deductions or exemptions;
6. Compliance with Tax Laws: Employers must comply with all relevant tax laws, regulations, and policies related to individual income tax withholding, reporting, and payment.

Failure to comply with these legal obligations and requirements regarding individual income tax can result in penalties, fines, or other consequences for employers.

6.2 What is the percentage of withholding tax?

The employer is responsible for deducting individual income tax (withholding tax) from the employees' salaries.

According Article 2 of Individual Income Tax Law of the People's Republic of China, individual income tax shall be paid for the following personal income:

1. income from wages and salaries;
2. income from remuneration for labour services;
3. income from author's remuneration;
4. income from royalties;
5. business income;
6. income from interest, dividends and bonuses;
7. income from property lease;
8. income from the transfer of property;
9. incidental income.

Resident individuals who obtain the income from items 1 to 4 of the preceding paragraph (hereinafter referred to as "comprehensive income") shall calculate individual income tax on a consolidated basis according to the tax year. For non-resident individuals who obtain the income in items 1 to 4 of the preceding paragraph, the individual income tax shall be calculated on a monthly or sub-itemized basis.

Taxpayers who obtain the income from items 5 to 9 of the preceding paragraph shall calculate individual income tax separately in accordance with the provisions of this Law.

According to Article 3 of Individual Income Tax Law of the People's Republic of China, the rates of the individual income tax are as follows:

1. For comprehensive income, a progressive tax rate of 3% to 45% shall be applied.

Individual Income Tax Rate Table 1 (Applicable to Comprehensive Income):

Level	Annual taxable income (RMB)	Rate (%)
1	No more than 36000	3
2	More than 36000 but no more than 144000	10
3	More than 144000 but no more than 300000	20
4	More than 300000 but no more than 420000	25
5	More than 420000 but no more than 660000	30
6	More than 660000 but no more than 960000	35
7	More than 960000	45

2. For comprehensive income, a progressive tax rate of 3% to 45% shall be applied.

Individual Income Tax Rate Table 1 (Applicable to Comprehensive Income):

Level	Annual taxable income (RMB)	Rate (%)
1	No more than 30000	5
2	More than 30000 but no more than 90000	10
3	More than 90000 but no more than 300000	20
4	More than 300000 but no more than 500000	30
5	More than 500000	35

3. Income from interest, dividends and bonuses, income from property leases, income from property transfer and incidental income shall be subject to a proportional tax rate of 20%.

CYPRUS

Nasos A. Kyriakides
Managing Partner

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

Cyprus provides maternity leave for a duration of 18 weeks.

1.2 What are the rights of a parent when returning to work after parental leave?

Upon returning to work after parental leave, parents in Cyprus have the right to return to their previous position or an equivalent one with the same terms and conditions.

1.3 Do fathers possess the right to take paternity leave?

Fathers are entitled to paternity leave, typically for a duration of two weeks.

1.4 Are there any additional parental leave rights that employers must adhere to?

Employers in Cyprus must adhere to certain additional parental leave rights, such as allowing employees to take unpaid leave for urgent family reasons or to care for a sick child.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

As for flexible working arrangements for employees responsible for dependents, while Cyprus does not have specific laws addressing this issue, it may be subject to negotiation between the employer and the employee.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

In Cyprus, it is mandatory for employers to provide notice of termination of employment. The notice duration is determined based on the length of the employee's continuous service with the employer, as outlined in the Employment Law of Cyprus. Typically, longer notice periods are required for employees with longer periods of service.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

Yes, employers in Cyprus can enforce "garden leave" during the notice period, wherein the employee remains employed but is not required to attend work. This practice allows the employer to restrict the employee's activities during the notice period while still fulfilling contractual obligations.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

Employees in Cyprus are safeguarded against unfair dismissal. An employee is considered to be dismissed if the contract of employment is terminated by the employer, with or without notice, for reasons not related to the employee's conduct or performance. In some cases, consent from a third party, such as the Labor Department, may be necessary before dismissal by an employer, particularly in cases of collective dismissals.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Certain employee categories enjoy special protection against dismissal in Cyprus, such as pregnant employees, employees on maternity leave, trade union representatives, and members of the works council.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

Employers in Cyprus are justified in dismissing employees for individual reasons, such as misconduct or poor performance, or for business-related grounds, such as redundancy or restructuring. Employees may receive compensation upon dismissal, which is calculated based on various factors including length of service, salary, and reason for dismissal.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Employers must adhere to specific protocols when dismissing employees in Cyprus, including providing written notice of termination and following procedures outlined in the Employment Law.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

If an employee is dismissed unfairly, they can pursue claims such as unfair dismissal or wrongful termination. Remedies available for a successful claim may include reinstatement, compensation, or other appropriate relief.

2.8 Can employers resolve claims before or after they are initiated?

Employers in Cyprus can attempt to resolve claims both before and after they are initiated, through negotiation, mediation, or other dispute resolution mechanisms.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

When dismissing multiple employees simultaneously in Cyprus, employers bear additional obligations, including providing advance notice to the relevant authorities and consulting with employee representatives where applicable.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees can enforce their rights regarding mass dismissals through legal action or by filing a complaint with the competent authorities. If an employer fails to comply with its obligations regarding mass dismissals, it may face legal consequences, including fines or other sanctions.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Employee data protection rights can significantly impact the employment relationship. Employers must comply with data protection laws and regulations when collecting, processing, and transferring employee data. In many jurisdictions, including Cyprus, the transfer of employee data across borders may be subject to restrictions and requirements to ensure the protection of personal information. Employers must typically obtain consent from employees or ensure other legal mechanisms are in place to lawfully transfer employee data internationally.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

In many jurisdictions, including Cyprus, employees are entitled to obtain copies of any personal information held by their employer. This right is often granted under data protection laws, allowing individuals to access and review their personal data to ensure its accuracy and lawfulness of processing.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Employers may have the authority to conduct pre-employment checks on prospective employees, such as criminal record checks, subject to compliance with relevant laws and regulations. These checks are typically performed to assess a candidate's suitability for a particular role and to mitigate risks to the organization.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

The extent to which employers have the right to monitor employee emails, phone calls, or use of company computer systems varies depending on the applicable laws. In many cases, employers are permitted to monitor employee communications and activities within certain limits, such as obtaining consent, providing notice, and ensuring monitoring is proportionate and necessary for legitimate business purposes.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Employers may have some degree of control over an employee's use of social media, both inside and outside the workplace, particularly if it impacts the organization's reputation or business interests. However, the extent to which employers can regulate or discipline employees for their social media activity depends on various factors, including applicable laws, employment contracts, company policies, and the nature of the employee's conduct. It's essential for employers to balance their interests in protecting their reputation and business interests with employees' rights to privacy and freedom of expression.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

Employment-related complaints in Cyprus are typically addressed by the Industrial Disputes Tribunal, which holds jurisdiction over disputes arising from employment relationships. This tribunal is composed of a panel of members representing both employers and employees, often including legal professionals and experienced individuals from the labor sector.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

Procedures governing employment-related complaints in Cyprus typically involve attempts at conciliation or mediation before proceeding with formal legal action. While conciliation may not be obligatory in all cases, it is often encouraged as a means of resolving disputes efficiently and amicably. In terms of fees, there may be nominal charges for submitting a claim to the Industrial Disputes Tribunal, but these are generally affordable for employees.

4.3 What is the typical duration for resolving employment-related complaints?

The duration for resolving employment-related complaints in Cyprus can vary depending on the complexity of the case, the workload of the tribunal, and other factors. In general, straightforward cases may be resolved relatively quickly, while more complex disputes could take several months or even longer to reach a conclusion.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

In Cyprus, it is typically possible to appeal against a decision made at the first instance, such as a decision of the Industrial Disputes Tribunal. The duration of such an appeal process can vary, but it usually takes several months for the appeal to be heard and a decision to be reached by the appellate court.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

Individuals holding a work permit in Cyprus are typically subject to restrictions or limitations regarding their job duties, employer changes, and duration of stay. These limitations may vary depending on the type of work permit obtained and the specific conditions outlined by the Cypriot authorities. Work permit holders are generally expected to work only in the job specified in their permit and for the employer named on the permit. Changing employers often requires obtaining a new work permit, and the duration of stay may be tied to the validity period of the permit.

5.2 What are the requirements for obtaining a work permit?

The requirements for obtaining a work permit in Cyprus typically include submitting an application to the relevant government

authority, providing necessary documentation such as a valid employment contract, proof of qualifications or experience, and evidence of compliance with immigration and labor laws. Employers may also need to demonstrate that there are no suitable local candidates available to fill the position.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

It's essential for individuals and employers to stay informed about any recent changes or updates to work permit regulations or policies in Cyprus. Changes may occur in response to shifts in labor market conditions, immigration laws, or government policies. Consulting with immigration authorities or legal experts can help ensure compliance with the latest requirements.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Specific industries or occupations may have different requirements or exemptions for obtaining a work permit in Cyprus. For example, certain sectors may have shortages of skilled workers, leading to expedited processing or relaxed requirements for work permits in those fields. Conversely, industries with ample local labor may face stricter regulations for hiring foreign workers.

5.5 What is the ratio of foreign and local labor?

The ratio of foreign and local labor in Cyprus can vary depending on factors such as economic conditions, industry demands, and government policies. While there may be sectors with significant reliance on foreign labor, overall statistics regarding the ratio of foreign to local labor may fluctuate over time.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

Employers in Cyprus have legal obligations and requirements regarding individual income tax, including withholding taxes on employee salaries. Employers are responsible for deducting income tax from employees' salaries and remitting it to the tax authorities on their behalf. Additionally, employers may have reporting requirements related to employee income and taxes withheld.

6.2 What is the percentage of withholding tax?

The percentage of withholding tax on employees in Cyprus depends on various factors, including the employee's income level and tax residency status. Cyprus operates a progressive tax system, meaning that higher income levels are subject to higher tax rates. The withholding tax rates range from 20% to 35% for individuals, with different thresholds and rates for residents and non-residents. It's essential for employers to accurately calculate and withhold the appropriate amount of tax from employees' salaries in accordance with Cyprus tax laws and regulations.

GEORGIA

Eka Vasadze
Associate

Ani Silagadze
Paralegal

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

The employee, exclusively mother of the child, shall, upon her request, be granted paid maternity leave of 126 calendar days and in the case of childbirth complications or the birth of twins, maternity leave of 143 calendar days. Employees may distribute the period of maternity leave at their discretion over the pregnancy and postnatal periods.

1.2 What are the rights of a parent when returning to work after parental leave?

Maternity, Parental, Newborn Adoption and Additional Parental Leave represent the basis for suspending the employment relationship, upon the termination of which, the employee is entitled to retain his/her workplace and position and resume the previous job duties.

1.3 Do fathers possess the right to take paternity leave?

Under Article 37.4 of the Labour Code of Georgia, the use of leave due to pregnancy and childbirth is the exclusive right of the child's mother, although the father of the child has a right to enjoy the days of said leave which have not been used by the mother of the child.

1.4 Are there any additional parental leave rights that employers must adhere to?

The employee shall, upon his/her request, be granted parental leave of 604 calendar days and in the event of childbirth complications or the birth of twins - a parental leave of 587 calendar days. 57 calendar days of the leave shall be paid. The mentioned leave can be used in whole or in parts by the mother or the father of the child.

An employee who has adopted a child under 1 year of age is granted leave for the adoption of a newborn total limitation of 550 calendar days after the birth of the child. 90 calendar days of this leave shall be paid.

An employee may, upon his/her request, be granted, in whole or in parts, but not less than 2 weeks a year, additional unpaid parental leave of 12 weeks until the child turns 5. Additional parental leave may be granted to any employee who actually takes care of the child.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

The Labour Code of Georgia does not provide for a special provision on flexible work schedules for employees who are responsible for dependents. However, the parties are not limited to establishing a preferred work schedule by mutual agreement, subject to compliance with the minimum standards for the protection of employee rights provided for by the Labor Code of Georgia.

In addition, according to Article 16.4a of the Labor Code of Georgia, as far as objectively possible, an employer shall, considering the employee's request, transfer the employee from full-time work to part-time work that becomes available in the establishment.

Moreover, employees who are breastfeeding infants under the age of 12 months may request an additional break of at least 1 hour a day. A break for breastfeeding shall be included in working time and shall be paid.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

In the event of termination of the employment by the employer, the employer shall notify the employee at least 30 calendar days in advance by sending a written notice. In such case, the employee shall be granted severance pay in the amount of at least 1 month's remuneration.

The employer is entitled to notify the employee on termination of the employment at least 3 calendar days in advance by sending a written notice provided that the employee is granted severance pay in the amount of at least 2 month's remuneration.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

The Labor Code of Georgia does not provide the concept of "garden leave" although Article 60 of this Code establishes limitations under employment agreement.

An employment agreement may provide for an employee's obligation not to use the knowledge and skills acquired in the course of fulfilling the conditions of the employment agreement in favour of an employer competing with his/her employer. This limitation may be extended to 6 more months after terminating labour relations, on condition that during the period of said limitation the employer shall pay the employee remuneration of at least the amount that the employee was paid at the moment when labour relations were terminated. Such limitations may not be imposed on employees in the field of education, science or culture.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

Termination of labour relations shall be inadmissible on grounds other than those referred to in Article 47 of the Labour Code of Georgia.

The grounds for terminating employment agreements are:

a) economic circumstances, and/or technological or organisational changes requiring downsizing;
b) the expiry of an employment agreement;
c) the completion of the work under an employment agreement;
d) the voluntary resignation of an employee from a position/work on the basis of a written application;
e) a written agreement between parties;
f) the incompatibility of an employee's qualifications or professional skills with the position held/work to be performed by the employee;
g) the gross violation by an employee of his/her obligations under an individual employment agreement or a collective agreement and/or of internal labour regulations;
h) the violation by an employee of his/her obligations under an individual employment agreement or a collective agreement and/or of internal labour regulations, if any of the disciplinary steps under the said individual employment agreement or collective agreement and/or internal labour regulations has already been taken against the employee during the last year;

i) long-term incapacity for work, unless otherwise determined by an employment agreement, if the incapacity period exceeds 40 consecutive calendar days, or the total incapacity period exceeds 60 calendar days within a period of 6 months, and, at the same time, the employee has already used his/her leave under Article 31 of this Law;
j) the entry into force of a court judgment or other decision precluding the possibility of performing the work;
k) a decision on declaring a strike illegal that was delivered by a court in accordance with Article 67(3) of this Law and that became final;
l) the death of an employer who is a natural person, or of an employee;
m) the initiation of liquidation proceedings against an employer who is a legal person;
n) other objective circumstances justifying the termination of an employment agreement.

The violation of an obligation under the internal labour regulations may serve as a basis for terminating an employment agreement only where the internal labour regulations are an integral part of the employment agreement.

Where an employment agreement is terminated on the ground of other objective circumstances an employer shall substantiate in the written notification on termination objective circumstance justifying the termination of the employment agreement.

The legal representatives of minors, or custody/guardianship authorities, may request the termination of an employment agreement with a minor if continuing work endangers the life, health, or other significant interests of the minor.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Terminating labour relations shall be inadmissible:

a) In the event and from the notification to the employer from a female employee about her pregnancy and during the period of maternity leave, parental leave, new born adoption leave, or additional parental leave, except for the termination of an employment agreement on the grounds directly provided by the Labor Code of Georgia.
b) Due to an employee being conscripted into national conscript military service, or non-military, unarmed labour service or military reserve service, and/or during an employee's period of national conscript military service, or non-military, unarmed labour service or military reserve service, except for the termination of an employment agreement on the grounds directly provided by the Labor Code of Georgia.
c) During the period of being a member of a jury in court, except for the termination of an employment agreement on the grounds directly provided by the Labour Code of Georgia.
d) On the grounds of discrimination.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

The employment can be terminated only on the grounds listed above, which are directly provided by the Labour Code of Georgia.

The employee shall be granted severance pay in the amount of at least 1 month's remuneration if employment agreement is terminated by an employer by sending written notification to the employee at least 30 calendar days in advance.

Where an employment agreement is terminated by an employer by sending written notification to the employee at least 3 calendar days in advance, the employee shall be granted severance pay in the amount of at least 2 month's remuneration.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

The following protocols shall be adhered by the employer regarding dismissal of an employee:

a) Employer shall notify the employee in writing on the termination of employment at least 30 calendar days in advance and provide severance pay in the amount of at least 1 month's remuneration or notify the employee in writing on the termination of employment at least 3 calendar days in advance and provide severance pay in the amount of at least 2 month's remuneration as well as compensate the employee for unused leave in proportion to the duration of the employment.
b) Employer shall provide a written substantiation of the grounds for terminating an employment agreement within 7 calendar day after an employee submits a request. Such request shall be submitted to the employer within 30 calendar days from receiving an employer's notification about terminating an employment agreement.
c) Employer is obliged to reflect information on termination of the employment with the employee in Labour Migration Information Portal if the employee is a citizen of a foreign state. The employer also has the obligation to provide information to the Service Development Agency of Georgia on the termination of the employment agreement with a foreign employee, if the labour relationship was the basis for the work residence permit issued to the employee.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

An employee may, within 30 calendar days from receiving an employer's written substantiation, appeal in court against the employer's decision on terminating the employment agreement.

If an employer's decision on terminating the employment agreement is declared void by the court, the employer shall, under the court decision, reinstate the person whose employment agreement was terminated, or provide the person with an equal job, or pay compensation in the amount determined by the court.

An employee may, in addition to being reinstated, or to receiving an equal job, or receiving compensation in exchange therefor, request compensation for lost earnings from the date when the employment agreement was terminated up to the date when the final court decision declaring void the employer's decision on terminating the employment agreement was enforced. In determining compensation for lost earnings, a court shall take into account any severance pay granted to the employee by the employer.

2.8 Can employers resolve claims before or after they are initiated?

An individual dispute shall be resolved under conciliation procedures between the parties. this involves direct negotiations between an employee and an employer.

A party shall notify the other party in writing of the initiation of conciliation procedures. The notification shall specify the reasons for the dispute and the claims of the party. The other party shall review the written notification and inform the party of its decision in writing within 10 calendar days after receiving the notification.The parties or their representatives shall make decisions in writing, which shall become part of the existing employment agreement.

If the parties fail to reach an agreement over the dispute within 14 calendar days after receiving the written notification a party may refer the dispute to a court. The parties may agree to refer a dispute to arbitration.

The parties are not limited to settle the dispute after submitting the dispute to court or arbitration and at any stage of proceedings.

A collective dispute (a dispute between an employer and a group of employees (at least 20 employees) or an employer and an employees' association) shall be resolved under conciliation procedures between the parties. This involves direct negotiations between an employer and a group of employees, or an employer and an employees' association, or mediation, if one of the parties sends an appropriate written notification to the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia (the "Minister").

A party shall notify the other party in writing of the initiation of conciliation procedures. The notification shall specify the reason for the dispute and the claims of the party. To reach agreement at any stage of negotiations, a party may apply to the Minister in writing to appoint a dispute mediator to initiate mediation. The notification shall be delivered to the other party to the dispute on the same day.

After receiving a written notification the Minister shall appoint, on the basis thereof, a dispute mediator in accordance with the procedure for reviewing and resolving collective disputes under conciliation procedures approved by a normative act of the Government of Georgia. In the case of high public interest, the Minister may, on his/her own initiative, appoint a dispute mediator at any stage of the dispute without a written application from a party. The fact of the appointment of a dispute mediator shall be notified in writing to the parties involved. The Minister may make a decision to terminate conciliation procedures at any stage of the dispute.

Parties shall participate in conciliation procedures and attend meetings held by the dispute mediator for that purpose. Parties may agree at any stage of a dispute to refer the dispute to arbitration.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

A collective redundancy shall be deemed to be the termination of employment agreements by an employer for 30 calendar days on a basis that is not conditioned by an employee's person or behaviour, or by the expiry of the employment agreements:

a) with at least 10 employees – in an organisation in which the number of employees is more than 20 but less than 100;
b) with at least 10% of employees – in an organisation in which the number of employees is more than 100.

If an employer is planning collective redundancies, employer shall start consultations with the employees' association (or if there is no employees' association, with the employees' representatives) within a reasonable time, with a view to reaching a possible agreement. Consultations shall at least include the ways and means of preventing collective redundancies or reducing the number of employees to be laid off, and the possibility of re-employment in respect of laid-off employees, and support for their retraining.

An employer shall send a written notification to the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia (the "Minister") and to the employees whose employment agreements are being terminated, at least 45 calendar days before the collective redundancy. An employer shall communicate to the employees' association (or if there is no employees' association, to the employees' representatives) a copy of the notification sent to the Minister. A collective redundancy shall take effect 45 calendar days after the notification has been sent to the Minister.

Employees shall be granted an opportunity to submit constructive proposals. The employer shall provide the following information to the employees' association (or if there is no employees' association, the employees' representatives) in writing: the reasons for the planned collective redundancy, the number and category of employees to be laid off, the total number and categories of employees in the organisation, the period of time during which the collective redundancy will take place, and the criteria according to which employees to be laid off are selected and paid compensation.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

The rights of employees regarding mass dismissal might be protected through court. A court decisions held in favor of employees are binding and the employer is obliged to enforce it. The court decision may result in the reinstatement of employees, the obligation to provide them with an equal job, or pay compensation in the amount determined by the court.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Under Article 37 of the LAW OF GEORGIA ON PERSONAL DATA PROTECTION, data may be transferred to other states and international organisations if there are grounds for data processing under the laws of Georgia and if appropriate data protection guarantees are provided by the respective state or international organisation.

Data may also be transferred to other states and international organisations, if:

a) The Data transfer is part of a treaty or an international agreement of Georgia;
b) A data processor provides appropriate guarantees for protection of data and of fundamental rights of a data subject on the basis of an agreement between a data processor and the respective state, a natural or legal person of this state or an international organisation. In such a case data may be transferred only with permission of the Personal Data Protection Inspector's Office of Georgia, which shall be obtained by submitting a pre-established application form.

Before issuing such permission, Inspector shall assess the presence of appropriate guarantees for data protection in other states and/or international organisations, and make a decision on the basis of analysis of the legislation regulating data processing and the practice.

If electronic database of employees' personal data is available to employer's branches, founders and/or partners, which are not subject to Georgian jurisdiction, it is necessary to comply with the rules of law regarding transfer of data to other state and international organization.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

The employee is entitled to receive information about the processing of his/her personal data. In particular, which personal data are being processed; the purpose of data processing; the legal grounds for data processing. as well as to whom his/her personal data were disclosed, and the grounds and purpose of the disclosure.

The employee shall have access to his/her personal data regardless of the form in which they are stored. Employee can get a copy of the document and record containing his/her personal data. Employees' access to personal data should be unrestricted and free of charge.

Moreover, an employee has the right to request from the employer to correct, update, add, delete, block or destroy his/her data if they are incomplete, inaccurate, not updated, or if their collection and processing was carried out against the law. Within 15 days after receiving the request of the data subject, the employer is obliged to take the appropriate action or inform the employee of the grounds for refusal.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Employee's personal data shall be collected from the employee himself/herself, and in case if it is necessary to collect such information from the third party, the employee shall be informed about it and explained about the purpose and reason of collecting the personal data from the third party.

The employer has the right to obtain information about the candidate, except for information that is unrelated to job performance, job specifications and not necessary to evaluate the candidate's ability to perform a specific job and make an appropriate decision.

According to the recommendations issued by the Inspector's office, if the applicant is required to fill in the application for the vacancy, it is desirable to mark the mandatory fields in the application. Failure to fill in the non-mandatory fields should not result in obstacles to move the applicant to the next stage.

If employee provides employer with information that is not necessary for labor relations, the information/documents shall be returned to data subject or shall be destroyed in accordance with established rule.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

This might require a case-by-case assessment. If there is a necessity to control job email, computer systems, and phones used for job-related purposes, the employer shall notify employees on such control. While controlling the employer shall do its best to sort out personal and job-related communication of employee to avoid the violation of personal data protection regulations.

According to the best practice and recommendations issued by the Inspector's office employer shall elaborate rules for use of corporate email, which will include information about the possibility of controlling email by the employer. If the employees use job email for personal communication, it is appropriate to place personal mail in a separate folder with appropriate indication (e.g. „private"). The employee shall be informed about back-up copies and term of mail storage.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Control of an employee's use of social media shall be allowed only if it serves the objectives of employment, such as effective use of the employee's work-time, maintaining the employer's reputation, and etc.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

Labor disputes are adjudicated by the Courts of Georgia. Labor disputes are subject to judicial mediation, excluding collective disputes stipulated by the the Labour Code of Georgia.

The parties of the Labour Agreement may agree to refer a dispute to arbitration.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

In the event of submitting the claim on labour law-related dispute, except for a collective dispute under the Organic Law of Georgia the Labour Code of Georgia, the judge shall preliminarily examine the circumstances of the case in question and shall make the decision to refer the dispute case to a mediator without the parties' consent, and with the parties' consent if the opportunity to apply private mediation was used in relation to the same dispute and it ended without result.

The period of a judicial mediation shall be 45 days, but at least two meetings. This term may be extended for the same period by agreement between the parties. The parties shall be obliged to appear at the time and place determined by the mediator in order to participate in the process of judicial mediation. If a dispute failed to end with an agreement between the parties within the statutory time limit set for judicial mediation, the plaintiff may apply to a court for resuming the proceedings. If, within 10 days after the statutory time limit set for judicial mediation has passed, none of the parties applies to a court for resuming the proceedings, the court shall deliver the ruling on dismissing the claim. If parties reach an amicable settlement in the process of judicial mediation, the plaintiff shall be refunded 70% of the state fees paid.

Claims for the enforcement of the payment of salary and for other claims related to remuneration, which are derived from a legal labour relationship shall be released from the payment of state duty for cases to be reviewed by common courts.

4.3 What is the typical duration for resolving employment-related complaints?

Further to the Article 59.3 of Civil Procedural Code of Georgia, disputes related to labor relations shall be resolved no later than one month. However, in practice, due to the overload of the judicial system, the mentioned term is much longer. In addition, the dispute may continue in the higher instance courts, which further delays its completion.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

There are three instance courts in Georgia: the first level - the city court, the second level - the appeal court, the third level - the Supreme Court. The decision made by the city court and appeal court may be appealed to the court of the next level.

The decision of the city court can be appealed in the court of appeal within 14 days from the delivery of the decision. The decision of the appellate court can be appealed in the Supreme Court within 21 days from the delivery of the decision. The decision of the Supreme Court is final and not subject to appeal. According to the current practice, the average term to resolve the dispute in the Court of Appeal and Supreme Court is 1-2 years.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

The immigration policy of Georgia became comparatively liberal, allowing citizens of 98 countries (please find table 1 to the following link) to enter, reside and work in Georgia without the necessity to obtain either visa or residence permit for 1 (one) full year (unless otherwise noted in the table).

An individual holding a valid work permit enjoys parity with employed citizens, thus incurring no additional constraints. The holder of a work permit is not limited to change the employer, however, in case of termination of the employment, the parties are obliged to inform the

State Services Development Agency about such termination, and the employee is obliged to submit information to the Agency about the new employer, in order to maintain the work permit in Georgia.

5.2 What are the requirements for obtaining a work permit?

In order to obtain a work permit, the foreign applicant shall submit a request to the State Service Development Agency no later than 40 calendar days before the expiration of lawful stay in Georgia.

The request shall be accompanied with the Following documents:

a) completed application form, in which, together with other data, the unique code, assigned during the registration of the labor immigrant in the Labour Migration Electronic Portal of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, is indicated;
b) the applicant's travel document
c) a copy of the document evidencing the applicant's lawful stay in Georgia ;
d) a document evidencing employment or business activity (labour contract or other employment document) in Georgia;
e) a document, proving that the monthly income/salary received by the applicant from entrepreneurial or labour activities in Georgia is not less than five times the amount of the minimum subsistence level for average consumers in Georgia. The amount in the personal bank account of the applicant (including the statement issued by the bank) can also be considered as a proof of income. The amount in the personal bank account should not be less than five times the amount of the minimum subsistence level for average consumers in Georgia taking into account the duration of the work permit.
f) a certificate from the Revenue Service confirming that the employing company's annual turnover for each employed foreign national exceeds 50,000 GEL. For companies engaged in educational or medical activities, the turnover threshold is 35,000 GEL.
g) a certificate from the employing company regarding the number of foreign nationals employed in the company.
h) a color photo sized 3/4, available in electronic format or taken on-site.

The service incurs a fee of 300 GEL if decision of the State Service Development Agency is provided on the 30th day post-application, 450 GEL - on the 20th day, and 600 GEL on the 10th day post-application.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

According to the Resolution No. 291 of the Government of Georgia dated August 8, 2023, the employer is obliged within a maximum of 30 calendar days after the signing of the labour agreement with the labour immigrant, to register foreign employee in the Labour Migration Electronic Portal of Ministry of Internally Displaced Persons from the Occupied Territories, Health, Labour and Social Affairs of Georgia

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

No overarching arrangement exists; the matter must be examined on a case-by-case basis, taking into account the particular field in question.

5.5 What is the ratio of foreign and local labor?

Not Applicable.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

Individual Income Tax shall be withheld at the rate of 20%.

6.2 What is the percentage of withholding tax?

The employer deducts pension contributions and income tax from the employee's salary. Specifically, 2% of the employee's salary is deducted for pension contributions, followed by a 20% deduction for income tax. Employer additionally pays 2% on the employee's salary as a pension contribution.

KAZAKHSTAN

Akzhan Sargaskayeva
Counsel

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

The duration of maternity leave in accordance with the Labour Code of Kazakhstan ("Labour Code") is 126 days (70 calendar days before the delivery and 56 calendar days after childbirth). In case of complicated childbirth or the birth of 2 or more children, an additional 14 calendar days of maternity leave may be provided.

In areas affected by nuclear testing, the duration of maternity leave is 170 calendar days, and in case of complicated childbirth or the birth of 2 or more children - 184 calendar days.

In addition, upon request, an employee has the right to take unpaid childcare leave until he reaches 3 years old, either in full or in parts.

1.2 What are the rights of a parent when returning to work after parental leave?

During unpaid childcare leave until the child reaches the age of 3 years, the employee retains his place of work (position).

Working mothers with children under 1.5 years old and fathers raising children under 1.5 years old without a mother, are entitled to additional breaks for feeding the child(ren) at least every 3 hours during work hours. The duration of these breaks is as follows:

- for 1 child, each break must be at least 30 minutes;
- for 2 or more children, each break must be at least 1 hour.

The specific duration of these breaks is subject to negotiation with the employer.

An employee with a child under 3 years old has the right to request a part-time working hours arrangement. Additionally, a female employee with a child under 3 years old, a single mother, raising a child under 14 y.o. (a child with a disability under 18 y.o.), and other individuals raising these categories of children without a mother, are prohibited from being unilaterally terminated by the employer under certain circumstances, such as a workforce or staff reduction and a decrease in the volume of production, works performed and services provided, resulting in a deterioration in the economic condition of the employer.

Employers are prohibited from requiring women with children under 7 years old, and other individuals raising children under 7 years old without a mother, to work night shifts without the written consent of the employee.

1.3 Do fathers possess the right to take paternity leave?

In accordance with the Labour Code, employers are obligated to provide unpaid childcare leave to an employee until the child reaches 3 years old. This applies to either parent at their discretion or to a parent raising a child alone.

Paternity leave is granted upon receipt of a written application from an employee, and it can be utilised either in full or in parts until the child reaches the age of 3 years.

1.4 Are there any additional parental leave rights that employers must adhere to?

The employer pays maternity leave, leave to employees who have adopted a newborn child (children), with the preservation of the average salary, if this is provided for by the terms of the labour and (or) collective agreement, the act of the employer. This provision deducts the amount of social benefits in case of loss of income in connection with pregnancy and childbirth, adoption of a newborn child(ren), which is carried out in accordance with the Social Code of Kazakhstan.

Furthermore, adoptive parents are entitled to standard and additional parental leaves, which closely mirror maternity leave entitlements. When an employee adopts a new-born child(ren), one of the parents is granted a parental leave from the adoption date until 56 calendar days after the child's birth date.

In addition to Section 1.3 above, upon request, employers are required to provide an unpaid childcare leave to another relative responsible for a child deprived of parental care, a guardian, and an employee who has adopted a new-born child(ren), until the child reaches 3 years old.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

For employees, including those engaged in remote work, a flexible working arrangement may be established in order to combine their social, everyday and other personal needs with the interests of production, regardless of the reasons for doing so. Such a flexible working arrangement must be stipulated in the labour and (or) collective agreement, establishing fixed working hours; flexible (variable) working hours, during which the employee has the right to perform job duties at his own discretion; accounting period.

In addition, if the dependents are children under 3 years old, eligible employees are entitled to the above-mentioned part-time working hours arrangement according to the Labour Code. Upon submission of a written request by an employee responsible for caring for a sick family member as per the medical report, the employer is also obliged to establish a part-time working hours schedule for the employee.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

In accordance with the Labour Code, either party to the employment contract shall give prior notice to the other during the last working day when the term of an employment contract expires.

In case of termination of employment by mutual agreement of the parties, a party to an employment contract that has expressed a desire to terminate the employment shall notify the other party. The party that received the notice is obliged to inform the other party in writing about the decision made within 3 working days.

Article 52 of the Labour Code prescribes certain cases under which an employment contract may be terminated at the employer's initiative. As such, upon dismissal due to the liquidation or workforce or staff reduction, the employer is obliged to notify the employee in writing about the termination of the employment contract no later than 1 month in advance, unless the labour or collective agreement provides for a longer notice period. With the written consent of the employee, termination of the employment contract may be carried out before the expiration of the notice period.

Termination of an employment contract at the employer's initiative on the grounds of dismissal, such as an employee's presence at work in a state of alcohol or drug intoxication; an employee's absence from work without a valid reason for 3 or more hours in a row in 1 working day, repeated failure to perform or repeated improper performance without good reason of work duties by an employee who has a disciplinary sanction, etc., is carried out in compliance with the procedures of application of disciplinary sanctions. Before applying a disciplinary sanction (remark, reprimand, severe reprimand, termination of an employment contract at the employer's initiative on such grounds), the employer is obliged to request an employee's explanation in writing, and the employee must provide it within 2 working days.

The act of imposing a disciplinary sanction is issued to the employee subjected to disciplinary action against signature within 3 working days from the date of its issuance. A disciplinary sanction is imposed on an employee directly upon discovery of a disciplinary offence, but no later than 1 month from the date of its discovery, unless otherwise specified by the law.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

The Labour legislation of Kazakhstan does not have the concept of "garden leave".

According to the Labour Code, employers cannot compel employees to take a leave without their consent.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

Employees are safeguarded against unlawful dismissal under labour legislation. An employer's decision to dismiss an employee shall be made in accordance with the legislation and on the grounds of dismissal at the employer's initiative prescribed by Article 52 of the Labour Code. Furthermore, certain employee categories may be granted additional protections and guarantees against dismissal, as elaborated in Section 2.4 below.

A dismissed employee may file a claim for unlawful dismissal for consideration by the conciliation commission, and in case of unresolved matters or non-execution of decisions of conciliation commissions – to the judicial authorities with a claim for reinstatement at work, recovery of remuneration for the period of forced labour absenteeism, compensation for moral damages, compensation for moral damage and other remedies.

An employee is treated as being dismissed when the employment contract is terminated through issuance of the act (order) of the employer outlining the ground of dismissal. The day of termination of the employment contract is the last day of work. A copy of the act (order) of the employer shall be provided to the employee or sent to him by registered mail with acknowledgment of receipt within 3 working days from the date of its issuance. The employee must review and receive a copy of the order by signing it.

In certain cases provided for by law, as well as collective agreements, termination of a labour agreement must be submitted for discussion to the labour collective.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Employers do not have the right to terminate an employment contract at their initiative during the period of employee's temporary incapacity for work and the employee's annual labour leave, except for certain cases provided for by the Labour Code.

Termination of an employment contract at the employer's initiative is not permitted with a pregnant women, women with children under 3 years old, single mothers, raising a child under 14 years old (a child with a disability under 18 years old), other individuals raising these categories of children without a mother, on the following grounds: a workforce or staff reduction; a decrease in the volume of production, work performed and services provided, resulting in a deterioration in the economic condition of the employer. Additionally, the employer cannot terminate the employment contract at his initiative with employees on a maternity leave on the ground of an employee's consecutive absence from work for more than 2 months due to temporary incapacity for work.

If on the expiration day of an employment contract concluded for at least 1 year, a pregnant woman submits a certificate (proof) of pregnancy for 12 weeks or more, as well as an employee who has a child under the age of 3 years, who has adopted a child and wishes to use his right to unpaid leave to care for a child, requests an extension of the term of the employment contract, except for temporary replacement cases, the employer is obliged to extend the term of the employment contract until the end of maternity leave.

Additionally, it is not allowed to terminate an employment contract with employees, who have less than 2 years until reaching the retirement age established by the Social Code, on the grounds of workforce or staff reduction or the employee's incompatibility with the position held or the work performed due to insufficient qualifications confirmed by certification results and without a positive decision of a commission.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

As noted earlier, an employer may terminate an employment contract with an employee at his initiative on the following grounds, including but not limited to (related to individual reasons):

- an employee's absence from work for more than 1 month for reasons unknown to the employer;
- an employee's consecutive unexcused absence from work for 3 or more hours in 1 working day;
- an employee's absence from work for more than 2 months due to temporary incapacity (except in cases of maternity leave and illness, for which the government agency has established a longer period of incapacity);
- an employee's presence at work in a state of alcohol or drug intoxication;
- an employee showed negative work results during the probationary period (except seasonal workers, for whom a probationary period is not established);
- an employee violated fire safety, labour protection or transport safety rules, which resulted in grave consequences;
- an employee's incompatibility with the position held or the work performed due to insufficient qualifications confirmed by certification results;
- an employee committed theft of property, corruption offence, disclosure of secret information, etc.

In addition, an employment contract can be terminated on business-related grounds in case of workforce or staff reduction, liquidation, and a decrease in production of volumes, work performed and services provided, resulting in a deterioration in the economic condition of the employer.

Upon dismissal, the employer is obligated to provide compensation for any accrued but unused annual leave to an employee. If the employee has utilised only a portion of their vacation entitlement, compensation is disbursed for the remaining unused days.

In circumstances where the employer undergoes liquidation, or workforce or staff reduction, the dismissed employee is entitled to receive compensation for the loss of employment equivalent to the average monthly salary. In the event of a reduction in production volumes, work performed and services provided, resulting in deterioration in the employer's economic condition, compensation is provided at the rate of the average salary for a duration of 2 months.

An employment contract, a collective agreement or an employer's act may provide for a higher amount of compensation payment in connection with the loss of a job.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Yes, employers are obligated to adhere to certain procedures when dismissing employees, as outlined below and in Section 2.1 above.

The standard procedural requirements for termination of an employment contract are as follows:

- Notification of an employee in writing of termination of the employment relationship (The specifics of this stage varies depending on the grounds for termination of an employment contract);
- Issuance of an employer's act (order) on dismissal by the employer (no later than the employee's last day of work and with indication of the ground on dismissal) and conclusion of a termination agreement (in case of termination of employment by mutual consent);
- Registration of the employer's order in the journal of registration of the orders;
- Provision of a copy of the order to the employee (within 3 working days from the issuance date; the order must be signed by an employee);
- Receipt of material assets previously transferred to the employee according to the act of transfer and acceptance;
- Receipt of a completed bypass sheet signed by other company's departments;
- Provision to the employee of a document confirming his work activity on the day of termination of the employment contract;
- Payment of wages and compensation for unused days of annual leave;
- Making changes related to dismissal of the employee in the Unified system for recording employment contracts.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

As mentioned previously, a dismissed employee may file a claim for unlawful dismissal for consideration by the conciliation commission, and in case of unresolved matters or non-execution of decisions of conciliation commissions – to judicial authorities with a claim for reinstatement at work, recovery of remuneration for the period of forced labour absenteeism, compensation for moral damages, compensation for moral damage and other remedies.

In addition to the claims above, employees who have had their employment terminated – depending on the factual circumstances– may be able to bring claims, including but not limited to breach of contract, failure to pay wages or compensations prescribed for annual leaves, as well as other requirements (change of the ground of dismissal, provision of an employee's labour book, etc.).

If the court considers the claims to be justified, the employer will be obliged to take appropriate actions aimed at restoring the employee's rights and paying appropriate compensations.

2.8 Can employers resolve claims before or after they are initiated?

Employers may settle claims both before and after they are initiated.

The Labour Code requires individual labour disputes to be settled by pre-trial settlement through conciliation commission, with exceptions for small businesses and certain officials, and in case of unresolved matters or non-execution of decisions of conciliation commissions can then be addressed by courts. Besides, the parties to the dispute shall take part in conciliation procedures at the stage of filing a claim with the court.

Within the framework of the court proceeding, parties may settle disputes through various methods outlined in the legislation, including settlement agreements, mediation, or other means of conciliation procedures in order to resolve the dispute. A settlement can be reached by the parties at any stage of the process and in a court of any instance, including after the initiation of enforcement proceedings.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

As specified above, when terminating an employment contract on the grounds of workforce or staff reduction, the employer must provide an employee with at least 1 month prior notice of termination, unless a longer period is stated in labour and collective agreements. Termination may occur before the notice period expires in case if an employee provides a written consent.

In addition, the employer must issue an order on the workforce or staff reduction, notify the authorised body in the field of social protection at least 1 month before the reduction, terminate the employment contract, pay wages to the employees and compensations for unused annual leave. The employer is also obliged to pay an employee a compensation in the amount of the employee's average monthly salary or in the bigger amount if prescribed by labour or collective agreements due to the loss of work on the ground of workforce or staff reduction.

As noted earlier, termination of an employment contract is not allowed on the ground of workforce or staff reduction in case of the following circumstances: during a period of an employee's temporary incapacity for work; with pregnant women, women with children under 3 years old, single mothers raising a child under 14 years old (a disabled child under 18 years old), other individuals raising these categories of children without a mother; during an employee's paid annual leave; for employees nearing the mandated retirement age with less than 2 years remaining.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

An employee has the right to protect his rights and legitimate interests by all means that do not contradict the law and to apply for consideration of an individual labour dispute to a conciliation commission and a court in the manner prescribed by law.

As mentioned earlier, a dismissed employee may file a claim for unlawful dismissal for consideration by the conciliation commission, and in case of unresolved matters or non-execution of decisions of conciliation commissions – to judicial authorities with a claim for reinstatement at work, recovery of remuneration for the period of forced labour absenteeism, compensation for moral damages, compensation for moral damage and other remedies.

In case of employer's non-compliance with its obligations related to termination of employment contract on the ground of a workforce or staff reduction, the employee reinstated at his previous job shall be entitled to receive salary for the entire period of forced labour absenteeism or the difference in salaries for the period he performed lower-paid work in case of unlawful transfer to another job, but not more than 6 months. Should the employer delay the implementation of the reinstatement decision, the employee shall receive his salary or

the calculated difference due to the delay in executing the decision of the court or conciliation commission.

According to the Civil Code of Kazakhstan ("Civil Code"), judicial protection of civil rights also includes compensation for moral damage. The employee has the right to file a claim for compensation of moral damages for the moral suffering caused to him associated with the illegal dismissal. Thus, claims for compensation for moral damage to an employee can be recovered from the employer in favour of the employee in part or in full.

If an employee files a complaint with state authorities, it could prompt a labour inspector to conduct an inspection of the employer to ensure compliance with labour laws, which in turn might lead to directives to rectify any violations found and could also result in the imposition of fines.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Employers must comply with Personal Data Protection Law, when collecting, processing and protecting personal data of employees, as well as ensure its confidentiality and protection as per the Labour Code.

The cross-border transfer of personal data to the territory of foreign states is carried out only if these states ensure the protection of personal data. Countries that provide an adequate level of protection are generally understood to be states that have acceded to the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. The cross-border transfer of personal data to the territory of foreign states that do not ensure the protection of personal data can be carried out in case if:

- an employee's consent is received;
- provided for by ratified international treaties;
- mandated by Kazakhstani laws to safeguard constitutional system, public order, human rights, health, and morality;
- necessary to protect constitutional rights and freedoms when employee's consent is unattainable.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

The legislation of Kazakhstan does not explicitly prohibit employees from obtaining copies of their personal information held by the employer, provided that the employee submits a request. According to Personal Data Protection Law, the employee has the right to know that the employer, as well as a third party, possess his personal data. Employees are also entitled to receive information containing confirmation of the fact, purpose, sources, methods of collection and processing of personal data; list of personal data; terms of processing of personal data, including duration of their storage.

Additionally, as per the Labour Code, the employee retains the right to access information about the employment contract and his work activities from the unified system for recording of employment contracts.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Employers can carry out pre-employment checks on prospective employees; however, the checks must be on a necessity basis, and it is good practice to obtain the prospective employees' informed consent before conducting such checks. Employers are not authorised to request on provision of documents beyond those outlined in the Labour Code or other relevant regulatory statutes unless consent is provided by the employee.

The Labour Code explicitly grants employers the right to access information on a job applicant's work history from the unified system for recording of employment contracts, contingent upon the employee's prior consent. Additionally, the Labour Code provides for a predefined list of documents that employers may request from the prospective employee as part of the employment contract's conclusion process.

The specific additional documents that employers may request can vary based on the nature of the position being applied for. As such, employers are permitted to inquire about information on absence or presence of a criminal record and any history of corruption offences.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

One of the main guarantees of the right to privacy of correspondence, telephone conversations, postal, telegraph and other messages is the general constitutional duty of the state, which is to recognize, respect and protect rights and freedoms, human rights to privacy, in accordance with the Constitution of Kazakhstan. In this regard, the Law on Communications and the Law on Informatization have been enacted to further safeguard these rights.

State regulation in the field of informatization is based on the principles of legality, respect for the rights, freedoms and legitimate interests of individuals, ensuring personal security when using information and communication technologies, etc.

According to the Criminal Code, illegal violation of the confidentiality of correspondence, telephone conversations, postal, telegraph or other messages of individuals incurs penalties, including fines, imprisonment.

At the same time, there is also a practice of the employer's implementation of a comprehensive system for monitoring and analysing actions performed on an employee's personal computer in order to monitor the employee's work activities and information security in the company. To avert adverse outcomes, it's imperative to establish internal regulations outlining the parameters of monitoring. These regulations should detail the purpose, methods, and limitations of control over employees' personal computer usage during work hours. Moreover, these regulations should indicate the responsibilities of an employee and the liabilities of an employer, and the employee should be familiarised with them in writing.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Although the legislation of Kazakhstan does not provide for an explicit legislative provision in this regard, an employer may have the right to restrict its employees from using social media for private purposes during work hours. In addition, the use of social media by an employee outside of work hours must not violate his obligations towards the company, such as confidentiality or no defamation. Misuse, even outside of work hours, may constitute misconduct subject to disciplinary action, provided that the company's internal rules and (or) employment contract have clear provisions in this regard.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

Labour disputes are subject to consideration in courts of general

jurisdiction according to the general rules with several exceptions provided for by the Civil Procedure Code of Kazakhstan ("Civil Procedure Code") and the Civil Code. Claims shall be filed in court at the location of the defendant, i.e. according to the legal or actual location of the legal entity - the employer.

The procedure for consideration of cases, complaints, and petitions are prescribed by the Civil Procedure Code. Civil cases in the court of first instance are considered and resolved by a single judge, who acts on behalf of the court. Consideration of cases in the court of appeal is carried out by a collegial composition of the court in an odd number (at least 3) of judges of the regional and equivalent court, one of whom is a presiding judge, or a single judge.

Cases in the court of cassation are reviewed by a collegial composition of the court in an odd number (at least 3) of judges of the Supreme Court, chaired by the chairman of the judicial panel or a designated judge. Appeals against the decisions of the court of cassation are considered by a collegial composition of an odd number (at least 7) of judges, chaired by the Chairman of the Supreme Court or a designated judge.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

As specified above in Section 2.8, the Labour Code provides for the mandatory pre-trial settlement for the consideration of individual labour disputes through conciliation commission, with the exception of small businesses and heads of the executive body of a legal entity, and then (on unresolved issues or on issues of non-execution of decisions of the conciliation commission) - by courts. Besides, the parties to the dispute shall take part in conciliation procedures at the stage of filing a claim with the court.

Within the framework of the court proceeding, parties may settle disputes through various methods outlined in the legislation, including settlement agreements, mediation, or other means of conciliation procedures in order to resolve the dispute. A settlement can be reached by the parties at any stage of the process and in a court of any instance, including after the initiation of enforcement proceedings.

Collective labour disputes are resolved in the following sequence: considered by the employer (association of employers), if resolution is impossible - in the conciliation commission, if no agreement is reached - by labour arbitration, and on issues not settled by it - by courts.

In claims pertaining to the recovery of wages and other matters associated with labour activities, claimants (employees) are entitled to exemption from payment of the state fees in court.

4.3 What is the typical duration for resolving employment-related complaints?

The civil procedure legislation of Kazakhstan provides for several stages of civil process:

Stage 1: Receipt of the statement of claim.
The judge determines to initiate a civil case indicating the language of legal proceedings (5 working days).

Stage 2: Preparation for the court proceeding and Preliminary hearing.
After accepting the statement of claim for court proceedings and initiating a civil case, the judge prepares the case for trial in order to ensure its timely and correct resolution (15 working days).

Stage 3: Court proceeding.
The period for consideration of a civil case must correspond to its actual complexity and interests of the persons participating in the case. According to the Civil Procedure Code, civil cases are considered and resolved by the court within 2 months from the date of completion of preparation of the case for trial. Civil cases on reinstatement at work are considered and resolved by the court within 1 month from the date of completion of preparation of the case for trial.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

Yes, as mentioned above, it is possible to appeal against a decision made at the court of the first instance. An appeal may be filed within 1 month from the date of the issuance of the final decision, unless specified otherwise by the Civil Procedure Code.

In the court of appeal, the case is considered within 2 months from the date of its receipt by the court, unless otherwise stipulated by the law.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

In accordance with the Rules on Work Permits Issuance, when employing a foreign employee to the position that does not correspond to the position specified in the work permit, the local executive body revokes the current work permit to attract foreign labour and imposes an administrative fine to an employer.

The Rules on Work Permits Issuance indicates that the work permit issued by the local executive body is not transferable to other employers and is valid only on the territory of the corresponding administrative-territorial unit (the region where the Work Permit was obtained). At the same time, the employer is allowed to send employed foreign employees with work permits on business trips to enterprises and organisations located on the territory of other regions for a period that does not exceed a total of 90 calendar days within 1 calendar year. If the period of business trips is exceeded, an additional work permit shall be obtained for that region. Additional fine is entailed in case of a repeated non-compliance.

The legislation of Kazakhstan does not establish restrictions on employees, including foreign employees, working in several positions in organisations (including in one organisation) concurrently. At the same time, in order to employ a foreign employee to occupy several positions, the employer must obtain the appropriate work permit for each position held. It is also important to add that, in accordance with the Labor Code, the total duration of daily work at the place of primary work and sideline work should not exceed the standard duration of daily work.

5.2 What are the requirements for obtaining a work permit?

According to Migration Law of Kazakhstan ("Migration Law"), attraction of the foreign labour force is conducted on the basis of a permit issued by local executive bodies within the quota established by the Government of Kazakhstan. The order and conditions of the issuance of the work permit are established by the Rules on Work Permits Issuance.

The quota means the maximum permissible amount of foreign labour authorised to be attracted by employers to carry out a labour activity in Kazakhstan.

If the company plans to attract foreign workers to Kazakhstan in 2025, then by the 30th of September of the current year, the

company must apply for a quota. In practice, the acceptance of applications for a quota begins in August and September.

For the purposes of the issuance of the work permits, the following categories of employees are established:

- Category 1: heads and their deputies;
- Category 2: heads of structural divisions corresponding to the qualification requirements established by the established professional standards;
- Category 3: experts corresponding to the qualification requirements established by the established professional standards;
- Category 4: skilled workers corresponding to the qualification requirements established by the established professional standards.

In order to obtain the work permit, the employer submits to the local executive authority in paper at the place of conducting labour activity or electronically through the "State database "E-licensing" the documents in accordance with the List of the general requirements as per the Rules on Work Permit Issuance.

The Work Permit is being issued for the following terms:

- for employees of the Category 1 - for 1, 2 or 3 years based on the application with a right of extension for 1, 2 or 3 years;
- for employees of the Category 2 or the Category 3 - for 1 year with a right of extension for 1 year, but no more than 3 times;
- for employees of the Category 4 - for 1 year without a right of extension;
- for seasonal foreign employees - up to 1 year without a right of extension.

In order to obtain or extend the work permit, the employer must pay the tax fee in accordance with the rates specified by the Decree of the Government of Kazakhstan "On the Establishment of the Rates of Duty for the Issuance and(or) Extension of the Permit for Attraction of Foreign Labour to Kazakhstan" and the Tax Code of Kazakhstan ("Tax Code") , The rates of state fee ranges from 137 MCI to 225 MCI per 1 year, depending on the category of foreign employee and the type of economic activity.

Furthermore, there is a separate procedure for obtaining the work permit within the framework of an intra-company transfer. Separate articles of the Rules on Work Permit Issuance are devoted in this regard.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

The Decree of the Government of Kazakhstan dated November 24, 2023, has been issued pertaining to the List of individuals exempted from acquiring a work permit for the attraction of foreign labour to carry out labour activity.

The amendment entails the exclusion of the clause concerning the heads/general directors of branches and representative offices of foreign legal entities from the aforementioned List.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

In accordance with Migration Law and the Decree of the Government of Kazakhstan dated 24.11.2023, the following individuals are exempt from obtaining a Work Permit for attracting foreign labour to carry out labour activity in Kazakhstan:

Foreigners and stateless persons:

- kandas;
- business immigrants who arrived to carry out entrepreneurial activities;
- refugees or asylum seekers;
- immigrants arriving for humanitarian reasons;
- individuals sentenced to non-custodial penalties by the courts of Kazakhstan;
- victims of human trafficking during ongoing criminal proceedings;
- individuals entering for family reunification purposes under special conditions;
- full-time students also working part-time in educational institutions of Kazakhstan;
- citizens of states that are parties to the Treaty on the EEU;
- crew members of sea and river vessels, air and railway transport;
- artists, directors, conductors, choirmasters, choreographers, athletes and coaches;
- individuals attracted by participants and bodies of the AIFC;
- specialists in creation of a space rocket complex and the operation of ground-based space infrastructure facilities, attracted within the framework of international treaties of Kazakhstan on cooperation in the field of aerospace activities;
- individuals carrying out pedagogical activities under international treaties on cooperation in the field of education in educational organisations of Kazakhstan, as well as for those implementing international integrated educational programs - no more than 50% of the organisation's staff, unless a different share is established by an international treaty;
- teaching staff in educational organisations that have been assigned a special status in accordance with the legislative procedure, and heads and teachers of educational organisations, whose qualifications meet the requirements established by the legislation, and who train personnel for industries economics;
- first heads of Kazakhstani legal entities and their deputies with a 100% foreign participation;
- individuals on a business trip for business purposes, which shall not exceed a total of 120 calendar days annually;
- first heads of organisations that have concluded contracts with the Government of Kazakhstan for an investment amount in monetary equivalent of over USD 50 million, and the first heads of Kazakhstani legal entities carrying out investment activities in priority types of activities and having entered into a contract with the authorised investment body;
- individuals working in a national management holding in positions not lower than heads of structural divisions with higher education with confirmed documents in the prescribed legislative manner;
- members of the board of directors of a national management holding;
- holders of an investor visa, excluding family members and dependents.

5.5 What is the ratio of foreign and local labor?

The issuance of the work permits to foreign employees is subject to the following ratio requirement pursuant to the Rules on Work Permits Issuance:

- The number of Kazakhstani citizens should be no less than 70% of the number of employees related to the Category 1 (heads and their deputies) and the Category 2 (heads of structural departments meeting certain requirements); and
- The number of Kazakhstani citizens should be no less than 90% of the number of employees related to the Category 3 (experts meeting certain requirements) and the Category 4 (skilled workers meeting certain requirements).

This rule on the Ratio of foreign workers does not apply to: small-sized businesses; state institutions and enterprises; representative offices and branches of foreign legal entities with no more than 10 employees; and etc.

The employer who attracts foreign employees within the framework

of intra-company transfer ensures a percentage ratio of the number of foreign employees (managers and specialists) attracted within the framework of an intra-company transfer of not more than 50% of the number of Kazakhstani personnel of the relevant category.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

According to the Tax Code, the standard personal income tax rate is a flat 10% for both resident and non-resident employees.

Employers in Kazakhstan, including Kazakhstani legal entities, as well as branches and representative offices of foreign legal entities, are regarded as tax agents, and are required to withhold personal income tax and remit it to the state from payments they make to individuals.

6.2 What is the percentage of withholding tax?

Employers in Kazakhstan, including Kazakhstani legal entities, as well as branches and representative offices of foreign legal entities, must withhold personal income tax (see Section 6.1 above) and pension fund contributions (at the rate of 10% of salary, exempt for non-resident employees without permanent residency in Kazakhstan) from salaries payable to its employees, which shall be paid at the employees' expense.

Employers must also pay social tax for each of its employees (local citizens and non-residents) on salaries and other income payable to them. The social tax applies at a flat rate of 9.5% (to be increased to 11% in 2025). Furthermore, they must pay social contributions to the Social Security Fund at a rate of 3.5% (5% starting from January 1, 2025) of the employee's income, with these contributions deductible from social tax payments. The maximum upper income of an employee for calculating social contributions is seven times the established minimum wage. Both social tax and social security contributions are paid at the employer's expense.

Moreover, employers are required to make mandatory contributions to the Social Medical Insurance Fund for employees' benefit, set at 3% effective in 2022, which shall be made at the employer's expense. Additionally, employers must withhold 2% of employees' salaries for Social Medical Insurance Fund contributions. Starting from January 1, 2024, employers are also required to pay mandatory pension contributions at the rate of 1.5%.

KYRGYZSTAN

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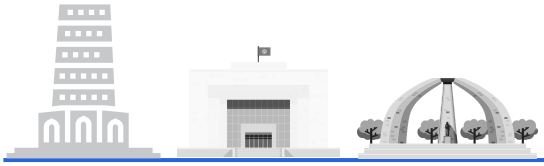

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

70 calendar days before childbirth and 56 calendar days after childbirth (in cases of complicated childbirth or the birth of two or more children – 70 days) with payment of maternity benefits for this period in the amount established by the legislation of the Kyrgyz Republic.

1.2 What are the rights of a parent when returning to work after parental leave?

By agreement between the employee and the employer, the Employer is obliged to establish a part-time or part-time working week at the request of one of the parents (guardian, trustee) who has a child under the age of 14. Part-time work does not entail for employees any restrictions on the duration of the annual basic paid leave, calculation of work experience and other labour rights.

Upon application, an employee is granted additional leave without pay to care for a child until the child reaches the age of three years. By agreement of the parties, parental leave until the child reaches the age of three years may be granted at any time and of any duration.

An employee may work part-time or remotely while on parental leave.

The specified employees retain their place of work (position) during their parental leave.

Parental leave is counted in the total length of service, as well as in the length of work in the specialty (except in cases of assignment of a pension on preferential terms, for length of service and other cases established by other regulatory legal acts).

1.3 Do fathers possess the right to take paternity leave?

Fathers possess the right to take paternity leave. In light of the general rule, parental leave can also be used in whole or in parts by the child's father, grandmother, grandfather, other relative or guardian who actually takes care of the child.

At the request of the child's mother, father, grandmother, grandfather, other relative or guardian, while on parental leave, they can work part-time or at home.

Accordingly, the child's father retains his place of work (position) during parental leave. Parental leave is counted in the total length of service, as well as in the length of work in the specialty (except in cases of assignment of a pension on preferential terms, for length of service and other cases established by other regulatory legal acts).

1.4 Are there any additional parental leave rights that employers must adhere to?

Apart from the parental rights stipulated in the previous questions, the following shall be taken into consideration:

- As a general rule, an employee's right to use paid leave for the first year of employment arises after 11 months of continuous employment with the organization. By agreement of the parties, paid leave may be granted to an employee even before the expiry of 11 months for women - before or immediately after maternity leave and employees who have adopted a child (children) under the age of 3 months.
- Employees who have adopted a child under the age of three months shall be granted maternity leave with payment of maternity benefits for this period.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

The employer is obliged to establish a part-time working day or part-time working week at the request of a pregnant woman, one of the parents (guardian, custodian) who has a child under 14 years of age (a child with disabilities under 18 years of age), as well as a person caring for a sick family member in accordance with a medical report.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

Depending on the grounds of termination, different statutory terms apply.

In case of dismissal due to non-compliance of the employee with the position or work performed due to health conditions or insufficient qualifications that prevent the continuation of this work, the employer is obliged to notify the employee at least 2 weeks in advance.

In case of termination of an employment contract due to: liquidation of an organisation (legal entity), termination of the activity of an employer (individual); reduction in the number or staff of employees, including in connection with the reorganisation of the organisation, the employer is obliged to personally notify the employee in writing at least 1 month before dismissal.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

The term "garden leave" is not included in the labour Code of the Kyrgyz Republic, though in practice it takes place as long as it does not impair the employee's rights.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

In light of the general provisions of the labour Code of the Kyrgyz

Republic, the following grounds for termination of employment contract exist:

1. agreement of the parties;
2. expiry of the term of the employment contract;
3. initiative of the employee;
4. the employer's initiative;
5. transfer of the employee at his/her request or with his/her consent to work for another employer or transfer to an elected (work) position;
6. circumstances beyond the control of the parties;
7. refusal of an employee to be transferred to another job due to his or her state of health in accordance with a medical report;
8. an employee's refusal to continue working due to a change in the material conditions of labour;
9. an employee's refusal to continue working in an organisation in connection with a change of ownership, a change in its subordination (jurisdiction) or its reorganisation;
10. refusal of an employee to be transferred in connection with the employer's relocation to another locality;
11. unsatisfactory results of the probationary period.

An employment contract may also be terminated on other grounds provided for by this Code and other laws.

Under the above mentioned circumstances an employee can be considered as dismissed.

Depending on the grounds of dismissal, certain guarantees stipulated in order to safeguard the legitimate rights of employees. The main safeguards are:

- It is not allowed to dismiss an employee during the period of temporary disability and during the employee's stay on vacation, with the certain exceptions;
- When an employee's employment contract is terminated on the certain grounds provided for by the labour Code of the Kyrgyz Republic, the employee may be transferred to another position;
- In the event of a reduction in the number or staff of the organisation's employees, priority right to remain at work is given to employees with higher labour productivity and qualifications, as well as those who meet the criteria set out in the collective agreement, agreement or employment contract.

The consent for dismissal is necessary when employees who are members of a trade union organisation or other representative body of employees. Such a category of employees cannot be dismissed on certain grounds under the labour Code of the Kyrgyz Republic without the prior written consent of the relevant trade union organisation or other representative body of employees of the organisation.

2.4 Are there specific employee categories enjoying special protection against dismissal?

- It is not allowed to dismiss an employee during the period of temporary disability and during the employee's stay on vacation, with the certain exceptions.
- The consent for dismissal is necessary when employees who are members of a trade union organisation or other representative body of employees. Such a category of employees cannot be dismissed on certain grounds under the labour Code of the Kyrgyz Republic without the prior written consent of the relevant trade union organisation or other representative body of employees of the organisation.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

In light of the general provisions of the labour Code of the Kyrgyz Republic, the following grounds for termination of employment contract exist (due to individual reasons and business-related grounds):

1. agreement of the parties;
2. expiry of the term of the employment contract;
3. initiative of the employee;
4. the employer's initiative;
5. transfer of the employee at his/her request or with his/her consent to work for another employer or transfer to an elected (work) position;
6. circumstances beyond the control of the parties;
7. refusal of an employee to be transferred to another job due to his or her state of health in accordance with a medical report;
8. an employee's refusal to continue working due to a change in the material conditions of labour;
9. an employee's refusal to continue working in an organisation in connection with a change of ownership, a change in its subordination (jurisdiction) or its reorganisation;
10. refusal of an employee to be transferred in connection with the employer's relocation to another locality;
11. unsatisfactory results of the probationary period.

An employment contract may also be terminated on other grounds provided for by this Code and other laws.

Compensation in case of dismissal due to liquidation of the organisation or reduction of the staff of employees is paid in the amount of not less than two average monthly wages.

Compensation in case of dismissal due to non-compliance of the employee with the position held or the work performed, is paid in the amount of the average monthly wage.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Not Applicable.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

Each ground of dismissal stipulates certain remedies, including financial remedies. The following must be taken into account:

- Upon termination of the employment contract due to liquidation of organisation and reduction of the staff of employees, the employer pays severance payment in the amount of not less than two average monthly wages;
- Upon termination of an employment contract under certain grounds stipulated by the labour Code of the Kyrgyz Republic, severance pay in the amount of an average monthly wage shall be paid;
- The labour contract or collective agreement may provide for other cases of payment of severance pay, as well as set higher amounts of severance pay.

2.8 Can employers resolve claims before or after they are initiated?

Individual labour disputes are considered by labour dispute commissions, the authorised state body in the field of supervision and control over compliance with labour legislation and the courts.

An employee, at his choice, may apply for a resolution of a labour dispute to the labour dispute commission or an authorised state body in the field of supervision and control over compliance with labour legislation, or directly to the court.

In cases where the labour dispute commission has not been established in the organisation, the labour dispute is subject to consideration directly by the authorised state body in the field of

supervision and control over compliance with labour legislation or in court.

The settlement of an employment dispute can also be carried out through the application of mediation procedures in accordance with the procedure provided for by legislation in the field of mediation.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

In the event of a threat of mass dismissals of employees, the employer shall, in coordination with the trade union or other representative body of the organisation's employees and the relevant state body, take special measures providing for:

1. limitation or temporary cessation of the admission of new employees, dismissal of part-time workers;
2. cancellation of overtime work;
3. change of essential labour conditions in accordance with the relevant provisions of labour Code of the Kyrgyz Republic;
4. phased release of employees;
5. other measures if they are stipulated by a collective agreement or an agreement.

A mass dismissal is a reduction in the number or staff of employees at least 25% of employees in organisations with up to 50 employees and at least 15% in organisations with more than 50 employees for 2 consecutive months.

The reduction in the number or staff of employees is associated with relevant financial obligations prescribed by the labour legislation of the Kyrgyz Republic.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

The employees are entitled to apply for the court for seeking relevant compensations from the employer.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Before providing his/her personal data, the subject of personal data must be familiarised by the holder (owner) of the personal data array with the list of collected data, the grounds and purposes of their collection and use, the possible transfer of personal data to a third party and transfer of personal data across borders, as well as informed about other possible use of personal data.

The consent of the personal data subject shall be expressed in writing on paper or in the form of an electronic document signed in accordance with the legislation of the Kyrgyz Republic on electronic signature.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

The subject of personal data has the right to know about and have access to the personal data held by the holder (owner) of personal data concerning him/her.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Pre-employment check is obligatory in certain cases. When concluding an employment contract, a person entering a job shall present to the employer: passport or other identity document; labour book; social security card; military registration documents (for persons liable for military duty and persons subject to conscription), and for jobs requiring special knowledge (training), the employee shall present a document on education (speciality, qualification); certificate of absence of criminal record for activities related to the upbringing, education and service of persons under 18 years of age.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

The right to freedom of the right to privacy of correspondence, telephone and other conversations, postal, telegraphic, electronic and other messages is a constitutional right. The interference cannot be presumed.

However, in practice the monitoring of corporate emails and corporate computer systems can take place under the pretext of signing relevant confidentiality agreements with an employee.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

The right to freedom of the right to privacy of correspondence, telephone and other conversations, postal, telegraphic, electronic and other messages is a constitutional right. The interference cannot be presumed.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

The courts of general jurisdiction hold jurisdiction over employment-related complaints. The judicial system consists of 3 court instances. The court of the 1st instance reviews employment-related complaints in the composition of 1 judge. The courts of 2nd and 3rd instances review the employment-related complaints in the composition of 3 judges.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

The claimants on employment-related complaints are exempt from state fees. The conciliation before judicial proceedings is not mandatory.

4.3 What is the typical duration for resolving employment-related complaints?

Generally, civil cases are considered and resolved within three months from the date of receipt of the application by the court of first instance.

Cases regarding reinstatement at work are considered and resolved within a period of up to one month from the date the application was accepted for court proceedings.

The courts of the 2nd and 3rd instances are obliged to consider the case no later than two months from the date of its receipt.

However, in practice duration of employment-related disputes deepens on the complexity and subject matter of the case.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

The appeal can be made within 30 calendar days since the court of the 1st instance announces its decision. The courts of the 2nd and 3rd instances are obliged to consider the case no later than two months from the date of its receipt.

However, in practice duration of employment-related disputes depends on the complexity and subject matter of the case.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

The employee is restricted in terms of the duration of his/her work permit. As long as the work permit is valid, the foreign employee can execute labour activities in the territory of the Kyrgyz Republic.

5.2 What are the requirements for obtaining a work permit?

As a general rule, foreign nationals have the right to work in the Kyrgyz Republic on the basis of a legally obtained work permit. Similarly, employers in the Kyrgyz Republic have the right to employ foreign nationals based on quotas for attracting foreign labour.

It is necessary to underline that the process of acquiring a quota and work permit is closely connected to the visa application process. The general procedure is as follows: 1) obtaining a quota for attracting foreign labour, 2) obtaining an electronic work visa to enter the territory of the Kyrgyz Republic, 3) obtaining a work permit, 4) extension of the electronic work visa for the duration of the work permit.

It is important to emphasise that the Kyrgyz Republic is a full member of the Eurasian Economic Union (hereinafter "EAEU"). Thus, by virtue of the Treaty on Accession to the EAEU ratified by the Kyrgyz Republic, citizens of EAEU member states are exempt from obtaining work permits in the Kyrgyz Republic. Additionally, employers are entitled to hire citizens of EAEU member states without being subject to national labour market protection restrictions, i.e. without obtaining quotas.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

Not Applicable.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Various categories of employees are subject to different regulations and possess distinct rights. These regulations govern the duration of work permits, the allocation of quotas, and the relevant financial obligations imposed on employers. By understanding the peculiarities of these regulations, employers can navigate the labour market and ensure compliance with the legal framework.

Highly qualified foreign specialists hold a unique position within the labour market. Upon the request of their employer, they can obtain a work permit for the duration of their employment contract, ensuring that it does not exceed a period of three years. This work permit is granted outside the labour migration quota, allowing employers to hire specialised talents from abroad without being limited by quota restrictions.

5.5 What is the ratio of foreign and local labor?

The number of foreign specialists attracted to one economic entity cannot exceed 20% of the total number of employees of this economic entity. In the case of attracting foreign specialists over 20% of the total number of employees, the employer pays a multiple state duty.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

The employer pays 27.25% of all income accrued in favour of the employee. At the same time, 17.25% is paid by the employer, and 10% by the employee.

6.2 What is the percentage of withholding tax?

The percentage of withholding tax is 10%.

MOLDOVA

Igor Popa
Senior Partner

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

Maternity leave in Moldova typically includes a pre-natal period of 70 calendar days before the expected date of birth and a postnatal period of 56 days (70 days in the case of complicated childbirth or multiple births), making a total of 126-140 days. The leave is fully paid, funded through the social insurance system.

1.2 What are the rights of a parent when returning to work after parental leave?

After parental leave, employees in Moldova generally have the right to return to their previous job or to an equivalent position with no less favorable conditions and pay. This is to ensure job security for those who have taken time off to care for their newborn.

1.3 Do fathers possess the right to take paternity leave?

Fathers in Moldova are entitled to paternity leave. The specifics of this leave, such as duration and pay, may vary, but it's aimed at allowing fathers to be involved in the early care and bonding with their newborn child.

1.4 Are there any additional parental leave rights that employers must adhere to?

Beyond the basic maternity and paternity leave, there might be provisions for additional parental leave rights in Moldova, such as extended unpaid leave for child care until the child reaches a certain age. These rights are designed to provide parents with the flexibility to balance their work and family responsibilities.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

Employees with dependents may have the right to request flexible working arrangements in Moldova, such as part-time work, flexible hours, or the ability to work from home. These arrangements aim to help employees manage their work and caregiving responsibilities more effectively.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

In Moldova, it is typically mandatory for employers to provide notice of termination of employment. The duration of the notice period usually depends on the type of employment contract and the reasons for termination. For example, notice periods can vary from a few days to several months, often based on the employee's tenure and the contractual agreements.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

"Garden leave" practices, where an employee remains on the payroll but does not have to attend work during the notice period, can be enforced in Moldova if stipulated in the employment contract or agreed upon by both parties at the time of termination.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

Employees are protected against unfair dismissal through labor laws in Moldova. Dismissal is considered unlawful if it lacks a valid reason related to the employee's capacity or conduct or is based on operational requirements of the enterprise that are not justified. The consent of a third party before dismissal may be necessary in cases involving protected categories of employees, such as union representatives.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Certain categories of employees, such as pregnant women, parents on maternity or paternity leave, and union representatives, enjoy special protection against dismissal. These protections are designed to prevent discrimination and ensure job security for vulnerable workers.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

Employers can dismiss employees due to individual reasons (e.g., misconduct, incompetence) or for business-related grounds (e.g., redundancy, operational requirements). Compensation upon dismissal varies; for redundancies, it often includes severance pay, the calculation of which may be based on the employee's tenure and salary.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Specific protocols must be followed for individual dismissals, including providing a written notice, stating the reasons for dismissal, and respecting the notice period. Failure to adhere to these protocols can lead to the dismissal being considered unfair or illegal.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

Dismissed employees can pursue claims for unfair dismissal. Remedies for a successful claim might include reinstatement, compensation for lost wages, or both. The specific remedies available depend on the circumstances of the dismissal and the findings of the court or labor tribunal.

2.8 Can employers resolve claims before or after they are initiated?

Employers and employees are encouraged to resolve claims through negotiation or mediation before initiating formal legal proceedings. Settlements can also occur after a claim is initiated but before a final judgment is made.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

When dismissing multiple employees simultaneously, employers have additional obligations, such as consulting with employee representatives and possibly notifying and obtaining approval from labor authorities. The aim is to ensure that the process is conducted fairly and that alternatives to dismissal, such as retraining or redeployment, are considered.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees can enforce their rights through labor courts or tribunals. The consequences for employers failing to comply with mass dismissal obligations can include financial penalties, compensation payments to affected employees, and the invalidity of the dismissals.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Employee data protection rights significantly impact the employment relationship in Moldova. Employers must ensure the protection of personal data in accordance with local data protection laws, which include obtaining consent for the collection and processing of personal data, ensuring the data is used only for legitimate purposes, and implementing adequate security measures. The transfer of employee data across borders is not unrestricted. It must comply with Moldova's data protection regulations, which generally require that the receiving country ensures an adequate level of data protection. This might involve specific safeguards or agreements, like standard contractual clauses, especially if the transfer is to countries not recognized as having adequate protections.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Employees in Moldova are entitled to obtain copies of their personal information held by their employer. This right allows employees to request access to their personal data to verify its accuracy and the lawfulness of its processing, reflecting principles found in comprehensive data protection frameworks.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Employers have the authority to conduct pre-employment checks, including criminal record checks, under certain conditions. These checks must be relevant and necessary for the job in question, and the employer must have a legal basis for conducting them. Typically, such checks are justified for positions that require high levels of trust and integrity or are involved in the security sector.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

Employers do have the right to monitor employee emails, phone calls, or use of company computer systems, but this monitoring is subject to strict conditions. Monitoring must be proportionate, respect the employees' privacy rights, and be justified by legitimate business interests. Employers are also required to inform employees in advance about the nature and extent of monitoring.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Employers can control an employee's use of social media in relation to the workplace or in ways that might affect the company's reputation. However, such control must balance the company's interests with the employees' rights to privacy and freedom of expression. Policies regarding social media use should be clearly communicated, reasonable, and non-discriminatory.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

Employment-related complaints in Moldova are typically handled by courts that specialize in civil law, including cases pertaining to labor disputes. These courts can be part of the general judiciary system but are designated to hear labor disputes due to their specific nature. The composition of these courts can include a single judge or a panel of judges, depending on the complexity and significance of the case. Additionally, there might be specialized labor tribunals or sections within courts that deal exclusively with employment issues, though this can vary based on the country's legal structure.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

The procedures governing employment-related complaints generally start with a mandatory pre-trial stage, such as conciliation or mediation. This stage aims to resolve disputes outside of court, saving time and resources for both parties. Conciliation might be obligatory before proceeding with a formal complaint in court. Regarding fees, there might be a nominal fee for submitting a claim to court, designed to cover administrative costs, but this fee can sometimes be waived for employees under certain conditions, such as financial hardship or the nature of the claim.

4.3 What is the typical duration for resolving employment-related complaints?

The duration for resolving employment-related complaints can vary significantly depending on the complexity of the case, the efficiency of the judiciary, and the workload of the courts. Typically, it could take several months to over a year from the filing of the complaint to the final decision. The preliminary stages, such as conciliation or mediation, can also affect the overall timeline.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

It is possible to appeal against a decision at the first instance. Appeals are usually heard by a higher court or an appellate body designated for reviewing decisions in employment disputes. The duration of the appeal process can again vary widely but often takes several months to complete. The appeal process allows for the review of legal and procedural aspects of the first-instance decision to ensure fairness and adherence to the law.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

- Job Duties: Work permits are often issued for specific positions or sectors, limiting the holder to work only in the job for which the permit was granted.
- Employer Changes: Changing employers typically requires applying for a new work permit, as the original permit is usually tied to the employer who sponsored the application.
- Duration of Stay: The duration of the work permit often dictates the length of stay allowed in Moldova, and this can range from a few months to several years, with possibilities for renewal depending on the type of work and other factors.

5.2 What are the requirements for obtaining a work permit?

Common requirements might include:

- a valid job offer from a Moldovan employer;
- proof of qualifications and experience relevant to the job;
- a clean criminal record, both in the applicant's home country and internationally;
- medical insurance and proof of accommodation in Moldova;
- payment of the relevant application fee.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

Work permit regulations and policies can be subject to changes based on economic needs, migration trends, and policy revisions. It's crucial for both individuals and employers to check with the Moldovan Ministry of Labor and Social Protection or its equivalent for the latest updates on work permit regulations.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Certain industries or occupations may have different requirements or exemptions for obtaining a work permit. For example, highly skilled professionals, researchers, or those in sectors experiencing labor shortages might benefit from simplified procedures or exemptions. Conversely, sectors with ample local labor may have more stringent requirements.

5.5 What is the ratio of foreign and local labor?

The ratio of foreign to local labor is typically regulated to protect local employment while allowing for the necessary influx of foreign workers in sectors experiencing shortages. Specific ratios or quotas can depend on the industry and the current labor market situation in Moldova. These quotas or ratios are part of the government's effort to balance the labor market needs with the protection of local workers.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

- Withholding Tax: Employers are required to withhold individual income tax from their employees' salaries at the source. This means that when salaries are paid, the employer calculates and deducts the appropriate amount of income tax before transferring the net salary to the employee.
- Payment to Tax Authorities: The withheld tax must be paid to the national tax authorities by the employer within the prescribed deadlines, which are typically monthly.
- Tax Declarations: Employers are also obliged to file regular tax declarations detailing the amounts of income paid to employees and the taxes withheld.
- Annual Reconciliation: At the end of the tax year, employers might need to perform an annual reconciliation to ensure that the correct amounts of tax have been withheld and paid for each employee.
- Providing Tax Certificates: Employers usually have to provide employees with an annual summary of their earnings and the taxes withheld, which is needed for the employees' personal tax filings.

6.2 What is the percentage of withholding tax?

The percentage of withholding tax on individual income in Moldova can vary based on the employee's income level and the tax brackets established by the Moldovan tax code. Moldova has historically used a progressive tax system, where the tax rate increases with higher income brackets. However, there might also be a flat tax rate for certain types of income or specific conditions under tax reforms.

To provide accurate and current information regarding the percentage of withholding tax, it's important to consult the latest updates from Moldova's tax authorities or legal resources. Tax rates and brackets can change due to tax reforms or adjustments in fiscal policy, affecting how much tax employers need to withhold from employee salaries.

MONGOLIA

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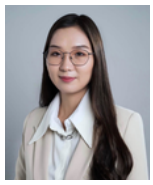

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

According to Article 137 of the Labor Law of Mongolia, a mother is entitled to a mandatory maternity leave for 120 days, and in the case of twins, the mandatory maternity leave extends to 140 days for the mother. Furthermore, if a mother or father of a child up to 3 years old makes a request, the employer is obligated to provide them with childcare leave. The provisions regarding allowance during this leave period are to be regulated by legislation, collective agreements, collective bargaining, employment agreements, and internal regulations.

1.2 What are the rights of a parent when returning to work after parental leave?

The Labor Law mandates provisions for additional breaks and allowances to support breastfeeding and childcare. According to Article 136.1 of the present Law, alongside regular rest and meal breaks, a woman with a child under 6 months of age or twins under 1 year old is entitled to an extra 2-hour break. Similarly, a woman with a child between 6 months to 12 months old, or a child older than 1 year requiring special care as medically determined, is entitled to an additional 1-hour break. Upon request, this childcare and breastfeeding break may be accommodated by reducing working hours. Furthermore, under Article 136.2, these additional breaks are considered part of the employee's working hours to calculate allowances. Moreover, pregnant women and employees with children under the age of 3 shall not be obliged to undertake business trips unless they provide explicit consent in accordance with Article 141.1.

1.3 Do fathers possess the right to take paternity leave?

Yes, as stipulated by Article 137.5 of the Labor Law of Mongolia, employers are required to provide a minimum of 10 days of paid leave to fathers for newborn childcare, compensating them with an amount equivalent to their average salary during this period.

1.4 Are there any additional parental leave rights that employers must adhere to?

Yes. The Labor Law includes a provision for employees who adopt a newborn child. As per Article 138.1, if either of the adoptive parents requests it, they are entitled to a paid leave equivalent to their average salary until the child reaches 60 days of age.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

Yes. The Labor Law addresses flexible working arrangements for pregnant women and employees with children under the age of 3. Under Article 140.1 of the present Law, pregnant women and employees with children under the age of 3 have the option to negotiate with their employer for remote work or working from home.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

Yes. The employer shall notify of the termination of employment relations for the grounds specified in this Law to the employee in writing at least 30 days before the termination and where required, the employer is obliged to provide evidence of having notified the employee in accordance with Article 80.4.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

Yes. Article 80.5 of the Labor Law states that if the employer determines that the employee who has been served notice as outlined in Article 80.4 of the present Law is either not required or unable to continue working, the employer shall provide an allowance calculated based on the employee's average salary until termination, during which the employee is relieved from work.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

Employers must notify of the termination of employment relations for the grounds specified in Labor Law to the employee in writing at least 30 days before the termination. Moreover, termination of employment at the employer's initiative for an employee whose job or position remains unchanged is prohibited, except as prescribed in Labor Law or in the event of a business entity or organization, branch, or unit thereof liquidation.

The employee is officially considered dismissed once a written termination decision and executive director's order are provided, presented, and a copy is handed to them.

Consent from a third party is not required before an employer can proceed with the dismissal.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Yes. As per Article 135.1 of the Labor Law, it is forbidden for the employer to initiate the termination of employment for a pregnant woman or a single father/mother with children under the age of 3, except in cases outlined in the following, or in the event of business entity or organization liquidation:

- if the employee has committed repeated labor disciplinary breaches (twice or more) or a serious breach specified in the employment agreement necessitating immediate termination;

- if the employee entrusted with disbursing or overseeing the completeness of the employer's finances and assets loses the employer's trust due to wrongful actions or inactions;
- if the employee is discovered to have submitted falsified documents regarding their education, professional qualifications, or specialization during the recruitment process.

Moreover, Article 80.2 of the Labor Law stipulates that termination of employment at the employer's initiative for an employee whose job or position remains unchanged is prohibited, except as prescribed in this Law or in the event of business entity or organization, branch or unit thereof liquidation.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

As per Article 80.1 of the Labor Law, the employment relations may be terminated at the employer's initiative on the following grounds:

- liquidation of the business entity or organization, branch or unit thereof, cut or reduction of the jobs within it;
- it has been determined that the employee does not meet the qualifications required for the job or position in terms of proficiency or professional skills, specialization, or work performance. Prior to termination, the employee must have been formally notified and provided a reasonable timeframe for improvement of his/her proficiency, specialization, or work performance;
- the medical-labor examination commission has determined that the employee is unable to work due to health reasons and there is no other job to transfer him/her to, the employee is unable to work although the employer has taken measures specified in Article 144.1 of this law; (Article 144.1. An employer is obliged to create employment opportunities for persons with disabilities by providing them with suitable necessities and materials specified in the Law on Human Rights of Persons with Disabilities.);
- if the employee has committed repeated labor disciplinary breaches (twice or more) or a serious breach specified in the employment agreement necessitating immediate termination etc.

In addition to this, the Labor Law includes a provision concerning severance pay for termination of employment relations. Employers are required to provide one-time severance pay as follows to employees whose employment relations were terminated for reasons outlined in the present Law. This pay is mandatory regardless of the employee's eligibility to receive severance pay from the social insurance fund as stated by Article 82 of the Labor Law:

- Equal to the base salary of one or more months if the employee worked at the business entity or organization for 6-24 months;
- Equal to the base salary of two or more months if the employee worked at the business entity or organization for 2-5 years;
- Equal to the base salary of three or more months if the employee worked at the business entity or organization for 5-10 years;
- Equal to the base salary of four or more months if the employee worked at the business entity or organization for 10 years or more.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Yes. Before handing over the duties, the employer is obliged to provide a decision of termination of employment in writing, presenting it to the employee and providing them with a copy. In the event of the employee's refusal to accept the decision, it shall be sent by the post office to their residential address, thereby constituting acknowledgment of the decision.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

As per Article 154.2 of the Labor Law, the employee retains the right to refer to a labor rights dispute resolution commission for a preliminary resolution, or to a soum or district tripartite labor rights dispute settlement committee if there is no existing commission to address disputes among business entities, organizations, or citizens. This referral for preliminary resolutions of the labor rights dispute must occur within 30 days of receiving the employer's decision regarding termination, expiration of employment, or job transfer, or if deeming the decision unfounded. A labor rights dispute resolution commission or soum or district tripartite labor rights dispute settlement committee shall resolve the complaint within 10 business days of a receipt of the complaint with the participation of the parties under Article 154.3 of the Labor Law.

2.8 Can employers resolve claims before or after they are initiated?

Yes, employers can settle with employees by means of before or after the claims are initiated.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

Yes, in the event of a mass layoff, the employer is required to inform employee representatives about the grounds for terminations, the names of affected employees, and the date of termination and conduct negotiations specified in this Law. Each employee shall be notified of a termination of employment relations 30 days prior to the termination. Moreover, the employer is obligated to notify in writing about the mass layoff of the organization in charge of the labor of its jurisdiction within 30 days after it has made such a decision. (Article 81.2-81.6).

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees who consider that they have been wrongfully dismissed may bring the wrongful dismissal claim, and if their claim is sustained, employees will be entitled to either reinstatement of employment or severance payment.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Employee data protection rights can significantly impact the employment relationship in Mongolia. Employers must develop and approve rules on data collection, processing, maintenance, and use of employee data to ensure compliance with legislation. Also, the employer is responsible for placing the rules on data collection, processing, maintenance, and use of employee data and its amendments visibly to all employees under Article 45 of the Labor Law. In the event of a need to obtain employee data from a third party, the employer is obliged to communicate the need and purpose to the employee beforehand. The writing consent is required to transfer the employee data across borders.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Yes. The data subject shall have the right to obtain a copy of the

relevant information from the data controller in paper or electronic form under Article 16.1.8 of the Law on Personal Data Protection.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

The Labor Law includes provisions on employment checks that can not be conducted by the employer. Following Article 6.4 of the Labor Law, unless directly related to job duties, employers are prohibited from asking questions, collecting information, and conducting medical, mental health, or HIV tests, except as specified by law, or inquiring about an employee's pregnancy at the commencement of employment or during their duties.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

Employers are generally entitled to monitor the employee's work-related emails and telephone and computer systems if there is a reasonable ground for such monitoring. It can be regulated by internal labor regulations and should be clearly outlined in detail, ensuring that it is introduced to all employees in advance.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

The company may have the right to prohibit its employees from using social media for private purposes during business hours. It can be regulated by internal labor regulations and should be clearly outlined in detail, ensuring that it is introduced to all employees.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

The Civil Court of the first instance holds jurisdiction over employment-related complaints (only specific types of labor disputes outlined in the Labor law shall be addressed directly by the court). As specified by Article 82.1.2 of the Law on Civil Procedure, a single judge shall adjudicate the dispute arising out of labor relations.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

As per Article 154.2 of the Labor Law, the employee retains the right to refer to a labor rights dispute resolution commission for a preliminary resolution, or to a soum or district tripartite labor rights dispute settlement committee if there is no existing commission to address disputes among business entities, organizations, or citizens. A labor rights dispute resolution commission or soum or district tripartite labor rights dispute settlement committee shall resolve the complaint within 10 business days of a receipt of the complaint with the participation of the parties. A party to dispute shall have the right to file a claim to court within 10 business days of a receipt of its decision. Where the parties do not lodge a claim to court within 10 business days of a resolution of the labor rights dispute by the soum or district tripartite labor rights dispute settlement committee, such decision shall be binding to the parties under Article 154.9 of the Labor Law.

Also, according to Article 158.3 of the Labor Law, the Court shall decide whether to resolve a labor rights dispute through a court reconciliation procedure in the pre-court stage.

The amount of stamp duty for the settlement of claims relating to non-property interest, and the claim that cannot be valued shall be 70 200 tugrugs in compliance with Article 7.1.2 of the Law of Mongolia on Stamp Duty.

4.3 What is the typical duration for resolving employment-related complaints?

Unless otherwise specified by law, a case shall be resolved within 60 days from the date of its filing. If a case is remanded for reconsideration by the Courts of Appeal and Cassation instances, a judge must resolve the case within 30 days from the date of its receipt as stipulated by Article 71.1 of the Law on Civil Procedure.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

Yes. Following Article 166.2 of the Law on Civil Procedure, the Court shall adjudicate the appealed case within 30 days from the date of receipt.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

Individuals holding a work permit in Mongolia may face restrictions or limitations regarding their job duties, changes in employers, and the duration of their stay. These limitations may include:

- Job Duties: Work permit holders are typically authorized to work only in the specific job or occupation specified in their work permit. Engaging in job duties outside the scope of the permit may be prohibited;
- Employer Changes: Work permits are often tied to a specific employer or company. Changing employers may require obtaining a new work permit, and individuals may not be allowed to work for a new employer until the new permit is obtained;
- Duration of Stay: Work permits are typically issued for a specified period, and individuals must comply with the expiration date specified on their permits. Working beyond the permitted duration without renewing the permit may result in legal consequences, including fines or deportation.

5.2 What are the requirements for obtaining a work permit?

To obtain a work permit in Mongolia, individuals typically need to fulfill several requirements, which may include:

- official request letter by inviting organization and legal entity (must include organization`s type of activity, duration of stay, employment need in Mongolia);
- original copy of the official request and other documents used in visa permission application;
- copy of passport or relevant valid substitute (must be valid for a minimum of 180 days before your intended travel to Mongolia);
- a valid Mongolian visa with a stamped entry page;
- photo taken within the last 6 months, 3.5x4.5;
- a detailed job description;
- work permit by labor and welfare service authority;
- address statement by local sum, khoroo`s authority;
- other necessary documents;
- receipt of payment (stamp duty);
- a power of attorney is needed if someone is applying on behalf of their organization and work ID.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

No, there are no specific recent changes or updates to work permit regulations in Mongolia.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Employers hiring foreign employees, including medical doctors, scientific researchers, professional teachers, and coaches for educational, scientific, health, cultural, and sports organizations on contractual terms, shall be exempted from workplace fees.

5.5 What is the ratio of foreign and local labor?

The Government annually approves the number and percentage of foreign workers to be employed in Mongolia across various economic sectors by October 1st. This number and percentage shall be determined based on the proposals from the central administrative body responsible for national development policy and planning, as well as the National Employment Council, taking into consideration the labor market's supply and demand dynamics. In instances of disaster risk, where local personnel are insufficient to address damages, the Government may authorize the hiring of foreign employees based on emergency assessments regardless of the above number and percentage. Similarly, for projects and programs funded by soft loans and grants-in-aid facilitated by the Government, foreign workers may be recruited based on governmental decisions.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

Employers in Mongolia have several legal obligations and requirements regarding individual income tax (IIT) paid by their employees:

- Withholding Tax: Employers are responsible for withholding income tax from their employee's salaries or wages based on the applicable tax rates set by the Mongolian tax authorities;
- Tax Calculation: Employers must accurately calculate the amount of income tax to be withheld from each employee's salary or wages based on their income level and any applicable tax deductions or exemptions;
- Reporting and Payment: Employers are required to report and remit the withheld income tax to the Mongolian tax authorities on time;
- Compliance with Tax Laws: Employers must comply with all relevant tax laws, regulations, and guidelines governing individual income tax withholding and reporting in Mongolia. This includes staying updated on any changes or updates to tax rates, thresholds, and compliance requirements.

6.2 What is the percentage of withholding tax?

1. Rate of social insurance premiums to be paid from the salary and equivalent income of the insured: 9.5%.

2. Personal income tax:

- 10% for taxable income between 0 - 120 000 000 MNT;
- In case of taxable income between 120 000 000 - 180 000 000 MNT, 12 000 000 MNT, and 15% for income exceeding 120 000 000 MNT;
- In case of taxable income of 180 000 000 MNT and above, 21 000 000 MNT and 20% for income exceeding 180 000 000 MNT.

RUSSIA

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1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

The duration of maternity leave is established on the basis of a duly issued sick leave.

1. In general, a sick leave is formed at 30 weeks of pregnancy for a lump sum of 140 calendar days (70 calendar days before childbirth and 70 calendar days after childbirth).

In the case of complicated childbirth, in addition to the 140-calendar-day sick leave, an additional 16 calendar days of sick leave is granted (except in cases of multiple pregnancies).

In cases of childbirth occurring between 22 and 30 weeks of pregnancy, a sick leave for 156 calendar days from the date of childbirth is formed.

2. In case of multiple pregnancies, a sick leave of 194 calendar days (84 calendar days before and 110 calendar days after childbirth) is granted at 28 weeks of pregnancy.

In the case of multiple births occurring between 22 and 28 weeks of pregnancy, the sick leave is formed for 194 calendar days from the date of delivery.

3. If multiple pregnancy is diagnosed during childbirth, in addition to the sick leave for 140 calendar days in accordance with paragraph 1, a sick leave for an additional 54 calendar days is formed.

1.2 What are the rights of a parent when returning to work after parental leave?

- The employee retains his place of work;
- Parental leave can be taken fully or in partially;
- Has the right to interrupt the leave and start work before the expiry of the parental leave by notifying the employer two weeks in advance. (In this case, annual main leave is granted for the actual time worked);
- State childcare allowance is paid for the child's care.

1.3 Do fathers possess the right to take paternity leave?

According to Art. 2, para. 256 The parental leave may be taken in full or in part by the child's father, who is actually caring for the child.

To art. 13 Federal Law of 19.05.1995 81-FZ «On state benefits to citizens with children» noted that mothers or fathers, other relatives, guardians, who actually care for the child have the right to a monthly child care allowance, subject to compulsory social insurance for temporary incapacity for work and maternity, and on parental leave.

1.4 Are there any additional parental leave rights that employers must adhere to?

In addition to the mother, other relatives can take parental leave, either all at once or alternately. Both parents can now take leave at the same time.

While on maternity leave, you can work part-time, receive a salary and allowance. At the same time, you are entitled to paid annual leave and sick leave.

Legally, infant care leave is up to 3 years.

The allowance is paid by the Russian Social Fund.

If the baby's father is a foreigner, it does not matter whether he lives in Russia or not, it is possible to take parental leave and receive the allowance.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

The Labor Code of the Russian Federation allows for part-time working hours to be established by agreement of the parties for any category of employees of an organization (for example, those undergoing training at the organization).

However, there is a certain range of persons for whom the employer is obliged to establish a part-time working day (shift) and (or) part-time working week at their request. These include:

- pregnant women;
- one parent (guardian, custodian) who has a child under the age of 14 (a disabled child under the age of 18);
- another person bringing up children under the age of 14 (or a disabled child under the age of 18) without a mother;
- a person caring for a sick family member in accordance with a duly issued medical certificate (dependents).

Part-time working hours for employees in these categories shall be established for a period convenient for them, but no longer than for the period of the circumstances that gave rise to the reason.

In this case, the working time and rest time regime is established in accordance with the employee's wishes and taking into account the conditions of production (work) at the given employer.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

An employer is obliged to notify the employee on termination of employment in the following cases and terms:

- if an employee has not passed the probation period, the employer shall notify her/him about it in writing no later than three days in before the expiration of the probation period, indicating the reasons;
- in the event of liquidation of an organization, reduction of the number or staff of employees of the organization, employees should be notified by the employer personally and under their signature at least two months before dismissal;
- if an employment contract is concluded with a part-time employee for an indefinite period, it may be terminated in the

event of hiring an employee for whom this work will be the main one, subject to a notification in writing at least two weeks in advance.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

A "garden leave" is not provided for by the Labor Code of Russian Federation. However, there is the possibility for an employee to take either a paid vacation before termination of employment (if there are unused calendar days of an annual paid vacation), or a vacation at her/his own expense upon agreement with the employer.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

Dismissal upon initiative of an employer is allowed only in the cases expressly provided for by Art. 81 of the Labor Code. An employer is required to follow strictly the procedure in each such case of termination of employment, depending on the grounds for termination, otherwise an employee has the right to contest a dismissal with a court.

An employer is obliged to require a motivated opinion of the trade union in the event of dismissal of employees – members of the trade union in the following cases:

- reduction of the number or staff of employees;
- non-compliance of the employee with the position held or the work performed due to insufficient qualifications, confirmed by the results of the certification;
- repeated failure by an employee to perform work duties without valid reasons, if he has a disciplinary penalty.

The elected body of the primary trade union organization, within seven working days from the date of receipt of the draft order and copies of documents, considers this issue and sends its reasoned opinion in writing to the employer.

2.4 Are there specific employee categories enjoying special protection against dismissal?

It is prohibited to dismiss the following employees due to a reduction in the number of employees or staff:

- a pregnant woman;
- a woman with a child (children) under the age of 3 years;
- a single mother raising a disabled child under the age of 18 or a young child (under 14 years old);
- an employee raising a disabled child under the age of 18 or a minor child (under 14 years old) without a mother;
- an employee (parent or legal representative) who is the sole breadwinner of a disabled child under the age of 18;
- an employee (parent or legal representative) who is the sole breadwinner of a child under the age of three in a family raising three or more young children, if the other parent (legal representative) is not in an employment relationship.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

Individual reasons for dismissing employees include:

1. non-compliance of the employee with the position held or the work performed due to insufficient qualifications, confirmed by the results of the certification (attestation);
2. a repeated failure by an employee to perform his/her work duties without valid reasons, if he/she has a disciplinary penalty;
3. a single gross violation of an employee's work obligations, in particular, absence at the workplace for more than four hours without a valid cause, or divulging commercial secret of the employer;
4. the commission of guilty actions by an employee directly servicing monetary or commodity values;
5. the commission by an employee performing educational functions of an immoral offense incompatible with the continuation of this work;
6. making an unjustified decision by the head of the organization (branch, representative office), his deputies and the chief accountant, which resulted in a violation of the safety of property, its misuse or other damage to the property of the organization;
7. submission of forged documents by an employee to an employer at the conclusion of an employment contract;
8. grounds provided for by the employment contract with the CEO or members of the collegial executive body of the organization.

If an employee is dismissed due to one of the abovementioned wrongdoings on her/his part, he/she is not entitled to any compensation.

In the event the CEO or the chief accountant or one of their deputies is dismissed upon initiative of the employer without any wrongdoing, the respective employee is entitled to the compensation of three monthly average salaries.

Business reasons for dismissal of employees include:

a) liquidation of an organization / termination of activity by an individual entrepreneur;
b) reduction of the number or staff of employees;
c) changes in the owner of the organization's property (in relation to the head of the organization, his deputies and the chief accountant).

Upon termination of an employment contract in connection with the liquidation of an organization or reduction of the number or staff of employees of the organization, the dismissed employee shall be paid severance pay in the amount of his/her average monthly salary. If a dismissed employee cannot find a job for more than one month, the employer is obliged to pay him the average monthly salary for the second month from the date of dismissal.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Yes, for example, if an employer intends to dismiss an employee due to non-compliance of the employee with the position held or the work performed due to insufficient qualifications, the employer should follow the following protocol, according to Article 81 of the Labor Code:

1. Adopt a local regulatory act on the certification of employees;
2. Issue an order on appointment of the commission for certification and on conducting the certification of an employee;
3. Conduct the certification of an employee;
4. If upon results of certification it is established that the employee does not correspond to the position he/she holds (the work he/she is doing), offer him/her a transfer to suitable vacancies available;
5. If the employee refused to transfer or the employer does not have vacancies, the employer may issue an order on dismissal of the employee.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

An employee has the right to apply to the court if he/she disputes the

dismissal within one month from the date of handing him/her a copy of the dismissal order or from the date of issue of the work book or from the date of providing the employee with in connection with his dismissal, information about his /her employment (Article 66.1 of the Labor Code) and demand to recognize the dismissal illegal, to reinstate her/him at the job with employer, to oblige the employer to pay the average salary for the period when employee was absent from work due to the dismissal.

If an employee does not intend to continue working with the employer, he/she may demand the court to change the wording of the grounds for dismissal, for example, to dismiss at your own request, at the same time, the date of dismissal is also changed - on the date of the relevant court decision or the date preceding the day of the start of your work with a new employer (part 4.7 of Article 394 of the Labor Code).

In cases of dismissal without a legitimate reason or in violation of the established procedure for dismissal, the court may, at the request of the employee, take a decision to recover in favor of the employee monetary compensation for moral damage caused, the amount of such compensation is determined by the court.

2.8 Can employers resolve claims before or after they are initiated?

An employer can establish a labor dispute commission upon its initiative or initiative of employees (the representative body of employees), from an equal number of representatives of employees and the employer.

An individual labor dispute is considered by the labor dispute commission if the employee has not settled the differences independently or with the participation of his representative during direct negotiations with the employer.

An employee may apply to the labor dispute commission within three months from the day when he learned or should have learned about the violation of his right.

The decision of the labor dispute commission should be performed within three days after the expiration of the ten days provided for appeal, otherwise the commission shall issue to the employee a certificate, which is an executive document and shall be enforced through a court's bailiff.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

In the event an employer is taking a decision on dismissal of employees due to reducing the number or staff of employees, the employer is obliged to inform the elected body of the primary trade union organization in writing no later than two months before the start of the relevant events, and in the event that if the decision to reduce the number or staff of employees may lead to mass layoffs of employees - no later than three months before the start of the relevant termination procedures.

An employer is also obliged to inform the employment service about the upcoming reduction of staff or number of employees: 2 months in advance if the employer is an organization, 2 weeks in advance if the employer is an individual entrepreneur.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees can file claims with the court, as well as to file complaints with the State Labor Inspectorate and the prosecutor's office.

If the dismissal of an employee is declared illegal by the court, the employee shall be reinstated at his/her previous job and the court's decision on reinstatement at work must be executed immediately (Part 1 of Article 394, Article 396 of the Labor Code).

The employer shall be held liable by the court in the form of compensation to the employee for average salary during forced absenteeism (including in case of delay in the execution of the decision to reinstate the employee at work).

The court may also decide to recover from the employer monetary compensation for moral damage caused by illegal dismissal.

Based on the results of consideration of the complaint by the State Labor Inspectorate, the employer and its officials may be brought to administrative responsibility (Article 5.27 of the Administrative Code of the Russian Federation).

In the event of unjustified dismissal of an employee based on discriminatory grounds of the employee's pregnancy, having children under the age of three or reaching pre-retirement age, the head of an organization upon the employee's appeal to the prosecutor's office may be brought to criminal liability (Articles 144.1, 145 of the Criminal Code of the Russian Federation).

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Personal data operators that plan to transfer personal data abroad must notify Roskomnadzor about the intention to carry out such a transfer.

After sending the notification, the operator has the right to carry out cross-border transfer of personal data on the territory of foreign states that are parties to the Council of Europe Convention on the Protection of Individuals with Automated Processing of Personal Data or included in the list of foreign states providing adequate protection of the rights of personal data subjects, until Roskomnadzor decides to ban the transfer.

When inspecting notifications, Roskomnadzor may request all information on assessing whether the foreign counterparty to which the data will be transferred has complied with the measures to protect data when processing it. The operator will have to transmit the information to the authority within 10 working days. The deadline can be extended for a valid reason for no more than five working days. Until Roskomnadzor has received all the requested information from the operator, it suspends verification of the notification.

Roskomnadzor may prohibit or restrict cross-border transfer upon submission by authorized authorities, e.g., the Ministry of Internal Affairs, Ministry of Defense, FSB. Such a decision is taken in order to protect the interests of the Russian Federation, its citizens, to ensure sovereignty and state security (part 12 of Article 12 of Law No. 152-FZ as amended by 266-FZ).

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Article 62 of the Labor Code of the Russian Federation establishes the employer's obligation to issue copies of documents related to the employee's labor activity at the employee's request, for example: extracts from the employment record book, wage statements, etc.

According to Article 89 of the Labor Code of the Russian Federation, in order to ensure the protection of personal data stored by the employer, employees have the right to full information about their personal data and the processing of such data, to free access to their

personal data, including the right to receive copies of any record containing personal data of the employee, taking into account the provisions of Article 14 of the Federal Law "On Personal Data".

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

When hiring an employee, the employee is obliged to provide the employer with the documents stipulated in Article 65 of the Labor Code of the Russian Federation. Upon receipt of documents from employees, as well as in the presence of the employee's consent to the processing of his/her personal data as provided for by the Federal Law "On Personal Data" and in compliance with the provisions of this Federal Law, the employer has the right to conduct a background check of potential employees.

The employer has the right to request a certificate of criminal record absence only for certain categories of employees: persons engaged in teaching, labor activity in the field of education, upbringing, development of minors, etc.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

The employer has the right to control the employee's performance of the labor function by any lawful means, including control over the use of office equipment and corporate mail. At the same time, the risk of disclosure of personal correspondence lies with the employee, if he/she conducts it from a corporate computer and using a work Email or other means of communication provided by the employer. In this case, the employer may not use technical and software tools, the use of which is allowed only to a limited number of persons in special conditions (special services, law enforcement agencies, etc.), for example, remote wiretapping or remote access to personal mobile and other devices of the employee. It is allowed to use software tools based on the analysis of Internet traffic, use of applications, hardware resources.

According to part 1 of Article 21 of the Labor Code of the Russian Federation, an employee has the right to full reliable information about working conditions and labor protection requirements at the workplace, so the employer is obliged to notify the employee against signature about the possibility of conducting control measures. In particular, it is mandatory to notify employees about video and audio surveillance. Violation of this requirement gives the employee the right to claim compensation for moral damages for violation of his labor rights, namely the right to receive reliable and complete information about working conditions and labor protection measures.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Employers have the right to monitor employees' activities during working hours. In case an employee uses social networks during the working day, which entails a violation of labor discipline and/or work discipline.

Social networks during the working day, which entails a violation of labor discipline and / or failure to fulfill labor duties, the employee may be subject to disciplinary liability.

In addition, in a local normative act, for example, in the "Regulation of Regulations on Employee Behavior in Social Networks and the Internet" the employer has the right to establish a ban to write and publish negative or unverified information about the company in mass media and social networks.

Special requirements are established for certain categories of employees - state municipal employees and military personnel. For example, Art. 20.2 of the Federal Law No. 79-FZ of July 27, 2004 "On the State Civil Service of the Russian Federation" requires employees to provide information on the placement of information on the Internet (annually report all accounts and sites on the Internet where they have posted any information on the Internet).

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

In Russia, there are no courts and tribunals specializing exclusively in the consideration of labor disputes, including employment-related. All individual labor disputes are resolved by the courts of general jurisdiction.

The composition of the court varies depending on which court is considering the relevant claim. In the court of first instance, a labor dispute is resolved by a judge alone, in the court of the 2nd and 3rd instance - collectively.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

If, in the opinion of a job seeker, the employer unreasonably refuses employment, a written request should be made to the employer, asking him to indicate the reason for his decision. According to Article 64 of the Labor Code of the Russian Federation, the employer has 7 days to provide a response, and it must be provided in writing.

An appeal against a refusal of employment should be lodged with the district court at the location of the respondent employer. The deadline for appeal is no later than three months from the day on which employment was denied.

When a labor dispute is initiated by an employee (job seeker), he or she is exempt from paying any costs of the dispute, including state duty.

4.3 What is the typical duration for resolving employment-related complaints?

The general term for consideration of a statement of claim is two months from the date of receipt of the statement to the court.

Cases of reinstatement must be resolved before the expiration of one month.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

In case of disagreement with the decision of the court of first instance, the party may file an appeal within one month from the day of drawing up the reasoned decision of the court. Consideration of the case in the court of appeal shall not exceed two months from the date of receipt of the case from the court of first instance.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

Work permit is region- and occupation-bound and only allows working in the respective constituent entity of the Russian Federation (exceptions are made for business-trips and some other

cases) and only within the occupation stated in the permit. Since the application for a permit is filed with the territorial authority of the Ministry of the Internal Affairs by the employer, employer changes require obtaining a new work permit.

As a general rule, work permit duration is equal to the duration of an individual's temporary stay or their employment contract, but no more than one year. Work permits can be prolonged additionally.

5.2 What are the requirements for obtaining a work permit?

In order to obtain work permits, an employer who has previously obtained a permit to employ foreign labour must file with the territorial authority of the Ministry of Internal Affairs (MIA of Russia):

- an application for each foreign citizen to be employed;
- a copy of the foreign employee's identity document;
- medical certificates confirming that the foreign employee does not have certain diseases.

If a foreign citizen arrives on the territory of the Russian Federation in a visa-free regime, in order to carry out labor activity in the Russian Federation, the foreign citizen must submit with the territorial authority of MIA of Russia an application for a patent and other required documents.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

Actually, there are quotas for foreign employees that set the maximum number of work permits to be issued by the Ministry of Internal Affairs of the Russian Federation and ratio of local/foreign employees in various businesses for companies to follow. The quotas are adopted annually by the Government of the Russian Federation, so employers should keep up with them.

Federal Law No. 316-FZ dated 10 July 2023 "On Amendments to the Federal Law "On the Legal Status of Foreign Citizens in the Russian Federation" has implemented the following amendments that become effective from 2024:

- the period of stay of highly qualified specialists in the Russian Federation after early termination of a labour contract has been reduced. A highly qualified specialist has 30 business days to find a new job and 30 calendar days to leave Russia if a new work (civil law) contract has not been concluded;
- the amount of remuneration of a highly qualified specialist shall amount to at least RUB 750,000 for three months, i.e. an average of RUB 250,000 per month;
- a foreign worker pursuant employment under the patent shall notify the territorial body of the Ministry of Internal Affairs of Russia within two months from the date of issuance of the patent about their employment in accordance with the prescribed form.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Foreigners are prohibited from specific areas like state and municipal, military service, as well as strategic and state defense facilities the list of which is approved by the Government of the Russian Federation, to be members of the crews of warships. Apart from general restrictions some additional limits may be implemented temporarily, for example in 2020 in connection to the COVID-19 pandemic foreigners were banned from pharmaceutical and general retail trade.

There is also a special category of foreign employees – highly qualified specialists. They are provided with some exemptions from requirements: employment quotas do not apply, their work permit may allow working in several constituent entities of Russia, and its initial term is up to three years (against one year in general).

5.5 What is the ratio of foreign and local labor?

As mentioned, there are quotas for employment of foreign and local employees. Thus, by the Resolution of the Government of the Russian Federation the total amount of work permits to be granted in 2024 is 155,929 which are divided between regions unequally.

There are also quotas regarding the ratio of foreign and local labor in different business areas. For example, construction works allow for up to 80% of foreign labor, forestry – 50%, retail alcohol and tobacco trade – 15%, pharmaceutical retail trade – 0% etc. for various industries.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

Insurance contributions are allocated as follows:

- for compulsory pension, medical and social insurance in case of temporary incapacity for work and in connection with maternity - 30% in the standard case without preferential rates;
- for insurance against accidents and occupational diseases - from 0.2% to 8.5% depending on the risk class assigned to the main activity of the organization.

6.2 What is the percentage of withholding tax?

The standard rate of personal income tax to be withheld from payments to an employee is set at 13%. If annual income exceeds 5 million roubles, the rate of 15% applies.

TURKMENISTAN

Baky Amanmyradov
Partner

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

Maternity leave of 112 calendar days includes two periods - before and after childbirth. Pre-natal leave is granted to a woman from 32 weeks of pregnancy and lasts 56 calendar days. The leave after childbirth is 56 calendar days, in case of complicated childbirth it is extended by 16 calendar days, and in case of birth of two or more children - by 40 calendar days.

Maternity leave is formalized by a certificate of incapacity for work, maternity benefit is paid as a lump sum for the prenatal and postnatal periods at the place of primary employment.

Upon expiration of maternity leave, the right to unpaid parental leave is granted until the child reaches the age of three years.

1.2 What are the rights of a parent when returning to work after parental leave?

- The employee retains his place of work;
- Parental leave can be taken fully or in partially;
- Has the right to interrupt the leave and start work before the expiry of the parental leave by notifying the employer two weeks in advance. (In this case, annual main leave is granted for the actual time worked);
- State childcare allowance is paid for the child's care.

1.3 Do fathers possess the right to take paternity leave?

Yes, the law provides equal rights to both mothers and fathers.

1.4 Are there any additional parental leave rights that employers must adhere to?

All the rights in regard to parental leave are covered by the Labor Code of Turkmenistan. There are no additional rights other than indicated by the Labor Code.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

Yes, the Labor Code does provide the availability of flexible hours if the employers are responsible for dependents.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

- Two months in advance in case of liquidation of the enterprise or termination of the employer's activities, as well as the reduction in the number of employees;
- Two weeks in advance upon continuation of the employment contract where employee fails to perform the job due to his insufficient qualification;
- Two weeks prior to the expiration of the fixed-term labor contract;
- Three days prior to the expiration of the probationary period;
- Three days prior to termination of employment for:
  - truancy,
  - alcohol intoxication,
  - disclosure of protected secrets (state, commercial),
  - committing a criminal or administrative offense,
  - violation of labor safety rules,
  - provision of false documents/information.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

The Labor Code of Turkmenistan does not include such a concept.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

The guarantee against dismissal is the Constitution of Turkmenistan. If there are no violations and legal requirements are met, the employee can defend himself/herself by all instances, including legal proceedings. The employee is considered dismissed from the moment the order is issued in accordance with the Labor Code of Turkmenistan.

In certain cases the law requires the consent of the trade union or other representative body of employees to be obtained upon dismissal by the employer, if such a body has been established at the enterprise.

2.4 Are there specific employee categories enjoying special protection against dismissal?

When an employment contract is terminated due to a reduction in the number or staff of employees, including in connection with changes in production technology, organization of labor, reduction in the scope of work, or changes in the nature of work, employees with higher qualifications and labor productivity have the priority right to remain on the job.

In the event of equal qualifications and labor productivity, priority right to remain in employment is given to:

1. a person recognized as a veteran in accordance with the law;
2. a person with a disability from childhood;
3. an employee who has worked at the enterprise for at least ten years;
4. a person of pre-retirement age (two years before retirement pension);
5. a person who has received a labor injury or occupational disease at the given enterprise;
6. an employee who has two or more dependents;
7. a person who is the sole breadwinner in the family;
8. an employee who is an in-service student at an educational institution;
9. a person who has suffered as a result of a radiation catastrophe;
10. a young specialist sent to work after graduation from a higher or secondary vocational education institution.

An employee who graduated from an educational institution of secondary vocational or higher vocational education and was hired on the basis of his/her specialty is considered a young specialist within two years.

The collective agreement may provide for other circumstances, in which preference is given to keeping employees at work.

The law also prohibits the termination of an employment contract on the employer's initiative with pregnant women and women with children under the age of three (a disabled child under the age of eighteen) (except in cases of liquidation, embezzlement, termination of a fixed-term contract).

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

1. The liquidation of the enterprise or termination of activity by the employer - a natural person;
2. Reduction in the number or staff of employees, including in connection with changes in production technology, organization of labor, reduction in the volume of work;
3. Non-compliance of an employee with the position held or work performed due to insufficient qualifications, including those confirmed by attestation results;
4. Change of ownership of the enterprise (in respect of the head of the enterprise, his deputies and chief accountant). In this case, compensation should be provided in the amount of three months' average salary;
5. Absence from work for more than four consecutive months due to temporary disability, not counting the period of maternity leave, unless the law establishes a longer period of retention of a job (position) in case of a certain illness. Workers who have lost the ability to work due to a labor injury or occupational disease retain their place of work (position) until their ability to work is restored or a disability is established;
6. Systematic non-fulfillment by the employee, without a valid reason, of the labor duties assigned to him/her by the labor contract or internal labor regulations of the company, if the employee has previously been subjected to disciplinary measures;
7. Absenteeism, including absence from the workplace without a valid excuse for more than three hours during the working day;
8. Appearing at work in a state of alcoholic, narcotic, or other toxic intoxication;
9. Disclosure of secrets (state, commercial, official, or other) protected by law that became known to the employee in connection with the performance of his or her work duties;
10. Committing theft of property, embezzlement, its willful destruction, or damage at the place of work, established by a court sentence that has entered into legal force or a resolution of the body whose competence includes imposing an administrative penalty;
11. Violation of labor protection requirements by an employee, if this violation resulted in serious consequences (industrial accident, accident, catastrophe) or knowingly created a real threat of such consequences;
12. In case of revealing the fact of submission of false documents or knowingly false information by the employee to the employer at the conclusion of the labor contract;
13. Stipulated by the labor contract with the head of the enterprise, members of the executive body of the enterprise;
14. Other cases established by the law.

Additional grounds for termination of the labor contract with certain categories of employees are:

1. One-time gross violation of labor duties by the head of the enterprise (subdivision), his deputies and employees who bear disciplinary responsibility in accordance with their charters;
2. Making unreasonable decisions by the head of the enterprise (subdivision), his/her deputies, and chief accountant, resulting in violation of the safety of property, its unauthorized use, or other damage (harm) to the enterprise;
3. Committing illegal actions by an employee directly servicing money or other valuables, as well as offenses related to corruption or creating conditions for corruption, by a civil servant or a person equal to him, if they give grounds for loss of confidence in these persons on the part of the employer;
4. Committing an immoral misdemeanor incompatible with the continuation of this work by an employee performing educational functions;
5. Referral of an employee to a special rehabilitation center on the basis of a court order that has entered into legal force;
6. Other grounds in accordance with the law and the terms and conditions of the employment contract.

In case of liquidation of the enterprise or reduction of headcount:

- The employee is paid severance pay in the amount of the average monthly wage, and the average wage is retained for the period of employment, but not more than two months from the date of dismissal, taking into account the severance pay;
- By decision of the employment authority, the average wage is retained for the period of employment during the third month from the date of dismissal, provided that the employee has applied to the employment service within two weeks after dismissal and has not been employed. If an employee twice refuses offers of suitable work within three months, he/she loses the right to retain the average wage until the expiry of the three-month period.

The average monthly salary is taken as the basis for calculation.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

When an employee resigns at will, he or she must notify the employer of his or her resignation. However, the employer has the right not to wait, but to dismiss immediately.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

An employee has the right to appeal to the court in case of unlawful dismissal or unlawful transfer to another lower-paid job, as well as in case of labor conditions, wages, imposition of disciplinary penalties, etc. The employee has the right to appeal to the court. If the claim is satisfied, the employee is entitled to:

1. mandatory payments of money for the time of forced absenteeism or the difference in wages for the time of performing lower-paid work, but not more than for one year;
2. compensation of additional expenses (consultations of specialists, expenses for case management, etc.) related to appealing the termination (dissolution) of the employment contract or transfer to another lower-paid job, upon submission of relevant supporting documents;
3. at the employee's request, the court may, instead of reinstating him at work, recover from the employer in favor of the employee additional compensation (in addition to that provided for in part two of this Article) in the amount of not less than three months' average salary.

2.8 Can employers resolve claims before or after they are initiated?

The law does not prohibit settlement of claims before or after they are initiated.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

The law does not limit the rules of dismissal to quantitative indicators. If there is a legitimate reason, it is possible. Thus, the main criterion

for a proper dismissal is the execution of all necessary legal formalities for each employee individually (or the execution of one order for all employees) and the payment of all compensations established by the Labor Code.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees have the right to protect their rights by appealing to the trade union body, the prosecutor's office, or the court.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

In accordance with the law, the transborder transfer of personal information to foreign States is only possible if those States ensure the protection of personal information.

It should also be taken into account that, according to the legislation of Turkmenistan, transborder transfer of personal information to the territory of foreign states that do not ensure their protection may be carried out only in cases:

- the written consent of the subject (employee) to the cross-border transfer of his or her personal data;
- under international treaties ratified by Turkmenistan;
- under the law, if it is necessary for the protection of the foundations of the constitutional order, human and civil rights and freedoms, public health and morals, public order, national defense, and State security;
- protection of life, health, other legitimate interests, constitutional rights, and freedoms of the subject or other persons if it is impossible to obtain the subject's consent.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Upon employment, the Employee signs a consent to the processing of personal data, which allows the use of this data in connection with industrial needs (for accounting reports, to pension authorities, to represent the interests of the company).

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

The Information Centre of the Ministry of Internal Affairs collects and processes personal data on criminal records within the limits of its authority in the cases and according to the procedure established by law.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

Such issues are reflected in the company's local regulations (code of ethics and behavior, rules for using the Internet, based on internal policy). If these rules do not violate the law and are approved by the employer's order and informed to the employees, they become mandatory for each employee.

For example, not to use the work phone for personal purposes, or to limit the time of conversations on the work phone, to put a ban on the use of certain sites or programs, etc.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

An employer may use any tools to monitor the work activities and timekeeping of employees. The law does not specify permitted or prohibited methods of control, so the installation of special software on employees' computers is not prohibited.

Article 30 of the Act states that Internet users are liable for violations sent through Internet channels as well as information containing information whose dissemination is restricted or prohibited by law.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

Employment-related complaints shall be examined by the court of first instance by a single judge, and in the court of cassation and supervisory instance - by a presiding judge and at least two judges.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

Pre-trial settlement of labor disputes with the employer is most often handled by a commission which is a special body that is formed on the initiative of the employee or the employer. The commission includes an equal number of representatives from each party to ensure its objectivity.

If the employee appeals to the court, the parties may conclude the court proceedings by concluding a settlement agreement; they may recognize the claims or waive them, unless otherwise provided by law.

In preparing the case for trial, taking into account the circumstances of the case, the judge shall take measures to conclude a settlement agreement between the parties and explain to the parties their right to apply to the arbitration court for dispute resolution and the consequences of such actions. Such claims arising from labor relations are exempt from payment of court costs.

4.3 What is the typical duration for resolving employment-related complaints?

Cases are considered and resolved by the court within no more than two months from the date of receipt of the application by the court.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

Yes, you can file a complaint to a higher court - the court of cassation instance.

The court of cassation instance must consider the case received on the basis of the cassation appeal or submission within two months from the date of its receipt.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

In terms of job duties - working conditions, remuneration, labor protection, social security and insurance procedures for foreign citizens working in Turkmenistan are established in accordance with the law.

Foreign nationals invited to work in labor relations have the same rights and bear the same responsibilities as Turkmen citizens, unless otherwise provided for in Turkmenistan's legislation.

In case of change of the employer, the rights and obligations are the same as for citizens of Turkmenistan.

Duration of stay depends on the term of the work permit, which is issued for a period of up to one year.

The number of foreign workers in an enterprise is limited to no more than 10% of the total number of employees.

5.2 What are the requirements for obtaining a work permit?

- Foreign citizens are invited to work in Turkmenistan by legal entities of Turkmenistan, legal entities of foreign states operating in the territory of Turkmenistan and their branches and representative offices, as well as by individuals of Turkmenistan using hired labor, including individuals engaged in entrepreneurial activity without forming a legal entity (hereinafter referred to as employers) on the basis of labor or civil law contracts for the performance of work (provision of services).
- To issue a work permit to foreign nationals, the employer submits an application document to the State Migration Service of Turkmenistan.
- Properly executed applications and all attached necessary documents are accepted in accordance with the established procedure.

The State Migration Service approves the form of a work permit, as well as the forms of applications for the issuance of work permits to foreign nationals, the extension of permits, the transfer of foreign nationals from one employer to another employer and the list of documents to be attached to the applications.

Appeals and attached documents shall be considered within 30 days from the date of their acceptance. When necessary, this term may be extended up to 45 calendar days.

- Legal entities hosting foreign nationals in Turkmenistan, when engaging foreign nationals in the implementation of contracts concluded with ministries (departments and other organizations) of Turkmenistan, attach to the application a petition from the head of the relevant ministry (department or other organization) with which the contract was concluded to engage the foreign national in work or documents confirming agreement with the Cabinet of Ministers on the issue of the foreign national's work in Turkmenistan.
- After the State Migration Service has carried out an appropriate verification of the applications received and the documents attached to them, the collected conclusions, information, applications and the documents attached to them are submitted for consideration by the Commission on Monitoring Compliance with the Procedure for Inviting Foreign Citizens to Temporary Work.

For attracting foreign nationals to work in Turkmenistan, employers are charged a fee of USD 25 for each month of work in Turkmenistan of the foreign national attracted. State enterprises and organizations of Turkmenistan in cases of attracting foreign workers for the development of the industry pay a fee of TMT 50 for each foreign citizen for each month of work. (USD 1 = TMT 3.5).

The employer is notified in writing of the decision to refuse to issue, extend the validity of work permits for foreign nationals in Turkmenistan or to transfer a foreign national from one employer to another within 5 working days of the decision.

If an employer disagrees with the refusal to issue a work permit, extend its term and transfer a foreign citizen from one employer to another, he or she may appeal the decision to the court.

The issuance of a work permit, the extension of its validity or the transfer of a foreign citizen from one employer to another employer may be refused on the following grounds:

- On the grounds on which, in accordance with Turkmen law, a foreign citizen may be denied a visa;
- If the number of foreign nationals attracted to work in Turkmenistan exceeds the established quota;
- If a foreign worker is invited to work that does not require high qualifications, professional training or special knowledge;
- If the employer engages foreign labor force to engage in an activity not provided for by its Charter;
- If the employer fails to fulfill obligations under a labor or civil law contract with a foreign citizen;
- If, in accordance with the procedure established by Turkmen law or international agreements to which Turkmenistan is a party, a decision has been taken in respect of a foreign citizen that his or her stay in Turkmenistan is undesirable;
- On other grounds provided for by law.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

The current issue is regulated in detail by the "Regulation on the procedure for labor activity in Turkmenistan of foreign citizens and stateless persons", approved by the Decree of President of Turkmenistan № 14230 of 02.05.2015, which is still in force. The main requirements were specified above in article 5.2.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Yes, there are.

- A foreign worker is invited for a job the performance of which requires high qualifications, professional training or special knowledge;
- State enterprises and organizations of Turkmenistan attract foreign workers for the development of the industry.

For example, authorization is not required for:

- foreign citizens arriving in Turkmenistan for up to one month to conduct financial, audit and other inspections, official negotiations, conclude contracts, and as experts;
- employees of foreign legal entities coming to Turkmenistan for up to one month to install, repair and provide technical services;
- founders, shareholders, managers of legal entities (their branches and representative offices) and foreign citizens who are members of the managerial staff of foreign legal entities and who do not have labor relations in accordance with the labor legislation of Turkmenistan.

5.5 What is the ratio of foreign and local labor?

The ratio is 90% local and 10% foreign citizens, however, the commission has the authority to change the ratio of foreign workers.

The issue is considered upon the employer's petition, which he submits to the State Migration Service of Turkmenistan. If the employer carries out activities under a contract with a state organization, before submitting the petition to the State Migration Service of Turkmenistan, he must agree to the petition with the customer and with the relevant deputies of the Cabinet of Ministers of Turkmenistan.

Based on the decision of the Commission, the State Migration Service of Turkmenistan prepares proposals and submits pre-agreed (with the customer, Deputy Chairman of the Cabinet of Ministers and Ministry of Labor) proposals through the relevant Deputy Chairman of the Cabinet of Ministers of Turkmenistan, and in other

cases - directly to the President of Turkmenistan for consideration. Changes in the ratio of foreign workers are determined by a separate act of the President of Turkmenistan.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

The employer pays contributions to mandatory pension insurance for employees - 20% of the salary.

6.2 What is the percentage of withholding tax?

- Tax on income of physical persons (employees) 10% of salary;
- Ashgabat city improvement fee TMT 5 (withheld from employee's salary).

TAJIKISTAN

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1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

The duration of maternity leave in Tajikistan is seventy calendar days before childbirth and seventy (in case of complicated childbirth – eighty-six days or birth of two or more children — one hundred and ten days) calendar days after delivery.

1.2 What are the rights of a parent when returning to work after parental leave?

When returning to work after parental leave, the parent has rights for previous work and, in cases stipulated by the Code, agreement and collective bargaining agreements, and previous salary.

1.3 Do fathers possess the right to take paternity leave?

Leave to care for a child until the child reaches the age of three years shall also be granted to fathers and the following persons:

- a parent - one bringing up a child;
- a grandparent or other legal representative bringing up a child without parental care;
- an employee who has adopted a newborn child (children).

However, this leave will be without pay and may be used in full or in installments based on the employee's written request.

During this leave, the employee will retain his/her place of employment (position).

1.4 Are there any additional parental leave rights that employers must adhere to?

There is no other additional leave except parental leave to care for a child up to the age of three years.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

In compliance with the law, employers are required to grant part-time working hours to pregnant women and individuals with family responsibilities, including those with children under the age of fourteen or with disabled children, upon receipt of a written request.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

In order to dismiss an employee on the employer's initiative, the employer must have reasonable grounds, as outlined in the Labor Code of Tajikistan.

Furthermore, in certain cases specified by the Labor Code, the employer is required to notify the employee in advance of impending dismissal:

- when the company is closing or reducing its workforce, the employer must provide at least two months' notice;
- when an employee lacks the necessary qualifications or is unable to perform their job due to health issues, the employer must provide at least one month's notice.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

In the Republic of Tajikistan, the concept of "garden leave" does not exist. Instead, upon termination of employment by the employer, there is a notification period of two months. During this period, the employee is required to work four days per week, with one day allotted for seeking out new job opportunities.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

The employer is obligated to provide valid reasons, as outlined in the Labor Code of Tajikistan, for initiating the dismissal of an employee. These reasons must be reasonable and in accordance with the provisions set forth in the code.

Dismissal of an employee, as a rule, takes place after issuance of a dismissal order, the employment record book, and making a final settlement. The day of dismissal of an employee is the last day of their work.

When a company has a trade union committee or other employee representative, the employer must seek their consent before dismissing an employee on the employer's initiative. This requirement ensures that proper procedures are followed and that employee rights are respected.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Yes, the termination of an employment contract initiated by the employer with a pregnant woman, women, and individuals with family responsibilities – including those caring for children under the age of three or raising a disabled child – is prohibited, except in cases of employer liquidation, where termination is allowed with mandatory re-employment.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

In order to dismiss an employee on the employer's initiative, the employer must have reasonable grounds for this, as provided by the Labor Code of Tajikistan.

In specific instances defined by the Labor Code, employees terminated by the employer receive a one-time severance payment equivalent to at least three times their average monthly salary.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

When dismissing an employee, the employer must comply with the following requirements:

- Notify the employee (in the cases provided for);
- Obtain the trade union's consent to his/her dismissal (if the employer has established one and if such an obligation is stipulated by a collective bargaining agreement);
- Issue a dismissal order and announce it to the employee against signature;
- Make all payments due to the employee from the employer on the day of dismissal, including for unused vacation;
- Issue a labor book.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

If an employee believes they have been wrongfully or unlawfully dismissed, they may apply to the court for reinstatement.

2.8 Can employers resolve claims before or after they are initiated?

The employer has the right to settle a dispute between him and the employee both before and after the initiation of proceedings. If the employer voluntarily settles the dispute before the proceedings are initiated in court, the employee has the right to withdraw the statement of claim, and after the proceedings are initiated, the employee has the right to withdraw the claim.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

In the event of a threat of mass employee dismissal, the employer must, in coordination with employee representatives and the authorized state labor and employment authority, implement special measures, including:

- limiting or temporarily halting the hiring of new employees and dismissing part-time workers;
- restricting the use of overtime;
- implementing changes to working conditions;
- temporarily suspending production or work activities;
- implementing phased employee dismissals;
- any other measures specified in agreements or collective bargaining agreements.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

If an employer fails to fulfill its obligations, employees have the right to seek reinstatement through court intervention. If reinstatement isn't feasible, they are entitled to claim compensation equal to three times their wages.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

The relationship between employees and employers is governed by the Labor Code and the Law on Protection of Personal Data. The Labor Code does not address the issue of the transfer of personal data, nor does it explicitly permit or prohibit such transfers. Therefore, the transfer of personal data is subject to the provisions of the Law on Protection of Personal Data. According to this law, the transfer of personal data is permitted provided that the employee consents to it.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Yes, employees have the right to access their personal data, which includes obtaining copies of records that contain the employee's personal data, with certain exceptions as provided by the laws of the Republic of Tajikistan.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

The issue at hand falls outside the scope of labor legislation, and as such, is not explicitly prohibited. It is important to note, however, that access to criminal records is strictly limited to the individuals to whom they pertain and are not disclosed to third parties.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

The issue at hand falls outside the scope of labor legislation and, as such, is not explicitly prohibited. In practice, most emails, hosted on domains such as Gmail or Hotmail, are accessible to and monitored by an organization's IT department. Similarly, computer systems are routinely monitored and controlled. The monitoring of calls is permissible only in instances where the organization provides the SIM card, and solely to the extent necessary to ensure that employees do not misuse it for personal matters.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

In the workplace, employers have the authority to restrict access to certain websites, including social media platforms, which can be observed in practice in some organizations. However, outside of the workplace, employers do not have the right to control employees' use of social media.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

In Tajikistan, there are no specialized courts or tribunals exclusively dedicated to handling labor disputes, including those concerning employment. Instead, individual labor disputes are addressed by courts of general jurisdiction.

The composition of the court varies depending on the stage of the legal process. In the court of first instance, a single judge resolves a labor dispute, while in the court of appeal and during supervisory review instances, a panel of judges collectively handles the matter.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

In Tajikistan, there isn't a mandatory conciliation procedure for

employment-related disputes, nor is there a requirement to submit a claim to the employer before proceeding to court. However, a company has the option to establish a Conciliation Commission for labor disputes.

Individual labor disputes may be addressed either by the conciliation commission or the courts. The conciliation commission handles these disputes upon request from the involved parties.

Alternatively, the parties involved in a labor contract can choose to directly approach the courts to resolve individual labor disputes.

Typically, employment-related disputes in Tajikistan are resolved in court through a claim procedure. To initiate such a case, an individual must submit a statement of claim to the relevant court along with the necessary documents. Importantly, no state duty is payable, regardless of whether the court's decision favors the plaintiff or not.

4.3 What is the typical duration for resolving employment-related complaints?

In accordance with the Civil Procedure Code of Tajikistan, cases on claims for reinstatement to work should be considered by the court of first instance not later than one month from the date of acceptance of the statement of claim for proceedings.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

A judgment from a court of first instance, which has not yet become legally binding, can be appealed in the court of cassation. A judgment from a court of cassation that has become legally binding may undergo review through the supervisory-instance procedure.

According to the Code of Civil Procedure of Tajikistan, an appeal against a first-instance court judgment that has not yet become legally binding, including those issued in disputes arising from labor relations, must be reviewed by the court of cassation within one month of its submission to the court. If there is a subsequent appeal against the judgment of the first-instance court along with the ruling of the cassation instance in the supervisory instance, the case should be considered within a maximum period of two months.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

There are no restrictions or limitations. Should there be a change of employer or acquisition of a new position, the individuals are required to obtain a new work permit.

5.2 What are the requirements for obtaining a work permit?

In order to obtain a work permit, applicants are required to submit a comprehensive set of documents. This set must include: an application form; the original and copies of the passport or other identity documents; a copy of the visa; a copy of the registration card; the original and a copy of the duty payment receipt; two color photographs, sized 3x4 cm; an HIV/AIDS certificate, utilizing form 029; and copies of either the invitation or the employment contract, alongside the taxpayer identification number.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

No.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Yes, the following individuals are exempt from obtaining work permits:

- individuals serving in foreign military units stationed within the Republic of Tajikistan;
- employees and those engaged in activities within diplomatic missions and international organizations;
- individuals in the Republic of Tajikistan for educational purposes;
- tourists entering through travel agencies on tourist visas;
- individuals on business trips, including athletes participating in competitions, artists performing on tours by official invitation of state bodies or organizations;
- investors and depositors investing a minimum of USD 500,000 within one year from the date of state registration;
- representatives of foreign media accredited in the Republic of Tajikistan;
- individuals engaged in professional activities within religious associations officially registered in the Republic of Tajikistan;
- individuals arriving in the Republic of Tajikistan for the purpose of providing humanitarian aid and charity;
- executives and employees of foreign firms operating under intergovernmental or intergovernmental investment and concessional loan agreements.

5.5 What is the ratio of foreign and local labor?

It is an established, though unwritten, norm that the staffing ratio adheres to an 80:20 distribution between local and foreign employees.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

The employer withholds from the employee salary the withholding tax and pension contributions.

6.2 What is the percentage of withholding tax?

The rate is 12% from the main place of work and 15% from other sources (e.g., part-time).

TURKEY

Adil Ali Ceylan
Partner

Gulendam Tuyluoglu
Associate

Selin Çelik
Associate

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

Maternity leave consists of a total of 16 weeks, 8 weeks before and 8 weeks after the birth. Accordingly, since the pregnancy is considered to be 40 weeks in the calculation of the maternity leave period, the female worker can take maternity leave as of the completion of the 32nd week of pregnancy. In cases of multiple pregnancies such as twins, triplets, etc., an additional 2 weeks are added to the 8-week period that will not be worked before birth, extending the prenatal maternity leave to 10 weeks in total. Thus, in multiple pregnancies, maternity leave can be used for a total of 18 weeks.

If the health condition is convenient, upon the request of the female worker with a doctor's approved health report, the female worker can work at the workplace up to three weeks before the birth, that is, until the 37th week of pregnancy.

1.2 What are the rights of a parent when returning to work after parental leave?

Female employees are granted a total of 1.5 hours of breastfeeding leave per day to breastfeed their children under 1 year of age from the date they return to work after maternity leave and unpaid maternity leave. The hours and the number of hours of this leave are determined by the female employee. Breastfeeding leave periods are counted against the daily working hours.

From the end of the maternity leave after childbirth, for the care and upbringing of the child and provided that the child is alive, female employees and female or male employees who adopt a child under the age of three are given unpaid leave for sixty days for the first birth, one hundred and twenty days for the second birth, and one hundred and eighty days for subsequent births, for half of the weekly working hours, if they wish. In cases of multiple births, thirty days are added to these periods. If the child is born disabled, this period is extended to three hundred and sixty days.

Upon request, the female employee shall be granted unpaid leave for up to six months after the completion of sixteen weeks or after eighteen weeks in cases of multiple pregnancies.

1.3 Do fathers possess the right to take paternity leave?

In Turkish Law, fathers are entitled to maternity leave. Paternity leave begins for male workers or male civil servants when their spouse gives birth. Paternity leave cannot be used before the birth. Paternity leave for fathers who are private sector employees is 5 days and paternity leave for fathers who are civil servants is 10 days.

1.4 Are there any additional parental leave rights that employers must adhere to?

Pursuant to Turkish Law, up to 6 months of unpaid leave is granted upon the request of the female employee after the completion of the recognized maternity leave periods. This period cannot be taken into account in the calculation of annual paid leave.

If the female employee makes a written request to the employer for unpaid leave 1 month in advance, the employer is obliged to meet the requirements of this request. Otherwise, the female employee can take unpaid maternity leave by making a decision on her own and notifying the employer. If the employer does not grant the unpaid maternity leave, the female employee may terminate the employment contract for just cause.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

In Turkish law, employees are not entitled to benefit from flexible working arrangements if they are responsible for their dependents.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

In Turkish Law, the employer is obliged to give a notice of termination in writing and to state the reason for termination clearly and precisely. An employee's indefinite-term employment contract cannot be terminated for reasons related to that employee's behavior or productivity without obtaining their defense against the allegations. However, if the employer terminates the employment contract in accordance with the conditions for termination for just cause, there is no obligation to give a notice of termination.

Notice periods for termination of employment contracts are as follows:

- For an employee whose employment has lasted less than six months, two weeks' notice shall be given;
- For an employee whose employment has lasted between six months and one and a half years, four weeks' notice shall be given;
- For an employee whose employment has lasted from one and a half to three years, six weeks' notice shall be given;
- For an employee whose employment has lasted for more than three years, termination shall take effect after eight weeks from the date of notification.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

Garden leave is not regulated in the Turkish Labor Law. However, the parties may agree to apply garden leave in the employment contract or in a separate agreement. The garden leave provision included in the employment contract or agreed upon separately must be reasonable in terms of duration and must aim to protect the interests of the employer. It is important that the duration of the garden leave does not exceed the notice period specified in the law.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

In Turkish Law, the prohibition of dismissal based on union activities and discrimination provides employees with assurance against termination of employment. Additionally, job security is regulated in Turkish Law. The purpose of job security is to legally protect the employee against unjust termination by the employer, ensuring the continuity of the employee's job. However, although job security is regulated in the Turkish Labor Law, not all employees subject to the Law are entitled to job security.

In cases of termination with valid reasons, the employment contract shall end upon the expiration of the notice period from the date of notification to the employee. However, in cases where the employment contract is terminated with just cause, the contract shall terminate upon the employee's receipt of the termination notice.

In Turkish Law, the approval of a third party is not required before an employer terminates an employee's employment.

2.4 Are there specific employee categories enjoying special protection against dismissal?

There are no specific categories of employees who benefit from special protection against dismissal under Turkish law.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

In Turkish Law, the termination of employment is divided into two types: termination for a valid reason and termination for just cause.

An employer terminating the indefinite-term employment contract of an employee with at least six months of seniority in workplaces employing thirty or more employees must provide a valid reason based on the employee's competence, behavior, or the requirements of the enterprise, workplace, or business.

If the employment contract is terminated based on a valid reason, the employer must comply with the notice periods, otherwise, the employer must pay the notice compensation. In the event of termination of the employment contract based on valid reasons, severance pay is paid to the employee with seniority of one year or more.

Termination for just cause is regulated in Article 25 of the Turkish Labor Law. In this context, as regulated as detailed in the relevant article:

1. Health Causes;
2. Cases that do not comply with the rules of morality and good faith and the like;
   - 2.1. providing false information about the worker's qualifications,
   - 2.2. immoral words and behaviors of the employee against the employer,
   - 2.3. sexual harassment by a worker against another worker,
   - 2.4. the behavior of the employee that is incompatible with honesty and loyalty,
   - 2.5. worker committing a crime at the workplace,
   - 2.6. unauthorized and unexcused absence from work,
   - 2.7. failure of the worker to fulfill his/her duties,
   - 2.8. the worker endangers occupational safety or damages property at the workplace,
3. Compelling Reason;
4. In the event that the employee is detained or arrested, his/her absence exceeds the notice period.

If the employment contract is terminated by the employer for just cause, the employee has no right to claim severance and notice pay.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

The employer must make the termination notice in written form and state the reason for termination in a clear and precise manner. An employee's indefinite-term employment contract cannot be terminated for reasons related to that employee's behavior or efficiency without obtaining his/her defense against the allegations against him/her. On the other hand, in cases where the employment contract will be terminated for just cause, there is no obligation to obtain a defense. However, in the established practice, it is seen that employers also seek defense in cases of termination for just cause.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

In cases where no valid reason is given by the employer or the reason given is not valid, the employee may file a lawsuit for reinstatement.

Furthermore, the employee may claim various entitlements, including unpaid wages, severance pay, notice pay, overtime pay, annual leave pays, weekend wage, national holiday and general holiday pay.

Additionally, the employee may have the right to seek compensation for other reasons, such as discrimination, by filing a reinstatement lawsuit or a service determination lawsuit, or by claiming moral damages before the general courts due to mobbing.

To initiate a successful claim, the employee must first apply to the mediator, which is a prerequisite for filing a lawsuit. If an agreement is not reached during the mediation process, the route of filing a lawsuit should be pursued. Care should be taken regarding the conditions for litigation.

2.8 Can employers resolve claims before or after they are initiated?

In lawsuits filed for employee or employer receivables and compensation based on the law, individual or collective labor agreement, and for reinstatement, the application to the mediator is a condition of the lawsuit. In other words, employees can reach a dispute resolution through mediation before resorting to litigation.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

When the employer wants to lay off employees collectively and simultaneously as a result of economic, technological, structural and similar business, workplace or workplace requirements, he/she shall do so in writing at least thirty days in advance, the workplace union representatives, the relevant regional directorate and the Turkish Employment Agency.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

When an employer wants to lay off employees collectively as a result of economic, technological, structural and similar business, workplace or work requirements, he shall notify this in writing at least thirty days in advance to the workplace union representatives, the relevant regional directorate and the Turkish Employment Agency.

Termination notices shall take effect thirty days after the employer notifies the regional directorate of the collective dismissal.

In 2024, the employer shall be subject to an administrative fine of TL 5,506 for each employee dismissed in violation of the collective dismissal provisions.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Since the employment contract is a contract that establishes a personal relationship between the employee and the employer and is based on a relationship of trust, the employer is required to protect and observe the employee in return for the employee's protection of the interests of the employer and the workplace and refraining from any behavior that may harm these interests. In this context, the employer's obligation to take care of the employee is recognized as one of the primary obligations of the employer. In general, the employer's duty of care covers obligations such as respecting and protecting the personality of the employee, taking occupational health and safety measures, and protecting the employee's belongings brought to the workplace. In this context, it is also an obligation of the employer to protect and keep the employee's personal file and not to disclose this information to third parties.

Personal data cannot be transferred abroad without the explicit consent of the data subject, except under specific circumstances. Such circumstances include when there is adequate protection in the foreign country to which the personal data will be transferred. Alternatively, personal data may be transferred abroad without explicit consent if both data controllers in Turkey and in the relevant foreign country undertake adequate protection measures in writing, and the Personal Data Protection Board grants permission.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Under Turkish Law, everyone has the right to apply to the data controller to find out whether personal data concerning them has been processed and to request information if their personal data has been processed. In this context, employees have the right to learn their personal information held by their employers and to obtain copies of such information by applying to their employers.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Employers are authorized to carry out pre-employment checks on potential employees in a manner proportionate to the legitimate interest of the employer. However, if the checks to be carried out by the employer contain sensitive personal data, the explicit consent of potential employees must be obtained.

Data that may cause the person concerned to be victimized or subjected to discrimination if learned by others are called sensitive personal data and are listed in a limited number. Data on criminal convictions and security measures, including criminal record data, are also included in this scope and are considered as sensitive personal data. The explicit consent of the prospective employee must be obtained in this respect.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

In accordance with the right of management, the employer may electronically monitor the corporate email and computer provided to the employee for work purposes. However, it is imperative that the employee be informed about this monitoring. Failure to inform the employee about the monitoring, or conducting surreptitious monitoring, constitutes a violation of the law. Furthermore, the employer is obligated to protect and respect the personality of the employee within the scope of the employment relationship, and to implement all necessary administrative and technical measures in the workplace to ensure this protection.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Employers may monitor employees' technological devices for work-related reasons. However, this monitoring is limited to the legitimate interests of the employer in conducting business operations. Therefore, employers cannot monitor their employees' social media accounts, whether inside or outside of the workplace. Otherwise, it would constitute a violation of personal data protection which may result in an administrative fine imposed on the employer by the Personal Data Protection Authority.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

In Turkish Law, Labor Courts hold jurisdiction over employment-related complaints. Labor Courts shall be established where deemed necessary. In places where there are not enough labor cases to require the establishment of a labor court, the civil courts of first instance are assigned to hear labor cases.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

In lawsuits filed for employee and employer receivables based on the law or labor contract, and for reemployment, it is a requirement to first apply to a mediator before filing the lawsuit. Failure to file a mandatory mediation application in labor lawsuits will result in the procedural dismissal of the lawsuit due to the absence of a cause of action.

The fee of the mediator and the expenses incurred by the mediator for the dispute between the parties shall be shared equally by the parties. However, the parties may agree amongst themselves for one party to pay all or a greater portion of the fee and expense. However, there is no specific fee that must be paid in order to make a request.

4.3 What is the typical duration for resolving employment-related complaints?

The Ministry of Justice has set a target duration of 540 days for labor disputes between employees and employers filed in labor courts. This target duration applies to cases heard in the first instance courts. It's important to note that processes in the Court of Appeal and the Court of Cassation are not included within this designated target duration.

In practice, factors such as notification periods, witness testimonies, and discovery are subjective matters and may vary depending on the specifics of each case. Generally, labor disputes are concluded within a timeframe ranging from 4 months to 18 months.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

It is possible to appeal to the appellate court by objecting to the

decision rendered by the court of first instance. An appeal to the appellate court can be filed within two weeks from the notification of the reasoned decision of the court of first instance. The duration of the appellate review varies from court to court. However, in practice, it is observed to take approximately two years.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

In Turkish law, certain professions and positions are designated exclusively for Turkish citizens by laws, and working in these professions is prohibited for foreigners.

Work permits in Turkish law are divided into four categories, with the duration varying depending on the type of work permit.

It is not possible to transfer a work permit obtained under one employer to work in establishments belonging to another employer. Through the transfer of work permits (change of workplace for work permit), the branch or position of the foreign employee working at the workplace can be changed.

5.2 What are the requirements for obtaining a work permit?

The summarized requirements for obtaining a work permit are as follows:

- It is mandatory to employ at least five Turkish citizens in the workplace where the work permit is requested. If the foreigner applicant is a partner in the company, the requirement of employing five individuals applies for the last six months of the one-year work permit to be issued by the Ministry of Labor and Social Security;
- The paid-up capital of the workplace must be at least TL 100,000, or the gross sales must be at least TL 800,000, or the export amount for the last year must be at least USD 250,000;
- The foreign partner applying for the permit must have a capital share of at least 20%, not less than TL 40,000;
- The monthly salary declared by the employer to be paid to the foreigner must be commensurate with the duties and qualifications of the foreigner.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

Recently, there have been no changes in work permit regulations or policies that individuals or employers need to be aware of. Only updates have been made to work permit fees and charges for valuable papers.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

Without prejudice to the provisions of special laws and provided that the foreigner and the employer fulfill their obligations arising from other laws, the following do not need to obtain a work permit for the duration of their mandate:

- Those who are exempted from work permits by bilateral or multilateral agreements to which Türkiye is a party;
- Foreigners whose permanent residence is abroad and who will temporarily come to Türkiye for a period of less than one month for scientific, cultural and artistic activities and less than four months for sporting activities;
- For the purpose of installation, maintenance and repair of machinery and equipment imported into Türkiye, providing training on its use or taking delivery of the equipment or repairing vehicles that break down in Türkiye; provided that they do not exceed three months from the date of entry into Türkiye and prove this situation with the documents to be submitted;
- Those who are in Türkiye for training on the use of goods and services exported from Türkiye or imported into Türkiye, provided that they do not exceed three months from the date of entry into Türkiye and prove this situation with the documents to be submitted;
- Those who are present in fairs and circuses that will operate outside the borders of certified tourism enterprises as a show and similar officials, provided that they do not exceed six months from the date of entry into Türkiye and prove this situation with the documents to be submitted;
- Foreigners who come to universities and public institutions and organizations to increase their knowledge and experience by proving their status with the documents they will submit, not exceeding two years and limited to the duration of their education;
- Those who are notified by the relevant authorities that they can provide significant services and contributions to Türkiye in socio-cultural, technological and educational fields in a period not exceeding six months;
- Foreigners who will come within the scope of the programs carried out by the Central Directorate for Education and Youth Programs of the European Union (National Agency);
- Foreigners who will undergo internship within the framework of international trainee student programs, the scope and duration of which are agreed upon by the Ministry, the Ministry of Interior, the Ministry of Foreign Affairs and the Presidency of the Council of Higher Education;
- Foreign tour operator representatives coming to Türkiye for a period not exceeding eight months;
- For the duration of the contracts of foreign football players and other athletes and coaches whose requests are approved by the Turkish Football Federation or the General Directorate of Youth and Sports;
- In accordance with Regulation I/10 of the International Convention on the Training, Certification and Watchkeeping Standards of Seafarers, foreign seafarers working on ships registered in the Turkish International Ship Registry and operating outside the cabotage line, who have received a "Certificate of Conformity Approval" from the relevant administration in accordance with the bilateral protocols made with the states;
- Foreign experts assigned to projects carried out under the Türkiye-European Union Financial Cooperation Programs.

There are also different requirements defined for some industries or occupations. In order to perform some occupations or work in some industries, it is necessary to meet certain criteria and also to register with some institutions and organizations. For example, in order to operate in professions such as doctors, engineers, lawyers, pharmacists, it is not enough to obtain a work permit, but it is also necessary to register with institutions such as the Ministry of Health, Chamber of Engineers, Bar Association, Chamber of Pharmacists or at least get a document from these institutions before applying to Ministry of Labor and Social Security. Those who register with such chambers are required to renew their membership periodically, e.g. annually, in order to continue to practice the relevant profession.

5.5 What is the ratio of foreign and local labor?

There is no such data in the records of the Turkish Statistical Institute.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

Income tax is the obligation individuals and entities fulfill to the state based on the earnings they accrue over a specific period. In Turkey, income tax is levied on personal incomes and applied at different rates depending on the nature of the income. Income tax is a type of tax calculated based on profits. Annual profit rates are considered in these payments. Income tax rates vary according to the amount of earnings.

Tax assessment is possible through declaration. Income tax declarations are prepared annually. Declarations are prepared every year in March. Annual incomes can be declared until the 25th day of March following the end of the year. Income tax annual payments are made according to a specific schedule. The total debt can be paid in installments. There is a specified final payment date for each installment.

6.2 What is the percentage of withholding tax?

Withholding tax and its calculations are carried out annually based on the rates determined in a current manner, taking into account the gross income. When determining the method used for calculating the withholding tax, the type of withholding is also considered. The deduction rates applied in wage and rental withholding are different from each other. Therefore, the intended deduction is shaped according to the rate. The deduction rate to be applied in rental withholding is 20%. In wage withholding, after the Social Security deduction is applied on the gross price, the collection process is carried out on the remaining amount. At this point, rates determined in accordance with the tax tariff established annually are applied on income brackets.

Accordingly, the income tax tariff to be applied to incomes in 2024 is as follows:

Minimum	**Maximum**	**Tax Rate (%)**
0	110.000,00-TRY	15
110.000,01-TRY	230.000,00-TRY	20
230.000,01-TRY	870.000,00-TRY	27
870.000,01-TRY	3.000.000,00-TRY	35
3.000.000,01-TRY and more		40

UAE

Issam Dahman
Managing Partner

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

A female employee is entitled to a maternity leave of 60 days, with the initial 45 days at full pay and the subsequent 15 days at half pay.

1.2 What are the rights of a parent when returning to work after parental leave?

Upon return from maternity leave, for up to 6 months after giving birth, a female employee is entitled to 1 or 2 rest periods daily to breastfeed her child, provided that the duration of both periods shall not exceed one hour.

1.3 Do fathers possess the right to take paternity leave?

A parent employee (either the father or mother) is entitled to parental leave for a period of 5 working days which can be taken consecutively or intermittently, to care for his or her newborn child, within the first 6 months following the child's birth.

1.4 Are there any additional parental leave rights that employers must adhere to?

A female employee is entitled to maternity leave, if she gives birth after 6 months or more of pregnancy, whether the fetus is stillborn or born alive then died. Additionally, if a female employee gives birth to a sick or a child of determination whose health condition requires constant care according to a medical report, she has the right to take a leave of 30 days with full pay after her maternity leave. She can also extend this leave for another 30 days without pay.

Moreover, if, after maternity leave, a female employee or her child is sick due to pregnancy or childbirth, preventing her from returning to work, she may take 45 days of unpaid absence, supported by a medical certificate. This absence period is not counted towards her service term for the purpose of receiving end-of-service benefits or contributions to the retirement scheme as per relevant legislation.

Being on maternity leave shall not affect a female employee's right to obtain other leaves; and it is against the law to terminate or inform a female employee about termination due to pregnancy or for taking her maternity leave, or absence (in accordance with the provisions of Article 30 (Federal Decree-Law No. (33) of 2021).

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

There is no specific mandate for flexible working arrangements for employees responsible for dependents. However, it is worth noting that some companies in the UAE may offer flexible work arrangements as part of their employee benefits packages or to accommodate employees with caregiving responsibilities, provided that such arrangements are supported by the labor law.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

Either the employer or the employee may terminate the employment contract for a legitimate reason, provided they give written notice and adhere to a specified notice period of not less than 30 and not more than 90 days. Both parties may agree to waive or shorten the notice period, ensuring the employees' rights are preserved for the notice period agreed upon in the contract.

However, the employer also has the right to terminate an employment relationship without notice in specific circumstances (e.g. If the employee has assumed a fake identity or nationality or has provided forged or fake documents), after conducting a written investigation where the reason is documented and justified.

An employer may terminate the services of an employee in probationary period by giving them a written notice at least fourteen (14) days before the specified date of termination.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

Although there is not a specific provision in the UAE law that addresses 'garden leave' explicitly, it is mentioned in Article 43 in Federal Decree-Law No. (33) of 2021 that an employee shall be entitled to his full wage for the notice period, and he shall work during that period if the employer requests the same. Hence, the employer may decide to keep the employee from attending work but is obligated to pay the employee his /her wage during the notice period.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

The employment relationship shall be terminated in any of the following circumstances:

- Both the employer and employee agree in writing to terminate it;
- The employment contract has expired (and it has not been extended or renewed);
- If terminated by either the employer or the employee with written notice;
- The employer's death if the subject of the contract is related to its entity;
- If terminated by the employer when a final judgment is issued against the employee by a freedom- restricting penalty for a period of not less than 3 months;
- Permanent closure of the establishment, in accordance with the relevant legislation;
- Bankruptcy or insolvency of the employer, or any economic or exceptional reasons that prevent the continuation of the project;
- The employee's failure to fulfill the conditions for renewing the work permit for any reason beyond the control of the employer.

In some regulated industries, consent is required from regulators before employee dismissal.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Employment relationship in UAE is governed by its contract which can only be terminated in accordance with its conditions or as per the law.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

The employer may dismiss the employee without notice after conducting a written investigation with him or her. The dismissal decision, however, shall be in writing and justified, handed over to the employee by the employer or his or her representative in any of the following circumstances:

- The employee impersonates someone else or submits fake documents;
- The employee caused substantial material losses to the employer (but the employer must have reported it to the Ministry within 7 days (of the employer's becoming aware of such acts);
- If the employee has not complied with any safety instruction (provided that such instruction was in writing and displayed prominently at the workplace, or it has been otherwise informed to the employee);
- The employee consistently fails to fulfill basic duties as per his contract despite conducting investigation and warnings;
- The employee discloses employer's secrets or confidential industrial or intellectual property information, causing losses to the employer;
- The employee is intoxicated or under the influence of a narcotic or psychotropic substance or engages in immoral behavior during work hours;
- The employee assaults anyone at the workplace, which is punishable by law;
- The employee is absent for more than 20 intermittent days or 7 consecutive days without a legitimate reason or reason acceptable to the Employer;
- The employee illegally exploits his or her job position for personal gain;
- The employee joins another company without complying with proper procedures.

Moreover, according to Article 47 in Federal Decree-Law No. (33) of 2021, if it is proven that the employer unlawfully dismissed an employee's service for filing a serious complaint to the Ministry of Human Resources and Emiratization (MoHRE) or for initiating a lawsuit against the employer, the employer must pay the employee fair compensation as determined by the competent court, considering the type of work, damage to the employee, and his or her service duration. However, this compensation should not exceed the employee's wage for 3 months, based on their last entitled wage. The employee can also claim their end-of-service gratuity, any outstanding notice period dues, or any other unpaid entitlements from his or her employer.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

For circumstances listed in 2.5, the employer must have conducted a written investigation, and the dismissal decision shall be in writing and justified, handed over to the employee by the employer or his or her representative. If the dismissal is related to performance, the employer must also serve prior warnings (at least twice).

Usually, the HR policy of the establishment shall apply as long as it does not contradict with the law.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

A dismissed employee can claim his or her unpaid wages, end-of-service gratuity (as per the law), return ticket to home country, (if expatriate), and in lieu of the notice and unused leave.

If the competent court determines that an employee's dismissal was unlawful due to their filing of a complaint or initiating of a lawsuit against the employer, the employee can claim for fair compensation weighed in by various factors, however, should not exceed the employee's wages for three (3) months, based on his or her last entitled wage.

2.8 Can employers resolve claims before or after they are initiated?

Employers can resolve claims before, during or after they are initiated.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

An employment contract must be terminated individually. There are no special provisions for collective or mass dismissals.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

If a collective dispute cannot be amicably resolved, employees can file individual or collective complaints. The Ministry of Human Resources and Emiratization (MoHRE) has the authority to implement preventative measures on the establishment to safeguard the public interest against the impact of such disputes.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

UAE federal employment laws, decrees and regulations do not specifically address the issue of employee data protection or the cross-border transfer of employee data.

Be that as it may, the UAE's federal data protection laws and regulations stipulate that personal data cannot be processed without the individual's consent, except under specific conditions, such as for public interest, personal data made public by the individual, or for legal, health, public health protection and employment purposes, amongst others.

For international data transfers, conditions include transferring data to jurisdictions with adequate data protection laws or under agreements ensuring the protection of personal data. Transfers may also occur with the explicit consent of the individual, for judicial reasons, to execute or perform contracts, or for public interest, provided these actions do not contravene the UAE's public or security interests.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

UAE federal employment laws, decrees and regulations do not specifically address the right of employees to obtain copies of personal information held by their employer.

Be that as it may, employees are entitled to access copies of documents they have personally signed or that directly relate to their employment. However, access to internal documents, such as performance evaluations, or materials containing confidential company information, such as executive decisions or proprietary materials, may not be granted by the employer.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Employers may carry out pre-employment checks if they obtain explicit consent from the prospective employee. Alternatively, employers may ask prospective employees to provide referrals or a police clearance certificate, as part of the screening process.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

UAE federal employment laws, decrees and regulations do not explicitly address this right, but employers can monitor all activities conducted on company-provided equipment, including phones and computer systems, as per the employer's policies.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

UAE federal employment laws, decrees and regulations do not explicitly address this right, but the extent to which employers can restrict an employee's use of social media during work hours, or on company devices, both inside and outside the workplace, shall be governed by the employment contract or the employer's specific policies.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

All employment-related disputes go through The Ministry of Human Resources and Emiratization (MoHRE).

If the employment dispute involves a claim of AED 50,000 or less, the Ministry has the authority to issue a final enforceable decision if parties cannot reach an amicable resolution. However, disputes with claims exceeding AED 50,000 will initially undergo attempted resolution by the Ministry. If these efforts are unsuccessful within 15 days, the case will be referred to the Labor Court, where judges will make rulings.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

Employment-related disputes are managed by filing complaints to The Ministry of Human Resources and Emiratization (MoHRE), which issues enforceable decisions for claims under AED 50,000 or for non-adherence of either employer or employee on previous amicable resolutions. If parties disagree with the Ministry's decision, they can appeal to the Court of Appeal within 15 days after being notified of the resolution, suspending the execution, which then examines the case and issues a final non-appealable ruling within (15 days) from the date of case filing. On the other hand, if a resolution isn't reached for disputes with claims over AED 50,000, the Ministry refers them to the Labor Court.

During disputes, employers may be compelled to pay employees' wages for up to two months, and the Ministry can impose administrative measures to prevent such cases leading to larger disputes. The Labor court can also dismiss lawsuits for non-compliance with proper procedures.

Lawsuits must be filed within one year of the claimed right. Judicial fees are waived for labor lawsuits or requests under AED 100,000.

4.3 What is the typical duration for resolving employment-related complaints?

Considering the procedures in 4.2, The resolution of employment-related complaints may extend beyond 30 days.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

It is possible to appeal against a decision at First Instance Court within 30 days after its issuance. Appeal duration varies, but usually takes a month up to 6 months.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

An employee shall have a fixed-term employment contract with his employer with an agreed work pattern, commonly for 2 years, which can be extended or renewed in accordance with the agreement of the employer and employee.

An employee, hence, is bound by several obligations outlined in their employment contracts. These include performing assigned tasks personally and under employer supervision, maintaining ethical conduct and professionalism, safeguarding company tools and resources, and respecting the confidentiality of sensitive information. An employee must also adhere to safety protocols, work hours, and days as specified, continuously improve their skills, and refrain from unauthorized employment elsewhere. Additionally, he or she is required to vacate provided accommodation within a set period after employment termination, unless otherwise agreed upon.

In cases of contract termination, expiration without renewal, or employer breach of obligations, an employee may transfer to another employer, however, must abide by a non-competition clause for no more than two years if any is stated in his or her contract.

5.2 What are the requirements for obtaining a work permit?

The following are required in order to obtain a work permit in UAE:

1. Employees must be at least 18 years old, except for those with juvenile permits or student training/employment permits;
2. Employees need to meet the legal requirements for specialized professions or jobs requiring a practice license as per current legislation;
3. The employee's job must be in line with the activities of the establishment;
4. The establishment must possess a valid license without any violations that could lead to its suspension according to legal regulations;
5. Permit applications must be submitted by the legally authorized signatory of the establishment;
6. Any other additional conditions as determined by the Ministry or his delegates through resolution.

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

There are no recent changes or updates on regulations or policies related to work permits.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

The Ministry of Human Resources and Emiratization (MoHRE) issues several types of work permits which allow registered establishments to recruit employees, depending on the nature of the job. Certain approvals are required for specialized jobs, from the regulator of the respective industry (e.g. healthcare, legal, finance).

5.5 What is the ratio of foreign and local labor?

Employers are required to ensure that at least 2% of their workforce is local labor, with a phased objective to increase this to at least 10% by the year 2026.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

In the UAE, there is no individual income tax levied on employees' wages. As such, there will be no withholding tax related registration and filing obligations for UAE businesses of UAE sourced income.

6.2 What is the percentage of withholding tax?

In the UAE, there is no withholding tax imposed on wages paid to employees.

UKRAINE

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1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

Maternity leave of 126 calendar days includes two periods - before and after childbirth. Pre-natal leave lasts 70 calendar days. The leave after childbirth is 56 calendar days (70 calendar days - in case of birth of two or more children and in case of complications of childbirth), starting from the day of childbirth.

At the request of the woman and in the absence of medical contraindications, part of the 70 calendar days of leave provided for before childbirth may be transferred and used by the partially or fully after childbirth, starting from the day of childbirth. In this case, the total duration of the leave may not exceed 126 calendar days (140 calendar days in case of the birth of two or more children and in case of complications of childbirth).

1.2 What are the rights of a parent when returning to work after parental leave?

The employee retains his place of work.

Women who have children under the age of one and a half are granted with additional breaks for feeding the child. These breaks are provided at least every three hours and last at least thirty minutes each. If there are two or more children, the duration of the break shall be at least one hour.

It is prohibited to refuse to hire women and reduce their salaries for reasons related to pregnancy or having children under the age of three, and for single mothers - for having a child under the age of fourteen or a child with a disability.

The dismissal of pregnant women and women with children under the age of three, single mothers with a child under the age of fourteen or a child with a disability at the initiative of the employer is prohibited, except in cases of complete liquidation of an enterprise, institution or organisation, when dismissal with compulsory employment is allowed.

1.3 Do fathers possess the right to take paternity leave?

Fathers are granted a one-time paid childbirth leave of up to 14 calendar days (excluding holidays and non-working days), which is granted no later than three months after the child's birth to such employees.

1.4 Are there any additional parental leave rights that employers must adhere to?

All the rights in regard to parental leave are covered by the Labor Code of Ukraine and Law of Ukraine on Holidays.

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

Any employee may be granted flexible working hours upon written agreement with the employer.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

This depends on the grounds for dismissal.

The statutory minimum notice period is two months if the case involves redundancy or company liquidation.

In certain cases (e.g. where there has been a single gross violation of employment duties), notification is not required.

Also, dismissal without cause and without notice is possible for employees qualifying as company officials (e.g. director) if their corporate mandate is terminated.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

The Labor Code of Ukraine does not include such a concept. At the same time this concept can be implemented under the employment agreement.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

If there are no violations and legal requirements are met, the employee can defend himself/herself by all instances, including legal proceedings. The employee is considered dismissed from the moment the order is issued in accordance with the Labor Code of Ukraine.

In certain cases the law requires the consent of the trade union or other representative body of employees to be obtained upon dismissal by the employer, if such a body has been established at the enterprise.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Several categories of employees cannot be dismissed by an employer without prior consent. These protected employees include: pregnant women; women with children under the age of 3, or under the age of 6 if a registered medical practitioner certifies that home care is necessary; single parents or the legal guardians of a child under the age of 14 or a handicapped child.

The law only allows protected employees to be dismissed if the employer is liquidated without legal succession. Under these circumstances, the law requires that they be paid their average salaries for three months following the termination.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

An employer can unilaterally terminate an employee with cause in the following cases:

- systematic unjustified failure to fulfil employment obligations;
- unjustified absence from work for more than three hours during one day;

- appearance at work while under the influence of alcohol or drugs;
- misappropriation of property;
- a single gross violation of employment obligations;
- actions of a company head causing delayed or reduced payment of wages;
- real or potential conflict of interest;
- immediate subordination to a related party contrary to the Ukrainian law "On Preventing Corruption";
- repeated violation of the requirements of the legislation in the field of licensing, on the issuance of permits or in the field of administrative services;
- actions of an employee entrusted with company assets (cash or property) that result in the loss of the employer's trust; or
- immoral conduct.

An employer can terminate an employee without cause in the following cases:

- changes in organisation of work and production (redundancy);
- employee unsuitability for the job or position due to lack of qualification or poor health conditions;
- reinstatement of an employee who previously occupied the position;
- absence from work due to sickness for more than four continuous months;
- recruitment by the army or mobilization of an employer-natural person during a special period;
- the employee's unsuitability for the job or position is discovered within his / her probation period; or
- work cannot be provided to the employee due to the destruction of the employer's property, production tools, technical or organisational conditions as a result of combat actions during martial law.

In any case of dismissal, an employer must pay an employee all payments due under an employment agreement (salary and compensation for any of the employee's annual vacation accumulated but unused during the whole term of employment).

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

The decision to reduce the number of employees or staff.
The Labor Code of Ukraine provides for the possibility of terminating an employment contract at the initiative of an employer or an authorized body in the event of bankruptcy, reorganization of an enterprise, or reduction in staff. The first stage ends with an order on implementing changes to the staffing table. The document lists the positions, categories and number of employees without indicating the names to be excluded from the staff list.

The stage of determining the employees who fall under the reduction.
Changes are made to the staffing table according to the order of the legal entity. The employer must take into account the pre-emptive right to remain employed. (according to article 42 of the Labor Code of Ukraine). A special commission may be created to determine the right to stay employed.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

An employee has the right to apply to the court if he/she disputes the dismissal within one month from the date of handing him/her a copy of the dismissal order or from the date of issue of the work book or from the date of providing the employee with in connection with his dismissal, information about his/her employment (Article 233 of the Labor Code).

If the claim is satisfied, the employee is entitled to:

1. Reinstatement in employment, changing the wording of the reasons for dismissal, formalising labour relations with an employee who performed work without concluding an employment contract, and establishing the period of such work;
2. Payment for forced absenteeism in the event of a delay in the execution of a decision to reinstate an employee;
3. Compensation for moral damages by the employer.

2.8 Can employers resolve claims before or after they are initiated?

An employer can establish a labor dispute commission upon its initiative or initiative of employees (the representative body of employees).

The labor dispute commission is a mandatory primary body for consideration of labour disputes arising at enterprises, institutions and organisations, except for certain categories of disputes.

A labour dispute between an employee and an employer, regardless of the form of an employment agreement, may be settled through mediation in accordance with the Law of Ukraine "On Mediation", taking into account the specifics provided for in this Code.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

If the dismissal involves mass dismissal, the owner or his authorised body, an individual who uses hired labour, shall notify the State Employment Service of the planned dismissal of employees.

According to the law, mass dismissal is considered to be:

1. dismissal of 10 or more employees from an employer with 20 to 100 employees;
2. dismissal of 10% or more of employees by an employer with 101 to 300 employees;
3. dismissal of 30 or more employees from an employer with 301 to 1000 employees;
4. dismissal of 3 or more % of employees from an employer with 1001 or more employees.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

Employees have the right to protect their rights by appealing to the State Employment Service, the prosecutor's office, or the court.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

Personal data shall be transferred to foreign parties only if the relevant state ensures proper protection of personal data in cases established by law or an international agreement of Ukraine.

Personal data may also be transferred to foreign parties in the following cases:

1. the personal data subject provides explicit consent to such transfer;
2. the need to conclude or perform a transaction between the personal data owner and a third party in favor of the personal data subject;
3. the need to protect the vital interests of personal data subject;
4. the need to protect the public interest, establish, fulfil and enforce a legal claim;

5. provision by the personal data owner of appropriate guarantees of non-interference in the personal and family life of the personal data subject.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

There is no direct legal provision on obtaining copies, however, in accordance with Article 8 of the Law of Ukraine "On Personal Data Protection", an employee has the right to know about the sources of collection, location of his/her personal data, the purpose of their processing, location or place of residence (stay) of the owner or manager of personal data or to give a corresponding order to obtain this information to persons authorised by him/her, except in cases established by law, as well as to access his/her personal data.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Such authorities are not expressly provided for by law, but there are no corresponding prohibitions. Criminal record checks are common practice in Ukraine.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

Such issues are reflected in the employer's local regulations (code of ethics and behavior, rules for using the Internet, based on internal policy). If these rules do not violate the law and are approved by the employer's order and informed to the employees, they become mandatory for each employee.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Such issues are reflected in the employer's local regulations (code of ethics and behavior, rules for using the Internet, based on internal policy). If these rules do not violate the law and are approved by the employer's order and informed to the employees, they become mandatory for each employee.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

There are no courts and tribunals specializing exclusively in the consideration of labor disputes in Ukraine. All labor disputes are resolved by the courts of general jurisdiction.

The composition of the court varies depending on which court is considering the relevant claim. In the court of first instance, a labor dispute is resolved by one or three judges, in the court of appeal and Supreme Court - collectively.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

The Labour Code provides for a list of labour disputes that may be referred to labour dispute commissions or directly to the courts.

If the subject of the court dispute is the protection of labour rights, the court may, by its ruling at the request of the party, postpone or defer payment of the court fee for a certain period, but not longer than until the court decision is made.

4.3 What is the typical duration for resolving employment-related complaints?

The duration may take 2 to 24 (or more) months depending on the complexity of the case and activeness of the parties.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

It is possible to appeal to the court of appeal (during 30 days) and to the Supreme Court (during 30 days). The consideration may take 2 to 24 (or more) months depending on the complexity of the case and activeness of the parties.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

It is only allowed to work in the specific entity indicated in a work permit and only within the position stated in the permit. Employer changes require obtaining a new work permit.

As a general rule, work permit duration is equal to the duration of an individual's temporary stay or their employment contract, but no more than one year. Work permits can be prolonged additionally.

5.2 What are the requirements for obtaining a work permit?

Foreign citizens must obtain the work permit to work officially in Ukraine. The company-employer (or the private entrepreneur) files the application form to the local employment center to get for the potential employee the work permit in Ukraine.

Work permit in Ukraine does not give the right to the foreign citizen to choose the place of work and position at his/her discretion. One work permit is for one position, and the employer keeps this document.

Ukrainian legislation stipulates several categories for foreign employees. Each category has the list of documents required for the work permit application. To apply for the work permit, the employer needs to define his/her potential employee group.

There are the following categories: 1) regular foreign employees; 2) special categories of foreign employees: foreigners-founders of enterprises; IT professionals; foreign high-paid professionals; graduates of the TOP-100 universities in a world ranking; seconded foreign employees; foreigners submitting documents for recognition as refugees or as people who need additional protection.

Special categories of foreign employees in Ukraine have some privileges considering salary rate and work permit validity term.

The common list of documents required for the work permit application includes the following:

- a certified translation of a foreigner's passport into the Ukrainian language;
- foreigner's photo (size 3.5*4.5 cm);
- a draft of a future employment contract.

The list of specific documents is as follows:

- a certified translation of the relevant diploma (for a graduate from one of the TOP-100 universities in a world ranking);
- a copy of the secondment agreement between Ukrainian and foreign economic entities (for seconded foreign employees).

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

In 2022, the special requirements (5 minimum wages for foreigners and stateless persons employed by public associations, charitable organisations and educational institutions, and 10 minimum wages for all other categories of employees) for the employer to comply with the conditions for payment of wages upon obtaining a work permit were cancelled.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

The law specifies a list of foreigners who don't require a work permit for employment in Ukraine:

- foreigners with a permanent residence permit;
- employees of representative offices of foreign companies in Ukraine;
- employees of foreign accredited media;
- participants of international technical assistance projects;
- teachers and scientists invited for work by higher education institutions;
- representatives of foreign naval (river) fleets and airlines serving such companies in Ukraine;
- foreigners who have refugee status or are recognized as people who need additional protection or granted temporary protection in Ukraine;
- professional athletes;
- artists and art workers;
- clerics invited by religious organizations to carry out canonical activity.

It takes 7 business days for granting the work permit and 3 business days for extension of the work permit validity term in Ukraine.

5.5 What is the ratio of foreign and local labor?

Not established.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

The standard tax rate of 18% applies to income received as salary and other benefits under employment and civil agreements, foreign income, and other income not covered elsewhere.

Military contribution at 1,5% is levied on the income that is subject to personal income tax. The tax base for the calculation of military contribution is the same as for personal income tax.

6.2 What is the percentage of withholding tax?

Withholding tax at a rate of 15% applies to the majority of passive income payments to non-residents, unless an exemption or reduced rate is provided under a DTT.

UZBEKISTAN

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Associate

1 Maternity and Family Leave Rights

1.1 How long is the duration of maternity leave?

70 calendar days before childbirth and 56 (in case of complicated childbirth or the birth of two or more children - 70) calendar days after childbirth.

Upon completion of maternity leave, at the woman's request, she is granted childcare leave until the child reaches the age of two.

1.2 What are the rights of a parent when returning to work after parental leave?

During maternity and childcare leave, the employee retains their previous position.

One of the parents (or guardians) of a child under the age of two, in addition to breaks for rest and meals, is provided with additional breaks for feeding the child - no less than every 3 hours for a duration of at least 30 minutes each.

1.3 Do fathers possess the right to take paternity leave?

Yes, fathers can use the paternity leave provided for childcare if the mother or another person engaged in fulfilling family obligations does not use these guarantees.

1.4 Are there any additional parental leave rights that employers must adhere to?

An employee who adopts or becomes the legal guardian of a newborn child is entitled to leave from the day of adoption or legal guardianship establishment until the expiration of 56 calendar days from the child's birth (in the case of simultaneous adoption or legal guardianship of two or more children - 70 calendar days).

1.5 Do employees have the right to flexible working arrangements if they are responsible for dependents?

Yes, upon the request of an employee responsible for caring for a sick family member, a part-time work schedule is established.

2 Termination of Employment

2.1 Is it mandatory for employers to provide notice of termination of employment? How is the notice duration determined?

Employers are required to notify employees in writing (with a signature) of their intention to terminate the employment contract within the following periods:

1) Not less than 2 months in advance in cases of termination of the employment contract due to:

- liquidation of the organization (or its separate division) by decision of its founders (participants) or the legal entity's body authorized by the founding documents;
- changes in the number or staff of employees of the organization, caused by changes in technology, organization of production and labor, reduction of workload (production, services);
- change of the organization's owner regarding the organization's management, its deputies, chief accountant, and head of a separate division of the organization.

2) Not less than 2 weeks in advance in cases of termination of the employment contract due to the employee's inadequate qualification for the performed work;
3) Not less than 3 days in advance in cases of termination of the employment contract due to the employee's wrongful actions (inaction).

The period of notifying the employee, except for the termination of employment relations due to the liquidation of the organization (or its separate division), does not include periods of the employee's temporary incapacity for work, as well as the time spent by the employee fulfilling state or public duties.

2.2 Can employers enforce "garden leave" during the notice period, where the employee remains employed but does not have to attend work?

Yes, during the notice period, except for the notice of dismissal from work due to the employee's wrongful actions (inaction), the employee is granted the right not to go to work ("garden leave") for at least one day a week while retaining their salary during this time to find another job.

2.3 What safeguards do employees have against dismissal? Under what circumstances is an employee considered to be dismissed? Is consent from a third party necessary before dismissal by an employer?

In the event of early termination of the employment contract, the parties have the right to demand compensation from the initiator of the termination of employment relations if provided for in the employment contract.

Termination of the employment contract at the employer's initiative is not permitted without the prior consent of the trade union, if such consent is provided for in the collective agreement.

The day of termination of the employment contract is the last day of work.

2.4 Are there specific employee categories enjoying special protection against dismissal?

Termination of the employment contract at the employer's initiative is prohibited:

- during periods of temporary incapacity or while the employee is on leave;
- during periods when the employee is released from work due to the performance of state or public duties;
- without complying with the requirements providing guarantees for pregnant women and employees with children under the age of three.

2.5 Under what circumstances is an employer justified in dismissing employees: 1) due to individual reasons; 2) business-related grounds? Do employees receive compensation upon dismissal, and if so, how is it calculated?

The employment contract may be terminated at the initiative of the employer if one of the following reasons (grounds) is present:

1) Individual reasons:

- Inadequate qualification of the employee for the position held or work performed;

- Systematic violation of the employee's job duties;
- One-time gross violation of the employee's job duties.

2) Business-related grounds:

- Liquidation of the organization (or its separate division) by decision of its founders (participants) or the legal entity's body authorized by the founding documents, or termination of activities by an individual entrepreneur;
- Changes in the number or staff of employees of the organization (or its separate division), individual entrepreneurs, caused by changes in technology, organization of production and labor, reduction of workload (production, services).

Severance pay is provided upon termination of the employment contract at the employer's initiative, except for termination based on grounds related to the employee's wrongful actions.

The amount of severance pay depends on the length of service with the employer and is determined at a rate ranging from 50% to 200% of the average monthly earnings.

2.6 Are there particular protocols that employers must adhere to regarding individual dismissals?

Termination of the employment contract must be formalized by the employer's order.

2.7 What claims can an employee pursue if they are dismissed? What remedies are available for a successful claim?

An employee who believes that their employment contract was terminated unlawfully can directly address the employer or challenge the termination of the employment contract through established procedures, including legal proceedings.

The demands of an employee whose employment contract was terminated unlawfully, for reinstatement to their previous position, compensation for material damage incurred, and compensation for moral damages (if the unlawful termination of the employment contract caused the employee moral or physical suffering), are subject to satisfaction.

2.8 Can employers resolve claims before or after they are initiated?

Yes, an employer can enter into a settlement agreement with the employee both before and during the judicial proceedings.

2.9 Does an employer bear additional obligations when dismissing multiple employees simultaneously?

The employer is obligated to notify the local labor authority and territorial or industry trade unions at least 2 months in advance of the impending mass dismissal of employees.

2.10 How can employees enforce their rights regarding mass dismissals, and what are the consequences if an employer fails to comply with its obligations?

In the event of termination of the employment contract due to changes in the number (staff) of employees of the organization, caused by changes in technology, organization of production and labor, or reduction of workload (production, services), the preferential right to remain employed is granted to employees with higher qualifications and productivity.

An employer's unlawful decision can be appealed through established procedures, including through the court system. Furthermore, labor authorities, when informed about mass dismissals, are obligated to take measures for the employment of laid-off workers as provided by law.

3 Data Protection and Employee Privacy

3.1 How does the employment relationship get impacted by employee data protection rights? Is the transfer of employee data across borders unrestricted for employers?

The transfer of employee personal data is permitted within a single organization in accordance with a local policy, which the employee must acknowledge by signature.

Cross-border transfer of personal data is conducted to foreign countries that provide adequate protection of the rights of personal data subjects.

3.2 Are employees entitled to obtain copies of any personal information held by their employer?

Yes.

3.3 Do employers have the authority to conduct pre-employment checks on prospective employees (such as criminal record checks)?

Yes, the legislation does not prohibit conducting such checks. However, the employer is not entitled to request from an individual applying for a job any additional document not provided for by the Labor Code.

3.4 Do employers have the right to monitor employee emails, phone calls, or use of company computer systems?

The employer has the right to require employees to perform their work duties, take care of the employer's property and comply with the rules of internal labor regulations. The employer does not have the right to check personal e-mail and phone calls.

3.5 Can employers control an employee's use of social media both inside and outside the workplace?

Employers have the right to require employees to fulfill their job duties, to handle the employer's property with care, and to comply with internal work rules. However, employers are not entitled to check personal email and phone calls.

4 Court Practice and Procedure

4.1 Which courts or tribunals hold jurisdiction over employment-related complaints, and what is their composition?

Cases related to labor disputes fall under the jurisdiction of the civil courts.

A civil case in the first instance is heard by a single judge. The consideration of cases in the courts of appellate, cassation, and revision instances is carried out collegially by a panel of three judges.

4.2 What procedures govern employment-related complaints? Is conciliation obligatory before proceeding with a complaint, and is there a fee for employees to submit a claim?

Before filing a complaint with the court, labor disputes may be resolved by labor dispute commissions if they are established within the organization. There is no state fee for filing a lawsuit related to labor relations.

4.3 What is the typical duration for resolving employment-related complaints?

Cases are resolved by the court no later than one month from the date of completion of the preparation of the case for trial. In cases of special complexity, this period may be extended to two months by a reasoned decision of the judge.

4.4 Is it possible to appeal against a decision at the first instance, and if so, how long does such an appeal usually take?

A decision of the court can be appealed before it becomes legally binding, within one month from the date of its adoption.

5 Work Permits

5.1 What are the restrictions or limitations placed on individuals holding a work permit in terms of job duties, employer changes, or duration of stay?

Foreign citizens are subject to the general provisions of labor legislation.

The term of the employment contract with a foreign citizen cannot exceed the term of the work permit.

5.2 What are the requirements for obtaining a work permit?

To obtain a work permit, the applicant must apply to the centers of public services either in person or online.

The application must be accompanied by:

- an electronic copy of the foreign citizen's passport;
- a draft employment contract confirming the initial agreement with the employer regarding the desire and conditions of attracting the foreign citizen to the Republic of Uzbekistan, specifying the salary;
- an electronic photograph of the foreign citizen measuring 3x4 cm;
- documents confirming the qualification of the foreign citizen;
- a copy of the entry visa for citizens of foreign states with a visa regime (work visa "E", work visa "B-1" and "B-2", work visa "C-3" or other types of visas provided for citizens).

5.3 Are there any recent changes or updates to work permit regulations or policies that individuals or employers should be aware of?

In accordance with the Presidential Decree, starting from July 1, 2022, obtaining a work permit is not required when conducting activities in a remote (online) form while being abroad.

5.4 Are there specific industries or occupations that have different requirements or exemptions for obtaining a work permit?

A work permit is not required for:

- Employees of permanent representations of foreign states, international intergovernmental organizations, and representations of state organizations accredited by the Ministry of Foreign Affairs, as well as other individuals with diplomatic status;
- Founders of foreign and joint ventures operating or being established in Uzbekistan, including first executives (from the date of signing employment contracts for relevant positions), for a period of up to 3 months;
- Specialists employed in the tourism sector upon the request of the Ministry of Tourism and Cultural Heritage, for a period of up to 3 months;
- Scientists and cultural figures carrying out labor activities in Uzbekistan in organizations established in accordance with interstate treaties;
- Students working during holidays within the framework of Uzbekistan's university programs;
- Press representatives accredited by the Ministry of Foreign Affairs;
- Employees of representations and branches of non-governmental organizations accredited by the Ministry of Justice, as well as international and foreign non-governmental organizations;
- Teachers and specialists engaged to work in Presidential Schools in the Republic of Karakalpakstan, regions, and the city of Tashkent, as well as in higher education institutions;
- Individuals subject to a different employment procedure under interstate agreements of the Republic of Uzbekistan;
- Foreign citizens investing at least 8,500 base calculation units in Uzbekistan at the time of investment – in the form of purchasing shares and stakes in economic entities, establishing foreign enterprises;
- Individuals holding a residence permit in Uzbekistan;
- Foreign specialists arriving in Uzbekistan for a short period (up to 1 month) to perform diagnostic and medical procedures, implement exchange programs, conduct master classes, lectures, and staff training;
- Foreign specialists employed by residents of the IT Park in Uzbekistan;
- Individuals working remotely (online) in Uzbekistan while being abroad.

5.5 What is the ratio of foreign and local labor?

Legislation does not specify a specific requirement for the quantitative ratio of foreign and local labor in an organization. However, when obtaining a work permit for a foreign employee, the territorial labor authority assesses the feasibility of attracting foreign citizens, taking into account the availability of local labor for the vacancies specified by the employer.

6 Tax

6.1 What are the legal obligations and requirements regarding the individual income tax paid by employers?

The employer makes mandatory cumulative pension contributions monthly by reducing the amount of individual income tax accrued in accordance with the legislation.

The amount of mandatory cumulative pension contributions is calculated based on the amount of employees' wages and other income, including those of working pensioners, and is set annually by the Cabinet of Ministers of the Republic of Uzbekistan during the formation of the State Budget of the Republic of Uzbekistan for the upcoming year.

6.2 What is the percentage of withholding tax?

12%.

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