



GLOBAL EXPANSION GUIDEBOOK EMPLOYMENT

Hungary



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INTRODUCTION

Welcome to the 2024 edition of DLA Piper's *Global Expansion Guidebook – Employment*.

GLOBAL EXPANSION GUIDEBOOK SERIES

Many companies today aim to scale their businesses globally and into multiple countries simultaneously. In order to help clients meet this challenge, we have created a handy set of global guides that cover the basics that companies need to know. The *Global Expansion Guidebook* series reviews business-relevant corporate, employment, equity compensation, intellectual property and technology, and tax laws in key jurisdictions around the world.

EMPLOYMENT

As business grows more global, the challenge for in-house counsel and HR professionals responsible for workforce issues and employment law compliance is intensifying. This guide is designed to meet that challenge head on and has been produced in response to feedback from clients in both established and emerging international businesses. We hope it will become an invaluable resource for you.

This 2024 edition of our popular guide covers all of the employment and labor law basics in 63 key jurisdictions across the Americas, Asia Pacific, Europe, the Middle East and Africa. From corporate presence and payroll set-up requirements, language rules, minimum employment rights, business transfer rules, through to termination and post-termination restraints, we cover the whole employment life span.

We have used our global experience and local knowledge to bring you this newest edition of our guide. With over 300 lawyers, DLA Piper's global Employment group is one of the largest in the world, with one of the widest geographical footprints of any global law firm. We partner with our clients, wherever they do business, to find solutions and manage risk in relation to their legal challenges and objectives.

While this guide provides high-level guidance, it is not a substitute for legal advice, and we encourage you to take advice in relation to specific matters. If you wish to speak to any of our contributors, their contact details are set out towards the back.

We hope that you find this guide valuable and we welcome your feedback.

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This is a general reference document and should not be relied upon as legal advice. The application and effect of any law or regulation upon a particular situation can vary depending upon the specific facts and circumstances, and so you should consult with a lawyer regarding the impact of any of these regimes in any particular instance.

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HUNGARY



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LEGAL SYSTEM, CURRENCY, LANGUAGE

Civil law. Member of the European Union (EU), so required to implement relevant EU directives. The official currency is the Hungarian Forint (HUF). The official language is Hungarian.

CORPORATE PRESENCE REQUIREMENTS & PAYROLL SET-UP

In order to employ individuals in Hungary, the employing entity must have at least an established branch within the country. The employment of individuals must be notified to the tax authority and is subject to tax payment obligations. Employers must pay a social security tax and vocational training contribution of 13 percent and an 18.5-percent contribution is payable by the employee, but deducted by the employer.

PRE-HIRE CHECKS

Required

Immigration compliance is required. Criminal records are also checked in relation to certain occupations, such as judges, attorneys, public servants and auditors.

Permissible

Apart from the above, a check of criminal records is only allowed if it provides important information with respect to the given position or work to be carried out.

Further checks (eg. education and references) are also permitted, but they may only be carried out if the aim is to obtain important information for the purposes of entering into the employment.

IMMIGRATION

Nationals of the EEA and Switzerland have the right to work in Hungary without a visa or a work permit.

3rd-country citizens must have a residence permit for the purpose of work before starting work in Hungary.

HIRING OPTIONS

Employee

Employment may be established for either an indefinite or fixed term as full-time or part-time employment.

Independent contractor

Independent contractors may be engaged through a company using service contracts on a civil-law basis. There are several criteria that help to decide whether a specific service may be provided by an independent contractor or whether an employment relationship must be established.

Agency worker

Employers may enter into crew leasing agreements with temporary workers' agencies in order to employ temporary agency workers. The engagement of a temporary agency worker by the same receiving employer is limited to a maximum of 5 years.

Equal conditions of work and employment must be given to employees employed directly by the receiving employer and to temporary agency workers. Equal treatment in respect of remuneration and benefits is required from the 184th day of employment of a temporary agency worker.

EMPLOYMENT CONTRACTS & POLICIES

Employment contracts

Employment contracts must be entered into in writing, and the employee's base salary and position are mandatory elements. It is also recommended that contracts specify the place of work. The employer and the employee may agree on further terms in the employment contract.

Probationary periods

Permissible and commonly used. The statutory limit is 3 months, which may be extended up to 6 months by collective agreement.

Policies

An employee must be informed in writing within 7 days from the start of employment of, among other

information, daily working hours, other components of remuneration, training policy, place of work, employment start date, the date of payment of salary, the duration of paid holiday and detailed duties of the employee (ie, the job description).

An employer is permitted to set rules in relation to other subjects in its own internal policies if these are properly communicated to staff.

Third-party approval

Approval from a 3rd party is usually not required to enter into an employment contract. In special cases (eg, for non-EU citizens), specific permits may be required.

LANGUAGE REQUIREMENTS

The employment contract is only valid if the contracting parties understand the language in which it is written.

WORKING TIME, TIME OFF WORK & MINIMUM WAGE

Employees entitled to minimum employment rights

All employees are entitled to minimum employment rights.

Working hours

Normal working time for full-time employees is 8 hours per day. The parties may stipulate shorter or, in specific cases (eg, standby duty or those working in a family business), longer working hours for full-time employment. Rules apply in relation to rest breaks and rest periods between working days.

Overtime

Overtime worked must not breach the daily and weekly maximum working time, which, including overtime, in a single working day must not exceed 12 hours and must not exceed 48 hours per working week.

The annual maximum overtime limit is generally 250 hours, or is up to 300 hours if provided by a collective agreement. However, by written agreement of the employer and the employees, the employer may require 150 hours (or 100 hours, if the annual maximum overtime limit is already raised to 300 hours by collective agreement) of additional overtime annually from employees subject to the agreement.

An employee is entitled to a wage supplement for overtime, which is 50 percent of the employee's base salary in case of overtime beyond the regular daily working time. A wage supplement must also be paid in return for any "extraordinary" work completed on weekly rest days or public holidays (ie, 50 percent plus a day off or 100 percent).

Wages

The mandatory minimum wage is HUF266,800 from December 1, 2023. From December 1, 2023 the higher minimum wage – the so-called guaranteed wage minimum – of HUF326,000, which applies to jobs requiring higher education (eg, a secondary school or vocational training).

Vacation

The amount of paid basic holiday is 20 days per year, which is increased according to the age of the employee, up to 30 days for employees over 45 years of age.

Also, special holiday entitlements apply (eg, for employees with children).

Sick leave and pay

Employees are entitled to 15 days of sick leave per year, during which they receive 70 percent of their salary by way of an absence fee, which is entirely borne by the employer. After the first 15 days of sick leave in a calendar year, social security takes over payment of sick pay; however, 1/3 of the cost is borne by the employer.

Maternity/parental leave and pay

Maternity leave entitlement is 24 weeks during the pregnancy period and after giving birth. Leave should be scheduled by the employer so that a maximum of 4 weeks' leave is taken before the planned date of childbirth. If eligible, from 1 July 2021, employees receive 100 percent of their average salary for this period, which is covered by the social security system.

A father is entitled to paternity leave which is 10 days off within the 2-month period following the date of his child's birth.

Employees are entitled to parental leave without pay until the child reaches the age of 3 in order to care for the child at home, but this is longer for disabled or sick children. During this period, the employee receives child care pay from the social security system amounting to 70 percent of the employee's average salary until the child reaches 2 years of age, and the minimum amount of old-age pension after the child's 2nd birthday until they reach 3 years of age.

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Moreover, on January 1, 2023, parents are entitled to a total of 44 days of parental leave until the child reaches the age of 3, provided that their employment has existed for at least 1 year.

Special rules apply for both paternity leave and parental leave, as follows:

- Reduced compensation applies
- Entitlement can be transferred to another year and
- Upon termination of the employment, the employer is not obliged to pay compensation for unused leave days.

Other leave/time off work

Other leave rights may apply. For example, an employee who personally cares for a relative with serious illness may take caretakers' leave. The existence of a serious medical reason must be certified by the doctor responsible for the treatment of the relative. Caretakers are exempted from the obligation to work for a maximum of 5 working days per year. This form of leave of absence is unpaid.

DISCRIMINATION & HARASSMENT

Direct and indirect discrimination, victimization, unlawful segregation and harassment are prohibited.

Employers are forbidden from discriminating against employees on grounds of sex, race, color, nationality, national or ethnic origin, mother tongue, disability, health status, religion or belief, political or other opinion, marital status, sexual orientation, age or any other circumstances which are not connected to work.

The principle of equal treatment is not violated if the differences applied are based on a difference in the nature, the quality or the quantity of the work, a difference in working conditions, required training, experience or responsibility or based on differences in the labor market conditions.

WHISTLEBLOWING

In line with the EU Whistleblower Directive, Hungary adopted the Whistleblower Protection Act on May 25, 2023. In principle, employers with at least 50 employees are required to establish an internal reporting channel. For employers with under 50 employees, the internal reporting channel is optional, however, it is mandatory if there are special factors, such as an employer is subject to AML regulation (eg, accountants and auditors). Employers with 50 to 249 employees may jointly establish an internal reporting channel.

BENEFITS & PENSIONS

The benefits offered to an employee will usually depend on their seniority within the company. At manager or director level, employees are likely to be offered, for example, a company car and/or mobile telephone.

It is usual to provide employees with a range of optional fringe benefits (eg, contribution to a pension or healthcare fund, contribution to travel expenses, food vouchers or vouchers for holiday) on the basis of the respective Fringe Benefit Policy. Commonly, up to a predefined maximum amount, employees may select from the options offered in line with their own preferences.

The Hungarian pension system consists of 2 pillars:

- The state pillar, or the social security pension scheme, and
- The private pillars that may be a privately managed pension scheme with voluntary contributions, or a pension advance-saving account kept by a bank or an employer's pension scheme, which are nonexistent in practice.

DATA PRIVACY

Employers must balance their need to obtain, use, store and disclose information for effective management and business purposes with their employees' right to privacy. The law distinguishes between "personal data" and "sensitive personal data." Special rules apply for the transfer of personal data within and outside of the EEA. The National Authority for Data Protection and Freedom of Information is responsible for ensuring compliance and enforcing data protection.

Since May 2018, Hungary has been subject to the General Data Protection Regulation (GDPR), which introduced significant new obligations and onerous sanctions for employers.

RULES IN TRANSACTIONS/BUSINESS TRANSFERS

Where there is the transfer of a business, there will be an automatic transfer of employment relationships existing at the time of the transfer. The entire employment relationship, with all rights and obligations, will transfer.

Duties to inform the authorities and to inform and consult with the works council exist. Any dismissal based purely on the fact of the transfer is unfair and unlawful.

These rules do not apply to share deals or to a business transfer when the transferor is subject to a liquidation (ie, insolvency) procedure.

EMPLOYEE REPRESENTATION

Employees are entitled to establish trade unions within the work organization.

A works council may be elected where an employer employs more than 50 employees. If the number of employees exceeds 15 but does not reach 51, then a works council representative may be elected.

TERMINATION

Grounds

Termination by notice is possible in cases of indefinite-term employment. In case of fixed-term employment, termination by notice is less common.

For indefinite-term employment, dismissal is only permitted for reasons connected to:

- The employee's performance
- The employee's behavior relating to the employment or
- The operations of the employer.

For fixed-term employment, the employer may only terminate the employment by notice:

- During a liquidation or bankruptcy procedure
- For reasons relating to an employee's performance or
- If maintaining the employment is no longer possible due to an unavoidable external reason.

In the event of a dispute, the employer is obliged to prove that the reason for dismissal is fair, true and reasonable.

Who is subject to termination laws?

All employees are protected against unfair and unlawful termination of employment.

Restricted or prohibited terminations

For some special groups of employees, further termination restrictions apply; thus, the employer may not terminate employment by notice during pregnancy, maternity leave, a leave of absence taken without pay to care for a child, during military service and while participating in human fertilization procedures. Termination of employment by mutual agreement is permitted during these periods.

Third-party approval for termination/termination documents

Not required.

Mass layoff rules

The dismissal of a certain large number of employees due to a change in the employer's operation constitutes a mass layoff and is subject to special information and consultation rules.

In case of dismissal with notice, the employment relationship is terminated at the end of a notice period, which is a minimum of 30 days and a maximum of 6 months depending on length of service or in line with the parties' agreement.

Statutory right to pay in lieu of notice or garden leave

Not applicable.

Severance

Employees are entitled to a severance payment if their employment is terminated on notice by the employer for operational reasons. The amount of severance pay is a minimum of 1 month's pay and a maximum of 6 months' absence fee, depending on length of service. The employment contract may stipulate a higher amount of severance.

POST-TERMINATION RESTRAINTS

Post-termination restraints are common in Hungary for employees in senior positions in order to protect the employer's economic interests for a period post-termination. Such restraints should always be tailored to individual employees.

Non-competes

Permissible for up to 2 years, if specifically included in the parties' agreement, if reasonable in geographical reach and scope, and if the employer pays a sufficient amount of compensation in exchange. For non-compete restraints entered into after July 1, 2012, such compensation must be at least 1/3 of the employee's salary.

Customer non-solicits

Permissible, if included in the parties' agreement. Compensation is payable, but compensation for a non-compete also covers a customer covenant since separate compensation is not required for each different type of covenant.

Employee non-solicits

Permissible, if included in the parties' agreement. Compensation is payable, but compensation for a non-compete also covers an employee covenant since separate compensation is not required for each different type of covenant.

WAIVERS

Enforceable, if expressed in a written agreement. Waivers cannot be broadly interpreted.

REMEDIES

Discrimination

The Commissioner for Fundamental Rights is entitled to decide if there has been a violation of law, to prohibit the violating behavior and to impose a fine on the employer, the maximum amount of which is HUF6 million by law.

Individual lawsuits may also be brought, where the court is entitled to award compensation for pecuniary and non-pecuniary damages.

Unfair dismissal

Where the court decides that a termination is unlawful, the employer must pay the employee compensation for damages. Lost salary forms part of the damages, subject to a maximum of a 12 month absence fee. Any amount earned by the employee during the period after the termination must be deducted.

Reinstatement is also possible, but only in specific cases where the breach is considered serious (eg. a violation of termination protection).

Failure to inform and consult

In case of failure to inform and consult in connection with a mass layoff or the transfer of a business, the action taken may be considered unlawful, thus carrying a risk of invalidity or a legal dispute. Labor authorities may additionally impose sanctions, including a labor fine.

CRIMINAL SANCTIONS

Not applicable for this jurisdiction.

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