



# BULGARIA: An Overview of Labour Law under COVID-19 Conditions

Vassil Mrachkov

1. The inrush of the COVID-19 pandemic in Bulgaria was noticed comparatively early. It was on 13 March 2020 that a state of emergency was declared in the country by decision of the National Assembly (the Parliament) taken under Art. 84, item 12 of the Constitution. The state of emergency lasted from 13 March until 13 May 2020, and after that, on 14 May of the same year, the Council of Ministers declared an **extraordinary epidemic situation** (prom. SG, No. 44 of 2020) by its decision grounded on Art. 63 of the Health Law, and the said situation is still going on. The restrictions on citizens' rights during this situation are milder, yet tangible ones: masks, distancing, prohibition on group gathering of people, closure of commercial establishments, shift to online education in schools, etc. The situation is changing dynamically.

2. All that time the Parliament has been sitting in praesentia, observing special safety precautions, such as wearing masks, disinfection and the like, although a quorum (121 out of all the 240 deputies) was not always formed. At the very beginning, when the state of emergency was declared, a **National Operational Staff** (called for short '**the Staff**') of renowned doctors (university professors and other high-profile specialists) was set up. The Staff has been doing an enormous job and continues monitoring the development of the pandemic, providing citizens with day-to-day information on the health situation within the country. During the first couple of months the number of infected people as part of the tested citizens kept rising (in November-December 2020 it reached 40% of the tested, and the mortality indices were high (over 150-200 persons per day)). As a result of the measures taken by the Staff, since January this year the number of the infected has dropped down to 5-10% of the tested. Since the beginning of February this year the number of infected people has been slowly rising again. According to official data, the population over the age of 18-64 is about 5 million citizens.<sup>1</sup>

3. Since the beginning of the year 2021, a **campaign for vaccination** against coronavirus has been under way. The campaign does not rank high. At the end of February this year the vaccinated people are approximately 2 % of the citizens of full age. Vaccination is voluntary and takes place according to a schedule that is based on the degree to which citizens are endangered. It started with the vaccination of medical staff, teachers, including faculty members, elderly people, etc. The hesitations as to the effect of vaccination are still present. Yet, in recent days the number of people willing to take the vaccine has been rising.

4. The year that has elapsed since the beginning of the pandemic is marked by intensive legislative activity in the field of labour and health legislation. The latest 130 amendments of December 2020

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<sup>1</sup> These are data from the National Statistical Institute published in 'Trud' ('Labour') Newspaper on 17 February 2021.

alone concern 36 articles of the Labour Code (prom. SG, No. 107 of 18 December 2020). The citizens' incomes have considerably dropped. The legislative changes are mainly aimed at preserving both the employment and the employment rights of workers through support on the part of the State and the employers in the ratio of 60:40 (employers: the State) and support to the economy. The situation within the country is severe. Social tension and discontent are rising. The number of the unemployed increased from **6.2%** before the pandemic in **February 2020** (202 500 unemployed)<sup>2</sup> to 7% in **February 2021** (229 750 unemployed)<sup>3</sup>. The political situation within the country is also tense due to the upcoming elections (parliamentary at the beginning of April and presidential at the beginning of November this year).<sup>4</sup>

## A. Individual employment relationships

5. According to Art. **120b LC**, once a pandemic situation is declared, the employer has the right to unilaterally assign to the workers and employees to do their job either at home or from a distance, without any changes in the stipulations of the employment contract (working time, amount of labour remuneration, rest, leave, and the like). Work from home (Art. 107b-107g LC) and remote work (Art. 107h-107p LC) in the time of modern electronic technology have fully preserved the employment relationships along with working hours, working conditions, full amount of labour remuneration, insurance rights and other similar advantages for hundreds of thousands of employees in offices and bureaus. This provision also applies to civil servants, duty time being fixed – daily, weekly or monthly – in the respective enterprise or public service (Art. 51a and 64a of the Law on Civil Servants).

6. Another important measure is provided for in Art. **120c LC**. According to the said provision, the employer has the right to discontinue the work in the enterprise, either preserving or suspending the employment relationships with the workers and employees. The discharged workers and employees are registered with Job Centres as unemployed and are entitled to unemployment benefits under Art. 54c of the Social Security Code (SSC). The social security benefit they receive amounts to 60% of their average daily gross labour remuneration on which social security contributions have been paid (Art. 54b SSC). The amount of this benefit per working day ranges from BGN 12 to BGN 74.29 (Art. 11 of the Law on State Social Security Budget for the year 2021). This benefit is insufficient and sharply reduces the labour income of citizens (the ratio between BGN and EUR is approximately 2:1). Depending on the length of contributory service, this benefit is paid for a period of 4 up to 12 months (Art. 54c SSC). Where, during the extraordinary epidemic situation, the employer preserves the employment relationships with the workers and employees under Art. 120c LC, the latter receive the full amount of the gross labour remuneration they used to receive prior to the extraordinary situation being declared (Art. 267a LC).

7. In the current difficult and unpredictable situation, Art. **138a LC** gives the employer greater flexibility as well as the opportunity of 'manoeuvring' – depending on the current market situation – with the length of working time, and shifting from full-time to part-time work for certain periods and vice versa (Art. 138a LC). Hesitations are inevitable, as it is necessary to give consideration to

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<sup>2</sup> Monthly Bulletin of the Employment Agency at the Ministry of Labour and Social Policy, February 2020.

<sup>3</sup> Monthly Bulletin of the Employment Agency at the Ministry of Labour and Social Policy, February 2021.

<sup>4</sup> Mrachkov, V., The amendments to the Labour Code and the State of Emergency within the Country, 'Trud i Pravo' ('Labour and Law') Digest, 2020, No. 2, pp. 2-24; Vassileva, M., Review of the Amendments to the Labour Code Made at the End of 2020, 'Trud i Pravo' Digest, 2021, No. 2, pp. 5-23 (e-mail: office@trudipravo.bg, www.trudipravo.bg)

the consequences, the specific situation within the enterprise, and the preservation of employment. When shifting from full-time to part-time work, the requirement is that the part time should not be shorter than one half of the length established by law for the period for which the working time is calculated. In the course of these changes, the employer must also take into account the disposition and the will of the workers and employees (Art. 138a, para. 4).

8. Changes have also been introduced in the procedure for taking the **paid annual leave**:

- a) The right to paid annual leave is acquired upon completion of 4 months of length of service (Art. 155, para. 3 LC), and not 8 months, as it used to be thus far;
- b) When an extraordinary epidemic situation has been declared, the employer or the appointing authority is entitled to unilaterally grant the use of paid annual leave to the worker or employee (Art. 173a, para. 1 LC);
- c) Yet, the employer is obliged to allow the use of paid annual leave to some categories of workers and employees whenever they request so, namely to: pregnant women, women at an advanced stage of in-vitro treatment, mothers of children aged below 12, minors and other exhaustively listed categories (Art. 173a, para. 3 LC).

9. The regulation of the **employment contract** in Bulgarian labour legislation traditionally has its important role under the conditions of a pandemic situation as well. The operative legislation is characterized by a great diversity of various **types of employment contracts**. Their number is 20. Along with the main types of employment contracts – the fixed-term and the open-ended ones – the operative legislation also regulates a number of others.<sup>5</sup> Some of them have drawn the attention of the legislator under the conditions of the pandemic.

a) According to the supplement concerning the employment contract for temporary job (Art. 107q-107x LC), the employer-user may seek to be provided with temporary job workers from their employer-supplier, doing so not later than 5 working days prior to the initial date as from which he needs them, by way of a letter stating the reasons (Art. 107s, para. 4 LC). The matter is settled through negotiations between the employer-supplier and the employer-user under Art. 107t LC.

b) Along with the employment contract for work on fixed days of the week or the month (Art. 114, para. 1 LC), the parties may also enter into a new employment contract – a second one – between them for the performance of employment duties that go beyond the duties under para. 1, the working time for them being in excess of the working time under the employment contract as per para. 1 (Art. 114, para. 2 of the said Code). This enhances the opportunities of the worker for additional employment and additional payment (prom. SG, No. 107 of 2020).

c) The opportunities of the employment contract for a short-term seasonal agricultural job under Art. 114a of the said Code are enlarged. This contract can be made not only with a registered farmer, but also with a registered tobacco producer. This solution is favourable to the population in some regions of the country where tobacco production is the main source of livelihood.

10. Reporting of working time under Art. 142 LC. The operative labour legislation traditionally distinguished between two forms of reporting and calculating the working time:

a) daily reporting. In this reporting, the working time is reported in accordance with the length of the working day established by law – 8, 7 or 6 hours depending on the conditions of labour. The working time is reported in working days – the working hours performed are calculated into working days on the basis of the statutory number of working hours per working day. This reporting is the usual one as well as the most widely applied.

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<sup>5</sup> Mrachkov, V., Labour Law, 10<sup>th</sup> ed., 'Sibi' Publishing House, Sofia, 2018, pp. 224-277; Vassilev, A., Labour Law, Burgas Free University, Burgas, 1997, pp. 144-151; Sredkova, K., Labour Law. Special Part. Individual Labour Law, 'St. Kliment Ohridski' University Publishing House, Sofia, 2010, pp. 71-86.

b) summarized reporting. In this reporting, the working hours performed are summed up (added together) for a longer period of time – a week, a month or two, etc. This reporting is only applied to standardized working days, and not to non-standardized ones (Art. 142, para. 5). Its application is growing.

In weekly summarized reporting of the working time, the worker or employee must perform 40 working hours (5 working days of 8 working hours each), and these hours may be performed in different working days, e.g. 8, 10, 6, 12, 4, etc.

In monthly summarized calculation of the working time, a monthly norm of hours performed is fixed, depending on the number of working days within the month – 21 or 22 – and on the length of the working time – 8, 7 or 6 hours a day. The total number of hours performed under the conditions of a 8-hour working day is, respectively, 168 (if the number of working days is 21) or 176 (if the number of working days is 22). Under the conditions of a 7-hour working day, the total number of hours performed is, respectively, 147 or 154 hours, etc. The operative legal framework allows for a period of no more than 4 months for the summarized calculation of the working time (Art. 142, para. 3 LC, see No. 16 below).

## **B. Support to collective employment relationships**

11. The support to collective employment relationships was preserved during the time when the state of emergency within the country was declared and effective (13 March – 13 May 2020), as well as from 14 May 2020 onwards, in the conditions of an extraordinary epidemic situation, by virtue of Art. 63, para. 1-7 of the Health Law. Moreover, this support was extended through the amendments to the Labour Code that were made in December 2020.

12. In the years of transition after 1989, the strengthening of social dialogue and the tripartite partnership as part thereof played a leading role among those major issues in the field of employment relationships which related to the implementation of radical changes in society. The general matters of bilateral partnership remained overshadowed. They were narrowed down to collective bargaining and depended on the initiative of the social partners – the employers' and trade union organizations. The general regulation of bilateral partnership within the social dialogue was missing. This gap was filled out by the amendments to the Labour Code of December 2020 and by **the new Art. 2a LC**.

13. **Art. 2a, para. 1 LC** puts the stress on the bilateral partnership between the trade unions and the employers' organizations as part of the social dialogue. **Para. 2** defines **the scope** of bilateral partnership and the various forms in which it is manifested, as well as their specific objectives. They are listed explicitly: strengthening the mutual trust between the trade unions and the employers' organizations; mutual respect for their interests; further consolidation of collective bargaining; raising the awareness of the workers and employees on the part of the employers; enhancement of the motivation of the workers and employees for their active participation in the work process; strengthening the corporate social responsibility. This list only covers the main forms of manifestation of bilateral partnership and outlines a new niche in the development of social dialogue.

14. The legal framework of **collective bargaining** was supplemented and enriched with new issues of sector and branch bargaining. It has been provided that the representative trade union organizations should broaden their initiatives through presenting joint projects to the employers; upon a joint request of the parties to sector and branch collective employment agreements, they should motivate a request to the Minister of Labour and Social Policy for having their provisions, or separate clauses thereof, spread on all the enterprises and representative organizations of trade unions and employers' organizations as well as on the workers and employees therein, etc. (para. 2-

5). These agreements or separate clauses thereof are spread through an order of the Minister of Labour and Social Policy and are promulgated in the non-official section of the State Gazette, and within 3 days following the promulgation of the Minister's order they are published on the Internet site of the General Labour Inspectorate (para. 5-6).

15. Improvements were made to the regulation of the effect of collective employment agreements with respect to those workers and employees who are not members of trade union organizations-parties to the collective employment agreement under Art. 57, para. 3 LC: a requirement is laid down for an accession contribution, the amount of which is determined by the parties to the collective employment agreement. The law fixes the general limits on these contributions: they must not contravene the law, or evade it, or be contrary to good morals (Art. 57, para. 2, 3 and 6 LC).

16. The provisions regarding the calculation of working time under Art. 142 LC are new as well: it can be calculated both as daily working time and as summarized working time, i.e. by weeks and months, yet for a period of no more than 4 months. The sector and branch collective employment agreements may fix a longer period for the summarized calculation of working time – up to 12 months, and greater length of extra work – up to 300 hours instead of 150 hours per calendar year, where so provided in a sector or branch collective employment agreement (Art. 146 LC, etc.).

17. The extraordinary epidemic situation from March 2020 until February 2021 with its wave-like development is extremely dynamic and unpredictable. The 'peak' in its development was recorded in November-December 2020, but it was brought under control in January 2021 (see No. 2 above). However, since the second decade of February this year, there has been a new wave, which is slowly growing and as at 28 February 2021 the number of infected reached 15% of the tested patients and keeps increasing. Yet, the mortality rates remain low thus far (about 40 persons per day). Since the beginning of February this year, under the leadership of the Staff, there has been an explanatory campaign for mass vaccination of those willing to be vaccinated. In spite of the continued restraint, there are signs of a positive change in the population's attitudes towards [vaccination](#). [From](#) 1 March and 1 April this year, a liberalization of restrictive measures is [envisaged](#) by the government. But, surely, the future development of the pandemic cannot be predicted.

***Vassil Mrachkov***

*Emeritus Professor of the Universities of Sofia and Plovdiv*