

# STEPS FOR HIRING HUMAN TALENT IN EL SALVADOR



The process of hiring human talent in El Salvador involves a series of requirements to ensure compliance with local labor laws and facilitate the effective integration of staff in companies.



## Mandatory employer requirements

When hiring someone in El Salvador, the employer's obligations are as follows:

- A** Provide a written employment contract, including, among other details, the identification of both the employee and the employer, the type of work to be performed, the start date, whether the employment is indefinite or for a specific period, working hours, salary, and details of payment, period, and place of work.
- B** Register the employment contract with the Ministry of Labor; and
- C** Prepare internal regulations, including disciplinary measures (when employing 10 or more employees).

In the absence of a written employment contract, Salvadoran legislation presumes that an employment relationship exists if the employee has worked for more than three consecutive days.

In principle, it is necessary to establish a legal entity in El Salvador to hire employees.



## Probationary periods

Probationary periods are permitted in El Salvador for up to 30 days and must be included in the employment contract.

No further action is required to continue the employment relationship at the end of the probation period. In case of termination during the probation period, prior notice is required. This termination does not need to be justified.



## Hiring checks

### Medical examinations

Medical examinations are allowed to verify the health status of employees. However, pregnancy tests for women and HIV tests for any employee are prohibited before hiring or during the term of the employment contract.

### Criminal Background Checks

Criminal background checks are permitted. In practice, employers often request a criminal record certificate issued by the National Civil Police (It is not necessarily a condition for employment).

### Reference and education checks

Reference and education verifications are permissible and often required. However, they are not necessarily a condition for employment.



## Diversity and inclusion

In El Salvador, at least **90%** of an employer's workforce must **be** Salvadoran.

Salvadoran law promotes protection and prohibits discrimination against individuals with physical or psychological disabilities. The law mandates that private sector companies include one person with disabilities for every 25% of their employees and provide them with professional training for the designated job.

Additionally, the principle of equality between men and women is encouraged. Specifically, equal treatment must exist regarding selection criteria and requirements, including eliminating any wage disparity between men and women for performing the same work, position, or role.



**The law establishes** that private sector companies must include one person with disabilities for every **25%** of their employees, who will receive professional training to perform the designated job.



# Types of Employment Contracts

**There are two types of individual employment contracts:**

1

indefinite

2

fixed term

Individual employment contracts that involve indefinite activities for the company are considered indefinite, even if a fixed term is specified in the contract.

## Specific Rules for executives



There are no specific rules for executives.

## Language Requirements



According to Salvadoran law, employment contracts must be written in Spanish.



## Equal Pay

Under the Labor Code, equal treatment must be given to workers performing the same tasks, providing equal pay regardless of

 sex

 age

 race

 color

 nationality

 political opinion

 religious belief

However, there is no specific regulation governing this nor specific penalties.

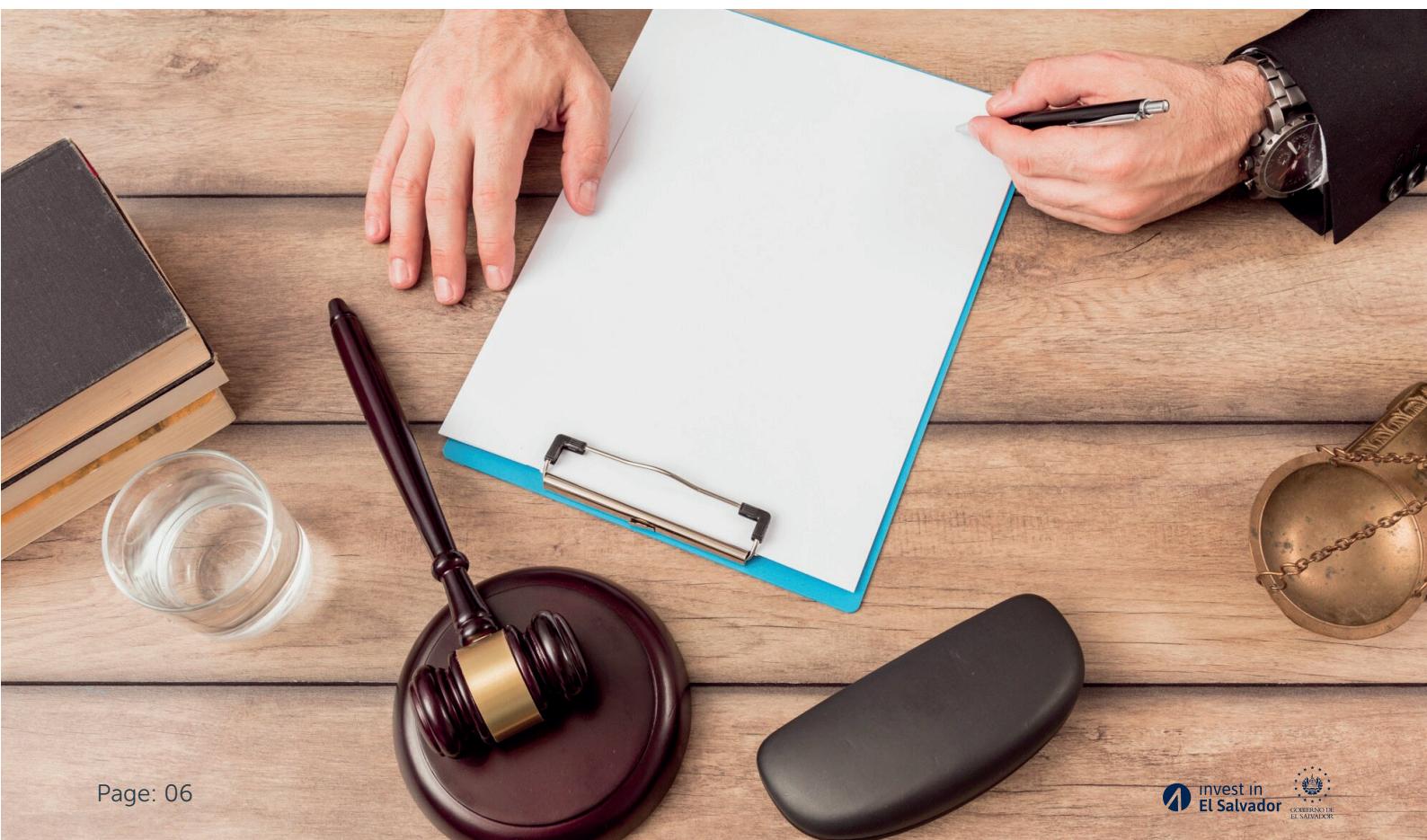


## Remote Work

The Telework Law, approved and published in the Official Gazette n° 123, Volume n° 427, on June 16, 2020, aims to promote, regulate, and implement remote work, using new information and communication technologies.

The implementation of remote work is strictly voluntary and must be agreed upon between the employee and the employer. A work contract or an addendum to an existing one must be signed, including at least the following requirements: i) the exact address where the work will be performed, ii) determination of tasks, iii) specification of the equipment, software, platforms, and tools provided by the employer, iv) evaluation mechanisms to identify goal completion and work efficiency, and v) security of information, data protection, and confidentiality conditions.

Employers are required to provide teleworkers with the necessary equipment, connections, tools, and applications to perform their tasks, train employees to use the equipment properly, and include a subsidy in the payment of electricity and internet services proportionally for work development. However, there is no regulation on how this subsidy should be paid at this time.



# EMPLOYEE DISMISSAL





## Types of Dismissal

Except in cases of serious cause, the following principles apply:

An indefinite individual employment contract can be terminated by the employer at any time without prior notice; however, the employer is required to pay severance to the employee.

Fixed-term or specific-period contracts are considered expired when the work or service is completed, or the period ends. If the period ends and the employee continues performing the work or services, the employer must pay the severance because the employment relationship is then presumed indefinite.



### Reason for dismissal

The employer is not required to notify the reason for dismissal unless it is for just cause. If it is due to a reason not attributable to the employer, an additional procedure before the Ministry of Labor must be followed to avoid paying severance.



### Notice period



The employer is not required to give prior notice to the employee for dismissal.



### Severance pay

Severance pay is equal to one month's salary per year; however, this amount may not exceed 4 minimum wages (the minimum wage for the commerce and service sector is **US\$365.00**).

If the salary is variable, the compensation is calculated based on the average salary for the last 6 months.



# Dismissal formalities

## For a dismissal process



The employer must prepare a work agreement that states the start and end dates of employment, tasks performed, and salary earned during the last pay period.



This document must be notarized for its validity before labor authorities in case of a subsequent claim.



## Special protection against dismissal

Pregnant women enjoy special protection against dismissal from the beginning of pregnancy until 6 months after postnatal leave.

Additionally, members of union boards, whether duly constituted or in the process of formation, enjoy special protection. This applies to companies that have one or more unions within the company.



## Legal means for employees

Employees have the right to initiate claims for unpaid benefits. Upon dismissal, benefits include severance, total or proportional vacation, and complete or proportional Christmas bonus.

Termination claims must be initiated within 60 days from the date of dismissal, and claims for unpaid wages, rest days, vacation, and bonuses within 180 days after payment should have been made.



## Collective dismissals

There are no specific regulations for collective dismissals.

Source: Deloitte El Salvador



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