



Employment of migrant workers in Hungary

Quick Start Guide

In Hungary, a third country national can take up employment in case he/she is in possession of a seasonal work visa, a residence permit issued for humanitarian purposes or has a residence permit for the purpose of gainful employment, family reunification, or of undertaking studies, or if he/she is granted an EU Blue Card. In addition to the residence permit there is also a work permit a third country national is required to have, in order to be entitled to take up an employment. Since 1 January 2014, a residence permit and a work permit are issued simultaneously in the form of a single permit.

1. Legal employment with a work permit

A third country national migrant can legally be employed in possession of a work permit. With regard to the possible legal status of the employment type, it can be aimed at establishing an employment relationship or another type of legal relationship aimed at taking up work activities. Both kinds of legal relationships are to be established through a contract that sets out the rights acquired and obligations undertaken mutually by the employer and the employee. These are the basic rights the parties are entitled to invoke and obligations they are bound by, and in case of a breach/violation of these commitments, the other party can legally terminate the employment relationship in an exceptional way with immediate effect, with all its consequences.

1.1. Employment relationship

In case of an employment relationship, a worker becomes an employee. The contract shall be concluded on the basis of the Hungarian Labour Code, so that the rules and general rights laid down in the Labour Code are applicable to the contracting parties (e.g.: right to holidays, rules of right of termination contract, etc.) In addition to that, the collective agreement of the working place – if there is such agreement – may also be of importance. The contract agreement may only be concluded between the employer and the employee in writing to be valid, remuneration is to be provided for the carrying out of the work, and shall not to be result-or performance based. Remuneration shall be provided in the form of a wage. The employer has the obligation to provide work for the employee, and the work shall be in accordance with the legislation and the relating provisions of the employment contract. The employer is required to provide appropriate working conditions necessary to undertake the work and shall pay wages. The employee is required to fulfil the responsibilities and perform the duties according to the agreed order laid down in the employment contract, and is entitled to receive a salary/wage.



1.2. Other type of legal relationship aimed at taking up work activities (service contract)

The contractor is under the obligation to provide the service which has been assigned to him/her under the service contract. The service has to be provided according to the instructions and in line with the interests of the client. The service contract between the contractor and the client can both be concluded in writing or verbally. The rights and obligations are identified and laid down in the service contract. The rules and provisions of the Hungarian Civil Code apply to this kind of legal relationship, in general.

1.3. Safety at work

The employer is responsible for organising the working conditions in a way to ensuring that the worker's life, occupational health and occupational safety is not at risk. This obligation covers both the organisation of safe physical working conditions and the compliance with the classical working safety rules, but the employer violates the obligation to provide safety at work in case the rules on working hours and rest breaks taken in practice are not in compliance with the above mentioned provisions. It is the employer who is fundamentally responsible for organising a working environment that is safe and does not endanger the worker's health. Employers may not provide employees with financial or other rewards instead of fulfilling the requirements for working safely.

If the employer fails to comply with the required health and safety obligations, the employee may refuse to carry out the work in case it would result in direct and grave risk to the life, physical integrity or health of the employee. The lack of necessary safety equipment or personal protective equipment provided or the non-functioning of these facilities shall constitute endangerment in this regard. The employee shall refuse to carry out an instruction if it would result in direct and grave risk to the health of others.

1.4. Right to paid leave

The employee (in case of employment relationship) is entitled to annual leave in the calendar year, which – depending further on age and other individual circumstances – must constitute at least 20 days. Annual leave may only be replaced by payment on the occasion of the termination of employment.

1.5. Sick leave and healthcare

The social insurance system is part of the social welfare system operated by the state, in Hungary. The Hungarian state requires defined group of members of the society, as long as they are able to take care of themselves through their employed status, to



make their financial reserves in a way that they pay a certain percentage of their income into the central state fund. In return in case of their illness, their inability to work or their retirement they gain entitlement to predetermined benefits. The employer is obliged to deduct the social security contributions and pay them to the national budget from the employee's income. The individual and corporate entrepreneurs are required to pay defined minimum contributions also in the case of absence of income. In the framework of the health insurance system the most important service entitlements are the healthcare benefit and the sickness benefit in case of incapacity for work. The healthcare insurance benefits are available on the presentation of the document certifying the Social Security Number ('TAJ' number). The social security number is used as an identification number with regard to social insurance (health and pension services), social assistance and private pension-related system registers. This is a nine-digit code that clearly/precisely identifies its user while personal data of the person concerned still stay hidden. The liable regional hospitals are required to provide the necessary healthcare service to the patient who lives in the area concerned and is in possession of a hospital referral.

1.6. Complaints

In case of violation of work safety regulations, the territorially competent labour and occupational health and safety authority (Hungarian Labour Inspectorate) is the authority having competence to take the necessary measures. A fundamental principle to be respected is that employees shall not suffer any measures prejudicial to them because of their intervention to comply with the requirements of health and safety, nor because of any complaint made in good faith about the presumed omission of an employer. Complaint can be issued: if the complaint is made with the purpose of eliminating violation of individual rights or conflict of interest, and the arrangement of the conflict is not subject to other – particularly judicial or administrative procedure.

Notifications of common interest call the attention to problematic conditions or shortcomings that should be remedied and solved serving the interests of the community or the society as a whole. Notifications of common interest may also provide recommendation for the possible solutions of the problem of development of the shortcomings. Complaints and notifications of common interest can be made verbally, in writing or by electronically means by any person.

If the Inspectorate finds that it is not competent to carry out the investigation of the complaint or the notification of common interest, the Inspectorate transfers the case to the competent body within 8 days. The Inspectorate shall simultaneously inform the notifier of the fact of the case transfer.



2. Working without work permit/unauthorised work and undeclared work

2.1. Protection against exploitation

All persons within the territory of Hungary shall be given equal respect and their individual circumstances shall be taken into account and exercised with equal consideration, regardless of their status. The above mentioned rule embodies the principle of equal treatment. This principle applies also to foreign persons/migrants who carry out work in Hungary without having valid work permit or without having declaration of their employment status.

In such cases the migrant worker still has the right to remuneration or to receive the wage that has not yet been provided to him/her for the work he/she carried out, even if the migrant has already returned to his/her country of origin.

2.2. Forms of complaints

In case of violation of the right to equal treatment, a complaint may be submitted to the Hungarian Equal Treatment Authority (Egyenlő Bánásmód Hatóság). In case of complaints related to payroll issues or unlawful work instructions it might be effective to attempt to initiate/conduct a direct conciliation with the employer. Support for in-house dispute settlement can be provided by the local trade union at the workplace. In case the direct negotiations don't lead to an agreement between the parties of the dispute or the employer refuses to participate in the conciliation in merits, it is possible to turn to a third party with the intention to find solution for the dispute. One of the possibilities seek solution can be the notification of the labour authority (National Labour Office = Nemzeti Foglalkoztatási Szolgálat).

Labour inspectorates operating as specialized administrative bodies of County Government Offices essentially have the competence — with the exception of cases requiring investigation regarding the lawfulness of termination of employment relationship or the claims for compensation — to investigate compliance with every provisions of the Hungarian labour law. In case the fact of violation of a legal provision is established, the imposition of a labour fine may take place. If the employee intends to enforce financial compensation for the damage he/she suffered, the procedure is conducted within the frames of the competence of the administrative and labour courts operating at county level. These proceedings may be time-consuming, however the cost reduction provided to the employees with regard to the incurred expenses might lighten the burden on them.

Based on the above described aspects it can be established that in most cases there is not nearly as much occurring financial risk in case of claim enforcement court proceedings as it appears in public opinion. Reference to the employee cost reduction option shall be included already in the application submitted to the court.