

NON-EMPLOYEE ENGAGEMENTS

The non-employee engagement is a form of work performance, where the employer and employee are replaced by the principal and the contractor, who within the meaning of the provisions of the Labour Code does not enjoy the status of employee. The most popular forms of non-employee engagements include civil law contracts such as a contract of mandate [umowa zlecenie] or a contract for work [umowa o dzieło], regulated by the Civil Code Act of 23 April 1964 (consolidated text: Journal of Laws of 2014, item 121).

Contract of mandate

Legal basis

- **Article 734-751 of the Civil Code Act of 23 April 1964 (consolidated text: Journal of Laws of 2014, item 121)**

Subject of the contract

- The contractor undertakes to perform a certain legal transaction for the benefit of the principal

Nature of the contract

- The contract of mandate is a “due diligence contract”, which means that its essence is the work performed (performance of work) for the benefit of the principal by a certain time or without time limit, which does not necessarily lead to the attainment of a certain outcome

Parties to the contract and their relationships

Contract for work

- **Article 627-646 of the Civil Code Act of 23 April 1964 (consolidated text: Journal of Laws of 2014, item 121)**

- The contractor undertakes to perform a certain work (tangible or intangible)

- The contract for work is an “outcome contract”, which means that its aim is to achieve a certain outcome specified therein. The contract for work is completed when a specific and verifiable outcome is achieved. It is a one-off contract

- The parties to the contract can be any natural persons (under condition that they have full capacity to enter into legal transactions) or legal persons
- The party commissioning the performance of certain transactions is the principal and the party performing them is the contractor. In other words, the contractor undertakes to diligently perform the work in person, unless it obtains the consent to the subcontracting of it to a third party
- There is no subordination relationship between the parties – both parties are equal
- The contractor should follow the principal's instructions concerning the performance of work
- The contract may specify a time limit for the completion of work. It can be performed against remuneration or free of charge

Social security

- The person, who performs the contract of mandate and for whom this contract is the only basis for paying the social security contributions, is mandatorily subject to pension, retirement, accident and health insurance, and voluntarily to sickness insurance. The following is not applicable to any school pupils or students up to 26 years old, who are not subject to social security when working under the contract of mandate.
- If the contract of mandate is signed with a person who runs its own business, the subject thereof corresponds to the subject of his or her business activities and, for tax purposes, the revenue from the contract of mandate is treated as the revenue from business activities, such a contractor is not subject to social security and health insurance, either mandatorily or voluntarily, under the contract of mandate.

- The parties to the contract can be any natural persons (under condition that they have full capacity to enter into legal transactions) or legal persons
- The contractor undertakes to perform a certain work and the principal to pay remuneration. In other words, the contractor undertakes to perform a specific work, not necessarily in person, unless stipulated in the contract
- There is no subordination relationship between the parties – both parties are equal
- The contractor is free to select the place, time and manner of the performance of work and is only limited by the deadline specified for its completion
- The work is always performed against remuneration

- The obligation to pay social security contributions under the contract for work exists in the following two events: if the employee enters into the contract for work with his or her own employer, and if the contract for work is performed by the employee for the benefit of his or her own employer. It is only in the aforementioned events, when pension, retirement, accident and health, as well as sickness insurance contributions must be paid in relation to this type of contract. No other event results in the obligation to pay social security contributions with regard to this contract.

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