

CHANGES TO THE LABOUR CODE (IN FORCE AS OF 17 JULY 2015)

An Act for the amendment of the Labour Code has been promulgated in State Gazette No 54/17.07.2015.

The most important amendments concern the changed procedure for the use of the annual paid leave, the employer's obligation to keep employment records of their employees and the introduction of a new type of employment agreement for short-term seasonal agricultural work.

Changes concerning the Use of the Annual Paid Leave

Pursuant to the new rules the terms and conditions for the use of the annual paid leave (the "leave") have been changed as follows:

- The employer's obligation for preparing schedules for the use of the leave during the following year is abolished;
- The use of up to a half of the leave could be postponed for the following calendar year by the employer and/or the employee;
- The employer is entitled to unilaterally grant the leave to the employee even without their explicit consent in the cases, where, following an invitation by the employer, the employee has not requested their leave until the end of the calendar year;
- In case the leave is postponed or is not used by the end of the current calendar year, the employer is obliged to ensure the use of the leave no later than six months following the end of the current calendar year;
- If the employee requests the use of their postponed leave during the first six months of the following year, but the employer does not grant it, the employee is entitled to determine unilaterally the period of its use until the lapse of the statute of limitation after s/he informs their employer thereof in writing at least 14 days in advance.

The statute of limitation of the right to use the annual paid leave remains two years.

It should be also noted that with a view to the amendments in the Labour Code the Ministry of Labour and Social Politics has drawn up a bill for the amendment of the Regulation on the Working Time, Rests and Leaves providing for the following changes:

- At the beginning of each calendar year, but no later than 31st January, the employer would need to inform in writing every employee about the number of the paid annual leave days which the employee is entitled to for the current year, including any postponed or unused leave from previous years.

- The use of the leave shall be allowed by the employer or a person authorized by the latter in writing following a written request by the employee. The draft amendments also provide for a written form requirement for the employee's request for the leave's postponement, as well as for the employer's act for granting or postponing the leave. The employer's invitation to the employee for use of the leave should also be in writing.

Flexible Work Hours

The flexible work hours provisions have been supplemented so that it is possible to compensate any hours outside the compulsory presence hours which fall short of the full working day's duration with extra work during the subsequent day(s) of the same working week.

Obligation of the Employer to Keep Employment Records

Pursuant to the amendments the employer shall keep employment records for all its employees. The employment record shall be created at the employee's commencement of work and should contain all documents regarding the creation, existence, amendment and termination of the employment relationship.

Employment Agreement for Short-Term Seasonal Agricultural Work

A new type of employment agreement is introduced concerning short-term seasonal agricultural work. Such an agreement can be signed only between employees and registered agricultural producers for a period of one day. The work under this agreement shall not be recognized as employment service. The same employee could be a party to this type of agreement for no longer than 90 days in total within a given calendar year. The agreement may be concluded only for unqualified work in connection with processing of plants and harvesting fruit, vegetables, roses and lavender.

The employees hired under this type of agreement shall be socially secured for disability, old age, death, work accident and professional illnesses risks, as well as health insured based on the minimal social security thresholds for the respective activity. In addition, the employment under the short-term seasonal work agreements shall not affect the employees' entitlement to unemployment benefits.

Termination of the Employment Agreement in case of the Employee's Retirement

The entitlement of the employee to old-age pension retirement shall become grounds for termination of the employment agreement with that employee. While the employee may terminate the employment agreement on those grounds without any termination notice, the employer would be obligated to give the employee a prior written notice.

Simplified Rules for Microenterprises and Small Enterprises

The rules concerning the prolongation of the working day due to production reasons pursuant to Art. 136a, the introduction of part-time work by the employer in case of work volume reduction pursuant to Art. 138a and the employer's obligation to adopt internal working rules pursuant to Art. 181 of the Labour Code shall no longer apply to microenterprises and small enterprises.

DELICHEV AND PARTNERS