LEGAL ALERT – AMENDMENTS TO THE BULGARIAN LABOUR LAW

I. AMENDMENTS TO THE LABOUR CODE

Number of substantial amendments to the Bulgarian labour law and particularly to the Labour Code ("LC")¹ was adopted as from the beginning of this year 2014². Some stylistic amendments modernizing the legislation were also introduced recently. In view of these novelties in the legal framework, this alert aims at presenting brief overview of the labour law changes.

1. Internship

General Comments

Youth unemployment is a persistent problem in Europe for many years. In view of this, the latest reforms in the LC introduce an explicit legal framework of the internship contracts. The new regulation aims to facilitate the transition from education to employment and to protect the employment and financial interests of the young people.

The new rules are aligned with the recommendations of the Council of Europe on the matter.

The new provisions³ give a definition of internship. Basically, it represents work under supervision. The law explicitly stipulates also the specific goal of the new legal framework – young people, without experience, to acquire practical skills in the profession that they just acquired. This is achieved by introduction of new figure in these specific relations, namely: the mentor. He/she are designated by the employer and should supervise and guide the intern during the working hours.

Specific Requirements

The newly introduced special features of the internship contract are related to:

- eligibility of the employee to be qualified as intern⁴;
- eligibility of the mentor⁵;
- requirements for the form of the contract and its contents⁶;
- specific obligations of the employer⁷, etc.

Despite the above, it is to be noted that the new provisions still do not regulate the other types of relations that are commonly known in the practice as “internships” (e.g. summer internships, obligatory internships within training programs, university studies, international internships, etc.).

2. Employment Contract With A Clause For Training During Work

General Comments

Another amendment of the LC concerns the former “apprenticeship contract”. The

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¹ Published in State Gazette (SG) No. 26 /1986.
² SG No. 104/2013 and No. 27/2014, effective as of 01.01.2014 and 29.03.2014, respectively.
³ Article 233a and the following, SG No. 27/2014, effective as of 29.03.2014.
⁴ For example, lack of experience, maximum age, etc.
⁵ For example, needed qualification in the intern’s field of qualification, length of service in this field, etc.
⁶ For example, the internship contract is to be concluded in the form of an employment contract complying with the mandatory required contents. Its term should be fixed for a period from six to twelve months. Internship contract may not be concluded more than once with the same employee, etc.
⁷ For example to write a recommendation letter after termination of the contract.
reforms with this regard are basically stylistic and aim precision and bringing up-to-date the current regulation (for example the name of the contract is amended to “employment contract with a clause for training during work”).

**What is new?**

The apprenticeship contract regulations are amended mostly in the light of the new stylistic changes. However, some important changes are to be noted, such as:

<table>
<thead>
<tr>
<th>BEFORE</th>
<th>NOW</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single execution of this type of contract</td>
<td>NA</td>
</tr>
<tr>
<td>Duration of the allowed leave for exam preparation</td>
<td>12 working days</td>
</tr>
<tr>
<td>Examination for acquisition of professional qualification</td>
<td>Organized by the employer</td>
</tr>
<tr>
<td>Official recognition of the acquired professional qualification</td>
<td>In the authority of the employer</td>
</tr>
<tr>
<td>Limit of the compensation for breach of the contract</td>
<td>- Up to threefold gross monthly salaries for the position due by the employer; and - Up to threefold minimum wage for the country due by the apprentice</td>
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</tbody>
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3. **Entitlement to Paid Leave Upon Adoption of a Child Between 2 and 5 Years of Age**

**General Comments**

The provisions regulating the types of paid leave are supplemented with a new type of parental paid leave granted to adoptive parents. Until this amendment the LC provided paid leaves only for the adoptive parents of children younger than two years of age. Now, adoptive parents of a child between two and five years of age are also entitled to parental paid leave of up to 365 days.

This reform reflects and supports the adaptation period needed for the establishment of a relation of trust and attachment between the children and their new families. It is also in conformity with the European legislation.

**What is new?**

This paid leave is explicitly recognized as length of employment service. Under certain conditions it might be used by the adoptive father as well as by a single
adoptive parent. All conditions precedent for the new paid leave and the amounts of the state compensation payable during its use are the same as those for the general parental leave for adoptive parents.

4. **New Category Employees Enjoying Special Protection in Case of Dismissal**

The Law on the Amendment and Supplement of the Health and Safety Working Conditions Act introduces new category employees who enjoy a special protection from dismissal, namely the duly elected employees’ representatives on health and safety matters. The employer may dismiss such employees unilaterally due to any of the causes listed in Article 333, Para 1 of the LC (such as disciplinary dismissal, staff reduction, etc.) only after it receives prior permission of the Labour Inspectorate.

5. **Other Amendments**

**General Comments**

The LC introduced some other partial amendments aiming to reduce the administrative burden on the parties involved in the employment process. They are prompted by the practice showing unnecessary administrative difficulties.

**What is new?**

The employers are facilitated through:

- increase of the mandatory period for reporting overtime work before the Labour Inspectorate. The report now should be done once a year;
- repeal of their obligation to keep an inspection book.

The employees are facilitated through:

- new way to send termination notice to the employer via the Labour Inspectorate (in case the employer is not reachable), namely: by electronic means.

Other amendments give new powers to the Labour Inspectorate. The most interesting one is its explicit authority to bind defaulting employers to notify the National Revenue Agency for the execution of an employment contract.

II. **AMENDMENTS TO THE BULGARIAN HEALTH AND SAFETY WORKING CONDITIONS ACT**

The amendments in the Health and Safety Working Conditions Act (“HSWCA”) introduce two major changes regarding:

1. required permit for the performance of explosive works; and
2. the representatives in the joint employer/employees bodies on health and safety matters within the enterprises, known as working conditions committees (“WCC”) or working conditions groups (“WCG”). The amendments do not present entirely new regulations but their purpose is to ensure that these rules are regulated by a law and not by subordinate legislation, as it used to be.

1. **Explosive Works**

The new provisions of the HSWCA regulate two types of works with explosives: special and technological (repeated) works. For each of them the law requires the employer to obtain a permit prior to its performance. It is given by the Labour Inspectorate upon submission of a written request and number of documents as

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8 Please see Section II. 2. a) below.
9 Prior to the changes the reporting period was once per six-month period.
10 Article 327, Para 2 of the LC.
11 Article 404, Para 1, Item 10 of the LC.
12 Articles 13a – 13x of the Act on Health and Safety at Work introduced with State Gazette (SG) No. 27/2014 effective as of March 2014.
listed in the HSWCA. Any further changes of the information provided by the employer with this regard must be reported to the Labour Inspectorate and reflected in the permit accordingly.

The specific terms and conditions for the performance of explosive work are to be stipulated in an ordinance of the Council of Ministers. Currently, such ordinance is not issued yet.

2. Working Conditions Committees and Working Conditions Groups

General Comments

One of the purposes of this reform is to ensure and strengthen the social dialogue between the employers and the employees as regards the health and safety working conditions.

The amendments keep the same structure of the joint employee/employer bodies on health and safety issues as before. Thus, WCC are established at companies having more than 50 employees, while the WCG is required where the personnel is more than 5 and less than 50 employees and for structural units of the companies with more than 50 employees. One of the new rules regarding these bodies is the required minimum number of representatives at the WCC, namely: four members. The maximum number of members remains the same – 10 representatives.

What is new?

The new regulation generally aims to guarantee higher responsibility of the employees’ representatives in the WCC and the WCG. In view of this, new powers and obligations of the employees’ representatives are explicitly listed by the law, such as:

(a) Rights:
- a special protection from dismissal\(^{13}\);
- participation in the investigation of occupational accidents at work and occupational diseases, etc.

(b) Obligations:
- in case of danger to the health and life of the employees to send a written notice to the employer. If the measures undertaken as a result of the notification are insufficient, to warn the controlling authorities;
- to be aware of the legislation in the field of health and safety and ensure its observation;
- to keep confidential any commercial and other kinds of information as well as the personal data of the employees, that they learn upon performance of their duties.

NB: For the fulfillment of the last obligation listed above, the employees’ representatives must sign a confidentiality declaration. The declaration should remain valid after termination of the mandate of the representative in the joint bodies.

\(^{13}\) Article 333, Paragraph 1, Item 5a of the Labour Code, Please see above: Section I. 4.