



## EMPLOYMENT CONTRACT FORM

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<b>Received:</b> August 24 <sup>th</sup> 2022 <b>Accepted:</b> September 24 <sup>th</sup> 2022 <b>Published:</b> October 30 <sup>th</sup> 2022	This article examines the form of employment contract in Uzbekistan and other post-Soviet states, the main rules for its creation and formalization. The written, oral and electronic forms of the employment contract are studied through historical and comparative methods. In Uzbekistan, in addition to the written form of the labor contract, reasonable recommendations and suggestions have been put forward regarding the need to include its verbal and electronic forms in the labor legislation

**Keywords:** Employment contract, form of employment contract, oral, written, electronic, procedure, execution, mandatory, registration.

In world practice, oral, written and electronic forms of employment contracts are used. However, the new Labor Code of Uzbekistan[1] did not include oral and electronic forms of labor contracts[2]. The fact that an employment contract in Uzbekistan is concluded only in writing does not correspond to modern reality and does not allow actively developing the involvement of citizens in labor activity. In particular, in our country, the conclusion of a written employment contract is problematic in the private sector, especially in small and medium-sized businesses, and in practice a number of issues have arisen related to the conclusion of an employment contract in electronic form.

It should be said that the labor legislation of Uzbekistan has its own history, albeit a short one, regarding the form of the employment contract. Historical comparison allows us to see this picture more clearly.

Labor Code of the Republic of Uzbekistan adopted on December 21, 1995 and currently in force

In accordance with the requirements of Article 74, the employment contract shall be concluded only in written form. However, historically this has not always been the case. Jurist M. Gasanov stated that according to the labor laws in force earlier (the 1971 Code of Labor Laws of the Uzbek SSR), the labor contract could be concluded both verbally and in writing. The issue of the form of the contract was resolved by agreement between the employee and the administration. If the employee submitted a written application for employment and the administration issued an order for employment, the employment contract was considered to have been concluded

orally. The written form of employment required formalization of the text of the contract.

It should be noted that the mandatory written form of the employment contract was implemented in Uzbekistan from December 3, 1993 [3]. From this date, a written employment contract will be concluded with permanent employees, with those hired for a certain period of time or for the time of performing certain work, and with substitutes. Since then, the conclusion of a verbal labor contract with an employee has been considered by the employer as a violation of labor laws. At the same time, before the implementation of the Law of September 2, 1993, a written form of employment contract was introduced for certain categories of employees by the decision of the Government. In particular, written labor contracts were concluded with all teaching staff of state higher, secondary special educational institutions, vocational and technical educational institutions and general education schools[4], as well as employees of research, design and construction organizations[5]. The provisions on the mandatory written form of the employment contract were further developed in the Labor Code of the Republic of Uzbekistan adopted in 1995.

When the employment contract was concluded verbally, it was often impossible to determine whether the parties had reached an agreement on one or another terms, as well as to understand the content of these terms. Lawyers M. Gasanov, E. Sokolov note that the advantage of the written form of the employment contract is that its conditions are recorded in a single document and it is binding for both the employee and the employer. They also list



the following advantages of a written employment contract:

- to determine the issues on which the parties have reached an agreement;
- checking whether the order on employment corresponds to the content of the contract;
- determination that the terms of the employment contract do not worsen the position of the employee in relation to the legal documents and local documents valid in the enterprise;
- to ensure fulfillment of the obligations assumed by the parties to the labor contract [6].

It is appropriate to consider the validity of allowing only written form of employment contract in Uzbekistan through comparative legal analysis.

We will consider the comparison on the example of the labor legislation of the countries that were previously part of the union. Because the legislation of these countries was formed on the basis of a single idea and single principles during the period of the former union, however, each of them used their own approaches during the transition to a market economy.

<b>Nº</b>	<b>Country name</b>	<b>Employment contract form</b>	<b>Formalization requirement</b>	<b>Legal basis</b>
1.	Uzbekistan	written	Order	Article 74 of the Labor Code
2.	Kazakhstan	written	Order	Articles 33 and 34 of the Labor Code
3.	Tajikistan	written	Order	Article 26 of the Labor Code
4.	Kyrgyzstan	written	Order	Article 58 of the Labor Code
5.	Turkmenistan	oral or written	Order	Articles 16, 20, 26, 27 of the Labor Code
6.	Armenia	written	An order of employment is not required, Only registration in the book	Article 85 of the Labor Code
7.	Azerbaijan	written	An order of employment is not required, Only registration in e-information system	Articles 44, 49 of the Labor Code
8.	Georgia	oral or written	An order of employment is not required	Article 12 of the Labor Code
9.	Latvia	written	An order of employment is not required. The registered in the Public Revenue Service	Article 40 of the Labor Code
10.	Lithuania	written	An order of employment is not required. The information about the employment should send to the territorial departments of State Social Insurance	Articles 42, 43 of the Labor Code
11.	Estonia	written or oral if it does not exceed 14 days	An order of employment is not required.	Article 4 of the Labor Code



12.	Moldova	written	An order of employment is required	Article 58 of the Labor Code
13.	Ukraine	written	Order	Article 24 of the Labor Code
14.	Belarus	written	Order	Article 18 of the Labor Code
15.	Russian	written	Order	Article 67 of the Labor Code

A preliminary conclusion from the above table is that almost most of these countries have made a written employment contract a mandatory requirement.

There are countries that do not strictly require the written form of the employment contract. In particular, according to Article 26 of the Labor Code of Turkmenistan, the hiring of an employee is formalized by an order based on his application. The Labor Code of Turkmenistan does not specify the written form of the employment contract as a mandatory condition. But there are cases where the employment contract must be drawn up in writing. For example, in Articles 26, 288 of the Labor Code, when an employment contract is concluded with an employer - an individual, it is required to be in writing. A written form of employment contract is mandatory in Kazakhstan. The employee will be employed only after the conclusion of the employment contract. In the absence of an employment contract or if it is not properly formalized, the employer is responsible according to the law, and the employment relationship is considered established from the moment the employee starts work. Also, in accordance with Article 33 of the Labor Code of Kazakhstan, the conclusion of an employment contract can be made in the form of an electronic document confirmed by an electronic digital signature.

The Labor Codes of Armenia and Azerbaijan contain clear instructions on the conclusion of employment contracts in writing, but they are enforced by registration through a book or electronic system, rather than through the traditional issuance of an order.

According to Article 40 of the Labor Law of Latvia, the employer is responsible for drawing up the employment contract in writing and registering the employment contracts. The employer shall be held administratively liable for not concluding a written employment contract and not registering the employee with the State Revenue Service on time. [7].

The Lithuanian Labor Code also requires the employment contract to be in writing. An employment contract is considered concluded from the moment the parties reach an agreement on the mandatory terms of the contract, but it is not required to formalize it with

an order. According to Article 42 of this Code, information about the conclusion of the employment contract and the employment of the employee is provided to the regional departments of the State Social Insurance.

Pursuant to Article 4 of the Law on Employment Contracts of Estonia, an employment contract shall be concluded in writing, and shall be deemed concluded from the moment the employee starts work. Non-compliance with the written form of the employment contract does not lead to the termination of the employment contract. It is important to note that if the term of the employment contract does not exceed two weeks, the rule on the obligation to conclude it in writing does not apply.

Article 58 of the Labor Code of Moldova stipulates that the employment contract must be drawn up in writing, but some provisions are original. For example, the employer must receive an order or order in advance to draw up an employment contract in written form. Mutual consent of the parties is required to conclude an employment contract in written form. The most important aspect is that, if the employment contract is not formalized in writing, it is considered to be concluded for an indefinite period and will cause legal consequences from the moment the employee starts working. Also, if the employer did not comply with the requirement to draw up the employment contract in writing, the labor inspector must draw up the employment contract in this form according to the control report.

According to Article 24 of the Code of Labor Laws of Ukraine, the employment contract is generally concluded in writing. The cases in which it is necessary to comply with the written form of the employment contract are specified separately in this article. Examples of these are employment contracts concluded with minors, remote employees, home workers, and natural persons who are employers. Since the legislation of this state stipulates the written form of the employment contract as a rule, it cannot be denied that it is in an oral form.

Article 18 of the Labor Code of Belarus requires that an employment contract be concluded in writing. The term of the employment contract is



related to the start of work. An employee may be hired by an authorized official without concluding an employment contract, in which case the employment contract must be drawn up in writing on the day after the start of work.

In accordance with Article 67 of the Labor Code of the Russian Federation, an employment contract is concluded in writing. An employee may be allowed to work without concluding an employment contract. In this case, a written employment contract must be signed within three days after the employee returns to work.

Georgia can be recognized as one of the countries of the former union that has sufficiently liberalized labor legislation in the past three decades. We can see it even in the form of an employment contract. In particular, Article 12 of the Labor Code of Georgia stipulates that the employment contract must be written as well as verbal. The written form of the employment contract has been established in the case of its duration exceeding one month.

A comparative study of the labor legislation of different periods and foreign countries regarding the form of the employment contract, as well as a critical analysis of the practice in Uzbekistan in this regard, allows making some conclusions. In particular, in Uzbekistan, the oral form of the employment contract was also used. In addition, countries such as Georgia, Ukraine, and Estonia have allowed by law that the employment contract may be in oral form.

In Uzbekistan, it is necessary to introduce the norm that the employment contract should be not only in written form, but also in oral and electronic forms for the following reasons:

1. In the private sector, in particular, in small business entities, the limited human and material resources for drawing up and formalizing the employment contract in writing;

2. It is necessary to prevent their conclusion in a civil legal form by allowing the conclusion of short-term employment contracts in oral form. Thus, in Uzbekistan there is an objective need to include, in addition to the written form, an employment contract in oral and electronic forms. Satisfying this need allows the rules of a market economy to work better in our country.

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