

Legal Employment for Hostesses, Promotion Staff, Students, etc. on the Basis of the Law of Temporary Employment (AÜG)

The legal regulation in the meantime intends that provided **fair staff, event staff, bar staff or service staff or promotion staff** which is subject to directives must be employed exclusively with a **permission to the Law of Temporary Employment** (§ 1 AÜG), because the fact of independent work is not fulfilled. It is not allowed to charge such staff within the scope of a service contract about trading licence or as a freelancer, because then the fact of the false independency (and with it illegal employment) can be given. Only in the context of the Law of Temporary Employment (AÜG) there exists legal security for all involved:

- For the principal who books host/hostesses etc. from agencies.
- For fair staff, event staff, bar or service staff as employees.
- For agencies who act as surrender employers.

If you book staff at a personnel agency, you must make sure that the personnel agency employs the staff correctly and, in addition, that this personnel agency is in the possession of a permission to the temporary employment. If there is no permission be given, it concerns the concealed employee's surrender which is also connected with numerous risks for you. Suitable courts have announced concerning this, several judgments, for example, the judgment of the Hessian land social court: "Fair hostesses are employees who are not independent".

The Caroline Rienäcker GmbH got this permission based on the Law of Temporary Employment on 26.02.2016 + 27.02.2017 from the Bundesagentur für Arbeit Düsseldorf.

The Caroline Rienäcker GmbH guarantees the correct employment, social security, wage tax payment and payment of wages. You still have authority about this staff.

Should you subtract staff about a trading licence or instruct an agency which subtracts her staff about a trading licence, false independency can be given. This can mean:

- Your company is valid juridical as an employer.
- Your company is liable for social security and wage tax.
- Your company is liable for correct working time, holiday entitlement, etc.
- Manager are private liable for not paid social security contributions.
- The fact of the matter of illegal employment is fulfilled.

To avoid formalities of labour law, personnel agencies often use service contracts instead of the model of contracts of employment. A placement of staff on the basis of service contracts only is permitted if this personnel agency has a supervisor on site who takes over the authority to issue directives about the so hired employees. In this case your company has no authority about this staff.

Should you exercise an authority, a dependent employment is valid between you and the staff. If no contact person of the personnel agency is present on site, it is automatically assumed a dependent employment. You have described with it similar liability risks as listed on top in the case of the false independency.