

LATEST AMENDMENTS TO THE LABOR LEGISLATION OF KAZAKHSTAN

Important!

Introduction of amendments into the Kazakhstan's regulatory legal acts in the sphere of provision of outstaffing services, which entered into legal force starting from 31 December 2020, entailed certain amendments introduced into the [Labor Code](#) of Kazakhstan. Please see below the amendments, which we deem most important for business activities of companies.

■ Legal framework of outstaffing can exist only among local legal entities, individual entrepreneurs and branches of foreign companies registered in Kazakhstan

This conclusion stems from the definitions of the sending and the host parties:

- Sending party is a legal entity registered in accordance with the procedure established by the Kazakhstan legislation, which carries out activities involving outstaffing services, including a branch of a foreign legal entity.
- Host party is an individual or a legal entity, individual entrepreneur, including a family-operated farm or a business farm, engaging employees of the sending party for work under an outstaffing agreement.

■ Limited sphere of effect of an outstaffing agreement

It is allowed to send the sending party's employees to the host party only in cases, as follows:

- for the performance of household work for individuals;
- for the period of performing certain work;
- for the period of substitution of a temporarily absent employee; and
- for the period of performing seasonal work.

It is not allowed to provide personnel to substitute employees participating in a strike and/or those who refused to perform work (except for the cases of worsening of the employee's health), and in case of idle time, implementation of the bankruptcy procedure, introduction of the part-time work regime to preserve workplaces in the face of necessity to dismiss employees.

■ Employees of the sending party must be provided with labor conditions equal to labor conditions of employees of the host party without any discrimination

The host party must observe the rights of the sending party's employees when regulating the work and rest regimes, including occupational health and safety issues.

The amount of the main salary of the sending party's employee must not be lower than the amount of the main salary of the host party's employee in a similar position, with respective qualification, specialty or profession, complexity, quantity and quality of the work performed, and production and living conditions in accordance with an outstaffing agreement.

Provisions of an outstaffing agreement deteriorating the status of an employee of the sending party as compared with the labor legislation of Kazakhstan are recognized as invalid and must not be applied.

■ **Sending party's employees accounted as the host party's employees**

Employees of the sending party are accounted in the total number of the host party's employees in cases, as follows:

- to calculate the percentage ratio of the local staff and engaged foreign employees when obtaining foreign labor engagement permits;
- when calculating the annual average number of employees of business entities in order to determine the business entity category.

Should you have any additional questions in connection with this Legal Update, we would be happy to provide more detailed information.

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Legal Updates shall not be treated as a legal advice or a reason for making specific decisions on the Kazakh law issues. Should you need a legal advice, we would be happy to assist.