

## BULGARIAN LABOR AND SOCIAL SECURITY LEGISLATION

### VI.

#### VI.1. Bulgarian Labor Legislation

##### VI.1.1. Legal Framework

The Bulgarian legislation related to labor law is characterized with codification and detailed provision established in our Constitution, the Labor Code, a number of legal acts and many regulations and rules. The Labor Code settles the principles, rules and manner for labor implementation on the territory of the Republic of Bulgaria within the frames of a labor relationship. The Code determines: the territorial scope of the effect of the Bulgarian labor legislation; scope of persons in relation to which it is applied; trilateral cooperation; levels of labor negotiation; employees' organizations; employers' organizations; basic labor rights and obligations; types of labor contracts; general contents and amendment of the labor relations; preserving the labor relations in case of change of the employer; working hours, rests and leaves; labor remuneration; termination of labor relations; compensations related to the labor relation; safe and healthy labor conditions; special protection of certain categories of employees; labor disputes and control for protection of the labor legislation.

Laws containing provisions for labor relations may be divided in two basic groups: general laws developing the Labor Code and special laws settling labor relations of special categories of employees. Within the first group fall: Protection against Discrimination Act, Law on Safe and Healthy Labor Conditions, Encouragement of Employment Act, Law on Settling Collective Labor Disputes, Law on Employees' Secured Claims in Case of Employer's Insolvency. The second group includes: Higher Education Act, State Employee Act, Law on Protection, Rehabilitation and Social Integration of Disabled Persons, Ministry of Interior Act, Defense and Armed Forces Act, Judicial System Act and Civil Aviation Act.

Number and types of sub-legislative normative acts in the sphere of labor law do not allow for their exhaustive enumeration, therefore we shall specify only several of those acts which apply in respect to all subjects of labor relations. Those are: Regulation on Working Hours, Rests and Leaves, Regulation on Additional and Other Labor Remunerations, Regulation of Business Trips and Specialization Abroad, Regulation on Work-book and Length of Service, Regulation No 3 on obligatory preliminary and periodical medical examinations of employees, Regulation 1 4 on documents required for execution of a labor contract, Regulation 1 5 on illness where employees suffering from those illness, profit a special protection according to article 333, par. 1 of the Labor Code, Regulation No 7 on the minimum requirements for healthy and safe labor conditions on working places and in case of use of working

equipment, Regulation No 14 on the service centers for labor medicine, etc.

Of course, along with the national legislation, the Republic of Bulgaria has ratified a number of Conventions in the sphere of labor relations, such as: Convention on Working Hours, Convention on Unemployment, Convention on Employees' Representatives, Convention on Annual Paid Leaves, Convention on Discrimination in the Labor Sphere and Professions, etc. These conventions represent an integral part of the Bulgarian legislation and in case of controversy between any of the internal law and any of these Conventions, Bulgarian courts are obliged to apply directly the provisions of the respective Convention.

##### VI.1.2. Legal Definitions

The labor legislation indicates legal definitions of the basic labor terms as follows:

**Employer** is any natural person, legal entity or its division, as well as any other organizational and economically separated formation (enterprise, establishment, organization, cooperation, economy, institution, household, company, etc.) which independently employs employees under labor relations;

**Enterprise** is any place - enterprise, establishment, organization, cooperation, establishment, site, etc. – where the employed labor is implemented;

**Working place** is any premise, workshop, room, location of machinery, equipment or any other similar territorial specific place within the enterprise where the employee implements the labor assigned by his employer in pursuance of his obligations arising out of the labor relation;

##### VI.1.3. General Review of the Labour legislation

The Bulgarian labor legislation is based on principles generally applicable for the labor law and the legal system of the European Union: freedom and protection of labor, social dialogue between the state and employees' and employers' organizations for regulation of labor relations and related therewith, ban on discrimination, sexual equality regarding the right to employment and remuneration, guaranteeing the labor remuneration, fixed working hours, limitation of overtime work, guaranteeing rests and leaves, preserving the labor relation in case of change of the employer, collective arrangements, freedom of association of employers and employees. As determined in the Labor Code, the Bulgarian labor legislation is applicable to all employment relationships with Bulgarian enterprises and joint ventures in this country, as well as to employment relationships between Bulgarian citizens and foreign enterprises in this country or Bulgarian enterprises abroad, insofar as not provided otherwise in a law or a treaty to which the Republic of Bulgaria is a party. The employment relationships of Bulgarian citizens sent to work abroad in foreign enterprises or joint ventures, and of foreign nationals appointed to work in this

country in Bulgarian enterprises or joint ventures pursuant to treaties shall be regulated by the Labour Code, insofar as not provided otherwise in a law or a treaty to which the Republic of Bulgaria is a party. There is no collective labor agreement in Bulgaria established on a national level but there is a National Council for trilateral cooperation comprising representatives of the Council of Ministers, representative organizations of employees and employers. The Council has advisory functions and its own formations on a branch, trade and municipal level. The collective labor bargaining exists on three levels: enterprise, branch, industry field. For businesses that are financed by the budget of a municipality is possible Collective Labour Agreement ("CLA") at the level of the respective Municipality. The Collective labour bargaining regulates issues of the labour and social security relations of employees, which are not regulated by mandatory provisions of the law. A CLA shall not contain clauses which are more unfavorable to the employees than the provisions of the law or of a higher grade of CLA, which is binding the employer. Labor contracts, individual and collective ones, are signed in writing and are subject to a subsequent registration.

CLA should be registered, depending on their level, at a special register of the local or Central Labor Inspectorate. CLA are effective for 2 years.

The individual labour contract shall be concluded between the employee and the employer before the start of the performance of the job. Individual labor contracts are subject to registration within three days as of their signing at the respective division of the National Social Security Institute.

Upon conclusion of the labor contract the employer shall introduce the employee to the labour obligations ensuing from the position occupied or the nature of the work performed. According to the last amendments of the Labor Code, the obligatory contents of the individual labor contract was extended and now it shall specify the place, position occupied and nature of work, duration of labor contract, date of execution and commencement of performance, amount of basic and extended annual paid leave and additional annual paid leaves, identical term of advance notices for both parties in case of termination of the labor contract, basic and additional labor remunerations of constant nature as well as the periodic terms for their payment, duration of working day or week.

The employment contract may be concluded: .for an indefinite period; .as an employment contract for a fixed term.

Fixed term employment contracts are: for a definite period which shall not be longer than 3 years, insofar as a law or an act of the Council of Ministers do not provide otherwise; until completion of some specified work; for substitution for an employee who is absent from work; for working at a job which is to be taken through a competitive examination, for the time until it is taken on the basis of the competitive examination; for a certain mandate, where such has been specified for the respective body; employment contract for a trial

period.

Similarly to the legislation of the European Union, the Bulgarian labor legislation envisages retention of the employment relationship in case of change of employer. The employment relationship with the employee shall not be terminated: .in case of merger of enterprises; .in case of joining of one enterprise with another; .in case of distribution of the operations of one enterprise between several enterprises; .in case of transfer of an autonomous part of one enterprise to another; .in the event of change of the owner of the enterprise or of an autonomous part thereof; .in the case of delivery of the enterprise or an autonomous part thereof for rent, on lease or under concession.

Similarly to the signing, termination of labor contracts is done in writing. The termination procedures and grounds for termination of labor contracts are specified in details in the Bulgarian labor law. The types of termination of labor contracts may be divided in several basic groups: .Procedures where termination requires consent of the other party or procedures where termination involves the will and actions only of the party entitled to initiate termination – termination by mutual consent or unilateral termination of the contract; .Termination procedures via advance notice or termination procedures where no advance notice is required. The maximum terms of the advance notice are specified in the Labor Code: 1 month for non-fixed term contracts unless anything else is specified in the contract, but not more than 3 months and 3 months for fixed term contracts, but not more than the remainder by the end of the contract;

Termination procedures of the contract upon a motion of the employer and termination procedures upon a motion of the employee. Typical here is that while the employee may terminate the labor contract without stating any grounds, the employer cannot use such a procedure.

There are no special Bulgarian courts for consideration of labor disputes similar to certain European countries but our legislation settles a special procedure for consideration of labor disputes. A particular feature of considering labor disputes is that employees are released from paying fees and taxes related to the court procedure.

#### VI.1.4. Incentives

Incentives in the sphere of labor law are aiming mainly at the decrease of unemployment and enhancement of employment. Those are settled in the Encouragement of Employment Act and the Rules on its application. The incentives are payment of funds from the Employment Agency to employers who open new job positions, preserve opened job positions in case of decrease of the working volume, hiring unemployed women over the age of 50 years and unemployed men over the age of 55, engaging unemployed persons of decreased working ability, hiring unemployed women-mothers or single parents, employing permanently unemployed persons, etc.

An employer wishing to apply for an encouragement of employment program should meet the following requirements: to be registered pursuant to the existing legislation and lack any claimed public liability. Depending on the particular program, other requirements may be specified. Another hypothesis for encouragement of employment is provided by the Corporate Income Tax Act – the so called “assignment or decrease of the corporate tax”.

## VI.2. Bulgarian Social Security Legislation

### VI.2.1. Legal Framework

The right to social security and social relief is determined in the Constitution of the Republic of Bulgaria. Similarly to the labor legislation, the provision of social security is characterized by codification: its basic provision is grounded in the Social Security Code.

The legal acts representing part of the normative provision on social security are the Laws on the budget of the state social security which are adopted for each separate calendar year.

An interest of general importance from the sub legislative acts in the sphere of social security is: the Regulation on elements of remuneration and income over which are deposited social security installments and for calculation of pecuniary compensations for temporary disability or pregnancy and child-birth; Regulation on granting and payment of financial compensations for unemployment; Regulation on pensions and security length of service, Regulation on social security funds; Regulation on social security of self-secured persons and Bulgarian citizens working abroad.

The Republic of Bulgaria is a party to a number of international deeds in the sphere of social security such as: Contracts for social security between the Republic of Bulgaria and Spain, Republic of Macedonia, Ukraine; Agreements with the Slovak Republic, Czech Republic, Federal Republic of Germany, Hungary, Libya, etc.

### VI.2.2. Legal definitions

The legal definitions of some of the basic terms in the sphere of the social security, are the following: **Secured persons** – pursuant to article 4 of the Social Security Code such persons are: .Employees obligatory secured for all secured risks are those who are hired for more than five days or 40 hours within one calendar month regardless of the nature of work or mode of payment and source of funding; state officials; judges, prosecutors, investigators, executory officers, registrars and court officers; regular militants pursuant to the Law on Defense and the Armed Forces of the Republic of Bulgaria; state officials – officers, sergeants and civil persons pursuant to the Law on the Ministry of Interior; and state employees - officers, sergeants and civil persons pursuant to the Law on Executing Penalties; members of cooperatives exercising labor activity and receiving remuneration from the cooperative; members

of cooperatives in no labor relations with the cooperative are not socially secured for unemployment; persons working under a second or additional labor contract; contractors under agreements for management and control of commercial companies; persons exercising labor activity and receiving income from elective office as well as officers in clerical positions at the Bulgarian Orthodox Church and other religions registered pursuant to the Religions Act. .Obligatorily secured persons for disability because of a general disease, for old age and death are persons registered as freelancers and/or craftsmen; persons exercising activity as sole merchants, owners or partners in commercial companies; Ph.D. students if not socially secured for pension on different grounds; registered agricultural producers and tobacco producers; persons employed under no labor relations and receiving monthly remuneration equal to or exceeding one minimum working salary after deduction with the normatively acknowledged costs, provided they are not socially secured on other grounds during the respective month; persons employed under no labor relations and socially secured on other grounds during the respective month regardless of the amount of the received remuneration.

**Social Assurer** – according to article 5 of the Social Security Code it is any natural person, legal entity or its division as well any other organization obligated by the law to deposit social security installments for other natural persons.

**Self-secured person** - natural person obligated to deposit social installments at his/her own account.

### VI.2.3. General Review

Social security relations in the Republic of Bulgaria may be divided in two general groups: relations regarding the state social security and relations regarding the additional social security.

The state social security covers risks of general disease, labor accident, professional illness, maternity, unemployment, old age and death.

The social security is: supplementary mandatory pension security in case of old age and death; supplementary voluntary pension security in case of old age, disability and death; supplementary voluntary security for unemployment and/or professional qualification.

The basic characteristics of the state social security are: equality of socially secured persons, obligation, comprehensiveness, solidarity of socially secured persons, and fund organization of securing funds. The income over which security contributions are assessed includes all remunerations and other income received from labor activity. The Law on the Budget of the State Social Security for the respective year determines the amount of social security contributions depending on the encompassed social risks as well as the minimum and maximum security income for the year. For the year 2004 the amount of security contributions for all risks regarding employees working

at third (basic) category of labor, is 36.7%. The distribution of security contributions between social assurors and employees, members of cooperatives, contractors under agreements for management and control, persons employed at elective office and persons employed under no labor relations, is changing in time and is as follows: Security for state social security which are for the account of social assurors are deposited simultaneously with the payment of remuneration. At that moment should be deducted and deposited also social security installments to the account of socially secured persons. Security installments for self secured persons and persons employed under no labor relations are deposited by the tenth day of the month following the month they refer to.

**VI.2.4. Incentives**

Incentives in the sphere of social security are directed mainly at tax relieves:

- Income of universal and professional pension funds are not subject to taxation pursuant to the Corporate Income Tax Act;
- Income from investments of pension funds distributed to the individual lots of secured persons are not subject to taxation pursuant to the Taxation of Income of Natural Persons Act;
- Individual security contributions for supplementary obligatory pension security are deducted from the income prior to taxation;
- Contributions made by employers for supplementary mandatory pension security are acknowledged as costs related to their business activity.

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<b>Allocation of social security contribution liability</b>	<b>For the insurer</b>	<b>For the insured</b>
2004	75 %	25 %
2005	70 %	30 %
2006	65 %	35 %
2007	60 %	40 %
2008	55 %	45 %
2009 and on	50 %	50 %