

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

## **I. Introduction**

One of the least understood (and most frequently violated) areas of Ukrainian legislation governs labor relations. It helps to categorize all persons residing in Ukraine into two groups of employment relationships: (1) labor employment agreements governed by the Labor Code of Ukraine; or (2) sub-contractual agreements governed by the Civil Code of Ukraine.

The first category is further divided into three different types of labor agreements: (1) labor agreements of indefinite duration; (2) labor agreements of specific duration; and (3) labor agreements effective for the duration of a specific project. One type of agreement of “specific duration” is called a “labor contract,” which permits an employer to prematurely terminate such contract only for reasons provided by Ukrainian labor legislation. Therefore, special emphasis will be made to labor contracts as a separate type of labor agreement.

## **II. Types of Labor Agreements**

### **A. General Requirements and Benefits**

At the initial stages of employment, an employee is hired on the basis of a labor agreement, and may be placed on probation for a period not exceeding either three months or one month, depending on the classification of such worker under Ukrainian law. If the employee continues to work after such period has expired, the employee is considered to have “passed the test,” and is entitled to all rights and protection under Ukrainian law.

Essentially, this means that Ukrainian employees are entitled to social security benefits as described below and must be paid at least the minimum monthly salary during the course of a normal work week of no more than 40 hours. Any additional time put in by the employee, even if he or she is hired on a temporary basis, is subject to overtime payment rates. Depending on the actual duration of the employment term, the employee also is entitled to vacation and sick leave, and a regular schedule of salary payments twice a month.

### **B. Social Security Benefits**

By law, the Ukrainian government provides all employees (except subcontractors or consultants) with certain social protection by requiring all enterprises and organizations, except those

specifically covered by relevant international agreements, to make deductions to the various social security funds on behalf of its employees. Thus, under the current legislation, 32% of actual expenditures of a company, which are allocated for the payment of wages subject to personal income tax, is paid to the Pension Fund, 2.9% is paid to the social security fund for cases of temporary disability, 1.9% to the social security fund for cases of unemployment, and from 0.86% to 13.8% to the social accident fund (depending on the type of activity of the company and the class of risk at work). While social security payments are excessive, resident companies must be grateful that the Ukrainian government cancelled the dreaded and much-criticized 10% payment to the Chernobyl Fund.

In total, Ukrainian employers (joint ventures, 100% subsidiaries and representative offices with commercial activities) must pay toward social security anywhere from 37.66% to 50.6% of its employees' monthly salaries depending on the employer's type of activity and level of risk at the workplace. Note that all social security payments are made by the employer, in Ukrainian Hryvnia, on top of the employee's salary (i.e., not taken out of the employee's paycheck). In the event that the employer fails to make such payments, the employee is still entitled to certain social security benefits, but the tax authorities will levy fines retroactively if such violations are discovered anytime in the future.

Importantly, each employee must also personally make obligatory payments to the various social funds. Specifically, an employee must pay (i) either 1% of his/her monthly salary (if the amount of his/her salary is less than 150 Ukrainian Hryvnia) or 2% of his/her monthly salary (if the amount of his/her salary exceeds 150 Ukrainian Hryvnia) to the Pension Fund; (ii) 0.25% of his/her monthly salary to the Disablement Insurance Fund (if the amount of his/her monthly salary is less than 150 Hryvnia or 0.5% if the amount of his/her salary exceeds 150 Hryvnias); and (iii) 0.5% of his/her monthly salary to the Unemployment Insurance Fund. In addition, employees are responsible for paying their own personal income tax. Please note that the above mandatory payments of employees working under labor agreements must be withheld from their relevant salaries (wages) by the employer's bank.

In summary, the employer pays its obligatory salary-related payments to the social funds in addition to the employees' salaries, while each employee also makes mandatory deductions to the social funds from his or her salary. Consequently, employees receive a net salary after payment of all relevant taxes and social payments.

### C. Employee Compensation

As a rule, salaries must be paid at least twice a month in Ukrainian Hryvnia. In practice, many employers ignore this rule by providing some (or all) of its employees with supplementary income, typically in foreign currency on a monthly or quarterly basis.

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