

TO: Clients and Friends of the Firm  
FR: Frishberg & Partners  
RE: Peculiarities of Ukrainian Labor Laws

Have you ever tried to fire a redundant employee or, much worse, a pregnant woman? How do you properly document the disciplinary infractions of a rebellious employee that you want to fire for cause in the nearest future? Answers to these questions are contained in the Ukrainian Labor Code, the primary document that governs all labor issues in Ukraine.

In addition to the more general rules, such as 40-hour weeks, the Labor Code addresses case-specific situations that deserve any company's attention. Specifically, foreign employers should be aware of legal exemptions for women on maternity leave, questions related to unpaid leave and overtime pay, as well as procedures for termination of redundant employees or personnel with disciplinary problems.

Below we discuss each of these topics in greater detail.

## **I. Maternity Leave**

Where maternity leave is concerned, according to Article No. 179 of the Labor Code women have the right to paid maternity leave of 126 days (18 weeks). Moreover, it is directly stated that this period starts 70 days prior to childbirth and ends 56 days after birth. Per Ukrainian legislation, it is necessary to pay benefits for the entire period (126 days) of maternity leave before this period of maternity leave had commenced. Such benefits must be paid in the total amount only for the agreed upon 126 days, even if the pre-childbirth period had a longer duration than expected.

The benefits must be allocated on the basis of a disability notice, which is issued for the entire period of maternity leave. The form, contents and validity of the information in the aforementioned letter is supervised by the Commission on Social Insurance. In order to pay the maternity benefits, the following should be taken into account:

1. The funds may only be paid for missed business days during the maternity leave period;
2. The total amount of such benefits depends on the amount of business days and the average daily salary of the employee;

3. The benefits have to be paid in the amount of the full average salary.

## **II. Unpaid Leave**

According to the Labor Code of Ukraine, annual leaves must be calculated in calendar days (not working days). In addition, all employees must be provided with no less than 24 days of annual leave with their positions and salary preserved during such leaves. The Code provides for a longer duration of annual leave for specific categories of employees, such as those employees working in hazardous conditions. Importantly, the duration of such leave may not be reduced in any case.

The Code requires monetary compensation for any unused annual leave. In case of dismissal, an employee must be compensated for all unused days of annual leave, as well as for unused days of any additional leaves that would be provided to employees with children of a certain age. Per an employee's request a part of unused annual leave may be paid in cash. Note, however, that the duration of the provided annual leave, and other additional leaves, may not be less than 24 days. Moreover, temporary disability leaves and any leaves connected with pregnancy and maternity may not be included into regular annual leaves.

With respect to unpaid leave, Article 25 of the Law of Ukraine "On Leaves" specifically provides a list of exceptional circumstances when an employer (owner) is obliged to provide to an employee the right to take an unpaid leave, including:

- (a) up to 14 calendar days annually for mothers or fathers (i) raising children without a spouse (including cases when a mother is undergoing lengthy treatment in a medical institution), (ii) with two or more children under the age of 15 or (iii) with a handicapped child;
- (b) up to 14 calendar days for husbands or wives, who elect a post-birth leave;
- (c) mothers or other individuals (relatives, husbands, adoptive and foster parents, etc.) in case a child needs nursing or care at home (for the duration determined in the relevant medical findings, but only until the child reaches the age of six);
- (d) up to 14 calendar days annually for war veterans, individuals with special privileges, and individuals to which the Law "On the Status of War Veterans and Guarantees of their Social Protection" applies;
- (e) up to 21 calendar days annually for individuals with special labor-based privileges from the state;

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