CROSS-BORDER LABOR & EMPLOYMENT GUIDANCE

BULGARIA

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Labor & Employment Guidance

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Introduction	Fundamental pieces of legislation that regulate labour law relations at a national level include the Labour Code, Law on the Settlement of Collective Labour Disputes, Law on Safe and Healthy Working Conditions, Law on Encouragement of Employment, Law on Labour Migration and Labour Mobility, etc. The Ministry of Labour and Social Policy promulgates rules and regulations for the implementation of the labour laws, develops governmental policies on unemployment and employment matters, and protects the national employment market. It is a responsibility of the General Labour Inspectorate to monitor and ensure compliance with the labour legislation. The Employment Agency within the Ministry of Labour and Social Policy is responsible for the implementation of state policies on encouragement of employment and protection of the labour market, for providing vocational information and counselling, and for coordinating employment information and recruitment.
Employment status	The provision of labour force shall be arranged in the form of employment relationship only. Where it is ascertained that labour is being provided in some form other than under an employment agreement in order to circumvent the Labour Code provisions, the existence of the employment relationship will be declared by a decree issued by the Labour Inspectorate. Employers are obliged to put in place internal work rules setting forth the rights and obligations of the employer and the employees under the employment relationship and regulating the organisation of the work process in the enterprise in line with the specific nature of its activities.
Immigration and hiring foreign nationals	**EU/EEA nationals** There are no particular restrictions on the employment of nationals of the European Economic Area (EEA) countries - that is, the other 27 EU member states plus Iceland, Liechtenstein, and Norway - or Swiss nationals. In accordance with EU requirements, nationals of any EU Member State (as well as EEA nationals and nationals of Switzerland) are entitled to work in Bulgaria under the same terms as Bulgarian citizens.

	Non-EU/EEA nationals The Law on Labour Migration and Labour Mobility provides for several procedures for allowing third country (non-EU/EEA) foreign nationals access to the Bulgarian labour market. The differentiation is mainly based on the type of activity the employee wishes to carry out in Bulgaria, and the capacity in which he or she is to carry out that activity. Most of these procedures are associated with and require the issuance of a work permit. However, the law also provides certain exceptions in which work permits are not required. In these cases, employees are subject to registration with the Employment Agency, a simplified procedure as compared to the issuance of a work permit. Irrespective of the applicable procedure for granting access to the Bulgarian labour market, in order to work in Bulgaria, the foreign national must reside in the country lawfully, on the basis of a duly issued residency permit. Upon hiring an employee who is a national of a third country, each Bulgarian employer must require the employee to present a valid residency permit, and to keep a notary certified copy of the residency permit for the period of the employment.
Terms of employment	The employment agreement shall be in a written form. There are certain mandatory provisions that each labour agreement shall contain (e.g. place of work, name of the position, duration of the agreement, notice period, etc.). The parties are free to include other terms in the labour agreement as long as they are not regulated by mandatory provisions of the law and are more favourable for the employee than those established by a collective labour agreement. **Conclusion of the employment contract** The employment contract is concluded on the date on which the parties reach an agreement on the core of the employment contract, as verified by their signatures. An employer must provide the employee with a written job description at the moment the employment contract is executed. Employers are obliged to inform the National Revenue Agency (NRA) about the execution of employment agreements and are prohibited from allowing the employee to commence performance before the employer has furnished the employee with a certified copy of the notification filed with the NRA. Unless otherwise agreed by the parties, the employee must commence work within seven days after the

	employer furnishes him or her with a signed copy of the contract and a notification form certified by the appropriate regional department of the NRA. Failure of the employee to assume job responsibilities within this period will result in dissolution of the contract. The performance of the obligations under the contract begins when the employee begins work, an act that is verified in writing. **Types of contracts** The employment contracts may be for an indefinite duration or for a fixed term. Contracts are deemed to be concluded for an indefinite duration if no fixed term is specified. The contract for an indefinite duration is the most used type of employment agreement. Employment contracts may be concluded for full-time or part-time work. If an employee is to work part-time, this must be stated in the employment contract, along with the duration and allocation of the employee's working hours. Each type of employment contract (indefinite or fixed) commonly introduces a probationary period, which may not exceed six months. Employers must provide employees with written information about any changes in terms and conditions of employment within one month after the change takes effect. Such changes might include, for example, a wage increase, or modifications in company policy or collectively agreed provisions that affect the employment.
Wages	All work performed under an employment contract must be monetarily compensated. Parties may not avoid this provision by negotiating some other form of remuneration or for work to be performed without compensation. The Labour Code explicitly prohibits discrimination in the compensation of men and women performing the same or equivalent work. A Bulgarian employee is entitled to basic compensation for the fulfillment of a given type of work under normal conditions and within legally established working hours. The amount of the basic remuneration is determined by mutual agreement of the parties under the individual employee’s contract or under the collective labour agreement. Compensation is also based on the level of an employee’s professional qualifications, experience, and skills.

	The national minimum monthly wage is determined by an ordinance of the Council of Ministers from time to time upon its own discretion. The gross minimum wage as of 1 January 2021 is BGN 650 per month. Any employment contract that attempts to provide for a monthly compensation below the established minimum limit is illegal.
Collective agreements	The collective labour contract is used to settle matters of labour relations not settled by the mandatory stipulations of the Labour Code or by other related labour regulations. The subject matter of the collective labour contract consists of a variety of social security and labour issues, such as remuneration, working conditions, rest periods, leave, insurance, social security benefits, work time, and related matters. The provisions of the collective labour contract must not fall below the minimum standards established by law. The collective labour contract and the labour laws and regulations provide the basic legal structure upon which individual employment contracts should be negotiated. If the individual employment contract provides less favourable employment conditions for the employee than those provided in the collective labour contract or under the labour laws, the individual employment contract is thereby rendered null and void. In these cases, where particular terms of an individual employment contract are invalidated, the invalid terms are then replaced by the applicable statutory provisions or the provisions of the collective labour contract. A collective labour contract is concluded between the relevant trade union and employer. The employer’s representative must participate in and present information necessary for the bargaining process, including, for example, data on the economic situation of the enterprise, its marketing, profits and losses, organization of work, and related matters. Upon its conclusion, the employer must inform the employees of the terms of the collective labour contract and make the contract available to all employees. As a general rule, the collective labour contract applies to all employees who are members of the trade union that signed the contract, however, non-members of the trade union may join the employees covered by the collective agreement by submitting a written application for acceptance.

Pension and benefits

Pensions

The system of social security, health security, and unemployment benefits contributions currently is governed by the Social Security Code, the Law on the Budget of the State Social Security, and the Law on Health Security.

A state old-age pension scheme forms part of the statutory social security system, financed through compulsory contributions paid by employees and employers and by direct transfers from the state budget. It provides for a full pension when the employee both reaches pensionable age and has a certain minimum contribution history. Pensionable age and minimum contribution history are subject to gradual annual increase. From 1 January 2021, men must be aged 64 years and four months, and have a contribution history of at least 39 years, to qualify for a full state pension, while women must be aged 61 years and eight months and have a contribution history of at least 36 years. This is regarded as the “first pillar” scheme.

Individuals aged at least 66 years and eight months (both women and men) who do not meet the contribution requirements for a full pension until 31 December 2021, but have a contribution history of at least 15 years, are entitled to a full state pension.

Individuals aged at least 66 years and six months (both women and men) who do not meet the contribution requirements for a full pension until 31 December 2020, but have a contribution history of at least 15 years, are entitled to a full state pension.

For individuals born on or after 1 January 1960, there is also a mandatory “universal” supplementary pension scheme which is regarded as the “second pillar” scheme.

The Social Security Code also provides for an additional mandatory supplementary pension scheme that covers employees who work in specified hazardous jobs, enabling them to retire early.

In addition to the mandatory pension provision outlined above, individuals and/or employers may contribute to “third-pillar” voluntary private pension funds. These are fully funded, defined-contribution schemes, based on individual accounts.

Benefits

The National Social Security Institute (NSSI) administers the social security system, which provides benefits principally in respect of old age, unemployment, sickness, disability, maternity, childcare, occupational injury and illness, and employers' insolvency.

	In case of involuntary unemployment, employees may be entitled to unemployment benefits up to 60% of their average daily compensation for the last 24 months. Employees eligible to receive unemployment compensation are those who have been obligatorily insured against any and all insured social risks for a period of at least twelve mon ths during the last 18 months prior to the suspension of the insurance. The period of payment of unemployment compensation depends on the years of participation in the social security system noted in the employee's records, but in no event may the period of unemployment compensation exceed twelve months.
Worker representation	**Trade unions** Employees have a constitutional right to form trade unions in defence of their labour and social interests. Employment legislation provides that employees are entitled, without requiring any prior permission, to form trade unions freely and by their own choice, and to join and leave unions on a voluntary basis. Trade unions are free, within the limits of the law, to draw up and adopt their statutes and rules, elect their governing bodies and representatives, organise their leadership structures, and adopt programmes of action. There is a special register in the district courts for trade unions and employer organisations to acquire legal capacity. Legal capacity is not obligatory, but is required to enable a trade union to, for example, acquire property, participate in judicial and other legal proceedings, sign collective agreements, and be recognised as representative at the national level. **Representatives** In certain cases provided by law, employees are entitled to participate in discussions related to the management of the enterprise through their elected representatives, whether or not the employees are represented by a trade union. They are elected by a "general meeting" of all employees in an enterprise. Basically, there are two types of representatives within the enterprise – one group with certain information and consultation rights in regard to collective redundancies and transfers of undertakings. The second group of representatives shall be elected only in enterprises with at least 50 employees, and in organisationally and economically self-

	contained divisions of enterprises with at least 20 employees, to exercise specific information and consultation rights on various business and employment matters.
Working time and holidays	**Working time** Statutory normal working time for full-time employees is eight hours per day, five days per week - that is, 40 hours a week. Employees may work more than 40 hours a week only where this is specifically permitted by statute. In addition to the normal working time, there are other statutory recognized types of working hours regimes, including among others, part-time work, reduced working time, flexible working time, extended working time, etc. As a general principle, overtime work is prohibited. However, the Labour Code allows certain exceptions. The Labour Code places strict maximum amounts on the duration of overtime work. Employees younger than 18 years of age, pregnant employees, and female employees in an advanced stage of in vitro treatment are not allowed to work overtime under any circumstances. **Holidays** Employees are entitled to daily rest breaks, including a rest break for a meal, which may not be shorter than 30 minutes. As a rule, rest breaks are not counted as working time. Employees also are entitled to at least twelve hours rest between two working days. Employees shall have a weekly rest period equal to an uninterrupted 48-hour period or two consecutive days, one of which is to be a Sunday. The law does allow some exceptions to this weekly rest period requirement. For example, the weekly rest period may be reduced to 24 hours in certain industries that have continuous production processes and, therefore, require the uninterrupted use of the work force through shift work.
Protection against dismissal	The Bulgarian law does not recognize termination for convenience. Individual employment agreements may be validly terminated by the employer only on those grounds explicitly stated in the Labour Code and strictly following the procedure set out therein. On the contrary, termination by an employee need not be made on particular

	grounds, as long as the employee observes the term of prior notification to the employer, or is prepared to pay the compensation due to the employer in the event of failure to comply with this term. Certain categories of employees are protected from termination of the employment relationship. This protection is based on the employee's health, family status, occupied position, and other related factors. These categories include pregnant women, women in an advanced stage of in vitro treatment, and mothers of children who are three years old or younger; disabled workers; employees with an illness listed in a Ministry of Health Ordinance; employees on a leave permitted by the employer; trade union leaders, etc. In order to dismiss a protected employee, the employer must obtain advance authorization from the General Labour Inspectorate and, in the case of union leaders, the relevant trade union. For some categories (e.g. disabled workers), the advance opinion of a special labour expert medical commission is required, too.
Redundancy and restructuring	Dismissing a certain number of employees for one or more reasons that are not related to the personality of the dismissed employees, would qualify as a collective dismissal event and would give rise to certain notification and consultation obligations of the employer. A dismissal would be considered collective in the event the number of employees dismissed by the employer exceeds the statutory provided thresholds within 30-day period. The thresholds vary depending on the total number of personnel and the number of employees to be dismissed. A collective dismissal would take place if the employer terminates: • at least ten employees, where the total number of employees in the particular enterprise is between 20 and 99; • at least 10% of the total number of the employees, where the total number of employees in the enterprise is not less than 100, but does not exceed 300; or • at least 30 employees, where the total number of the employees is 300 or more. When an employer is contemplating collective dismissals, it must begin consultations with the trade unions' representatives and with the employees' information and consultation representatives no later than 45 days before the dismissals are to take effect. Individual terminations (within the ambit of the collective redundancy) must follow specific statutory requirements, too. Failure to meet the statutory process for individual terminations

	might lead to its voidance by a competent court of law. Non-compliance with collective dismissal notification and consultation requirements may lead to monetary sanctions but cannot invalidate the individual dismissals.
Buying or selling a business	The employment relationship with an employee is not terminated in the event of a change of employer. This change of employer may be the result of a merger, an acquisition, a change in the legal form of the business organization, etc. In these cases, the rights and obligations of the transferor employer arising from the employment relationships existing on the date of the restructuring are transferred to the new employer. The transferor and transferee employer must inform and consult trade union and employee representatives about transfers of undertakings. The required information must be provided at least two months before the consequences of the change are set to occur. In cases where there are no employee representatives, the employer must provide the information directly to employees.
Resolution of employment disputes	Generally, labour disputes are within the jurisdiction of the regional courts and are conducted pursuant to the rules of the Code of Civil Procedure. Arbitration of labour disputes is not allowed. The prosecution of a labour case is free of charge for the employee, who is exempt from paying court costs or taxes, or any fees for the taking of depositions of experts or witnesses. The Labour Code imposes certain definite periods within which a labour dispute may be brought before the courts. These periods vary according to the grounds for the dispute. For example, a labour dispute related to wrongful termination is two months as of the date of termination.
Other statutory rights	The labour legislation provides for various family-friendly rights. Employees are entitled to use paid annual leave for at least 20 business days once they have effectively worked for more than four months. Extended annual leave and additional paid annual leave are provided for certain categories of employees.

	Employees are entitled to 410 calendar days (that is, around 13.5 months) of maternity leave, of which 45 days (known as "pregnancy leave") must be taken immediately before the expected date of birth. After the end of maternity leave - that is, when the child reaches its first birthday - the mother is entitled to take parental leave, known as "childcare leave", if she takes care of the child full-time. Moreover, an employee who is the father of a child and is married to or lives with the child's mother is entitled to 15 calendar days of paternity leave, to be taken immediately after the child comes home from the hospital or other medical facility. Employees are entitled to leave for temporary disability due to general sickness, occupational disease or employment injury, sanatorium treatment, etc. Temporary disability may be established only by the competent health authorities, such as doctors and dentists, medical advisory committees, Labour-Expert Medical Committees, and the National Expert Medical Committee. There is also adoption leave, carer’s leave, educational leave, etc.
Discrimination	Employers must ensure equal treatment of all employees in relation to their working conditions, remuneration and the provision of other financial benefits, vocational training, and promotional opportunities. The Labour Code prohibits both direct and indirect discrimination based on race, nationality, origin, sex, sexual orientation, age, colour, political or religious beliefs, membership in a trade union or other public organization, family or financial status, existence of mental or physical disabilities, or differences in the duration of an employee’s employment contract or the number of the employee’s working hours. However, different treatment based on a characteristic related to any of the statutory prohibited grounds of discrimination (sex, race, nationality, religion or faith, disability, age, sexual orientation, family status, and so on) does not constitute unlawful discrimination where, by reason of the nature of the particular occupation or activity concerned or of the conditions in which it is carried out, such a characteristic constitutes an essential and determining occupational requirement, provided that the aim is legitimate and the requirement does not exceed what is necessary to accomplish this aim.

Employment of children and young persons	The minimum age for employment is generally 16 years, and the employment of under-16s is prohibited. However, as exceptions to this rule: • 15-year-olds may be employed in light work that is not hazardous or harmful to their health or their proper physical, mental, or moral development, and is not detrimental to their regular attendance at school or in vocational guidance or training programmes; • under-15s may be employed in film, theatrical or similar productions, provided that this is under specially alleviated working conditions and does not prejudice their physical, mental, or moral development; and • girls aged at least 14 and boys aged at least 13 may be appointed to apprentice positions at circuses. In all cases, children under the age of 18 may be employed only with the specific permission of the Labour Inspectorate, and after a thorough medical examination that concludes that they are fit to perform the work concerned, and that this work will not impair their health or impede their proper physical or mental development. Special health and safety rules apply to all employees under the age of 18. Their working time is limited to 35 hours per week and seven hours per day. They must not perform overtime or night work (defined in the case of under-16s as work performed between 8pm and 6am). Employees under the age of 18 have a minimum paid annual leave entitlement (including in the calendar year in which they turn 18) of 26 working days.
Outsourcing and personnel supply	The Labour Code provides for specific conditions and rules for performance of work through a temporary work agency. The assignment of agency workers must be based on a written contract between a temporary work agency and a user enterprise, where the temporary work agency hires and supplies employees for assignments with the user enterprise. Where individuals are engaged through a temporary work agency, the latter shall be considered an employer and not the user enterprise. The temporary work agency as an employer will be liable for any and all employment related obligations pursuant to the law. The user enterprise will also have a number of obligations

	towards the engaged individuals, such as the obligation to treat the agency worker in the same way as its own employees on similar or same positions and to ensure healthy and safe working conditions. The temporary work agency is banned from prohibiting employees from establishing an employment relationship directly with the user enterprise after the expiration of the initial employment contract. A prohibition is also placed on the imposition of fees for assistance in starting the job, upon the conclusion of an employment contract, or upon formation of an employment relationship with a user enterprise. The total number of temporary agency workers assigned to work at a user enterprise must not exceed 30% of the total number of employees employed by the user enterprise.
Employee rights protections	Bulgarian labour legislation establishes numerous provisions which aim to protect the employee and cannot be deviated from even by mutual agreement or with the employee’s consent. Employees have a right to work in healthy and safe conditions and, consequently, employers are obliged to ensure health and safety at work, so that any dangers to employees' lives and health are eliminated, restricted, or mitigated. The general rules applicable in all economic sectors are contained in the Labour Code and in implementing legislation. Detailed regulation of healthy and safe conditions is also provided by the Law on Safe and Healthy Working Conditions. Additionally, special rules are established for different sectors of the economy. Regarding privacy, employers are considered as controllers of personal data. The GDPR ensures a consistent and high level of protection of natural persons with regard to the collection and processing of their personal data. Under the GDPR, any person, including an employer, who determines the purposes and means of processing personal data, constitutes a controller, and as such, must comply fully with the GDPR. Employers must be in a position to demonstrate compliance with GDPR, as required by the supervisory authority, which for Bulgaria is the Commission for Personal Data Protection.

This guide contains summaries of general principles of law. It is not a substitute for specific legal advice and should not be relied upon in relation to the application of the law or subject matter covered.