

January 2016

Employee Business Protection

Bulgaria

Summary

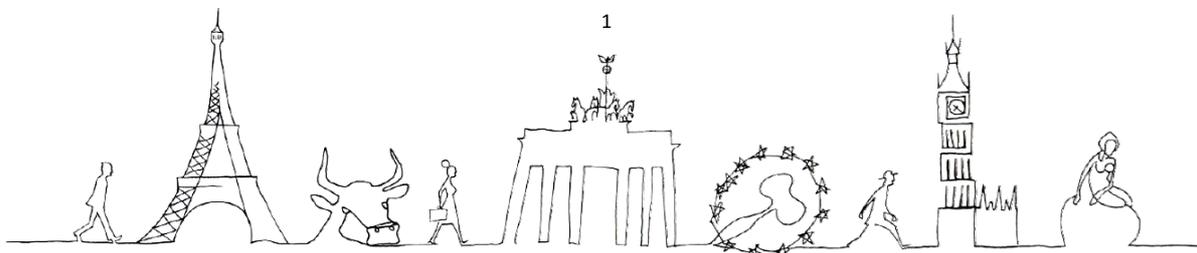
Under the law an employment contract must include the following: details of the parties and indication of the place of work, job title and nature of work, date of conclusion and date of implementation, duration of contract, length of annual paid leave, notice period upon termination of contract for either parties, basic and additional remuneration as well as frequency of payment and length of work day or week. Additional conditions may be negotiated.

As per the law an employee may enter into an additional employment contract with the same employer for work that is not within the scope of his initial employment duties and outside of his official working hours. The employee or worker may also freely conclude additional labour contracts with other employers for performance of work outside of his official working hours, unless it is otherwise agreed in his individual employment contract with his main employer.

Restrictions during employment

There are certain obligations that the employee or worker has during the term of his employment. Those include:

- to perform his job accurately and in good faith;
- to be on time and fit to perform the assigned tasks;
- restriction of alcohol use or other intoxicating substances during work hours;
- to properly use his time for the execution of an assignment;
- to perform the work with the required quality and in the required quantity;
- to take care of the property that he was entrusted with or the one which he is in contact with during the performance of his work;
- to be loyal to the employer by not abusing his trust;
- obligation of non-disclosure of confidential information about his employer;
- to keep the good name of the company;
- etc.



Statutory restrictions for additional work (defined in a separate labour contract) are imposed on employees who work under specific conditions and bare risks to their health and life for work under the same or other specific conditions and also restrictions apply to employees who are explicitly specified by law or in a Council of Ministers act.

There is a general restriction concerning the maximum hours of work per week. The employment contract for additional work together with the working hours in the main employment relationship with a daily calculation must not be more than 40 hours a week for workers and employees under the age of 18 and 48 hours per week for other employees. In certain cases exceptions to this rule are granted upon the explicit written consent of the employee.

The employer or the employee cannot unilaterally change the content of employment except in the cases and order established by law. Under the employment relationship the employee is obliged to perform the work for which he has agreed and to observe labor discipline and the employer - to ensure the employee's conditions for performance of the work and to pay remuneration for the work performed.

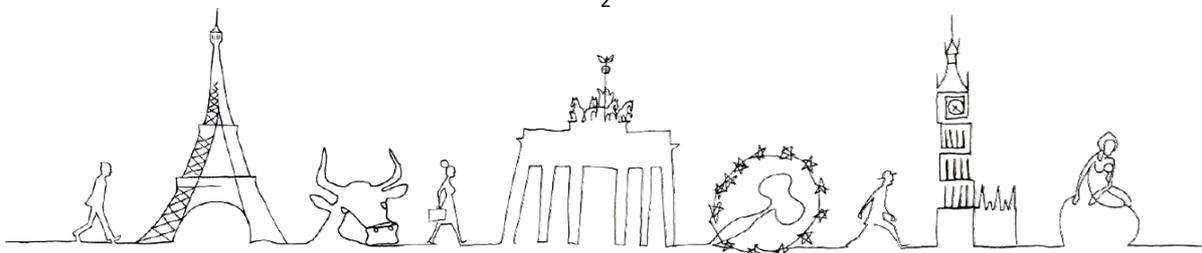
Employers usually take further care to protect their business by inputting additional clauses in the contracts, including but not limited to non-compete and non-disclosure of confidential information. Most employers also input a clause that states that the employee cannot work elsewhere without the written consent of the employer.

Restrictions after employment

In general workers and employees are free to work elsewhere, and even to solicit customers, clients and colleagues, after they leave. Employers and employees can, however, agree on a wide range of additional protections.

The clauses generally used by employers include but are not limited to the following:

- **Confidentiality** - confidentiality in terms of the employee's access to trade secrets, know-how and other confidential information of the employer and the partners in the company or related persons, companies and/or legal entities and their clients and counterparties. Upon the conclusion of an employment contract, the employer seeks to protect his interests as best as possible. However to be able to seek responsibility the employer should explicitly and comprehensively define what is meant by "*professional secrecy/confidentiality*".
- **Non-disclosure** – the obligation not to use and disclose the personal data of customers, other employees, etc;
- **Non-compete** - it prevents the employee from working for a competitor, or setting up in competition, for a defined period. In the view of the courts this clause is seen as controversial due to the fact that such clause is contrary to the Constitutional right to work and restricts the right to a future employment. Nevertheless many employers still keep the clause.



- **Obligation not to contact or poach clients of the employer** – it restricts the right to mediate or to connect directly or through proxies, clients or partners of the employer, etc. without the consent of the employer.
- **Forfeit clause** – in employment contracts it is also typical for the employer (especially if the employer is a big entity) to include a forfeit clause for breach of any of the abovementioned clauses. The penalty for breach sometimes goes as much as three times or more the salary of the employer. Sometimes in even stricter cases the penalty is payable regardless of whether an actual damage has occurred or only a threat thereof.

This material is for general information only and is not intended to provide legal advice.

