

Remote work - new developments in Russian labour law

In relation to the COVID-19 pandemic, the current concept of “remote work” as provided for by Russian labour law turned out to be non-flexible and non-effective. Because of this, new legislative amendments have been developed and introduced, significantly changing the types of, and conditions for, remote work; these amendments came into force on 1 January 2021. These new developments in labour law simplify the transfer of employees to remote work in extraordinary cases, such as pandemics, and also allow combined office/work from home in normal business life.

Remote work – new developments in labour law

The concept of remote (the legal term is – “distant”) work has existed in Russian legislation since 2013 and is now become more widespread due to the COVID-19 pandemic. However, the initial legal framework in respect of remote work is not flexible enough and employers face many difficulties and questions when applying this instrument for the transfer of employees to home office work. One of the key complications is that the instrument of remote work did not allow a combination of office and work from home, and could not be used effectively to accommodate business needs. During the pandemic, the labour authorities issued several clarifications as to how to transfer employees to remote work, and now finally there have been introduced new legislative amendments to the Labour Code of Russia in respect of remote work, which became effective as of 1 January 2021.

In the new legislation, the concept of distant (remote) work has been significantly changed and several regimes of distant work have been introduced:

- *full (permanent) remote work*: when the employee is employed for permanent distant work based on a distant work employment agreement – no work in the office is assumed in this case;
- *temporary remote work* – may be of two types: *uninterrupted remote work* – continuous remote work of the employee during a period not exceeding 6 months; and *periodic (combined) office and remote work* – this is a regime when office and remote work may be combined. No time limits are set in respect of such work. Temporary remote work needs to be established by mutual agreement of the parties either by an employment agreement or addendum thereto.
- *remote work introduced by employer in extraordinary circumstances*: this concept of remote work addresses specific cases when the employer may unilaterally introduce the regime of remote work – including in cases of pandemics or mandatory prescriptions of the regulatory authorities. In such cases, no consent of the employee is required, while the employer needs to adopt certain local acts and notify the employee on the introduction of such regime.

Also, the new amendments clarify certain specific conditions for remote work, such as

- means of communication between the employer and the employee – now communication in certain cases may be done via the exchange of electronic documents without using a qualified electronic signature;

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- provision of necessary equipment and software for the performance of distant work and obligation of the employer to compensate the employee for the usage of the employee's personal equipment – in particular, it is now stipulated that the salary of the employee shall not decrease during the period when the employee works remotely, which means that any compensation shall be extra payment to the employee's salary;
- additional grounds for termination of the employment agreement with a distant employee at the initiative of the employer – when compared to recent regulation which allowed the stipulation of different additional termination grounds, the new legislation provides for two exhaustive conditions only. The first one relates to the failure of the employee to communicate with the employer without due reason for more than two consecutive business days (unless a longer period is established). The second provides for the possibility of termination of the employment agreement on full (permanent) distant work in case the employee changes the place (region) of work, if such change prevents the performance by the employee of the job functions at the same conditions as established by the employment agreement.

The new legal developments in respect of remote work are now very important and they should simplify the process of the transfer of employees to home office work in extraordinary cases, such as pandemics. Also, the new concept of distant work may be further effectively used when companies return to normal business life, but wish to keep a combined office/remote work regime for all or some categories of employees.

Upon request, we would be happy to elaborate the relevant employment documentation for the formalization of remote work with employees in line with the new legal requirements.