



**Global Employment
Compass
Belarus**

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This document provides brief answers and recommendations to readers for information purposes. The information contained in this document is general and may differ according to the circumstances. Thus, this document does not constitute legal advice. We decline in advance any responsibility should you decide to act upon any information contained in this document.





1. Summary of applicable rights for different categories of workers

In general, Belarusian employment law tends to be rather employee-friendly, providing vast range of employees' rights and guarantees for their execution by employers, state and others involved, as well as setting the explicit list of possible grounds for dismissal, thus reducing the risk of unmotivated voluntaristic dismissals of employees.

Regulator of employment relations in Belarus is the Ministry of Labour and Social Security of the Republic of Belarus. Within the Ministry there is the Department of State Inspection of Labour – the main inspecting body in the matters of compliance with employment law and occupational safety in Belarus. Trade unions are also statutory empowered to conduct inspections with regard to compliance with employment law provisions.

The core legal act regulating employment relations in Belarus is the Labour Code of the Republic of Belarus. The code regulates the relations which are based on the employment agreement and therefore does not cover the relations with consultants/contractors working under civil law agreements and volunteers. The code stipulates the general provisions applicable to all employers and employees, as well as the special provisions applicable to specific types of employees (directors, professional sportsmen, disabled people, minors etc).

	Employees (part-time or full-time)	Independent contractors/ service providers	Volunteers
Employment laws and regulations	Yes	No**	No**
Employees' compensation/remuneration requirements	Yes	No	No
Minimum wage requirements	Yes	No	No
Mandatory provident fund/retirement benefit fund contributions	Yes***	Yes	No
Immigration requirements including the right to work in your country	Yes	No	No
Personal Data (Privacy) laws and regulations	Yes	Yes	Yes
Anti-discrimination laws and regulations	Yes	No	No



* Note: under certain circumstances a Belarusian court may rule that relations between engager and a contractor de facto constitute employment relations and relevant employment laws and regulations should apply.

** Regulations on occupational safety should apply if a contractor/volunteer conducts work in the locations provided by engager.

*** Employees and contractors are subjects to mandatory social insurance implying the necessity of regular payment of contributions by the employer/engager.



2. Legal requirements/rights/ practices for different categories of workers

a. Employees

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Definition of an employee

Employee is a natural person being in employment relations with an employer based on an employment agreement.

1 Contracts of Employment

What types of employment contracts are available? E.g. fixed term, part time, zero hour contracts, other? Are there any specific employment contracts available for non-profit organizations?

Based on the validity term criteria employment contracts are divided into 2 types: open-ended and fixed term.

Fixed term employment contracts may be of the following types:

- fixed term employment agreement (which is a basic form of fixed term employment contract);
- Contract¹ (which is a specific form of fixed-term employment contract implying additional rights and obligations for both parties).

Under an employment contract, the employee may be employed full time or part-time. Zero-hour contracts are not in use in Belarus.

Employment contract may be for primary employment (main place of work) and for secondary

¹ Hereinafter, "Contract" shall mean this specific type of fixed-term employment contract.





employment. An employee may have only 1 primary employment and several secondary employments.

What are the key terms of employment contracts?

The employment contract must contain the following mandatory information and conditions:

- 1) information about the employee and the employer;
- 2) the place of work, indicating the structural unit in which the employee is employed;
- 3) labor function (i.e. name of the position to which the employee is employed, implying respective labor duties).
- 4) the basic rights and obligations of the employee and the employer;
- 5) the term of the fixed term employment contract;
- 6) work and rest regime (if it differs in relation to this employee from the general rules established by the employer);
- 7) employee's remuneration.

In addition to the above, the Contract must also stipulate:

- 8) completion of certification of employees holding particular positions at least once every 3 years;
- 9) additional incentive measures, including:
 - provision of additional incentive paid vacation for up to 5 calendar days;
 - an increase in the salary by no more than 50%, unless a larger amount is provided for by law;
- 10) reduction (deprivation) of bonuses of all types, regardless of disciplinary liability for:
 - absence from the workplace for no good reason, late performance or non-performance of work duties for no good reason;
 - the use of state property not for official purposes;
- 11) reduction of the employee's vacation for the corresponding working year by the number of days of absenteeism or intentional failure to perform his/her work duties for more than 3 hours during the working day without valid reasons;
- 12) the employee's obligation to notify the employer in writing of the decision to continue or terminate the employment relations no later than 1 month before the expiration of the Contract;
- 13) the obligation of the employer, no later than 1 month before the expiration of the Contract, to notify the employee in writing of the decision to continue or terminate the employment relations on the terms of the Contract or to conclude an open-ended employment contract.

The law provides for some other mandatory provisions to be stipulated in employment contracts with specific employees (temporary employees, seasonal employees, remote employees, athletes, secondary employees etc).

Is it acceptable to have a probation period for employees? If yes, for how long?

Generally, it is acceptable. Probation period should not exceed 3 months. There are some categories of employees exempt from possibility to establish a probation period with, namely:

- 1) minors;
- 2) young workers (employees) who have received vocational education;
- 3) young professionals who have received specialized secondary, higher or science-oriented education;
- 4) disabled people;
- 5) temporary and seasonal employees;
- 6) employees transferred to work in another locality or to another employer;





- 7) when applying for a job through a contest, based on the results of elections;
- 8) in some other cases applicable to employment in specific state bodies (the diplomatic service, the State Control Committee, the State Customs committee etc).

Are fixed term employment contracts permissible? Are there any limitations on fixed term contracts? Are there any requirements to have a fixed term contract?

Fixed term employment contracts are permissible.

Generally, the law tends to promote open-ended employment contracts, by establishing that employment contract may be fixed-term:

- when employment relations cannot be established for an indefinite period, taking into account the nature of the work to be done or the conditions of its performance (seasonal employees, employment for substitution of an absent employee etc) or;
- by the parties' consent when the employment contract is concluded with secondary employees or with persons employed by:
 - a notary in a notary bureau;
 - an individual engaged in the provision of services in the field of agroecotourism;
 - an individual entrepreneur;
 - a micro-company.

The above restrictions are not applicable to the Contracts.

Maximum term of a fixed term employment contract is 5 years. If the fixed term employment contract expires, and the parties wish to continue the relations based on fixed term employment contract, it may be either prolonged (if the overall duration of employment under this employment contract is less than 5 years) or the new employment contract should be concluded (if the overall duration of employment under this employment contract has reached 5 years).

Amount of total term of employment under fixed term employment contract (including prolongations and conclusion of new fixed term employment contracts, as provided above) is not limited.

If the term of a fixed term employment contract expires (not necessarily the 5-year period but in general), and neither of the parties requests termination of the employment contract, the relations are considered to be continued on conditions of an open-ended employment contract.

There are several categories of employees who must be engaged under fixed term employment contracts (civil servants, directors, athletes, immigrants etc).

Do employment contracts have to be in writing? Are there any signatory requirements for employment contracts? For example, could they be signed in-person or electronically, etc.)?

Employment contracts must be in writing. Pages of employment contract must be numbered. Each page of the employment contract must be signed with wet ink by the employee and by the authorized officer of the employer.

Addenda to employment contracts with remote employees may be executed in the form of electronic document implying the use of e-signature issued by the authorized provider.





Do employees have to be issued with a written employment contract before they start work?

One copy of the executed employment contract must be handed over to the employee. However, the law provides for the possibility to execute the employment contract later than the actual commencement of work. In this case, the actual work commencement must be formalized by the employer's order within 1 day following the work commencement.

Is there an obligation for an employer to run a criminal record check to the extent that any individual they hire will be working with children or vulnerable people?

There is no general obligation for the employer to run a criminal record check with respect to the individuals to be employed for work with children and vulnerable people. Necessity to run the mentioned check should be assessed depending on the particular position to which an individual is employed. Thus, for instance, the employer must run a criminal record check with respect to the individuals to be employed for work as pedagogue.

Can employers request references from former employers for new hires?

Yes. And in some cases the employers are obliged to do so (for instance, for employment to state bodies).

Is an employer required to set up any form of employee representative body? If so, what is the trigger for this?

There is no such requirement.

Is it common to have collective agreements in your jurisdiction that apply to all employers in a particular region or sector?

It appears to be not common.

2 Conditions of employment

What is the minimum age requirement for employment?

16 years. However, 14-years old individuals may be employed subject to the consent of one of their parents (or other legal guardians) for performance of light work or professional sports that:

- 1) are not harmful to the employee's health and development;
- 2) do not interfere with obtaining education.

The list of light work for which minors of age 14-15 may be employed is established by the Ministry of Labor and Social Security (e.g. participation in animation programs and work as an artistic staff, works on the provision of services for cleaning territories, apartments, sorting, delivery of mail, print media, decoration of premises for special events, florist services, courier services etc).





What type of work may a child undertake? For example, are there any specific restrictions?

Some of the restrictions applicable to the employees under 16 are listed above.

It is prohibited to engage children (i.e. employees being 14-17 years old):

- in hard work and in work with harmful and (or) dangerous working conditions;
- in underground and mining operations;
- for lifting heavy weights manually exceeding the mass limits established by the Ministry of Healthcare;
- in other specific works as established by the Ministry of Labor and Social Security (e.g. work with explosives; work on the disposal and processing of radioactive waste; work related to the use of mercury and its compounds etc.).

Generally, it's prohibited to involve children in work at night and overtime work, work on public holidays, work on weekends.

Wages

What is the minimum wage requirement for employees? Are there any exceptions in minimum wages for young persons or people with disabilities?

The employee's wage must not be less than statutory minimum wage which is BYN 626 (approx EUR 180) as of 12 March 2024.

There are no exceptions in minimum wages for young persons or people with disabilities.

Are there any conditions which warrant a pay raise or extra pay? If yes, what are they?

Generally, the law does not provide for the explicit list of such conditions. However, the following circumstances may require a pay raise or extra pay:

- if the statutory minimum wage increases, and the employee's salary becomes less than the statutory minimum wage, the employee's salary must be increased at least to a level of the statutory minimum wage;
- when the duties of another position are assigned to the employee;
- when particular incentive is provided in the employment contract or local regulations of the employer;
- when the employer is obliged to index the employee's salary due to inflation (mandatory for employer's paying salaries from state budgets; discretionary for other employers) or due to late payment of salaries (applicable to all employers).

When are wages due? For example, is there any obligation to pay wages weekly, or monthly?

Wages must be paid at least twice a month.

Are employers obliged to provide employees with paid leave on public holidays?

Generally, employees must be free from work on public holidays.

It is permitted to engage the employees on public holidays into:

- work, suspension of which is impossible due to production and technological conditions (continuously operating companies);
- work related to continuous provision of service to public;
- work related to conducting mass events (only subject to the employee's consent);
- urgent repair and loading/unloading operations.





Are employers obliged to provide employees with annual leave?

Yes.

The general minimum duration of basic annual leave is 24 calendar days per year. Parents who are obliged to reimburse the state with the costs of child support (in cases provided by the law: deprivation of parental rights etc.) are entitled to 7 calendar days of the basic annual leave per year.

There are also categories of employees for whom the minimum basic annual leave should be more than 24 calendar days per annum: teaching staff, minors, employees of professional emergency services etc.).

Apart from the basic annual leave, employees may be entitled to supplementary annual leaves (in case of work in hazardous conditions; in case of working irregular working hours; supplementary incentive annual leave etc.).

For the purpose of the annual leave duration, the labor year is taken into account but not the calendar year (1 January – 31 December). The labor year is a period equal to the calendar year which starts at the employee's employment date (e.g. if the employee is employed on 1 March 2024, their labor year should be 1 March 2024 – 28 February 2025).

Subject to the parties' consent, the annual leave may be split in 2 parts, unless otherwise is provided in local regulations of the employer. However, one part of the annual leave shall be not less than 14 calendar days.

Are employees entitled to receive their usual salary during their annual leave?

The employees are entitled to receive their average salary for the duration of annual leave. There is a specifically regulated mechanism of calculation of the average salary which is generally based on the employee's remuneration (not only salary itself but also some incentives etc.) for 12 months preceding the month when the annual leave begins.

The average salary for an annual leave must be paid to the employee no later than 2 calendar days prior to commencement of the annual leave. If the annual leave is granted not in accordance with the leave schedule, it is possible to pay the average salary within 2 working days following commencement of the leave, subject to the employee's consent.

Is there a requirement to pay overtime? How is overtime compensated?

Yes, please [see above](#).

Are there any extraordinary circumstances that could be relied on to temporarily cease paying employees for the hours worked?

There is no legal basis for ceasing to pay the employees for the hours worked.

Are employees entitled to an end-of-year payment?

The law does not provide for a statutory end-of-year payment.

Are employees entitled to payments when their employment contract is terminated, such as notice or notice pay, accrued or untaken holiday and/or statutory severance?

There are the following payments which the employees may be entitled to upon termination of employment contract:

- Salary for the work done – always. The amount is based on the employee's salary and the payment period;
- Compensation of the unused holiday – always. The amount is based on the employee's average salary and the quantity of days of unused holidays;
- Severance payment – in case of dismissals due to specific grounds (layoff, violation of law by the employer, liquidation of the employer, dismissal due to refusal to continue the





employment following the change of material conditions of employment, dismissal due to conscription etc.). The amount of mandatory severance payment depends on particular grounds for dismissal and varies from 2 weekly average salaries to 3 monthly average salaries and may be increased by the employer in the employer's local regulations. Discretionary severance payment may be stipulated in the collective bargaining agreement or other local regulations of the employer or in the employment contract itself (however, the tax obligations with respect to such payments may be different to the statutory provided ones).

Working hours

What is considered a full time working week? If the employee is contractually required to work less than this amount are they considered a part time employee?

Generally, a full time working week is considered to last 40 hours, unless shorter duration is provided in the employer's local regulations. If the employee is contractually required to work less than the amount of full time working week established by the employer's local regulations or less than 40 hours a week (if the employer's local regulations do not stipulate the duration of the working week), such an employee is considered a part time employee.

Are there fixed public/statutory holidays each year? Can employees be required to work on public/statutory holidays? Are employees entitled to any other type of leave besides public/statutory holidays?

There is a fixed list of public/statutory holidays in Belarus established by the Edict of the President which includes the following holidays:

- January 1 and 2 – New Year's Eve;
- January 7 – Orthodox Christmas;
- March 8 – Women's Day;
- according to the calendar of the Orthodox denomination (in 2024 – May 14) – Radunitsa;
- May 1 – Labor Day;
- May 9 – Victory Day;
- July 3 – Independence Day of the Republic of Belarus;
- November 7 – October Revolution Day;
- December 25 – Catholic Christmas.

Generally, employees must be free from work on public holidays.

It is permitted to engage the employees on public holidays into:

- work, suspension of which is impossible due to production and technological conditions (continuously operating companies);
- work related to continuous provision of service to public;
- work related to conducting mass events (only subject to the employee's consent);
- urgent repair and loading/unloading operations.

Apart from public/statutory holidays, the employees are entitled to:

- the labor leave – the leave granted to arrange the employee's rest from work and recovery of the employee's efficiency. General minimal amount of such a leave is 24 calendar days per the employee's labor year;
- social leave – the leave granted to create favorable conditions for motherhood, child care, education, and meeting family and household needs (maternity leave, parental leave, leave for completion of dissertation, leave for valid reasons of domestic nature etc.).





Do part time employees receive any particular protection on the basis of their part-time status?

There is no additional protection for part-time employees related to their part-time status. Status of part-time employees is mostly the same as of the full-time employees.

Do part-time employees receive the same pro-rated terms to full time employees, e.g. in relation to pay and benefits?

Yes. The remuneration of part-time workers is made in proportion to the time worked (with a time-based form of remuneration) or depending on the output (with a piecework form of remuneration).

Social security

What social security contributions are employers obliged to pay? Presumably, pro-rated contributions are required for part time employees?

Social contributions are split in 3 types of contributions:

1. Contributions for mandatory pension insurance.

Generally, the total amount is 29% of the employee's income received from the employer.

28% are paid by the employer at the employer's expense. 1% is paid by the employer at the employee's expense (via deduction from the employee's gross salary).

2. Contributions for mandatory social insurance.

The amount is 6% of the employee's income received from the employer. Paid by the employer at the employer's expense.

3. Contributions for professional pension insurance.

Applicable only to specific types of employees (e.g. engaged in hazardous works, professional athletes etc.).

The amount is based on the particular category of the employees covered by the mentioned insurance and ranges from 4 to 9 percent of the employee's income received from the employer. Paid by the employer at the employer's expense.

Are employers obliged to provide health insurance to their employees?

No. In terms of insurance, the employers are obliged to arrange mandatory social and pension insurance as provided above and the mandatory insurance against industrial accidents and occupational diseases.

Are employees entitled to unemployment insurance/benefits following the end of employment?

The employees are not entitled to unemployment insurance/benefits from the employer following the end of employment, apart from the severance payments as provided above.

The unemployed persons (being Belarusian citizens, or having the permit for permanent residence in Belarus, or being of the refugee status, or being granted with an asylum in Belarus) following their registration in the occupancy authorities may be entitled to, inter alia:

- unemployment allowance;
- material aid;
- educational courses.





Are employers obliged to provide sick leave? If yes, for how long? How many days have to be paid by employers? Is it possible to have unpaid sick leave?

Employers are obliged to provide sick leave. The sick leave should be confirmed with a certificate of temporary disability, issued by a doctor. The term of the sick leave is determined based on the certificate.

Temporary disability allowance must be paid during sick leave. In general, temporary disability allowance paid for the entire period of temporary disability until the day of its termination or establishment of permanent disability, but not more than 120 calendar days continuously or not more than 150 calendar days with breaks over the past 12 months, and in connection with tuberculosis – not more than 180 calendar days continuously or not more than 240 calendar days with breaks in the last 12 months. Payment of temporary disability allowance for longer periods may be made on the basis of a decision of the medical rehabilitation expert commission on the extension of treatment.

The temporary disability allowance is technically paid by the employer but the paid sums are set off against the employer's future contributions for mandatory social insurance (as provided above). So, eventually the temporary disability allowance is paid at the expense of the Social Security Fund of the Ministry of the Labor and Social Security of the Republic of Belarus (**SSF**).

If an employee has a certificate of temporary disability, it is not permitted to grant the employee an unpaid sick leave.

Are employers obliged to provide maternity leave for employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid maternity leave?

Employers are obliged to provide maternity leave for employees subject to the employee's request.

Maternity leave duration is stipulated in the certificate of temporary disability. Generally, the term of the maternity leave is 126 calendar days (in cases of complicated childbirth, including the birth of 2 or more children – 140 calendar days). Women who permanently (predominantly) live and (or) work in the territory of radioactive contamination are granted with maternity leave of 146 calendar days (in cases of complicated childbirth, including the birth of 2 or more children – 160 calendar days).

The pregnancy allowance must be paid for all days of the maternity leave granted. The pregnancy allowance is technically paid by the employer but the paid sums are set off against the employer's future contributions for mandatory social insurance (as provided above). So, eventually the temporary disability allowance is paid at the expense of the SSF.

It is not permitted to have unpaid maternity leave.

In addition to maternity leave, the law sets forth a right for parental leave to take care of a child until the child reaches the age of 3. The parental leave can be used by mothers, fathers, other relatives or family members providing care for a child. Employees are entitled to receive the parental allowance paid during the whole duration of the parental leave by the employer in the same manner as the pregnancy allowance.

Is paternity leave available to employees? If yes, for how long? How many days/months have to be paid by employers? Is it possible to have unpaid paternity leave?

In case of birth of a child, employer is obliged, at the request of the child's father (stepfather), to provide him with a leave without pay of no more than 14 calendar days. A different duration and (or) payment of this type of leave may be provided for in local regulations of the employer.

Are employers liable for absence due to work-place injuries?

Generally, employees must be insured by employers under the program of mandatory insurance against industrial accidents and occupational diseases. If an employee's absence is caused by a work-place injury, the employee is entitled to allowance. The type and the amount of the allowance are subject to severity of the work-place injury. The allowance is paid by Belgosstrakh, which is a state-owned insurer under the mandatory insurance against industrial accidents and occupational





diseases.

Please note that payment of the allowance does not exclude the possibility of criminal or administrative liability of the employer's responsible officers for violation of occupational safety provisions.

Are employees entitled to retirement benefits from the employer? If yes, what benefits?

The employees are not entitled to statutory retirement benefits from the employer. However, the mentioned benefits may be stipulated in local regulations of the employer or in the employment contract.

Are employers obliged to introduce reporting channels and legal safeguards for whistleblowers?

Anti-corruption commissions must be established in republican state bodies and other state institutions subordinate to the Council of Ministers of the Republic of Belarus, regional, city, district executive committees, local administrations of districts in cities, management companies of holdings that are state unitary enterprises and business companies in which 50% or more shares in the authorized funds are owned by the state. Establishment of anti-corruption commissions in institutions other than described above is discretionary.

According to the Model Regulations on Anti-Corruption Commission, one of anti-corruption commissions' key functions is summarizing information received from individuals on violations of anti-corruption legislation by employees of a state body (institution) or subordinate institutions and analysing such information.

Apart from establishment of anti-corruption commissions, there are no statutory requirements to introduce reporting channels and legal safeguards for whistleblowers.

3 Safe and supportive work environment

Broadly what measures have to be in place to ensure employers uphold health and safety? (such as fire or earthquake drills)

Employers' specific obligations with respect to occupational safety depend on various factors, such as the sphere of employer's operations, job duties of the particular employee etc.

Most general employers' obligations with respect to occupational safety are:

- to ensure working conditions at each workplace that meet the statutory requirements (e.g. there are sectoral regulations on occupational safety applicable to the employees working in particular sector of economy or on specific positions);
- to conduct trainings for employees on occupational safety;
- to adopt the internal regulations on occupational safety and to get the employees familiarized with these regulations;
- to suspend from work on the respective day (shift) an employee who appears at work in a state of alcoholic, narcotic or toxic intoxication, as well as in a condition associated with an illness that prevents the performance of job duties as well as an employee who has not been instructed, trained and tested on occupational safety issues, does not use personal protective equipment, has not passed a medical examination (if applicable);
- to appoint the officers responsible for the maintenance of occupational safety;
- to control the levels and concentrations of harmful production factors.





Is there a requirement for an employer to issue any form of non-discrimination policies? (such as gender equality policies, equal employment opportunities, diversity, and inclusion policies, etc.)

No.

Is there a requirement to provide employees with training designed to combat discrimination and harassment?

No.

Is there a requirement to have a data protection policy?

Yes.

Is it mandatory for employers to have a Child Protection Policy (CPP)? Are employees obliged to provide training on CPP to its employees?

No.

4 Tax

Which taxes are mandatory for employers to pay and deduct on behalf of their employees?

Personal income tax at a general rate of 13% should be deducted by the employer from particular payment made by employers to employees. The personal income tax rate is set at 25% in respect of the income received by payers from sources in Belarus in the form of dividends/under employment contracts/under independent contractor agreements in an amount exceeding 200,000 Belarusian rubles during the tax period.

Are all employee taxes deducted from the salary that the employer pays or is there a requirement for employees to pay certain taxes directly?

Personal income tax must be deducted from the salary and paid by the employer. The employee does not pay personal income tax directly.

5 Remote work

Are employers required to have a registered legal entity in the jurisdiction in order to employ employees in the jurisdiction?

In general, if an employer does not have a legal entity or representative office in Belarus, the employer cannot employ employees in Belarus. This is due to the fact that Belarusian employment law generally applies to the relations arising from employment contracts concluded in the territory of Belarus. Based on current practice known to us, the employee may be employed under Belarusian employment law by foreign employer only for work in the employer's representative office in Belarus.

Are employers required to provide any form of physical working space for employees working in your country?

If an employee is "employed" by foreign employer not having representative office in Belarus, the employer is not required to provide any form of physical working space for the employee.

If employee is employed by Belarusian employer or by foreign employer for working in the foreign





employer's representative office in Belarus, the employer is required to provide physical working space for the employee, unless the employee is employed as a remote employee.

Please provide general instructions for employers on what to check if the employer has remote employees, including concerning employee tax liabilities.

Employment issues

If the employer is not a Belarusian legal entity or a foreign company having a representative office in Belarus, its employees should not fall into the scope of Belarusian employment law. This is due to the fact that Belarusian employment law generally applies to the relations arising from employment contracts concluded in the territory of Belarus. Based on current practice known to us, the employee may be employed under Belarusian employment law by foreign employer only for work in the employer's representative office in Belarus.

If the employer is a Belarusian entity or foreign company employing remote employees for work at this company's representative office in Belarus, the employer should check:

1. That local regulations of the employer stipulate general mandatory conditions and the following specific conditions applicable to remote employees:
 - terms of exchange between the employer and remote employees of electronic documents or messages in electronic form (including SMS messages, files and records) containing written assignments, other information for the performance of work duties, the results of work performed, statements and explanations of the employee, notifications, orders and other documents;
 - methods and frequency of work contacts of remote employee with employer.

If the mentioned conditions are not established by employer's local regulations, they should be stipulated in the employment contract. Remote employee should be familiarized with the local regulations of employer.

2. That the employment contract stipulates:
 - general mandatory conditions;
 - specific mandatory conditions for remote employees:
 - type of remote work (permanent, temporary, combined);
 - the procedure and deadlines for providing remote employees with equipment, software and hardware, information security means and other means necessary for the performance of their work duties, the procedure and deadlines for submitting reports on work performed by remote employees, the amount, procedure and deadlines for paying compensation for the use of equipment owned by remote employees or leased by them, the procedure for reimbursement of other expenses related to the performance of remote work.
3. That employee is provided with the occupational safety training on the use of the equipment provided or recommended by the employer.

Tax issues

If employer is not a Belarusian legal entity or a foreign company having representative office/permanent establishment for tax purposes in Belarus and engaging employees for work in this representative office/permanent establishment, the employer should not be bound with the tax duties related to the payment made by the employer to the employees in Belarus.

If the employer is a Belarusian entity or foreign company, having representative office/permanent establishment for tax purposes in Belarus and engaging employees for work in this representative office/permanent establishment, the income paid to the employees by the employer generally should be subject to Belarusian personal income tax as provided above in this guide.





6 What to do when things go wrong

Dispute resolution

Do employees (including volunteers) need to go through any form of dispute resolution before bringing a claim to a court or tribunal?

Generally, before bringing a claim to a court, employee must apply to the employer's commission on employment disputes (**Commission**) if all of the below conditions are in place:

- the Commission is established;
- the dispute is within the Commission's powers;
- the employee is a member of the trade union;
- the employee is not a director of the employer.

If any of the above is not met, the dispute may (or can only be – depending on particular circumstances) be brought directly to the court.

According to the general market practice known to us, Commissions are established rarely (mostly in state bodies and state owned companies).

Resignation

What grounds do employees have for resignation?

We believe that by resignation should be understood a dismissal for which the unilateral will of the employee is enough and the employer's consent is not required.

Thus, there are the following ground for employees' resignation:

- resignation due to expiration of fixed term employment contract;
- resignation at the employee's will (applicable only to open-ended employment contracts);
- resignation at the employee's request (applicable only to fixed term employment contracts) in case of illness or disability, admission to military service under a contract and other valid reasons preventing the performance of work under an employment contract, as well as in case of violation by the employer of employment law, collective agreement, employment contract;
- resignation due to refusal of employee to transfer to another location together with the employer; refusal to continue work due to changes in essential working conditions, as well as refusal to continue work due to a change in the owner of the property and (or) reorganization of the employer, the transfer of the property complex of the employer to lease or transfer to trust management of shares in the employer's authorized capital;
- resignation during the probation period;
- resignation of the director subject to payment of established compensation.

Termination

What grounds do employers have for the termination of employment contracts?

Generally, the grounds for termination of employment contracts are:

- mutual consent of the parties;
- expiration of fixed term employment contract;
- employee's will (applicable only to open-ended employment contracts);
- employee's request (applicable only to fixed term employment contracts);
- employer's initiative (lay off, truancy, malperformance, gross violation of labor duties etc.);
- transfer of the employee;





- circumstances beyond the parties' control (conscription of an employee for military service, employee's death, injunctive relief etc.);
- failure of probation period;
- dismissal of the director by the shareholders' resolution with payment of severance to the dismissed director.

How do employers have to document the termination of an employment contract?

It mostly depends on the particular ground of dismissal. However, the following documents are applicable to dismissal at due to all grounds:

- order on dismissal should be issued and presented to the employee against his/her signature;
- record on dismissal should be made in the employee's labor book which should be returned to the employee.

What is the responsibility of employers for damages incurred by an employee's actions within his/her work?

Employers are liable for damages incurred by employees' actions within their work.





b. Independent contractors/consultants*

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Definition of an independent contractor/consultant

The law does not provide for legal definition of the contractor. The law operates with rather generic term "individuals² working under civil law contracts, the subject of which is performance of works / provision of services / creation of intellectual property objects."

* *The term consultant will be used to also refer to independent contractors, or any other term that would mean a person that provides goods or services under a written contract or a verbal agreement but does not work to meet the definition of employee.*

1 Contracts

What types of independent contractor/consultant agreements are available? Are there any specific agreements available to NGOs?

The law does not specifically cover this question. The following agreements are usually concluded with the contractors: service agreement or agreement for performance of work.

There should be no specific agreements available to NGOs.

What are the main elements of consultant agreements?

In general, the following are essential conditions of consultant agreements:

- description of service/work performed;
- term of the service/work performance;
- procedure of settlements between the parties, including the amounts to be paid;
- the obligation of engager to pay for the contractor mandatory insurance premiums to the SSF in accordance with the established procedure;
- obligations of the parties to ensure safe working conditions and responsibility for their non-fulfilment;
- grounds for early termination of the agreement;
- liability for non-fulfilment by engager of obligations to pay the remuneration in the form of

² Not registered as individual entrepreneurs which is a special form of conducting business activity without establishment of a company.





- a penalty in the amount of at least 0.15 percent of the unpaid amount for each day of delay;
- engager's obligation to pay insurance premiums for mandatory insurance against industrial accidents and occupational diseases, if the consultant's work is carried out in places provided by the engager.

Is it possible to have probation periods for independent contractors/consultants? If yes, for how long?

The law does not directly provide for that. However, the parties should be free to stipulate the probation period of any desired longevity in the agreement, since it does not contradict the law.

Is it possible to have a fixed term consultation/independent contractor agreement? Are there any restrictions around fixed term consultant/independent contractor agreements?

Yes, it is possible to have a fixed term consultation/independent contractor agreement. There are no specific restrictions around fixed term consultant/independent contractor agreements.

Do independent contractor/consultant agreements have to be in writing? Are there any signatory requirements? For example, could they be signed in-person or electronically, etc.)?

Independent contractor/consultant agreements have to be in writing.

The agreement in writing must be completed by drafting a text document, including an electronic document (including a document in electronic form) expressing its contents, which is signed by the parties personally or using means of communication and other technical means, computer programs, information systems or information networks, if such a method of signing allows to reliably establish that the relevant text document is signed by the respective person (facsimile reproduction of a handwritten signature by means of mechanical or other copying, electronic digital signature or other analogue of a handwritten signature that provides identification of the relevant signatory), and does not contradict the legislation and the agreement of the parties.

Do all types of independent contractors/consultants have to be under contract in order to be able to work?

Yes.

Is there an obligation to run a criminal record check to the extent that any independent contractor will be working with children or vulnerable people?

There is no general obligation for the client to run a criminal record check to the extent that any independent contractor will be working with children or vulnerable people. Necessity to run the mentioned check should be assessed depending on particular work to be performed by the contractor. Thus, for instance, there is an obligation to run a criminal record check in respect of the contractor to be engaged in pedagogical activity.





2 Conditions of work for consultants

Are there any minimum age requirements for an individual to work under a consultant/independent contractor agreement?

Generally, minimum age for individual to work under a consultant/independent contractor agreement is 18 years. If the contractor is emancipated (possible starting from 16 years of age) or married before reaching 18 (possible in exceptional cases starting from 15 years of age), the contractor may work under the contractor agreement from the date of emancipation or marriage accordingly.

Likewise, individuals between 14 and 18 years of age may work under contractor agreement subject to consent of their legal representatives (parents, adoptive parents, guardians). At the same time, the work should not prevent minors from receiving education and should not be harmful to their health and development.

Does a consultant/independent contractor need to obtain a license or any other permission in order to work?

Yes, if the law provides that specific work may be performed only by persons having necessary license/permit. For instance: drivers (valid driving license and medical certificate are required); industrial climbers (valid medical certificate and certificate on completion of training in safe working techniques using industrial mountaineering techniques are required).

Payment

Are there any minimum pay requirements for consultants/independent contractors?

There are no minimum pay requirements for consultants/independent contractors.

Are there any exceptions in minimum wages for young persons or people with disabilities?

No.

Is there any requirement to provide statutory/paid leave to consultants for statutory holidays?

No.

Is there any requirement to pay annual leave to consultant/independent contractors? If so, how is this compensated, if at all?

No.

Is there an obligation to provide consultant/independent contractors with overtime? How is this compensated if required?

No.

Are consultants entitled to an end-of-year payment?

No.





Are consultants entitled to a final payment when the contract is terminated?

The consultants should be paid within the time limits stipulated by the agreement. Thus, termination of the agreement does not per se trigger an obligation to make the final payment at the termination date.

Working hours

Are consultants entitled to any type of leave, whether paid or unpaid?

The concept of leaves is not applicable to consultants.

Social security

Does the end user engager need to make any social security contributions on behalf of a consultant/independent contractor? Are independent contractors entitled to health insurance from the end user engager?

We believe that by the end user engager we should understand the party engaging the contractor under respective agreement with the contractor.

If the end user engager is a Belarusian legal entity or foreign company having representative office in Belarus/permanent establishment for tax purposes in Belarus engaging contractors to work in this representative office/permanent establishment, social security contributions must be made by the end user engager on behalf of consultant the same way as described above with regard to the employees.

If the end user engager is a foreign company, not having representative office in Belarus/permanent establishment in Belarus, the end user engager is not obliged to make social security contributions on behalf of a consultant/independent contractor.

Independent contractors are not entitled to health insurance from the end user engager. However, independent contractors engaged by end user engager being a Belarusian legal entity or foreign company having representative office in Belarus to work in this representative office, are subjects to mandatory insurance against industrial accidents and occupational diseases.

Are independent contractors/consultants entitled to unemployment insurance/benefits after termination of their independent contractor/consultancy agreement from the end user engager?

No.

Are independent contractors/consultants entitled to sick leave from the end user engager? If yes, for how long? How many days have to be paid?

The concept of leaves is not applicable to consultants. However, the contractors for whom the social security contributions are made (as per above comments) may be entitled to temporary disability allowance.

Are independent contractors/consultants entitled to maternity leave from the end user engager? If yes, for how long? How many days/months have to be paid?

The concept of leaves is not applicable to consultants. However, the contractors for whom the social security contributions are made (as per above comments) may be entitled to maternity allowance and parental allowance.





Are independent contractors/consultants entitled to paternity leave from the end user engager? If yes, for how long? How many days/months should be paid?

The concept of leaves is not applicable to consultants. Paternity allowance is not stipulated in the law. Parental allowance may be paid either to the child's father instead of the child's mother or other relative.

Are employers obliged to cover work-place injuries for independent contractors/consultants?

If an end user engager is not a Belarusian company or a foreign company having representative office in Belarus, engaging contractors/consultants to work in this representative office, the end user engager is not obliged to cover work-place injuries for contractors/consultants, unless there is a respective court judgement on recovery of damages.

If an end user engager is a Belarusian company or a foreign company having representative office in Belarus, engaging contractors/consultants to work in this representative office, generally, contractors/consultants must be insured by the end user engagers under the program of mandatory insurance against industrial accidents and occupational diseases, if such contractors/consultants work in the locations provided by the end user engager. If the insured contractor/consultant gets a work-place injury, the contractor/consultant is entitled to allowance. The type and the amount of the allowance are subjects to severity of the work-place injury. The allowance is paid by Belgosstrakh, which is a state-owned insurer under the mandatory insurance against industrial accidents and occupational diseases. Please note that payment of the allowance does not exclude the possibility of criminal or administrative liability of the end user engager's responsible officers for violation of occupational safety provisions.

Are independent contractors/consultants entitled to retirement benefits from the end user? If yes, what benefits?

No.

3 Safe and supportive work environment

Are there any differences in terms of the regime that applies to employees?

There should be no significant differences with respect to the contractors engaged by end user engager being a Belarusian company or a foreign company having representative office/permanent establishment for tax purposes in Belarus, engaging contractors/consultants to work in this representative office/permanent establishment, if such contractors/consultants work in the locations provided by the end user engager. If the mentioned end user engagers do not provide contractors/consultants with locations to work in, most of Belarusian occupational safety regulations should not apply.

We believe that if an end user engager is a foreign company other than the one mentioned in the paragraph above, Belarusian occupational safety regulations should not apply.

4 Remote work

Are end user engagers required to have a registered legal entity in the jurisdiction in order to hire independent contractors/consultants there?

No.





5 What to do when things go wrong

Resignation

Do consultants/independent contractors need a reason to terminate the contract or can they terminate it for any reason in accordance with the terms of the contract?

If the contract is governed by Belarusian law, the right of consultants/contractors to unilaterally terminate the contract without a reason depends on the particular type of the contract. In case of the contract for provision of services, the consultant/contractor may unilaterally terminate the contract without cause subject to recovery of losses (if any) to the end user engager. In case of the contract for conducting works, the consultant/contractor is not statutory entitled to unilaterally terminate the contract without cause, unless the contract provides otherwise.

If the contract is governed by foreign law, the subject questions should be analyzed from the perspective of the respective governing law of the contract.

Termination of agreement

What grounds do end user engagers have for the termination of consultant agreements?

If the agreement is governed by Belarusian law there are the following general grounds for termination of the agreement:

1. Mutual consent of the parties.
2. Termination of the agreement by court in case of gross violation of the contract by the consultant.
3. Termination of the agreement by the court in case of significant change in the circumstances which the parties relied upon when executing the agreement.
4. Unilateral termination of the agreement by the end user engager:
 - In case of the contract for provision of services, the end user engager may withdraw from the agreement without cause subject to payment to the contractor of the expenses actually incurred by him/her, unless otherwise provided by the law;
 - In case of the agreement for conducting works, the end user engager may withdraw from the agreement, inter alia:
 - if the contractor does not start the execution of the agreement in a timely manner or performs the work so slowly that its completion by the deadline becomes clearly impossible;
 - if there are valid reasons, subject to payment to the contractor a part of the set price for the work actually performed. The end user engager is also obliged to compensate the contractor for losses (if any) caused by the termination of the agreement, in the amount not exceeding the spread between the part of the price paid for the work actually performed and the price determined for the entire work;
 - if deviations in the work from the terms of the agreement or other shortcomings of the result of the work have not been eliminated within a reasonable period established by the customer or are significant and irremediable;
 - in other cases stipulated in the agreement.

If the contract is governed by foreign law, the subject question should be analyzed from the perspective of the respective governing law of the contract.





What is the responsibility of the end user engagers for damages incurred by a consultant's actions within his/her work?

The end user engager shall be liable for damages incurred by a consultant's actions within their work, if the consultant acted or should have acted per the instructions of the end user engager and under the end user engager's control for the safe conduct of work





c. Volunteers

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Definition of a volunteer

There is no general legal definition of volunteer. The law applicable to particular spheres where the volunteers may be used provide for the following definitions:

- a volunteer is an individual who voluntarily provides informational and (or) organizational assistance to fans and other persons during a mass sports event, sports competition on the basis of a gratuitous civil law agreement concluded with the organizer of a mass sports event, the organizer of a sports event (**volunteer engaged in sport activities**);
- a volunteer is an individual who voluntarily provide social services gratuitously under the guidance of employees of organizations and individual entrepreneurs providing social services, in accordance with the law;
- a volunteer is an individual who voluntarily and gratuitously performs work or provides services on a regular, periodic or one-time basis within the framework of activities aimed at achieving goals, fulfilling tasks and implementing the main activities of the Belarusian Red Cross Society.

1 Contracts

Are organizations required to sign any form of agreement with volunteers?

The law provides for obligation to sign an agreement with volunteer engaged in sport activities.

2 Conditions of employment

Is there a minimum age requirement for volunteers?

There are no particular age restrictions for volunteers provided for by the law. Therefore, general regulations on legal capacity should apply. Thus, individuals under 14 cannot be engaged as volunteers. Individuals between 14 and 18 may be engaged as volunteers subject to the consent of their legal representatives (parents, adoptive parents, guardians), unless these individuals are fully legally capable due to early marriage (in exceptional cases the general marriage age of 18 may be reduced but not less than to 15 years of age) or due to emancipation (possible starting from 16 years of age).





What type of volunteering work may a child undertake? Are there any restrictions around this?

There are no restrictions. Therefore, the general sanitary-hygienic requirements should apply.

Payments and reimbursement

Are organizations allowed to pay stipends to volunteers?

Generally, no.

Are organizations allowed to reimburse volunteers? If yes, for what expenses (such as transportation, food, etc.).

The law does not provide for such possibility.

Working hours

Are there any obligations around how many hours volunteers can work?

There are no legal provisions in this respect. Therefore, the general sanitary-hygienic requirements should apply.

Are volunteers entitled to any type of leave?

No.

Social security

Are organizations obliged to pay any social security contributions on behalf of their volunteers?

No.

Are organizations obliged to provide health insurance to volunteers?

No. However, if a volunteer is (simultaneously) engaged under the agreement by Belarusian company or foreign company having representative office in Belarus for work in this representative office, such volunteer should be insured under the program of mandatory program of insurance against industrial accidents and occupational deceases, if the volunteer works in locations provided by the engager.

Are organizations liable for absences of volunteers due to work-place injuries?

If a volunteer is insured against industrial accidents and occupational deceases (as provided above) and the volunteer's absence is caused by a work-place injury, the volunteer should be entitled to allowance. The type and the amount of the allowance are subjects to severity of the work-place injury. The allowance is paid by Belgosstrakh, which is a state-owned insurer under the mandatory insurance against industrial accidents and occupational diseases.

Please note that payment of the allowance does not exclude the possibility of criminal or administrative liability of the engager's responsible officers for violation of occupational safety provisions.





3 Safe and supportive work environment

Are there any differences in terms of the regime that applies to employees?

There should be no significant differences with respect to the volunteers engaged by engager being a Belarusian company or a foreign company having representative office in Belarus, engaging volunteers to work in this representative office, if such volunteers work in the locations provided by the engager. If the mentioned engagers do not provide volunteers with locations to work in, most of Belarusian occupational safety regulations should not apply.

We believe that if an engager is a foreign company other than the mentioned in the paragraph above, Belarusian occupational safety regulations should not apply.

4 Tax

Are organizations obliged to pay taxes if they pay their volunteers stipends? If yes, what types of taxes are mandatory to pay?

Generally, stipends should not be paid to volunteers, therefore personal income tax should not be applicable.

5 What to do when things go wrong

What grounds do organizations have for the termination of volunteer agreements/arrangements?

The law does not provide for particular grounds for termination applicable to volunteer agreements/arrangements.

What is the responsibility of organizations for damages incurred by a volunteer's actions within his/her work?

The law does not address this issue. However, the engager shall be liable for damages incurred by a volunteer's actions within their work, if the volunteer acted or should have acted per the instructions of the engager and under the engager's control for the safe conduct of work





d. Non-citizen employees and consultants, including refugees and others forcibly displaced

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1 Status and the right to work

Are employers obliged to secure legal status for their employees or consultants if they are non-citizens? (such as refugee status, humanitarian visas, visas for trafficking survivors, other recognized protection statuses, etc.)

Generally, no.

However, if the employee/consultant was granted with the visa/registration/temporary residence permit based on the employer's request, the employer is obliged to take measures for the employee's timely registration, obtaining a temporary residence permit, and the employee's departure after a permitted period of stay in Belarus

Are employers obliged to secure work permits for their employees or consultants? Is it always necessary to obtain a work permit?

As we understand, the question concerns employees/consultants being non-citizens.

No work permit should be required for engagement of consultants as they are engaged not under employment contracts.

Employment of non-residents generally requires obtaining a work permit by the employer.

Some of the exceptions are as follows:

- if an employee has Belarusian permanent residence permit;
- if an employee has applied for refugee status or additional protection or asylum in Belarus;
- if an employee is employed to the position of head of representative office of foreign company;
- if an employee received education in educational institutions of Belarus and is employed according to the obtained specialty and (or) qualification;
- if provided for in international treaties (e.g. if employee is a citizen of Eurasian Economic Union member state);





- if an employee is employed to the position exempt from external labor migration regulation per the edict of the Ministry of Labor and Social Security (software engineer, carpenter, veterinarian etc.).

Can asylum-seekers and other persons forcibly displaced access the right to work if they do not have refugee status or other recognized protection statuses?

Yes.

2 Contracts

Are employment contracts or consultant agreements for non-citizens different to those for citizens?

Consultant agreements – no differences. Employment contracts do a bit differ from those for citizens. Namely, employment contracts with non-citizens whose employment is subject to work permit obtaining (as per the comments above):

- must be fixed term employment contracts (open ended employment contracts and the Contracts are not permitted) with the validity term not longer than duration period of the work permit;
- must stipulate, among general essential terms, conditions of transfer to Belarus, nutrition, accommodation, and medical care for the employee;
- must be in Belarusian and (or) Russian. If the Belarusian and Russian languages are not native or understandable to the employee, the agreement must be also concluded in the native or other language understandable to the employee.

3 Conditions of employment

Does national law regulate the quotas for the number of non-citizens within one organization? Are employers obliged to report about employed non-citizens?

Currently, the law does not regulate the quotas for the number of non-citizens within one organization.

The employers are obliged to report to migration authorities about employed non-citizens within 3 business days following the conclusion of the employment contract. The exception is provided for employment of non-citizens having Belarusian permanent residence permit.

Are there any other differences in conditions of employment for non-citizens and citizens?

Employer is obliged to ensure, at its own expense, the departure of an employee from Belarus in case of early termination of an employment contract at the request of an employee in connection with a violation by employer labor law, as well as in case of cancellation of a work permit due to the fault of the employer, if there are no other grounds for the employee to stay in Belarus.

Are there any specific employment terms that apply to citizens but not apply to non-citizens?

Generally, no.





4 Safe and supportive work environment

Are there any differences in a safe and supportive work environment approach for non-citizens? If yes, please elaborate here.

No.

Does the employer have additional obligations for non-citizens?

No.

5 What to do when things go wrong

Is the process of termination of an employment contract for non-citizens different than for citizens? If yes, please explain here.

The same grounds for termination shall apply. Slight differences may be related not to the termination itself but to the employer's subsequent obligations (to notify migration authorities, to arrange the departure of an employee from Belarus as provided above).

Is the process of resignation for non-citizens different than for citizens? If yes, please explain here.

No.

Are non-citizens entitled to the equal protection of employment laws in the event of employment-related disputes?

No.





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