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

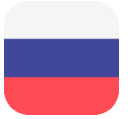
June 24, 2021

AQUITAS
— LAW FIRM —

ALRUD

 **BENER**
LAW OFFICE

Workplace Compliance Issues: Mandatory HR Documents (Russia)



Employment contract

- written form
- mandatory terms
- Russian language
- salary in RUB

Special evaluation of working conditions

- 1 year from the date of establishment
- results to be included in employment contract
- administrative fine for failure to conduct
- health & safety training for employees
- obligatory local policies on health & safety
- declaration of special evaluation is valid indefinitely

Internal policies

- localization of global policies
- adoption of obligatory internal policies
- local policies to be approved by the head of entity/subdivision and provided to employees

Obligatory internal policies

- Internal Labour Regulations
- Remuneration Policy
- Indexation Policy
- Policy on Processing of Personal Data
- Health and Safety Policy
- Policy on the temporary transfer of employees to remote work at the employer's initiative in exceptional cases*

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

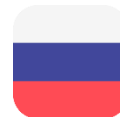
Requirements to the Personal Data (PD) Collection and Processing

- 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

Workplace Compliance Issues: Mandatory HR Documents (Turkey)



Labour Immigration (Russia)



Business

- only visa is required
- special conditions for selected countries from European Union

Since 2021: e-visa (unified electronic visa):

- ✓ entry on a single basis
- ✓ for certain purposes, including business
- ✓ stay up to 16 days starting from the day of entry

Employment

- ❑ **visa requirement entry**
 - ✓ work permit
 - highly qualified specialists (3 years)
 - regular employees (1 year)
- ❑ **visa-free regime**
 - ✓ patent
 - from 1 month up to 1 year
 - one time prolongation
 - personal obtaining
- ❑ **Eurasian Economic Union**
 - ✓ visa and work permit free

COVID-19 impact

- ❑ **Suspension of migration terms**
 - The period of temporary stay, temporary or permanent resident, migration registration or registration at the place of residence are temporarily extended **until June 15, 2021**
 - Not applicable for foreign citizens from countries with which Russian borders are currently open or will be opened until March 15, 2021
- ❑ **Multiple entries for Highly Qualified Foreign Specialists and their family members**
 - HQSs are entitled to repeated entries
 - Sanitary requirements must be observed: max 72-hour old pre-travel negative PCR test, 14-day self-isolation if entering Russia for work purposes

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 EAEU 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

* visa-free entry for the citizens of 46 countries that demonstrated the highest investment activity in Kazakhstan, if their term of stay does not exceed 30 calendar days (USA, Great Britain, Korea, Australia, Japan, etc.)

- ✓ passport registration at the place of the temporary or permanent accommodation within 5 calendar days (for EAEU – within 30 calendar days)
- ✓ companies and individuals hosting immigrants in Kazakhstan must inform the Internal Affairs authorities about their travel to Kazakhstan within 3 business days

Labour Immigration (Turkey)



Electronic HR flow and Remote employment (Russia)



Electronic HR Workflow

Current regulation:

- ❑ electronic labour book
- ❑ electronic sick leave
 - written consent
 - registration in electronic system of Social Insurance Fund
 - notarization of medical certificate
- ❑ remote employees
 - exchanging with employment documents in electronic form

HR recording trends and court practice:

- electronic pay slip
- familiarization with job duties in the system of electronic document management
- familiarization with amendments to local policy by e-mail
- request explanations on disciplinary offence in the system of electronic document management

Remote employment: new rules

New types of remote work:

- Permanent (for indefinite period)
- Temporary (up to 6 months)
- Periodic remote work (mix of remote and office work)
- Temporary transfer to remote working regime without employee's consent in exceptional cases

New rules:

- The working regime is determined by local policies/an employment contract, or at the employee's discretion
- Communication time is included in working time
- Employee must sign by enhanced electric signature: employment contract and its addendum, full material liability contract, training contract, documents on termination of the abovementioned contracts
- All equipment for work shall be provided by the employer; otherwise, expenses shall be subject to reimbursement
- If the employer sends an employee to another region, it is a business trip

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

planned

- to introduce the e-HR system for electronic registration of employment contracts
- to cancel labor books (recording of labor experience in the unified state electronic database)
- 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
- business trips
- employer's acts

information and communication technologies

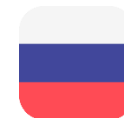


outside the employer's location

Electronic HR flow and Remote employment (Turkey)



Termination of employment contract (Russia)



Main grounds for the termination

- ❑ On the employee's initiative
 - 2 weeks written notice
 - no compulsory severance
 - employee's right to withdraw the resignation letter
- ❑ Concluding mutual termination agreement (MTA)
 - no preliminary notice
 - truly mutual consent
 - no compulsory severance

COVID-19 court practice

- The resignation letter was provided voluntary and conscious by the employee
- The employee understands the consequences of actions
- The employer clarifies to the employee the consequences of termination, and the right to withdraw the resignation letter
- Reasons of termination on the employee's initiative
- Employment opportunities (based on employee's financial situation and marital status)

Decision of the Judicial Chamber on Civil Cases of the Supreme Court of the Russian Federation dated February 1, 2021, No. 14-KG20-14-K1

Additional grounds for remote employees

- Non-communication, without a justifiable reason for two workdays
- Relocation to another geographical area with no chance to continue fulfilment of job duties (only for permanent remote employees)

Last day of work

- ❑ Issue an internal order on employment termination (unified form T-8)
- ❑ Fill in the employee's labour book and return it against signature, or provide the information on employment
- ❑ Fill in the employee's personal card (a standard HR documents)
- ❑ Make final payments to the dismissed employees:
 - salary for the time actually worked
 - compensation for accrued but unused holiday
 - severance payment
 - any other payments that may be due to employee under the employment contract, internal policies of the Company, etc.
- ❑ Submit information on the dismissal to the Pension Fund no later than the next business day after the issuance of the dismissal order

Termination of employment contract (Kazakhstan)



Termination of employment contract (Turkey)





Questions?



Thank you for attention

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