

Decision of the Supreme Court of the Republic of Lithuania

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The Supreme Court of the Republic of Lithuania has clarified the distinction between civil and employment relationships.

An employment relationship can be defined by the following characteristics:

- the employee's obligation to the employer to perform a job function (not to do a specific job, not to achieve a specific result, but to perform a job function characterized by properties of a kind);
- an employer's obligation to pay an employee a remuneration for the performance of a job function (remuneration is understood as a payment agreed in an employment contract for the work performed, paid periodically and continuously, linked to a specific period of time (e.g., monthly, weekly, etc.);
- subordination of the employee to the employer (the employer has the right to control or direct all or part of the work process, and the employee is subject to the employer's instructions or rules in force in the workplace).

However, to distinguish between these relationships, it is also necessary to consider the totality of the other circumstances, such as, for example, whether there is a provision of work equipment, or whether there is a reimbursement of expenses, etc.

Our recommendation:

Since the relationship between an organisation and an individual will determine the rights and obligations of both parties and the guarantees that will be provided, it is necessary to properly determine whether the relationship is of a civil or employment nature.

To assess whether a person's activities will be of a civil or employment nature, we recommend assessing the following criteria:

1. does a person provide services only for one company;
2. does the person fulfill his/her duties at the premises of the company;
3. does the company provide the person with working tools, workplace, etc.;
4. is the person subordinate to the company, i. e. carries out instructions of the company, participates in trainings organized by the company and / or other legal or physical persons in which the person is required to participate in the instruction of the company;
5. dedicated time, length of cooperation, nature of the cooperation.

If most of the answers are positive, the activity is considered as an employment relationship. Either way, we recommend contacting your legal experts when assessing the nature of the relationship.

Information from the State Labour Inspectorate of the Republic of Lithuania

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The State Labour Inspectorate has released an important reminder regarding job advertisements. Article 25(6) of the Labour Code stipulates that in a job advertisement, the employer must provide information on the amount and/or the amount range of the basic (rate) remuneration (hourly rate or monthly wage, or the base amount of the basic salary), except in cases provided for by law.

This means that the employer may choose whether to publish:

- only the amount of the basic remuneration offered (e.g., EUR 2000 gross);
- only the range of the amount (e.g., from EUR 1000 to EUR 2000 gross);
- include both.

In addition, whether the amount given is before tax (gross) or after tax (net) should be indicated.

If an employer wishes to include information on additional payments such as bonuses, allowances and other additional forms of remuneration, such payments may be included in the job advertisement, but should be distinguished from the proposed basic remuneration or its range.

Our recommendation:

We recommend reviewing your current and future job advertisements to ensure that the provided requirements are met.

Employers may be liable to pay a fine of between EUR 240 and EUR 880 for violating these requirements as provided in Article 96(2) of the Code of Administrative Offences.

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Detailed and full Regulatory Compliance report on Employment regulation can be found here:

Our recommendations and details are in this file

