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KEY ASPECTS OF LABOR LAW IN GERMANY

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Abstract: in this article, the relations of labor legislation in Germany are discussed from a scientific and theoretical point of view, and the question of implementing its positive aspects to the legislation of our country is studied.

Key words: employee, employee union, collective representation, federal legislation, European Union, notice period.

German labor law is divided into two areas: individual labor law and collective labor law. Individual labor law concerns the relationship between an individual (one) employee and an employer, while collective labor law regulates the collective representation and Union of employees, as well as the rights and obligations of the Union of employees.

German labor law is not integrated into a single Labor Code: primary sources are federal legislation, case law, collective bargaining, labor council agreements, and individual labor contracts. In the legal case, every employee wishing to work in Germany is required to have resident status before entering Germany as well as a work permit.

The following persons are excluded: 1) persons of German nationality; 2) a citizen of the European Union; 3) a citizen of a member state of the European Economic Area (EEA) (Iceland, Liechtenstein, Norway); or 4) A Swiss citizen.

As a result of the amendments to the law “on the German resident”in Germany, the “labor market test” is no longer required if it is possible to submit an employment contract. In addition, skilled workers from third countries can immigrate to Germany for a limited period in search of employment, provided they prove they know the necessary German language and guarantee their survival. Should a foreign employer create or work through a local organization to hire an employee? No. However, under the legal social security system, the employer is required to appoint a person who may be an employee in Germany. Transfers within the group have been facilitated; non-EU citizens may have a new "ICT-Card" residency under certain circumstances, allowing them to work within a group of organizations in Germany for up to three years. This situation is possible when they are sent by a group of other organizations outside the European Union.

In addition, citizens of n(resident) and a working third state who reside in another EU member state can apply for a “mobile Act card” if they need to be sent to work in Germany for a period of more than 90 days. In the case of a short-term assignment (that is, for a period of not more than 90 days within 180 days), a document confirming the place of residence is not required at all; it is enough just to notify the competent authority (that is, the Federal Office for Migration and refugees). Therefore, citizens of a third country can work in different member states of the European Union on the basis of one permit. The employer has a legal obligation to submit the terms of the main contract to the employee in writing no later than a month after the start of work.

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Minimum requirements when hiring. The terms of employment are regulated mainly by statutes, collective bargaining agreements and Labour council contracts. As a rule, it is impossible to deviate from these rules in cases where the terms of the employment contract harm the interest of the employee. It is reasonable that the employment contract was concluded in German to avoid possible conflicts of origin. However, this is not considered a legal requirement. The employment contract as a general rule, the employment contract is concluded for an unlimited period of time. If the terms of the contract are established before entering into an employment relationship, it is also possible to conclude fixed-term employment contracts. The term employment contract expires automatically after the expiration of the term without notice in writing. The objective aspects of term Labor Relations on a legal basis must be clarified. Some of the objective parties will be legally defined, such as increased workload, replacement of an employee on parental leave. If objective grounds do not exist, the term labor relations will be extended to a maximum of two years. If the Labor relationship continues after the end of the term, the contract is considered concluded for an indefinite period. The employer and employee can agree by law on a trial period limited to a maximum period of six months. During the probationary period, the notice period is considered to be two weeks (or it may also be agreed otherwise). Regardless of whether the parties agree to a probationary period, the dismissal Protection Act does not apply for the first six months of work.

Notice period. The term of notice of the employer employee depends on the employee's work experience in this organization, and if the employee has at least 2 years of experience, it will be necessary to warn 4 weeks ago, if he has an internship longer than 20 years, then 7 months before. If the employment contract does not provide for a different provision, legally extended notice periods apply only to dismissal by the employer, while the employee is entitled to terminate the employment contract at the end of the calendar month or on the 15th with a four-week notice period. Most employment contracts impose a notice period on the employee, which is favorable to the employer. Team contracts may set longer or shorter notice periods, while individual employment contracts may only set longer notice periods. The order and conditions of employment (e.g. peak hours, minimum paid leave, and sick leave) are regulated by laws, collective bargaining agreements, and labor council contracts. An Individual employment contract cannot deviate from these provisions in such a way as to harm the employee. The rights of employees sent to Germany for temporary work are usually determined by foreign labor legislation. Since the employer has control over their premises and employees are at risk of being exposed to workplace hazards, the employer is required to provide a healthy and safe workplace. Thus, the employer is obliged to install and maintain all rooms, tools and equipment and organize the work in such a way as to protect employees from any possible damage. However, the rules regarding a healthy and safe workplace depend on the type of industry and the level of risk faced in a particular workplace. The employer has the right to decide whether or not employees can use the company's Internet, telephone or email system on personal matters, during or outside of work, and to what extent. Usually, without permission, the employee does not have the right to use the internet for personal matters.

The Federal Labor Court noted that even if there is no clear ban, employees should take it into account that the employer does not think that employees tolerate the use of organizational devices for personal purposes. If an employee violates the ban on the personal use of labor equipment, the employer has the right to issue a warning and even terminate the employment contract, depending on the circumstances. In practice, many employers allow to some extent the use of the internet for

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personal purposes. However, even if allowed, there must be a restriction on the content in the use of the internet for personal purposes and the time of use. We recommend a strict ban on the use of an employee's email in the company for personal purposes, otherwise tracking or accessing an employee's email in the company can be a serious case, even a criminal act, and even this can be in the personal interests of the employee (when the employee is sick, on vacation or in cases when he left the company). In Germany, employees belong to the National Social Security system by law.

Social Security. The social insurance code consists of a statutory social insurance system covering the following basic principles: Health Insurance, Unemployment Insurance, nursing care insurance, pension and Accident Insurance. All payroll payments have tax and Social Security contributions (pension, unemployment, health and nursing care insurance). They must be deducted from the employee's salary by the employer and paid to the appropriate institutions. In general, the employer and employee each pay half of the Social Security contributions, and employers must pay their share in addition to the salary, on the basis of the gross salary of employees, with the application of certain maximum amounts. The share that employees contribute to accident insurance is carried out only by employers.

Holidays and holidays. Public holidays throughout Germany are different from those of one federal state and another. For example, there are 10 public holidays in Berlin, Lower Saxony, and 12 in Bavaria and Saarland. Each employee is entitled to an annual Labor vacation of 20 days (not counting Saturday and Sunday), which is calculated by a 5-day work week. This means that the employee may require four weeks of annual leave in the calendar year. However, most employers provide an annual Labor holiday that is longer, from 25 to 30 days, depending on the industry. Female employees have paid maternity leave 6 weeks before delivery and 8 weeks after delivery. If more than one child is born, premature birth or the birth of a disabled child occurs, the maternity leave can extend for another 12 weeks. During this period, payments to the employee are made partly by the legal health insurer and partly by the employer. After the birth of a child, both male and female employees are entitled to a maximum of three years of parental leave per child. During this period, the employer is not obliged to make any payments to the employee. After the expiration of parental leave, the Employee returns to his previous position.

In accordance with the Maternity Protection Act, pregnant employees, as well as apprentices, interns and students undergoing mandatory internships are protected separately from dismissal during pregnancy and for four months after the birth of a child. The employer is obliged to carry out a risk assessment not only for work performed by pregnant employees, but also for all work carried out in the company. The necessary measures for the protection of pregnant employees should be carried out immediately after informing the employer about the pregnancy, and the employee should be given the opportunity to discuss (further) adjustments to his working conditions.

After four weeks of work, the employee is entitled to a six-week payment from the employer in case of illness. The regular payment, which the employee worked without sick leave, must be paid by the employer. In small companies with fewer than 30 employees, the employer can participate in a distribution procedure that allows you to return the sick pay. Typically, legal sickness benefits are paid in the amount of 70% of regular wages for 78 weeks. After six months of work, a severely disabled employee may require five additional days of leave, based on a 5-day week. Any holidays other than the legal holidays mentioned above (e.g. leave in the case of a close person who has died

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or is a serious patient, leave related to emigration) community contracts are defined in work council contracts.

Under German law, labor relations can be terminated by mutual consent, at the end of the term contract, or at the warning of one of the two parties. As for general protection, the employer's freedom to dismiss an employee is significantly limited by the "dismissal act"("DPA"), dismissal is applied in the following cases: 1) if the business entity usually has more than ten employees; and 2) if the employee has worked continuously for six months in the same enterprise or enterprise.

The rights of employees in the case when the enterprise is transferred to another person. All employees of the conductor automatically transfer to the recipient, with the conditions and internships of employment contracts preserved. Before the transfer, each interested employee must be informed in writing about the transfer, the reasons for its origin, social and legal consequences and any other measures planned by the recipient. The employee has the right to object to the transfer of the place of work, without specifying the reasons for his objection within a month from the date of receipt of the correct and complete letter of information.

If the reference letter does not comply with the legal requirements, the right to object can only be terminated a few years after the transfer is carried out. If there is an objection, the Labor relationship will continue with the conductor. If the conductor no longer has the opportunity to offer the employee a job, dismissal for operational reasons may be socially legal. Requirements for former owners and legal successors. The recipient is charged with all rights and obligations arising from the employment contracts available during the transfer, and the recipient is also liable for pension obligations to employees affected by the transfer. At the same time, the recipient is not obliged to treat the received employees and his other employees equally. If the dismissal is transfer-based, the dismissal is deemed invalid.

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