

## EMPLOYMENT LAW

# Hiring in Morocco

Foreign companies in Morocco need to consider some key points when hiring staff



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Less than three hours from the main European cities, Morocco is one of the most dynamic countries in Africa. King Mohammed VI has instituted legal reforms including economic liberalisation, which has attracted foreign investment. Over the past decade, Morocco has embarked on an ambitious programme of structural reforms in several fields, aiming to further liberalise its markets and enhance the competitiveness of its economy. This policy aims to help the Moroccan economy reach more sustainable growth, improve living conditions, and reduce social and regional disparities. All these advances have contributed to greater social and political stability and Morocco is becoming a popular destination for companies to start operations in.

## Hiring staff without a local presence in Morocco

In principle, a foreign company without a local presence cannot hire an employee in Morocco. In practice, there are various solutions to remedy this issue. Indeed, a foreign company can either: send its employees on a temporary mission in Morocco; sign a consultancy agreement with the individual concerned, subject to the prior registration of the individual with local authorities as self-employed; or use a third party (interim agency) or portage company (umbrella company) that will manage the employee's contract on the foreign company's behalf.

However, these options are not entirely legally secure. Labour law regarding temporary work is very strict. Indeed, reasons for recourse to temporary work are strictly limited to: replacement of a worker who is absent or whose contract has been suspended; temporary increase of the activity of the company; seasonal work (tourism, culture); and performance of work that is temporary by nature. Failure to comply with these categories will lead to the contract being requalified as an indefinite period contract. Using an umbrella company to hire an employee would minimise the risks, but this could trigger significant costs.

## Hiring staff when having a local presence

- **Form of the employment contract:** Article 24 of the Labour Code requires employers to notify employees of the essential aspects of the employment relationship at the time of hiring: the collective labour agreement applicable or if necessary its content; hours of work; days off; legal provisions and policies regarding health and safety; the date, time and place of payment; the registration number at the Caisse nationale de Sécurité Sociale (CNSS); and the name of the employer's insurers for work accidents and work-related illnesses.

As a written employment contract is not required,

Moroccan case law has held that affidavits or a payslip may be sufficient to formalise an indefinite term contract. Nevertheless, in certain cases, a written contract of employment is legally required, particularly for contracts concerning the commercial representatives or for fixed-term contracts.

Any written employment contract must be drafted in Arabic, Amazigh or French.

## Contents of the employment contract

- **Remuneration:** The employer is in theory free to determine its employees' remuneration, but must comply with the compulsory statutory provisions. As of 1 December 2013, the minimum wage has been placed at 12.24 Dirhams per hour.

All workers should also receive a bonus of seniority in addition to their salary: 5 per cent of salary after two years' service; 10 per cent after five years; 15 per cent after 12 years and 20 per cent after 20 years.

- **Working time:** The Labour Code allows the employee to work 44 hours per week within the non-agricultural sector and 48 hours per week for the agricultural sector.

- **Probationary period:** The Labour Code provides maximum time limits depending on the category: 15 days for manual workers; six weeks for employees; and three months for managerial staff. The probationary period can only be renewed once for the same length of time. If either the employer or the employee decide to end the probationary period, they do not need to give a reason.

- **Social security:** To prevent illegal work, employers are under a statutory obligation to nominally register the employee with the CNSS).

## Hiring foreign staff in Morocco

Employers based in Morocco can freely hire foreign employees but they should attempt to recruit Moroccan staff first. Foreigners could be subject to a secondment, expatriation system or local contract.

Any employer wishing to recruit a foreign worker must obtain authorisation from the employment governmental institution and the employment contract must comply with the institution's model. Foreign employees can only be hired following the delivery by the Agence Nationale de Promotion de l'Emploi et des Compétences of a certificate stating that no Moroccan nationals wish to apply for or qualify for the position.

Several steps are required to obtain a work permit. The employer must contact the immigration services at the Ministry of Employment and submit different documents depending on the employee's contractual and legal situation. It takes from three weeks to two months to obtain authorisation.



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