

E-ALERT | International Employment

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UKRAINE - CRISIS MANAGEMENT GUIDANCE FOR MULTINATIONAL EMPLOYERS

In light of the current violence and severe unrest in the Eastern Ukraine region (see [summary box below](#)), multinational companies with Ukraine operations are considering a range of emergency measures to protect their staff, depending on the nature of the business and the type of work being carried out by employees.

We've summarised the most common emergency measures that are currently being taken by employers in Ukraine at section 1 below. Section 2 sets out general guidance that employers may consider when putting in place a crisis management plan in Ukraine, or any other region where an emergency or conflict situation arises.

1. Main emergency measures currently being taken by multinational companies with Ukraine operations.

- Evacuating expatriate staff from Eastern Ukraine (Donetsk, Lugansk and Kharkiv oblasts).
- Allowing staff in areas affected by violence to work remotely - either from home, or another safe working environment. Given the nature of the situation, employers have generally agreed this measure with staff by telephone or email (written employment contracts are not mandatory in Ukraine). Depending on the duration of the crisis, remote working arrangements may subsequently be formalised in writing.
- Seeking the agreement of staff in areas affected by violence to take unpaid leave until their work environment is secure. Some employers are requiring employees to use their existing vacation allowance for this purpose.
- Introducing compulsory 'downtime' for the period of the crisis by temporarily ceasing business activity. Employers must continue to pay employees at least part of their normal salary during the downtime, e.g. two-thirds of usual salary, or the employees' average salary, depending on the severity of the situation giving rise to the implementation of downtime.
- Since it is currently very difficult to predict fluctuations in value of the local Ukraine currency (hryvnia), employers who pay staff in hryvnia are fixing salaries at set US dollar or Euro rates to protect employees against the effects of a devalued currency.
- The Code of Civil Protection regulates protection of employees during emergencies. The Code obliges employers to take certain measures to protect and safeguard employees, including implementing a written 'civil protection plan' which must be agreed with the local emergency services. Items covered by the plan include putting in place evacuation and sheltering procedures, fire safety instructions, protections from chemical weapons and radiation, rescue measures and medical support during accidents. Non-compliance carries a low administrative fine which can be imposed on a company's directors. However, we have made enquiries with the local authorities and they are not aware of any employers who have currently complied with this requirement. Although the emergency services are not taking enforcement steps against employers at present, this could change if the crisis continues.

2. General guidance for employers implementing a crisis management plan.

- Conduct a compliance audit to identify potential vulnerabilities that could impact the safety and security of employees (as well as assets, leases, licenses, etc.). In case it is necessary to wind-up operations in the region at short notice, on either a temporary or permanent basis, the audit should consider applicable repatriation and termination provisions (including length of notice periods) in employment agreements, business premises leases, etc.
- Prepare and communicate employee safety procedures and emergency protocols for evacuating and repatriating expatriate employees. Employee safety procedures might include, among other things, ensuring employees have adequate security cover where practical (e.g. a driver, security guard), access to secure accommodation, etc.
- Identify a crisis support team (“**CST**”), responsible for monitoring developments that could jeopardise the safety and security of employees located in the affected region. Designated CST staff should:
 - be available around the clock as emergency points of contacts for employees;
 - ensure employees are provided with regular updates about government travel advisories and any developments that could impact their safety. Failure to follow government travel advice, e.g. the British Foreign and Commonwealth Office (FCO) guidance, can invalidate insurance cover;
 - maintain complete and current contact information for employees. This information should include personal email address and mobile numbers for employees and contact details of next of kin, so that the CST has multiple contact channels;
 - require employees to provide up-to-date details of their locations and travel plans to the CST. Employees should also be encouraged to immediately report any local developments to the CST;
 - maintain citizenship data and details of local embassies, consulates and other government representatives, in case foreign government assistance with communications to / evacuations of expatriate employees is required;
 - ensure employees retain original passports, visas and other travel documents, as well as copies, since local passport or visa services may be limited or closed in an emergency;
 - monitor airlines’ flight schedules and statuses.
- Ensure appropriate insurance cover is in place, including adequate employee travel and medical insurance and political instability insurance, to ensure that risks are sufficiently mitigated and in compliance with local insurance laws.

Current political situation in Ukraine (as at 8 July 2014)

The British Foreign and Commonwealth Office (<https://www.gov.uk/foreign-travel-advice/ukraine>) advise against all travel to Crimea; Donetsk oblast; and Lugansk oblast. The FCO advise against all but essential travel to Kharkiv oblast.

■ **Crimea**

The FCO has advised that British nationals in Crimea should leave now. Russian forces and pro-Russian groups have established full operational control in Crimea. Following an illegal referendum on 16 March, Russia illegally annexed Crimea on 21 March and tensions remain high. Flights in and out of Simferopol airport are subject to disruption. Ukrainian International Airlines have cancelled all flights to and from Simferopol until 25 October.

■ **Eastern and Southern Ukraine**

The FCO reports that there have been armed clashes, kidnappings, seizure of buildings and other violent incidents in Donetsk, Lugansk and Kharkiv oblasts and in the city of Odesa, although the situation in Odesa city has calmed considerably. Incidents have also occurred in Dnipropetrovsk and Mykolayiv, and could occur again at short notice. The FCO advises taking great care and remaining vigilant throughout eastern and southern Ukraine, and avoiding all demonstrations and public gatherings.

Some flights into and out of Donetsk airport are subject to disruption. Ukrainian International Airlines have cancelled flights to and from Donetsk up to and including 26 October 2014. Passengers using this route are advised to stay in touch with their airline.

■ **Other parts of Ukraine, including Kyiv**

The situation in Kyiv and western cities has calmed considerably following months of violent protest during which nearly 100 people were killed, though occasional non-violent public demonstrations continue in and around Independence Square, St Michael's Square and outside the Verkhovna Rada (parliament building). Elsewhere in Kyiv, the FCO reports that life has largely returned to normal.

CONTACT

COVINGTON

COVINGTON & BURLING LLP

Christopher Walter
Helena Milner-Smith

+44.(0)20.7067.2061
+44.(0)20.7067.2070

cwalter@cov.com
hmilner-smith@cov.com

VASIL KISIL & PARTNERS

ATTORNEYS & COUNSELLORS AT LAW

Oksana Voynarovska
Tetyana Ivanovych

+38 044 581 7777
+38 044 581 7777

voynarovska@vkp.kiev.ua
ivanovych@vkp.kiev.ua

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