Doing Business in Albania: What Every Employer Needs to Know

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As employers increasingly look to expand their global reach, the countries of Central and Eastern Europe continue to provide attractive opportunities for entrepreneurs. Effectively closed to foreign investment and travel for decades, the Republic of Albania has undergone many changes in recent years. Strategically located in central Europe, only 45 miles from Italy and bordered by the Ionian and Adriatic seas, Albania occupies a geographically and culturally important location within Europe. Albania became a member of the North Atlantic Treaty Organization, and formally applied for entry into the European Union in 2009. Albania has become an increasingly popular tourist draw, creating jobs in its fledgling tourism sector, and attracting foreign investment. Although personal services and tourism account for the majority of cash revenue in the economy, Albania has also been opening its energy and transportation sectors to foreign investment, creating additional jobs for its citizens and opportunities for foreign investors.

Background

Although foreign investment in Albania remains relatively low, the country has been taking steps to make it easier for foreign investors to set up operations in Albania. In a 2007-2008 World Bank report, Albania was considered to be one of the top global reformers, taking steps to make it easier to establish credit, start and run businesses, and create jobs. There are no sectors of the Albanian economy that are closed to foreign investment, including the subsidized leasing of state-owned facilities, and its National Center for Registration of Businesses is set up to handle all facets of business registration in one operation. Albania's most promising business sectors are thought to be those in insurance, telecommunications, tourism, banking and energy and transportation services. The EU is Albania's largest trading partner, and its citizens enjoy a 99% literacy rate.

The Employment Relationship

In Albania, the employment relationship is largely governed by the Labor Code, which covers most Albanian workers. Additionally, in February 2010, a new law was passed mandating certain minimum requirements for employee security and safety. Although there are other laws governing employment, the Labor Code is the primary source of employment law and will be the focus of this article.

Among other things, the Labor Code generally requires that employment terms be set out in a written agreement, to be signed by both the employer and employee. Failure to timely reduce the employment terms to writing could result in a fine of up to 30 times the minimum salary. Although the employment agreement can designate a foreign choice of law, the terms of the agreement cannot be less generous than those set out by the Labor Code. Collective bargaining is permitted, but the terms of the contract cannot be less favorable than the benefits and protections set out under the Labor Code.

In general, the employment contract should address these terms:

• Party names

• Date of the contact and duration (if applicable)

• Salary details and pay periods

• Working hours and days

• Location work will be performed

• A general description of the job duties required

• Notice period required for termination

Failure to address any of these terms at the outset of the employment relationship leaves the employer vulnerable to post-employment legal claims.

Once the employee has agreed to a contract, the employer must register the employee with the local taxing authorities at least 24 hours prior to the employee starting work. Further, employers are required to make all tax withholdings, and must designate an "administrator" to oversee payroll matters.

Similar to other European countries, Albanian law also provides for a minimum wage and maximum number of overtime hours that an employee may work per week (10 hours), and paid annual and maternity leave (up to 365 days for one child). Finally, Albanian law provides for a three-month probationary period for all new employees, although this period can be changed by agreement of the parties.

Restrictive Covenants

Post-employment restrictive covenants are generally permitted where the employer can demonstrate that the employee has access to the employer's confidential information, and that a breach of that confidence could cause "significant" damage to the employer. To be enforceable, the agreement must be set out in writing at the beginning of the employment relationship, and may be no longer than one year in duration. In exchange for agreeing to the restrictive covenant, the employee is entitled to 75 percent of his or her regular salary for the restricted post-employment period. A lawsuit to enforce the restrictive covenant must be brought in the court where the defendant resides, or in the country where the employee is working.

Employee Discharge

Under the Labor Code, employers must provide notice prior to discharging an employee. If the written employment agreement does not specify the notice period, the Labor Code mandates notice periods based on length of service, ranging from three days' to three months' notice. When employees are discharged for cause, employers are obliged to pay the employee for the notice period, as well as certain other payments depending on seniority. If an employee was discharged without cause, the employer may be responsible for notice and bonus payments as well as up to 12 months' of damages compensation. Employees are considered dismissed without cause where the employee is discharged for voicing complaints about the employment relationship, the employee was dismissed for a discriminatory reason, for giving legally required testimony, participating in a labor organization, or exercising his or her constitutional rights. Employees who believe they were fired without cause may sue their former employer within 180 days of the notice deadline.

There are special notice procedures for employers to follow when dismissing ten or more employees at the same time. Including providing notice to affected employees, employers are also responsible for notifying the employees' trade union and taking part in a consultation process with the union regarding the proposed layoffs.