

Optimisation of labour relations in Ukraine during martial law

August 2022

Ukrainian martial law continues to undergo reform and development. In this regard, the Law of Ukraine "On Introducing Amendments into Certain Laws Regarding the Optimisation of Labour Relations" of 19 July 2022 (the "Law") has introduced the following developments highlighted below.

(1) Employers have become exempt from an obligation to pay an average salary to the employees who were called up for compulsory military service due to the war in Ukraine. Nevertheless, employers are still under an obligation to guarantee the retention of the jobs and positions of the relevant employees for the entire duration of military service/contract or until the day of actual dismissal from military service.

(2) The Law has introduced new grounds for the dismissal of an employee:

- absence of an employee at work and missing information on the reasons behind the absence for more than four months in a row;
- death of an employee or the employer (the latter being an individual-sole entrepreneur) or their recognition by court as dead or missing;
- if, as a result of hostilities, the company production, organisational and/or technical capacities/facilities have been destroyed and, due to this it is impossible to provide the employee with work. Employment termination, in this case, can be achieved if it is impossible to transfer the employee to another work position.

(3) The Law has defined the specifics and procedure for temporary suspension of labour relations during martial law, which is a new concept of de facto freezing of employment. The suspension of labour relations may be initiated by the employer or employee if neither of them can perform their duties provided by a labour agreement. The suspension may be applicable to labour relations established for the period of no longer than the period of martial law and cannot be used as a hidden punishment of the relevant employee.

(4) The Law has simplified means of communication during martial law: the employer and an employee may agree on the preferred way of formalisation, sending and storage of notifications, employer's orders and other documents on labour relations and on any preferred way of electronic communications between the parties.

(5) The Law has introduced novelties regarding employees' working hours and vacation during martial law, including the following:

- during the period of martial law, the employer, at the request of an employee who has left the territory of Ukraine or acquired the status of an internally displaced person, shall obligatorily grant him/her leave without pay for the duration specified in the request, but for no longer than 90 calendar days without crediting the time spent on vacation to the length of work experience, which gives the right to basic annual vacation;
- the Law has corrected the previous law amendments (which were adopted due to the war in Ukraine), clarifying that it is possible to increase the length of the working week up to 60 hours only for the employees working at critical infrastructure objects. Thus, other companies cannot increase the length of the employees' working week;
- during the period of martial law, the annual leave of an employee may be limited to 24 calendar days for the current working year. If the duration of the employee's basic annual leave is more than 24 calendar days, granting the unused days of such leave (exceeding 24 calendar days) during martial law shall be postponed until martial law is lifted.

- during the period of martial law, the employer may deny an employee taking his/her unused days of annual leave.

(6) The employer should inform the employees working under fixed-term labour agreements on any vacancies that correspond to the employee's qualifications and provide for the possibility to switch to the indefinite form of labour relations.

(7) The Law has resumed the labour monitoring and inspection rights of the state during martial law. The bodies of the State Labour Service are entitled again to carry out unscheduled measures of state control over compliance with labour legislation by legal entities who use hired labour, in terms of compliance with the requirements of the Law, as well as in matters of identifying unregistered labour relations and the legality of termination of employment agreements.

The Law will be valid for the period of martial law and terminates starting from the date of termination or abolition of martial law, except for certain provisions of the Law.

About Wolf Theiss

Wolf Theiss is one of the leading European law firms in Central, Eastern and South-Eastern Europe with a focus on international business law. With 340 lawyers in 13 countries, over 80% of the firm's work involves cross-border representation of international clients. Combining expertise in law and business, Wolf Theiss develops innovative solutions that integrate legal, financial and business know-how.

For more information about our services, please contact:



Olena Kravtsova
Associate

E olena.kravtsova@wolftheiss.com

T +38 044 3 777 500

This memorandum has been prepared solely for the purpose of general information and is not a substitute for legal advice. Therefore, Wolf Theiss accepts responsibility if – in reliance on the information contained in this memorandum – you act, or fail to act, in any particular way. If you would like to know more about the topics covered in this memorandum or our services in general, please get in touch with your usual Wolf Theiss contact or with: