

LEGAL ALERT, MARCH 2024

IMPORTANT AMENDMENTS TO THE LABOUR CODE

I. Introduction

Bulgarian State Gazette No. 27 of 29.03.2024 introduced long-awaited amendments to the Bulgarian Labour Code (the "LC") regarding the remote work regulations.

Before their official publication these amendments were announced to the public as significant ones making the remote work conditions much more flexible. In practice we do not see any significant changes to the current regulation. The new rules contain few explicit clarifications which were undisputably clear even before these changes and add redundant obligations already introduced by the GDPR.

However, the new rules make it necessary for the employers to review and update their remote work policies and annexes/contracts.

Below you may find short summary of some of the main changes:

II. Remote work-related changes

1. Place of work

Finally, the law explicitly stipulates that it is possible remote work to be performed in a city/settlement different from the seat of the Employer. Thus, it is explicitly allowed now (not that it was forbidden before) the employment contract to specify more than one places of work – e.g. one for remote and one for office work.

Along with this now the employer without specific annex/contract with the employee but only upon employee's request may change the place of work for a period not more than 30 days per year (e.g. the employee goes to work remotely from the villa in the summer).

2. Health and safety

The following not so major changes are introduced as regards employer's liability for health and safety and its responsibility in case of occupational accident during remote work:

- The employees are obliged to provide the employer with written information for the characteristics of the ensured by them remote working place.

It is not clear whether the employer may rely only on this information when making the required assessment of the working place or should still ensure measurements and full assessment by its health and safety service provider.

- The employee is obliged to immediately notify the employer of any accident at the remote working place in a manner previously agreed between the parties;

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- The employer is obliged to provide information on the minimum health and safety requirements for the remote workplace;
- The employer's monetary liability for occupational accident and disease might be reduced if the injured remote working employee failed to comply with prescribed occupational health and safety rules and regulations as provided above.

3. GDPR Compliance

Now the LC explicitly provides that the assignment and reporting of remote work may be carried out through an information system (including an algorithmic one), in which cases the employer must ensure compliance with data protection legislation. The same applies if the employer uses a system for monitoring of the remote work performance.

III. Right to disconnect

Following the other EU countries, Bulgarian law finally introduced such right. However, the wording of the LC provision raises more questions than providing security for such right of the employees.

The new provision ensures that an employee is not obliged to respond to employer-initiated communication during their daily and weekly break, **unless otherwise agreed in the employment contract**. This clause in practice gives a new right to the employer – to demand the employees to follow e-mails and phone calls during their rest, if there is such clause in their contracts.

IV. Joint liability for employees' salary in case of subcontracting

This new provision is actually a significant one. The new provision states that the contractor is jointly liable for the salary payments of the employees of its direct subcontractor related to the service agreement between them, if the contractor has any delays/breach of its contractual relations with the subcontractor.

This change gives new level of security for the employees of employers of record and subcontractors under outsourcing agreements.

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