



Ukrainian Labor and Employment Law Basics

Insights

8.07.12

Ukraine, which has been independent from the Soviet Union since 1991, is the second largest contiguous country in Europe. Since 1991, Ukraine has been transitioning to a market economy, although progress has been slow, and was further delayed by the global recession in 2008. Nevertheless, Ukraine is an important consumer and supplier in the global market, and is strategically located in eastern Europe, bordering the Russian Federation, Belarus, Poland, Hungary, Slovakia, Romania, Moldova and the Black Sea and the Sea of Azov.

Labor Code of Ukraine

The Labor Code of Ukraine is based on the idea that workers, as opposed to employers, are the presumed “weaker party” and are therefore in need of greater protection by the state. The Labor Code, which is based on the former Soviet Labor Code and was adopted in 1971, provides many employee protections not common in the United States. The Labor Code governs wages, leave, the right to collective bargaining, and termination of employment, among other topics. It is the primary source of law governing employment relationships in the Ukraine. Ukraine is a member of the International Labour Organisation (“ILO”), and employers in Ukraine should be aware that a number of ILO conventions supersede conflicting provisions of Ukraine’s own domestic labor laws. In addition to the Labor Code, employers must also look to the Constitution of the Ukraine and labor regulations issued by the Cabinet of Ministers of Ukraine, as well as local and state government regulation, to understand their legal obligations to employees.

The Employment Contract

As in the rest of Europe, employment agreements are common. In general, there are three types of employment agreements: (1) indefinite term; (2) fixed term; and (3) project-specific agreements. The Labor Code distinguishes between employment agreements, which are indefinite in duration and may be commenced by an oral agreement, and employment contracts, which are a special subset of employment agreements, and specify a fixed term or work until a particular task is completed. Although an employment agreement may provide more generous employment terms and conditions than mandated under Ukrainian law, the agreement may not require the employee to give up any benefits or protections to which he or she may be entitled under Ukrainian law.

Where employment agreements are committed to writing, they should contain the employee’s name, position, and employment commencement date, as well as a description of the employee’s duties. It is important that the employee’s duties are carefully articulated from the outset because employers are generally not permitted to require employees to perform duties not described in the employment

are generally not permitted to require employees to perform duties not described in the employment agreement. The written employment agreement should be signed by the employer and employee, and the local director.

Employers may hire employees for a probationary period, which generally should not exceed three months. Although an employee may be discharged during this period for “unfitness for the position” after the probationary period has passed, the employer must ensure all Ukrainian Labor Code obligations are satisfied before discharging an employee.

Other Terms and Conditions of Employment

Employees are generally not permitted to work more than 40 hours per week, and employees working in certain specified hazardous conditions and employees between 16 and 18 years of age may not work more than 36 hours per week. Employees are permitted to work no more than 120 hours of overtime in any one-year period, and the overtime rate is double that of the regular hourly rate. In addition to paying overtime wages, employers are required to pay additional wages to employees who are asked to perform duties in addition to those specified in their employment agreements.

Employees are guaranteed a minimum of 24 paid holidays per year, and are not allowed to work on any of the 10 official Ukrainian holidays. Women are entitled to up to 70 days of leave prior to the birth of a child, and up to 70 days after the birth of a child, and parents with children under the age of three will be granted parental leave upon request.

Ukraine requires that employees be paid a minimum monthly salary, and must be paid at least twice per month, with the interval between pay periods no longer than 16 days.

Although the Ukrainian Law on Equal Rights and Opportunities forbids discrimination against employees based on gender, race, ethnicity, religion, or “political or economic orientation,” Human Rights Watch recently reported that these laws are poorly enforced, and that sexual harassment is prevalent. Because women may take up to three years off after the birth of a child, employers frequently express hiring preferences for men.

Termination

As with most other developed and developing countries, the concept of “employment-at-will” is generally not recognized in Ukraine. Termination of an employment agreement is only permitted under certain circumstances:

- Agreement of the parties;
- Expiration of a definite-term agreement;
- The employee’s entry into military service;
- Transfer of employee to another position;
- Employee’s refusal to move with a business move or refusal to work based on a substantial change in work conditions;

- Employee imprisonment;
- Termination of agreement based on employee, employer, or trade-union initiative.
- Termination based on other grounds as set forth in the employment agreement.

Because other grounds for termination are not recognized, employers are advised to consult with a legal advisor before terminating an employment agreement on other grounds. Further, there is typically a great deal of time and expense involved in discharging an employee based on grounds other than mutual agreement or employee initiative. Whenever possible, therefore, employers should attempt to reach agreement with the employee in question prior to discharge.

Employment of Foreign Nationals

Before employing a foreign-born employee, employers must be approved for a work permit through the Employment Centre, which requires employers to demonstrate that there are no Ukrainian citizens who are able to perform the work in question. An employment permit is issued for a one-year period generally, but may be extended upon request. The Employment Centre is required to grant or refuse permits within 30 days of receipt of the complete application. Employers, in turn, must notify the Employment Centre of the employee's start date or termination date within three days' of the event.

Related People



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