LAW ON LABOUR
IN KOSOVO
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The Law on Labour (No. 03/L-212), that was adopted on December 16, 2010, is part of the basic legislation of the Republic of Kosovo that regulates relations between employees and employers. This law aims to protect the rights and to assign obligations in work relations, and to ensure protection at work. Its provisions are applied as for employment in the public sector, as well as in the private one.

The Law on Labour should ensure the fulfillment of four main principals:

- Freedom of association and recognition of the right for collective negotiations,
- Elimination of any kind of forced or violent labour,
- Elimination of child labour,
- Elimination of discrimination at work.

Supervision of this law’s implementation is done by the Labour Inspectorate based on the Law on Labour Inspectorate (No. 2008/34). Every physical and legal person, who does not comply with the provisions of this law, is penalized with disciplinary measures.

Some of the terms that this law defines, are:

- Employee – a physical person employed to perform paid labour or services for the employer;
- Employer – a physical or legal person who employs an employee and pays a salary for the labour or services performed;
- Employees' Organization – Trade Unions, which are independent, voluntary established for the accomplishment and the protection of employees rights;
- Employers’ Organization – organization where employers join voluntary for the protection of their interests;
- Collective Contract – an agreement between employers’ organizations and employees’ organizations regulating the rights, duties and responsibilities deriving from employment relationship;
- Discrimination – any discrimination including exclusion or preference made on the basis of race, color, sex, religion, age, family status, political opinion, national or social origin, language or trade union membership, which has the effect of nullifying or impairing equality of opportunity in employment, occupation, or capacity building.
- Minimum Salary – the minimum salary is defined by the Government for different work, according to the living costs, unemployment rate, and characteristics of labour market.

Every year, the Social-Economic Council recommends to the Government of Kosovo the level of minimum salary based on general economic and social situation.

An employment relationship may be concluded by any person of 18 years old. This relationship begins by signing the employment contract and is followed by the labour card that is delivered from the employee to the employer.

The Labour Contract is an individual act concluded between the employer and the employee, in order to regulate the rights, duties
and responsibilities deriving from employment relationship. The contract can be signed for an indefinite period, for a fixed period, or for specific tasks and duties.

- In a contract the data of the employer; data on the employee, designation and job description; the place of work, working schedule, the date of commencement of work, the duration of the contract, monthly salary and other allowance or income; the period of vacations; termination of employment relationship; other important data for the regulation of employment relationship; other rights and duties provided by the law should be specified.

- The Labour Contract may be terminated when the employee reaches the pension age; with the death of the employee; with the expiry of contract duration; with bankruptcy or liquidation of the enterprise; with the agreement of the employer and the employee.
THE LAW ON LABOUR, AMONG OTHERS, DEFINES:

<table>
<thead>
<tr>
<th>Elements of employment relationship</th>
<th>Relevant provisions in the Law of the Republic of Kosovo</th>
</tr>
</thead>
<tbody>
<tr>
<td>Contract</td>
<td>Written</td>
</tr>
<tr>
<td>Working hours per week</td>
<td>40 hours</td>
</tr>
<tr>
<td>Reduced working hours</td>
<td>Applied for jobs where the employee is exposed to harmful impacts for health, despite the application of protective measures.</td>
</tr>
<tr>
<td>Extended working hours (overtime)</td>
<td>Upon employer’s request, for a maximum of eight hours per week.</td>
</tr>
<tr>
<td>Daily rest (break)</td>
<td>30 minutes (included in the daily working hours)</td>
</tr>
<tr>
<td>Weekly rest</td>
<td>At least 24 hours</td>
</tr>
</tbody>
</table>
| Annual leave                       | - At least 4 weeks during a calendar year (despite if he/she works full time or part time); every 5 years of service the annual leave is extended for one day  
- Exceptions for teachers  
- Official holidays that coincide in working days shall not be counted as annual leave days |
| Paid absence from work             | - Sick leave: 20 working days per year with full salary compensation  
- Due to security and protection of health in labour: for a period of 45 days within a calendar year with full salary compensation  
- Sick leave due to documented occupational injury and related illness as a result of performing work or services for the employer: 10 – 90 days a year with salary compensation at 70%  
- 5 days in case of marriage  
- 5 days in case of death of a close family member  
- 1 day in every case of voluntary blood donation |
Elements of employment relationship | Relevant provisions in the Law of the Republic of Kosovo
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Maternity leave | - 12 months for women, starting from 45 to 28 days before the expected date of birth – with the compensation of 70% for the first 6 months, 50% for the next 3 months, and 0% for the last 3 months;
- The father of the child may assume the rights of the mother if the mother gets sick, abandons the child, or dies;
- In other cases, the father has the right to 2 days paid leave at the birth of the child, and 2 weeks of unpaid leave until the child reaches the age of 3;
- Other terms are applied if the child is born a dead infant or has needs for special care.

Allowances | Are given:
---|---
- 20 % per hour for extra shifts
- 30 % per hour for night shifts
- 30 % per hour for extended working hours
- 50 % per hour for work in national holidays, and
- 50 % per hour for work in weekends.

Allowances for work during weekends, holidays and other days shall exclude each other. Employee may ask the employer to be compensated in days off.

Part time working hours (min. 20 hours per week) | Employee working part time is entitled to all the rights deriving from the employment relationship on the same basis, and in proportion to the number of hours of work.

Trial period | Cannot last more than 6 months.
The employee is entitled to occupational safety, protection of health and appropriate labour environment, in compliance with the Labour Law (No. 03/L-212) and the Law on Occupational Safety, Protection of Health of Employees and Protection of Labour Environment (No. 2003/19).

The employee is entitled to salary. The right to salary, overtime, salary compensation and other income shall be exercised on the basis of an agreement reached with the employer for the work performed and time spent at work.

The employee shall not be denied the right to use the annual leave.

In case of breaching duties, the employee has the right to be notified the employer, before imposed any disciplinary measure.

When the employee believes that his rights have been breached, he has the right to complain to supervisory bodies (Labour Inspectorate).

The employee is entitled to the unilateral termination of the employment contract.

The employees are guaranteed the freedom of association and action without interference from any organization or public body.

For the protection of the rights of employees, the employees' organizations (trade unions) are entitled to the organization of strikes. Strikes and trade unions are regulated by a special law.

The employee must possess a labour card, which shall be delivered to the employer in the occasion of establishing the work relationship.

The employee is obliged to observe the obligations set by the Law, Collective Contract and Labour Contract.

An employee is obliged to comply with the rules on occupational safety and health protection in order not to risk the health and safety of the employer and other employees.

For the period of use of the annual leave, an employee shall inform the employer at least 15 days prior to the commencement of the use of annual leave.

In case of illness or other temporary incapacity to work, an employee is obliged to inform the employer immediately, or, at the latest, within the same day that the absence occurs. Otherwise, the employee may be called on for a breach of contract. If the notified absence from work lasts longer than 3 days, the employer is entitled to request the employee to provide a medical certificate justifying the absence of work.

An employee is responsible if he/she fails to accomplish duties or does not observe the decision issued by the employer.

If the employee, unintentionally or deliberately, caused harm to the employer is obliged to compensate the damage. If the damage is caused by many employees, each is responsible for the proportion of damage caused.

The employee, who decides for unilateral termination of the contract, shall inform the employer in writing according to the deadlines defined for the type of signed contract.
SPECIFIC INFORMATION FOR EMPLOYERS:

RIGHTS

- An employer may modify working hours in necessary cases, but this modification of working hours shall not exceed the total of the full time working hours during an entire calendar year.
- An employer may terminate the employment contract within the prescribed period for termination, for economic, technical, and organizational reasons, or when the employer is no longer able to perform the job, etc.
- An employer may terminate the employment contract of an employee without providing the period notice of termination required, when the employee is guilty of repeating a less serious misconduct in spite of written warning.
- Employers are guaranteed the freedom of association and action without undue interference from any organization or public body.

DUTIES

- The employer in the public sector is obliged to announce public competition every time it wishes to establish a new employment relationship.
- An employer is obliged to implement the general rules and procedures for occupational safety and protection as defined by the Law on Occupational Safety, Protection of Health of Employees and Protection of Labour Environment.
- An employer is obliged to inform the employee, in writing, before her/his engagement for occupational hazards and protective measures obliged to be undertaken.
- An employer is obliged to assign work that does not damage employee’s health.
- In cases of statutory change, the next employer shall take over all obligations and responsibilities of the employment relationship that are applicable on the day of the change of the employer.
- The employer shall pay men and women an equal remuneration for work of equal value, covering base salary and any other allowances.
- Payment for compensation for sick leave falls on the employer. The employer should cover insurance for injuries and professional illnesses sustained in the course of performing job duties.
- During pregnancy, maternity leave, and absence from work due to special care for the child, the employer shall not terminate the contract with the employee and/or make a transfer to another post.
- The employer may terminate the employment contract only after the employee has been issued a description in writing of unsatisfactory performance and given a period of time within which they must improve on their performance, as well as a statement that failure to improve the performance shall result in dismissal from work without any other written notice.
- The employer may terminate an employment contract for an indefinite period in certain periods of notification that depend on the duration of the employment relationship.
- In the day of conclusion of the employment relationship or termination of employment contract, the employer is obliged to return the labour card to the employee, which shall be filled in with the personal data and work experience. It is prohibited to write negative comments about the employee on the labour card.
Labour Laws in the European Union are a result of the combination of labour laws of individual member states, harmonized by treaties, directives, and regulations of the Community.

The European Community aims to support and complement the legislation and actions of member states in the field of social policies. Community decisions stand above national regulations, hence, member states have adapted their legislations in accordance to them, in order to provide a uniform protection of rights and duties at the work place in the entire territory of the European Union. Adoption of the EU norms within the legislation of member states and their exact implementation is monitored by the European Commission. The European Court of Justice is the institution where the member states can receive legal advices on law interpretation.

Apart from obligations to EU structures, all member states are also obliged to comply with agreements of International Labour Organization (ILO) that they have ratified.

The EU pays significant attention to the freedom of assembly and association in all levels, and especially to the establishment of trade unions. Trade unions are considered not only protectors of employees' rights, but also protectors of their identity. They are mentioned in three European legal agendas: constitutional, legislative, and the European Court of Justice.

Some of the main principals of labour rights in EU are:

- The right to sign an agreement/collective contract, and to act collectively in case of the breach of rights, or conflict of interest, or start a strike.
- Labour right in EU: every individual has the right to work and be dedicated to a freely chosen profession. Labour is a fundamental human right.
- Every citizen of the European Union has the right to look for labour in any member state. This right is also guaranteed to the citizens of other non-member states that live legally in EU.
- Great importance is given to the prohibition of discrimination based on gender, race, color, social or ethnic origin, genetically determined traits, religion, political beliefs or other opinions, membership in any national minority, wealth, birth, inability, age, or sexual orientation. The principle of equality would not be completely possible without the additional principals of non-discrimination and equality between men and women.
- Equality between the genders should be completed in every aspect, including profession, work, and salary.
- Another principle of the right to labour in the EU is that of circulation of information between parties, according to the respective levels of hierarchy.
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