



VOKSHI & LATA
LAW FIRM

EMPLOYMENT AND LABOUR LAW

LEGAL GUIDE TO INVESTING IN KOSOVO



4.EMPLOYMENT AND LABOUR LAW

In an era where employment and labour law are continuously evolving, employment and labour law plays a pivotal role in safeguarding the rights and interests of both employees and employers. Kosovo, a dynamic and emerging country, is no exception to the global need for a robust legal framework that governs the complex relationship between workers and their employers.

At the heart of employment and labor law in Kosovo is Law No. 03/L-212 on Labour, applicable to all individuals in the private sector, including foreign nationals working within Kosovo’s borders. However, it’s essential to note that international missions and diplomatic and consular missions of foreign states have separate regulations governing employment relationships.

Kosovo is in the process of developing new regulations pertaining to employment and labor relationships, which encompass remote work as well.

In addition to the primary law, several other regulations complement Kosovo’s employment landscape, including laws related to pension funds, safety and health at work, labor inspectorate, and more.

Kosovo’s employment and labor law presents a comprehensive structure that addresses the multifaceted dimensions of labor relations. This guide will delve into the key provisions and regulations set forth by the aforementioned laws, shedding light on the rights and responsibilities of employees and employers. It will also explore the mechanisms in place to ensure a fair and equitable work environment in this dynamic nation

4.1. TERMS AND CRITERIA FOR DEFINING EMPLOYMENT RELATIONSHIP IN KOSOVO.

Age Requirements

Individuals who are 18 years old or older are eligible to enter into employment contracts. Furthermore, individuals aged between 15 and 18 are allowed to engage in employment relationships, provided that the nature of the work poses no threat to their well-being or developmental progress.

Reporting Obligations

Every employer is obliged to report its employees to the Tax Administration of Kosovo and Kosovo’s pension savings fund.



4.2. EMPLOYMENT CONTRACT

The rights, duties, and responsibilities of both, the employers and the employees shall be regulated with an employment contract. The employment contract shall be concluded in written form and signed by the employer and employee.

An employment contract should include the following key details:

- Data on the employer and employee;
- Designation, nature, and form of the labour or services;
- Job description;
- Place of work (or a statement indicating work at various locations);
- Working hours and schedule;
- Date of commencement of work;
- Duration of the employment contract;
- Basic salary and any other allowances or income;
- Period of vacations;
- Termination of the employment contract;
- Any other data considered important by the employer and employee for the regulation of their relationship.

Employment Contract Types

Kosovo's laws recognize various types of employment contracts based on different criteria:

- **Employment Contracts with a Fixed Period of Time:** These contracts have a predetermined duration, but they may not be concluded for a cumulative period exceeding ten (10) years.

- **Employment Contracts with an Indefinite Period of Time:** An employment contract that contains no indication of its duration shall be deemed to be for an indefinite period of time. Even in case a contract for a fixed period of time that is continued for more than ten (10) years shall be deemed to be a contract for an indefinite period of time.

- **Employment Contracts for specific tasks and duties:** These contracts are limited to one hundred and twenty (120) days within a year. Employees under such contracts have rights and duties as stipulated in the law, except when the law specifies otherwise. For example, employees on specific task contracts do not have the right to annual leave.

Probationary Work and Internship Work

While not considered separate employment contracts, employers can engage individuals for probationary work and internships through written agreements that include specific provisions.

Probationary Work

Probationary periods, lasting no longer than six (6) months, are part of the employment contract and can be terminated with prior seven days' notice.

Internship Work

Interns may be engaged without pay. However, the employer must provide occupational safety and protection as per the law. An intern, under a contract with the employer, has the same rights and obligations as regular employees. Interns engaged without compensation must be reported to relevant institutions.

Duration of Internship Work:

- Postgraduate, university, and higher education interns: Up to one (1) year.
- Secondary education interns: Up to six (6) months.

4.3. WORKING HOURS AND LEAVES

Working hours: Full-time employees are typically expected to work forty (40) hours per week, with a daily break of 30 minutes, which is considered part of their working hours. However, employees under eighteen (18) years of age should not work more than thirty (30) hours per week.

Overtime: when the volume of work increases or there are other necessary cases, the employer can request the employee to work for another eight (8) hours, which are considered extended working hours or overtime. Overtime may only last as long as it is necessary.

Employees under eighteen (18) years of age, part-time employees, pregnant employees, single parents with a child under three (3) years old, and employees with disabilities are exempt from mandatory overtime.

Night Shifts: Night shifts are between 22:00 and 06:00 and entitle the employee to an additional 30% of their remuneration for each hour worked during these hours.

Daily Rest: employees are entitled to a rest of at least 12 hours between two continuous days.

Weekly Rest: employees are entitled to a weekly rest for at least twenty-four (24) continuous hours. Working during the weekend entitles employees to an additional 50% remuneration per hour worked.

Annual leave: Full and part-time employees are entitled to at least 4 weeks of annual paid leave, with an additional day added for every five years of service. Employees in roles with harmful effects are entitled to at least 30 days of annual leave. Mothers with children up to 3 years, single parents, and persons with disabilities are entitled to 2 additional days. Unused annual leave days are not compensated monetarily unless the employment relationship is ending.

Employees establishing employment relationships for the first time will be entitled to annual leave only after six (6) consecutive months of work.



Maternity leave: Employed women are entitled to 12 months of maternity leave: 6 months with 70% of the salary paid by the employer, then 3 months with 50% of the Salary paid by the Government of Kosovo, and 3 additional months without payment. During pregnancy or maternity leave, the employer shall not terminate the employment contract of the mother or transfer her to another job position. After maternity leave, in case of a child that requires special care due to poor health conditions or with permanent disabilities, one of the parents shall be enabled to work part-time until the child becomes 2 years old.

Paternity leave: Fathers are entitled to take paternity leave in case that mother dies or abandons the child before the end of maternity leave. Father has the right to 2 days of paid leave at the birth of the child and 2 weeks of unpaid leave after the birth or at any time before the child reaches the age of 3 years old. The last 6 months of maternity leave can be conveyed to the father of the child in agreement with the mother.

Prohibition on Termination of Contract: During pregnancy, maternity leave, and absence from work due to special care for the child, the employer is prohibited from terminating the employee's contract or transferring them to another position.



4.4. SALARY AND OTHER BENEFITS OF EMPLOYEES

Salaries: in Kosovo, the employees are paid in the official currency Euro (€) as defined in the employment contract and employees should receive their salary and other allowances at least once per month.

Overtime Pay: Employees are entitled to overtime pay, calculated as a percentage of their basic salary:

- Twenty percent (20%) per hour for extra shifts: Additional compensation for hours worked beyond the regular shift;
- Thirty percent (30%) per hour for night shifts: Compensation for hours worked during the night shift between 22:00 and 06:00;
- Thirty percent (30%) per hour for extended working hours: Additional pay for overtime hours worked when the volume of work increases or in other necessary cases;
- Fifty percent (50%) per hour for work on national holidays: Enhanced compensation for hours worked on recognized public holidays; and
- Fifty percent (50%) per hour for work on weekends: Increased pay for hours worked on weekends.

4.5. SAFETY AND PROTECTION DURING WORK

Ensuring the safety and well-being of employees during their work activities is a fundamental obligation placed on employers in Kosovo. This commitment to safeguarding the lives and health of workers is not only a moral duty but also a legal requirement, as stipulated in both the Law on Labour and the Law on Safety and Health at Work.

Legal Foundations

Law on Labour: The Law on Labour serves as a cornerstone in outlining the rights and responsibilities of employers and employees in Kosovo. It sets the framework for employment relationships, including the expectation that employers must create and maintain a safe and secure work environment.

Law No. 04/L-161 on Safety and Health at Work: This specific legislation further elaborates on the safety and protection aspects of work in Kosovo. It provides comprehensive guidelines and regulations that employers must adhere to in order to prevent workplace accidents, reduce health risks, and promote overall well-being among employees.

Employer Obligations

Employers in Kosovo have several key obligations when it comes to safety and protection during work:

Providing Safe Work Conditions: Employers must ensure that workplaces are free from hazards which could endanger the lives or health of the employees. This includes addressing physical, chemical, biological, and ergonomic risks.

Safety Training: Employers should provide appropriate training and information to employees to enable them to work safely and use protective equipment correctly.

Reporting and Investigation: Employers are required to promptly report and investigate any workplace accidents, injuries, or illnesses, with the goal of preventing their recurrence.

Protective Measures: Employers should supply the necessary protective measures, equipment, and clothing to reduce or eliminate risks.



4.6. DISCIPLINARY MEASURES AND EMPLOYMENT RELATIONSHIP TERMINATION

4.6.1. Disciplinary Measures

The employer may impose disciplinary measures on the employee in the event of a violation of labour duties. Disciplinary measures are verbal warnings, written warnings, position demotion, temporary suspension, and termination of the employment relationship.

Verbal warning, written warning, and demotion shall be imposed for minor violations of job duties in compliance of the employer's internal act and the employment contract, whereas temporary suspension and termination of employment relationship shall be imposed for serious violations of work duties in compliance with employer's internal acts and the employment contract.

The employer's decision must be formally issued in written, providing clear reasoning and guidance on legal remedies for the imposed measures.

4.6.2. Employment Relationship Termination

The termination of an employment relationship is a critical aspect of labour law that holds immense significance for both the employer and the employees.

The law recognizes different ways in which an employment contract can be terminated:

- **Termination of Employment Contract on Legal Basis:** This occurs due to various reasons, such as an employee's death, the employer's death (in cases where the work or services are of a personal nature and can't be extended to the employer's successors), the contract's expiration, reaching the retirement age of sixty-five (65), loss of labor competencies, the employee receiving a sentence exceeding six (6) months, a competent court's decision leading to termination, enterprise bankruptcy or liquidation.
- **Termination of Employment Contract with Agreement:** The employer and employee may agree to terminate the contract in written. In such cases, the employer must pay the employee's salary up to the termination date.
- **Termination of the Employment Contract by the Employee:** The employee can unilaterally terminate the contract. Fixed-term contracts require a fifteen (15) calendar days' notice, while indefinite-term contracts require a thirty (30) calendar days' notice.
- **Termination of the Employment Contract by the Employer:** The employer may terminate the contract for economic, technical, or organizational reasons, or if the employee is unable to perform the job. In both cases, the employer can terminate the contract if it is not feasible to transfer the employee to another job or provide the necessary training.

The employer may also terminate the contract for serious misconduct or unsatisfactory performance, as long as the internal regulations are followed. For the termination for dissatisfactory performance of work duties, the employer shall notify the employee with a written description of unsatisfactory performance within a specified period of time within which they must improve on their performance as well as a statement that failure to improve the performance shall result with dismissal from work without any other written notice. Employer shall follow a disciplinary procedure against the employee in order to terminate the employment contract.

The employer is obliged to hold a meeting with the employee to explain the termination of an employment contract or for the purpose of issuing a warning. The employee is entitled to be accompanied by a representative of his/her choice.

4.6.3. NOTIFICATION OF THE TERMINATION

The employer's decision to terminate the employment contract must be documented in written and include a reasoning explaining the grounds for this decision.

The notification period for termination varies based on the type of employment contract – whether it is for a fixed term or an indefinite period – and the duration of the employment relationship.

For indefinite-term employment contracts, the notice period varies based on the employee's years of service:

- For employees with six (6) months to 2 years of employment: thirty (30) calendar days.;
- For employees with two (2) to ten (10) years of employment: forty-five (45) calendar days;
- For employees with more than ten (10) years of employment: sixty (60) calendar days.

Fixed-term contracts require a thirty (30) calendar days' notice for termination.

If the employer does not intend to renew a fixed-term contract, they must inform the employee at least thirty (30) days before the contract's expiry. Failure to do so entitles the employee to an extension of employment with full pay for thirty (30) calendar days.

Regardless of the type of termination, the employer is obligated to pay the employee's salary and any other allowances up to the day of the employment relationship's termination.

4.7. SPECIAL PROTECTION CATEGORIES

Protection of Youth

Kosovo's employment and labor regulations include special protections for workers under the age of 18. These regulations aim to ensure their safety and well-being. Young workers can't do risky jobs that may harm them. Employers must check for dangers, assess risks for young workers, and ensure their safety.

Protection of Women

Rules are in place to ensure the safety and health of pregnant and breastfeeding women in the workplace. These regulations prohibit them from taking on roles that could endanger their own well-being or the health of their children. This includes physically demanding work and positions with potential health risks.

Protection of Persons with Disabilities

Employees with disabilities receive special protection and support from Kosovo's employment and labor regulations.

Employees with disabilities can continue working in their current roles or similar tasks if their remaining work capacity allows it without professional rehabilitation. If an employee's work capacity improves after professional rehabilitation, they can take on special tasks. In these cases, the employer will provide suitable work for the employee after their recovery from rehabilitation.

4.8. PROHIBITION OF DISCRIMINATION

Protection against discrimination

Kosovo's legal framework is rooted in the constitutional principle of non-discrimination, as stated in Article 7 of the Kosovo Constitution. This principle underscores gender equality as a core value.

Additionally, the Law on Labour reinforces anti-discrimination measures, covering areas like individuals with disabilities, equal pay for equal work, and equal opportunities for all genders in recruitment. In cases of alleged discrimination, employees can seek resolution through their employer, administrative bodies, or the court. Potential remedies may include reinstatement and compensation.

Kosovo's legal framework includes stringent provisions against discrimination. Two key laws address this issue:

- Law No 05/L-020 on Gender Equality;
- Law No 05/L-021 on the Protection from Discrimination.

4.9. PROTECTING EMPLOYEES' RIGHTS: PROCEDURES AND REMEDIES

Protection of Employees' Rights by the Employer

- The employee who considers that his labour rights have been violated may submit his request to the employer or relevant bodies of the employer.
- The employer must decide within 15 days from request submission.
- The decision as stated above shall be delivered in a written form to the employee within the term of eight (8) days.

Judicial Protection of Employees' Rights

If the Employee is not satisfied with the employer's decision or does not receive an answer within the deadline, he can initiate a work dispute at the Competent Court.

- If the Court finds it unlawful in regard to the Law on Labour, it may order the employer to pay the employee compensation, in addition to any allowances and other amounts to which the employee may be entitled.
- In cases where the dismissal is considered unlawful due to discrimination, the court may reinstate the employee in their previous employment and award compensation for lost salaries and benefits during the period of unlawful dismissal.



Protection of Employees' Rights by the Labour Inspectorate

The Labour Inspectorate, as regulated by Law No. 2002/9 on Labour Inspectorate of Kosovo, plays a vital role in ensuring the implementation of labor law and issues fines in case of employee rights infringement. Employees may submit an appeal to the Labour Inspectorate at any time for issues falling under the competencies of this body and the Inspectorate is obliged to issue a decision regarding the employee's appeal within thirty (30) days.

Mediation: Disputes can also be resolved through mediation, as governed by Law No. 06/L-009 on Mediation. Mediation may provide a conflict resolution method without the need for court procedures.

4.10. EMPLOYMENT OF FOREIGNERS

Kosovo's legal framework offers a valuable opportunity for foreigners to work within its borders through the acquisition of a Temporary Residence Permit, which can be requested at the diplomatic or consular mission of the Republic of Kosovo for foreigners who require a visa for entry into the Republic of Kosovo.

If the foreigner does not need a visa, the application for a Temporary Residence Permit can also be submitted to the Foreigners Division in the Republic of Kosovo. This request should be made before the expiration of the short-term Residence, and the applicant may stay in the Republic of Kosovo until a decision is made regarding this request.

An important advantage to highlight is that citizens from over 100 countries can enter the Republic of Kosovo without the need for a visa. This streamlined entry process greatly simplifies travel arrangements and promotes accessibility for foreigners, making Kosovo an even more attractive place to work.

4.10.1. Who can Submit an Application for a Temporary Residence Permit?

The application can be submitted personally by the person who wishes to obtain a Temporary Residence Permit, and their employer can also submit it. If the Temporary Residence Permit applicant has children, they can also submit the request on his behalf.

4.10.2. Procedural Aspects

The process for obtaining a Temporary Residence Permit is simple, non-bureaucratic, and doesn't consume much time for the applicant. Furthermore, the response regarding the application is also highly efficient and fast.

Regarding the request for a Temporary Residence Permit, the Department for Citizenship, Asylum, and Migration decides within thirty (30) days of receiving the request. Temporary Residence permits are issued for a period of up to one (1) year, except when otherwise provided by law. Such a permit can be extended based on the employee's request, which must be submitted no later than thirty (30) days before the expiration of the temporary Residence permit.

Foreign nationals who have submitted a request for the extension of this permit can stay in the Republic of Kosovo until a decision is made regarding the request.

The validity period of the travel document must be at least three (3) months longer than the period for which the temporary Residence permit is issued.

Close family members of the foreigner staying in the Republic of Kosovo based on a one-year work-related Temporary Residence Permit may be granted a Temporary Residence Permit for family reunification purposes only if the foreigner seeks family reunification in the Republic of Kosovo and has at least two (2) years of Temporary Residence.

This exception does not apply to corporate transfers, whose family members have the right to apply for a Temporary Residence Permit at the same time as the sponsor.

4.10.3. Criteria for Granting a Temporary Residence Permit

A foreigner will be granted a Temporary Residence Permit if:

- Demonstrates the purpose of Temporary Residence.
- Possesses a valid travel document with a validity period of at least 3 months longer than the required Temporary Residence period.
- Has no entry and residence restrictions in the Republic of Kosovo or does not pose a risk of illegal immigration or illegal residence in the Republic of Kosovo.
- Provides evidence of absence of criminal record or on-going investigation, issued by the state whose citizen the foreigner is or the state of the last residence, translated into one of the official languages of the Republic of Kosovo.
- Has sufficient means of subsistence, demonstrated through bank statements, employment contracts, or other evidence showing that the foreigner has sufficient financial resources for subsistence.
- Possesses health insurance.
- Has an employment contract, in accordance with the labor legislation in the Republic of Kosovo, except when the foreigner is a business owner.
- Has a business registration certificate.
- Provides evidence of education, qualifications, and skills, except when the foreigner is a business owner.
- Provides evidence of vaccination in cases where the foreigner is coming from countries where an epidemic situation has been declared.

4.11. WHISTLEBLOWER PROTECTION AND REPORTING MECHANISM

Whistleblowing is one of the most effective tools for uncovering various forms of wrongdoing. It can reveal serious abuses across both the private and public sectors, including large-scale financial misconduct, environmental violations, misuse of public funds through public procurement, and other breaches that harm the public interest. As such, whistleblowing plays a crucial role in promoting transparency, accountability, and the rule of law.

The protection of whistleblowers in Kosovo is governed by Law No. 06/L-085 on the Protection of Whistleblowers, adopted in 2018 and aligned with European best practices. This law provides mechanisms for individuals to report illegal, unethical, or harmful conduct in the public or private sector, and ensures protection against retaliation.

Whistleblowers may include employees, former employees, contractors, consultants, or any individual with access to relevant information.

Reports can be submitted through the following channels:

- Internal reporting to the employer or organization;
- External reporting to designated public authorities;
- Public disclosure, under specific legal conditions, if internal or external reporting has failed or is not possible.

Employers are legally required to establish confidential internal reporting mechanisms and designate responsible officers or bodies to handle reports.

4.11.1. Legal Protections

The law prohibits any form of retaliation against whistleblowers, including dismissal, demotion, discrimination, threats, or harassment. Whistleblowers who suffer retaliation are entitled to legal remedies, including:

- Reinstatement to their position;
- Compensation for damages;
- Anonymity and confidentiality guarantee.

4.11.2. Obligations of Businesses and Institutions

All public institutions and private entities with more than 50 employees are required to:

- Establish internal whistleblowing procedures;
- Ensure the protection and confidentiality of whistleblowers;
- Train staff on their rights and obligations under the whistleblower protection law.

