

GMS Flash Alert

Employment Law

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Bulgaria – Amendments to Labour Code Affect Remote Work, Health & Safety, Other Areas

Bulgaria’s National Assembly adopted a Law on amendments and supplements to the Labour Code (“LAS to the LC”), introducing new rules regarding remote work. The amendments are published in the State Gazette (Държавен Вестник), Issue No. 27 dated 29.03.2024 and are effective as of 2 April 2024.¹ The new rules affect the workplace in terms of remote work, health and safety matters, information systems and algorithmic management when used during remote work, the right to disconnect, as well as joint and several liability of contractors and subcontractors for the salaries of subcontractors’ employees.

WHY THIS MATTERS

The new rules can affect foreign nationals working in Bulgaria and their employers.

Employers and employees are assigned a number of new obligations in relation to the provision of a suitable workplace, compliance with the minimum requirements for health and safety at work, as well as the assignment and reporting of work when an information system is used.

Generally applicable new rules have also been introduced in relation to the daily and weekly rest periods of the employees.

Joint and several liability for the contractor under a service contract is also regulated in the event that its direct subcontractor, in its capacity as an employer, is in default of its obligations for payment of employment remuneration.

Employers and employees should become familiar with the rules and take appropriate steps to be in compliance.

Workplace in Cases of Remote Work

The definition of “remote work” is updated: “a place in a room in the employee’s home or in another room of his/her choice outside the enterprise where the work is carried out” and not, as before, “the employee’s home or other room of his/her choice outside the enterprise.”

In line with the amendments, it will be possible to specify more than one place of work from which the employee can work remotely in the individual employment contract.

In addition, the employer may change the place of work for no more than 30 working days per year at the written request of the employee under conditions and procedures determined by the employment contract and/or by internal acts of the enterprise.

Employees who work remotely are now obliged to establish a concrete workplace for remote work at the date of establishment or change of the employment relationship, as well as to provide the employer with written information about the characteristics of the workplace.

The employers of third-country nationals, holding an EU Blue Card, should be reminded of the following obligations under the Foreigners in the Republic of Bulgaria Act:

- The terms and conditions for performing remote work should be set out in the foreign national's individual employment contract or in additional agreement thereto.
- When switching to remote work, the employer or a person authorised by him shall immediately notify the Migration Directorate for the change of the address where the foreign national performs his/her work.
- In case of switching to remote work mode in another city, different from the one specified on the EU Blue Card residence permit, the employer or a person authorised by him or the foreign national should change his address of residence.

Health and Safety Conditions at Work During Remote Work

The employer is obliged to take specific measures to make sure that at the date of establishment or change of the employment relationship, every remote work workplace meets the minimum requirements for health and safety at work.

Employees performing remote work are obliged to immediately notify the employer of any accident at the workplace in line with prearranged terms.

A new rule has also been introduced in connection with the reduction of the employer’s liability for an accident at work or an occupational disease caused by remote work when the employee has not complied with the rules and norms prescribed for health and safety at work.

The LAS to the LC also introduces amendments to the Law on Safety and Health at Work, related to a number of obligations of the employer for fostering safe and healthy working conditions for employees working remotely.

Assignment and Reporting of Remote Work

A legal definition of the term “information system for algorithmic management” (i.e., artificial intelligence) is introduced, providing for the use of this type of system for assignment and reporting of remote work.

Where remote work assignments and reporting are performed through an information system, the employer should provide the employee with written information on the type and volume of work-related data collected, processed, and stored therein.

Where an information system is used for algorithmic management of remote work, the employer shall provide the employee with written information on the way decisions are made. At the employee's written request, the employer or its designated representative is obliged to check the decision of the algorithmic management system and notify the employee of the final decision. Thus, the obligation for exercising human control over all important automated decisions affecting the rights of the employees is hereby established.

Working Hours When Working Remotely

When working remotely, employees organise their working hours independently; however in accordance with the changes introduced by the new law, they must be available and working during the time when the employer is in communication with third parties. Previously, this obligation was limited to the time when the employer is in communication only with his business partners.

The number of hours worked can now be reported through an automated system for reporting working time. The employer is obliged, upon request, to provide the employee who performs remote work with access to the data in the system on the number of hours worked by him/her.

Right to Disconnect

Changes have also been introduced in relation to daily and weekly “rest periods” – “disconnect” time – which will be applicable to all employees, not just remote workers. It is explicitly stated that employees will not be obliged to respond to employer-initiated communications during the daily and weekly rest period, except when the individual and/or collective employment contract includes conditions under which this is permissible.

Joint and Several Liability for the Contractor under a Service Contract for Unpaid Remuneration by Its Direct Subcontractor

According to the changes, when the employer is a direct subcontractor under a contract for the provision of services, the contractor will always be jointly and severally liable with the subcontractor-employer for the payment of employees' remuneration, but this liability will be limited to the rights of employees arising from the contractual relationship between the contractor and the subcontractor. The contractor will not be liable if it has fulfilled or performs accurately and in good faith its obligations under the contract with the subcontractor-employer.

KPMG INSIGHTS

The changes introduced by the LAS to the LC are wide-ranging and will require a change in approach and administration, as compared to the previous rules that applied. We anticipate there may be some questions regarding how these rules apply to the employer, to the contractor and subcontractor, to the employees, and what “next steps” need to be taken. Such questions and related concerns should be directed to their usual employment law professionals or to a member of the KPMG Legal Advisory Services team in Bulgaria (see the Contacts section).

FOOTNOTE:

1 See (In Bulgarian): <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=209841> .

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RELATED RESOURCE

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