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# Practical solutions for labour, migration and employment, when doing business in Eurasia

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# Workplace Compliance Issues: Mandatory HR Documents (Kazakhstan)



## Employment contract

- written form
- definite term/indefinite term
- bilingual (Kazakh and Russian), English or another language may be added at discretion of the company
- salary should be paid on a monthly basis in tenge (KZT)
- should be executed with residents and nonresidents
- work permit is required for nonresidents (with certain exceptions)

## Principal labor conditions

- normal work **time duration** – up to 40 hours/week
- principal paid **annual labor leave** - min 24 calendar days
- **overtime work** - max 2 hours/day, 12 hours/month and 120 hours/year, to be paid at min 1.5 rate or provided with the rest hours (1 hour per 1 hour of overtime work)
- employer is responsible for ensuring employees' labor safety conditions

## Internal policies (employer's acts)

- global policies should be localized in the admissible form of "employer's acts". Moreover, the employees are not bound by "global policies" that are not executed in the form of "employer's acts"
- local policies should be approved by CEO and introduced to employees. Making employees familiar with employer's acts must be confirmed in writing
- obligatory labor documents should be adopted

## Requirements to the Personal Data (PD) Collection and Processing

- PD databases should be stored in the Kazakhstan territory
- individual's written consent is required
- the list of PD necessary and sufficient for attaining the company's objectives should be approved
- Collection and processing of PD may be performed only if PD protection is ensured
- other

# Labour Immigration (Kazakhstan)



## ❖ Work permit

### ❑ Conditions for work permit issuance

- quota established by the Government on an annual basis (except for intra-corporate transfer)
- 4 categories of employees
- compliance with the qualification requirements and qualification standards

### ❑ Work permit free regime

- citizens of the Eurasian Economic Union member states
- CEOs of foreign legal entities' branches or representative offices, and CEOs and their deputies of Kazakh legal entities with 100% foreign participation in the charter capital
- non-residents permanently residing in Kazakhstan
- on a business-purpose trip for a period not to exceed in aggregate 120 calendar days over one calendar year

## ❖ Visa Regime

- investor visa
- business travel visa
- labor activities visa

## ❖ COVID-19 impact

- Until 31 December 2021, the unilateral visa-free regime for the citizens of 57 countries has been suspended (except for the EAEU countries and other countries with visa-free entry under international agreements).
- From May 2021, all passengers entering the Kazakhstan airports are required to have the "Ashyq" mobile app installed on their mobile devices to enter the airport. The application checks for data on COVID-19 and PCR test and reflects a risk rating, which is divided into red, yellow, blue, and green.

# Electronic HR flow and Remote employment (Kazakhstan)



## Electronic HR Workflow

Still in writing

- **key labor documents** (employment contract, orders, internal regulations, rules, instructions, occupational safety documents, etc.)
- it is recommended to document in writing the fact of making employees familiar with the employer's **internal regulatory documents**

now electronically:

- ✓ email notices
- ✓ e-HR (UASEC) system for electronic registration of employment contracts was introduced in 2020

Planned:

- ✓ to increase the capabilities of the electronic document management

## Teleworking

- work equipment
- control over work time regime
- job description
- material liability
- safety and labor protection
- fixed time tracking
- employer's acts

- **Amendments to the teleworking legal regulation will be adopted soon. A new chapter of the Labor code planned to be introduced.**

information and communication technologies



outside the employer's location

# Termination of employment contract (Kazakhstan)



## Main grounds for termination (9 in total)

- by agreement of the parties;
- expiration of the term of the employment contract;
- at the initiative of the employer;
- in connection with the transfer of the employee to another employer;
- at the initiative of the employee;
- circumstances beyond the control of the parties;
- the employee's refusal to continue the employment relationship;
- violation of the conditions for concluding an employment contract.

## Risks:

- dismissal of an employee on any ground not stipulated by the Labor Code or on the ground stipulated by the Labor Code, but in violation of the established procedures, may entail invalidation of such dismissal and reinstatement of an employee at work.

## Recommendations:

- **Recommended ground:** Agreement of the parties (advantageous and least risky ground for the contract cancellation in terms of protecting the interests of the employer).
- Termination of labor relations on any ground must be duly formalized within the timeframes set on a legislative level.
- The amounts due to the employee from the company are payable within three (3) business days of the contract cancellation, including compensation for the unused leave.

## Recent amendment:

- Article 50.3 was excluded from the Labor Code. It is no longer possible to apply the employment contract condition on the employer's right to cancel the employment contract paying a compensation based on the ground "agreement of parties" without agreeing the date of such cancellation with an employee.

Thank you for attention

  
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