# Investment Guidebook

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# 1. FOREIGN INVESTMENT REGULATIONS

## 1.1. Restrictions on Foreign Investments

In March 2024, Bulgaria introduced a general approval regime for foreign investments in accordance with the requirements of Regulation (EU) 2019/452 of the European Parliament and of the Council of 19 March 2019 establishing a framework for the screening of foreign direct investments into the European Union (the "**EU Screening Regulation**"). By virtue of an Act Amending and Supplementing the Investment Promotion Act of March 2024 (the "**FDI Screening Act**"), the regime requires prior review and approval on national security grounds for foreign direct investments ("**FDI**") in certain key areas of national security interest.

The general approval regime (please see Section 1.1.1 below) should have been fully operational by September 2024, when the secondary regulation for its application should have been issued. However, as of 1 November 2024, the required secondary regulation required has not yet been adopted or published for public consultation and review. Therefore, as of that date, the approval regime is not yet operational and the notification and suspension requirements do not apply to foreign investors.

In addition to the general approval regime, parallel sector-specific restrictions apply to foreign investment in the gambling industry, investment in farmland, and foreign investment by offshore companies from tax havens and entities under their control. Additional sector-specific regimes also apply to investments in certain sectors, such as financial services, energy, and others. Please see item Section 1.1.2 below.

### 1.1.1. General approval regime of foreign investments

#### 1.1.1.1. General grounds for FDI review and approval

FDI in the areas of activity listed in Article 4(1) of the EU Screening Regulation that exceeds the threshold of EUR 2,000,000 or targets at least 10% of the share capital of a company operating in the country must be notified and approved in advance by a special Interdepartmental Council on FDI Screening.

The FDI Screening Act defines an **FDI** as an investment of any kind made by a foreign investor for the purpose establishing or maintaining lasting and direct relations between the foreign investor and the entrepreneur or the enterprise to which the capital is provided for the purpose of carrying out an economic activity in Bulgaria, including investments that enable effective participation in the management or control of a company carrying out an economic activity. An FDI is also the expansion of an existing investment, including the expansion of the capacity of an existing enterprise, the diversification of the production of an enterprise with products not previously produced, and the establishment of a new place of carrying out economic activities; or the increase of the capital of the investment target, provided that the shares are acquired by the foreign investor. Portfolio (passive) investment that does not involve control or the possibility of participating in management is not FDI.

The general approval regime also covers greenfield (new) investments[1] and FDI in targets engaged in high-tech activities, subject to the investment thresholds, mentioned above.

The FDI must be made or intended to be made by a non-EU investor, i.e. an investor established in a non-EU country, or by an EU entity that is directly or indirectly controlled by a non-EU entity or a non-EU individual.

In terms of the economic sectors affected by the general approval regime, the FDI Screening Act refers only to **Article 4(1) of the EU Screening Regulation**. The specific sectors listed in Article 4(1) of the EU Screening Regulation (energy, transport, water, health, communications, media, data processing or storage, aerospace, defence, electoral or financial infrastructure, and sensitive facilities) are indicative but not exhaustive, and the FDI must have a potential impact on:

(a) critical infrastructure;

(b) critical technologies and dual-use items, including artificial intelligence, robotics, semiconductors, cybersecurity, aerospace, defence, energy storage, quantum and nuclear technologies as well as nanotechnologies and biotechnologies;

(c) the supply of critical inputs, including energy or raw materials, as well as food

[1] "New investment" means an initial investment in tangible and intangible assets relating to the start of the activity of a new undertaking, the expansion of the capacity of an existing undertaking, the diversification of an undertaking's production through products not previously produced, or a substantial change in the general production process of an existing undertaking.

security;

(d) access to sensitive information, including personal data, or the ability to control such information; or

(e) the media freedom and pluralism.

The economic sectors affected by the local approval regime are expected to be further specified and clarified in the forthcoming secondary legislation.

#### 1.1.1.2. Other cases of FDI screening

There are several cases where FDI may be subject to screening, even if the general grounds for FDI review mentioned in Section **Error! Reference source not found.**. above have not been triggered. These are (a) FDI by non-EU government investors; (b) FDI in petroleum and petroleum-based products related to critical infrastructure (the same regime applies to all FDI by Russian and Belorussian investors); and (c) review of FDI at the initiative of the authorities (*ex officio* review).

(a) **FDI by non-EU government investors**

FDI by investors with direct or indirect public participation in their capital from a country outside the EU (non-EU government investors) is notifiable, even if it falls below the general investment review thresholds. However, this sub-threshold notification requirement does not apply to investors with non-EU government (public) shareholding or participation from certain low-risk countries[2]. The preferential treatment of low-risk jurisdictions is expected to be further clarified in the forthcoming secondary legislation and it should be made clear whether such jurisdictions will also benefit from other exemptions from the general notification requirement.

(b) **FDI in petroleum and petroleum-based products concerning critical infrastructure**

It is explicitly provided that all FDI in facilities and activities of enterprises engaged in the production of energy products from petroleum and petroleum-based products in facilities that are part of or adjacent to critical infrastructure are subject to screening under the FDI Screening Act.

The same regime applies to all FDI by Russian and Belorussian investors.

(c) **Review of FDI on the initiative of the authorities (ex officio review)**

In exceptional cases, the Interdepartmental Council on FDI Screening also has *ex-post* screening powers to review other FDIs on national security grounds, regardless of their value and field of activity.

[2] The United States of America, the United Kingdom, Canada, Australia, New Zealand, Japan, the Republic of Korea, the United Arab Emirates, and the Kingdom of Saudi Arabia. The list of low-risk countries may be further supplemented by the Parliament.

#### 1.1.1.3. Notification procedure

Foreign investors considering a notifiable investment must submit an application for prior approval to the Interdepartmental Council on FDI Screening (the Interdepartmental Council on FDI Screening has not yet been established by the government). The application must be submitted in Bulgarian, with an English translation, through the local Investment Promotion Agency responsible for administering the notification procedure. The approved application form must be published on the website of the Investment Promotion Agency. The Investment Promotion Agency must check the conformity of the application and the documents submitted within three days of submission and notify the foreign investor of any deficiencies, so that they can be corrected within seven days.

The Interdepartmental Council on FDI Screening must issue its decision on the application within 45 days of the filing or correction of any deficiencies in the application. This period may be extended once, by up to 30 days. The Interdepartmental Council on FDI Screening may:

(a) grant an approval for the investment in Bulgaria if the FDI does not affect security or public order and is not likely to affect projects or programs of interest to the European Union; or

(b) grant a conditional approval subject to certain restrictive measures prescribed by the Interdepartmental Council. Such measures may include: (i) limiting the right of the foreign investor to acquire more than 20% of the capital of a company, or more than 10% in the case of companies engaged in high-tech industries; (ii) compliance with instructions for personal data protection, safeguarding information security or other instructions (as proposed by a competent regulatory authority); or (iii) reserving special rights in favour of the state in the decision-making processes of the general meeting and management bodies in the case of transactions carried out under the Privatisation and Post-Privatisation Control Act; or

(c) prohibit foreign direct investment.

If the Interdepartmental Council on FDI Screening does not issue a decision within the initial or extended time period, the investment is be considered to be tacitly approved without conditions.

Decisions of the Interdepartmental Council on FDI Screening may be appealed by foreign investors to two levels of administrative courts on general administrative law grounds. These grounds include a material violation of administrative specific and/or general procedural rules, a contradiction with the provisions of substantive law, and a contradiction with the purpose of the law.

#### 1.1.1.4. Sanctions for non-compliance with the general approval regime

Foreign investors may be subject to a fine of 5% of the value of the investment, but not less than BGN 50,000 (approximately EUR 25,000), for failure to comply with the general approval

regime (for example, for providing inaccurate information or proceeding with an investment without the necessary approval or in violation of the terms of a conditional approval).

Irrespective of the fine, the authority may also impose restrictive measures to ensure security or public order. These measures may include a change of control, modification or suspension of activities, termination of the FDI, or other appropriate measures.

### 1.1.2. Sector-specific restrictions on foreign investments

#### 1.1.2.1. Restrictions on foreign investments in the gambling industry

Under the Bulgarian Gambling Act, gambling operations require a game-specific license. Companies from Bulgaria, another Member State of the European Economic Area (EEA) or Switzerland are generally deemed eligible to apply for such licenses. However, the state-owned enterprise Bulgarian Sports Totalisator has a monopoly over all lottery products, except raffle, bingo and keno games.

Non-EEA/Swiss foreign persons must invest at least EUR 10,000,000 in other activities in Bulgaria and create more than 500 jobs to hold an interest in a locally licensed company, or to own a four- or five-star hotel and operate a casino in it. Failure to comply with the relevant requirements may result in denial or revocation of the relevant license.

#### 1.1.2.2. Restrictions on foreign investments in farmland

Non-EEA nationals and legal entities and companies held by them are generally not allowed to acquire farmland, unless this is expressly permitted by an international treaty, to which Bulgaria is a party. Companies held by offshore companies, political organizations or foreign states are also not allowed to acquire farmland.

Since 2014, EU/ EEA citizens have been granted national treatment in respect of the acquisition of farmland in the country, but there is a general long-term residence requirement (five years), which creates barriers for acquisition even for such persons. Legal entities registered under Bulgarian law for less than 5 years are allowed to acquire farmland provided that their shareholders are natural persons who have been resident in Bulgaria for more than 5 years.

#### 1.1.2.3. Restrictions on investments by offshore companies

The Bulgarian Offshore Companies Act prohibits companies from certain tax havens and entities under their control from directly or indirectly engaging in 27 different economic activities in Bulgaria (mostly in traditionally highly regulated sectors, such as banking and finance, insurance, gambling, energy, export controlled transactions, etc.). The effective list of tax havens is limited to five jurisdictions: the US Virgin Islands, Guam, Christmas Island, Pitcairn and Palau.

There are eight groups of exceptions to the prohibitions, which are also subject to disclosure of the ultimate beneficial owners of the company and certain preliminary registrations in the Bulgarian Commercial Register (for example, if the shares of the company in which the

offshore company participates (directly or indirectly) are admitted to trading on an EU/EEA regulated market or an equivalent regulated market; if the offshore company is part of an economic group, the parent company of which is a tax resident of a state with which Bulgaria has concluded a treaty for the avoidance of double taxation or information exchange agreement, etc.).

#### 1.1.2.4. Additional sector-specific regimes to investments in certain sectors

In addition, sector-specific authorization, approval, nonobjection, licensing, or registration regimes apply to investments and divestments in qualified holdings[3] and holdings reaching or falling below 20%, 30%[4] or 50% of the voting rights or capital (or to the target becoming or losing its status as a subsidiary) in companies providing financial services, including banks, electronic money companies and payment institutions, but also entities engaged in insurance and reinsurance, investment firms, capital market operators, alternative investment fund managers, real estate investment trusts and certain other regulated entities.

Furthermore, in the energy sector, any transfer (whether direct or indirect to a foreign or local entity or an individual) of more than 20% of the capital of companies holding licenses for electricity, gas or heat energy transmission or distribution is subject to approval by the Bulgarian energy regulator in order to ensure security of supply, protection of national security and public order.

However, none of these additional regimes is specific to foreign investment.

Lastly, there are regulated activities in Bulgaria that must be carried out by entities registered under the laws of Bulgaria or another EU/EEA Member State and are subject to prior licensing, registration and authorisation procedures, in order to be lawfully performed in Bulgaria. Such activities include, but are not limited to, the media sector (e.g., for media service providers), the aviation sector (e.g., for air carriers), the postal services (for courier companies or companies providing non-universal postal services), defence and export-controlled activities (for entities dealing with controlled defence-related products and dual-use goods), the pharmaceutical sector (e.g., for the sale or manufacture of medicines or medical devices), transport services, food sector (e.g., for the sale, manufacture or distribution of food), telecommunications sector, etc. Nevertheless, none of these licensing, registration and approval procedures are specific to foreign investment.

[3] Direct or indirect holding of 10% or more of the capital or voting rights or giving rise to substantial influence over the management of the target. Non-qualified holdings may also be subject to review and approval depending on the type of the target undertaking (e.g., minority holdings exceeding 1% of the capital or voting rights in an insurance or reinsurance company).

[4] Qualified holding reaching or falling below 33% (and not 30%) pertains to banks, electronic money companies, payment institutions and alternative investment fund managers.

## 1.2. Investment Incentives

The Bulgarian legal framework for the promotion of foreign investment is mainly provided by the Investment Promotion Act (the "**IPA**") and secondary legislation for its implementation, in accordance with the General Block Exemption Regulation (EU) 651/2014 declaring certain categories of aid compatible with the internal market in application of Articles 107 and 108 of the Treaty (the "**General Block Exemption Regulation**").

In order to encourage foreign direct investment, Bulgaria uses an investment certification approach and supports foreign investment by introducing a system of incentives for certified investments in tangible and intangible fixed assets and the creation of new related jobs[5]. The Minister of Innovation and Growth, assisted by the Investment Promotion Agency, is directly responsible for the implementation of the government`s foreign investment policy.

Depending on the size of the investment in terms of value and jobs created, the economic sector, and the region of the country in which the investment is made, the investor can obtain one of three main classes of investment certificates: **Priority Investment Project, Class A, or Class B**. The applicable incentives depend on the class of the certificate.

The Class A certification would typically require a minimum investment of between EUR 1-5 million, and Class B thresholds are half the size of the Class A thresholds. The creation of a significant number of new jobs and/or investments in municipalities where the unemployment rate has been equal to or higher than the national average for the last year (so-called "**economically disadvantaged regions**") and other factors may result in a significant reduction in the thresholds for investment incentives.

Priority Investment Projects are projects of significant importance for the national or regional economic development in Bulgaria. They represent the highest class of investment incentive certification and offer significant incentives, including cash grants from the state (see Section 1.2.1 below). Typically, an investment of EUR 10-50 million is required to obtain a certificate for a Priority Investment Project, depending on the economic sector, the region of investment, and the created of new jobs.

Investors are required to apply for an investment certificate prior to commencing project work in order to qualify for state subsidies. Therefore, no investment activities should not commence until the certification documentation has been duly submitted.

### 1.2.1. Grants

Priority Investment Projects may be eligible for special incentives, such as cash grants, up to the maximum aid intensity specified in the applicable regional aid map[6]. Depending on the

[5] Not all investments are eligible for promotion under the IPA, but only investments in tangible and intangible fixed assets and the related new jobs, whereas the investment in one "establishment" should meet the minimum thresholds set forth by law. The acquired tangible and intangible fixed assets used to calculate the value of the investment must be new and purchased at market conditions from third parties independent of the investor. In order to obtain the certificate, the time limit for completion of the investment project should be up to 3 years from the date of commencement of work on the project to its completion.

[6] The regional aid map for Bulgaria covering the period 2022-2027 can be accessed on the EU Commission's website: https://competition-policy.ec.europa.eu/state-aid/legislation/modernisation/regional-aid/maps-2022-2027_en.

region of the investment, the maximum aid intensity may reach up to 70% of the value of the investment for the period 2022-2027.

The exact amount of aid will be determined on the basis of a comprehensive methodology published on the website of the Ministry of Innovation and Growth. The methodology evaluates projects according to their contribution to economic and regional development, based on objective criteria such as fiscal impact, export orientation, technological and scientific intensity, integration into global value chains, and contribution to the green transition.

### 1.2.2. Social security cash back

The social security cash-back option is a financial incentive that allows certified investors in all investment classes to recover mandatory social security and health insurance contributions paid for newly hired employees (Bulgarian and EU nationals). This incentive is available for a period of 12 or 24 months, depending on the region of investment.

In practice, investors can estimate the amount of the refund they can claim by calculating the wages and contributions they plan to pay, taking into account the maximum insurance base subject to mandatory contributions in the country. In Bulgaria, the maximum insurance base in 2024 is set at approximately EUR 1,917 per month per employee, while the minimum is set at EUR 477. For example, if the employer's contribution is 19% of this income, an employer can expect to pay a minimum of EUR 1,088 and a maximum of EUR 4,370 in social security and health insurance contributions per employee over a 12-month period in 2024. For 100 employees, this would mean a refund of EUR 109,000 to EUR 437,000 over a one-year period and up to EUR 875,000 over a two-year period.

For more information on mandatory contributions due in connection with the employment, please refer to Section 3.1.5. (*Mandatory deductions*).

### 1.2.3. Training subsidies

To further encourage investment in Bulgaria, financial support may be provided for the vocational training and professional qualification of employees in newly created positions. This support is available to investors of all investment classes, in high-tech activities or in economically disadvantaged regions.

Eligible training costs that may be covered by this incentive include salaries of training personnel, operating costs (such as travel expenses, rent, materials and supplies), as well as costs of consultancy services and others. The aid intensity can range from 25% to 45% of the eligible training costs, depending on the size of the enterprise and other factors, up to a maximum of EUR 2 million.

The aid is granted in the form of reimbursement of the costs of training at least 30 employees in accordance with an approved training plan.

### 1.2.4. Construction of infrastructure

The state may provide financial support for the construction of technical infrastructure elements, which are public property of the municipality or the state, from the nearest existing infrastructure element to the investment site or the respective industrial park. This usually includes financing the construction of new roads or the repair of public roads. The financed infrastructure must be accessible not only to the investor (who must generally be a Class A or

priority class investor) but also to all existing and potential users on equal and non-discriminatory terms.

Once approved, the funds are to be given directly to the owner of the infrastructure (often the municipality) to operate and use as appropriate.

### 1.2.5. Direct acquisition of real estate

Normally, the acquisition of state or municipal real estate requires a public tender. However, certified investors may bypass this requirement by acquiring state or municipal real estate or limited property rights (such as rights of use) at the investment site without a competition.

An investor holding an investment certificate in any investment class may request the public operator managing state or municipal real estate (including land plots or buildings) at the investment site to sell the property or to establish limited property rights in favor of the investor directly. With the approval of the relevant managing authority (for example, the Minister of Regional Development for state property or the Municipal Council for municipal property), an independent market evaluation is conducted to determine the market price[7] of the property. The relevant executive official (for example, a regional governor or mayor) then completes the transfer and signs a contract with the investor.

Priority Investment Projects may also benefit from additional incentives. These include the possibility of acquiring real estate at a price below the market value (though not below the tax value) and exemption from state fees related to changes in land use.

### 1.2.6. Fast-track administrative services

As a general rule, the central and territorial executive authorities are obliged to provide administrative services within a one-third shorter period of time after the submission of an investment certificate than provided for in the relevant legal acts.

In addition, the IPA provides exclusively for faster deadlines for administrative services in the construction sector.

Delays in the provision of these services may result in the extension of the investment certificate.

### 1.2.7. Corporate tax incentives

#### 1.2.7.1. Accelerated depreciation rates for new equipment

Under the Corporate Income Tax Act, investors may apply accelerated depreciation rates of up to 50% on new machinery, production equipment, and apparatus included in an initial investment. New machinery and equipment often constitute the majority of the eligible investment value certified under the Investment Promotion Act.

The use of these higher depreciation rates can significantly reduce the tax base in early years of the investment project, thus reducing the amount of income subject to the 10% flat-rate corporate income tax in those years, resulting in lower income tax liabilities.

[7] Generally, the value of the investment must exceed the market value of the purchased real estate by more than five times.

For more information on the tax depreciation rates see Section 3.2.1.3. (*Tax/accounting depreciation*).

#### 1.2.7.2. No corporate tax for production in high unemployment regions

Bulgaria offers a corporate income tax remission of up to 100% for companies engaged in manufacturing activities in municipalities where the unemployment rate is 25% higher than the national average. This tax relief is intended to encourage investment in manufacturing in these areas.

In order to benefit from this tax relief, companies must reinvest the tax remitted in the acquisition of long-term tangible and intangible assets and comply with other conditions, depending on whether the relief constitutes State aid for regional development or de minimis aid.

For more information on the other tax incentives please see Section 3.2.1.7. (*Available tax credits/incentives*).

# 2. CORPORATE VEHICLES FOR INVESTMENT

## 2.1. Most Common Forms of Legal Entity (LLC and JSC)

The two types of company structures commonly used in Bulgaria are the limited liability company ("**LLC**") and the joint-stock company ("**JSC**"). The LLC is the most frequently used type of company structure due to its low capital requirements and simple management structure. On the other hand, the JSC is typically used for joint ventures. Both LLCs and JSCs can also be incorporated as single-shareholder companies with one shareholder.

## 2.2. Incorporation Process

The process of incorporating a company in Bulgaria involves three main steps:

(a) Execution of the incorporation documents: the corporate documents specify the name of the company, registered address, amount of capital, names of directors and representatives, and shareholders;

(b) Opening a capital bank account in the name of the Bulgarian company and transferring the capital to this account;

(c) Registration of the company with the Bulgarian Commercial Register;

The entire process typically takes 2-3 months, with the most time-consuming step being the opening of the capital bank account. Banks in Bulgaria are required to carry out KYC procedures before entering into relations with a client. Depending on the complexity of the shareholding structure within the group, this step may involve the collection of numerous official legalized documents for all companies in the chain of ownership between the Bulgarian company and the ultimate controlling person.

After the official registration of the company with the Bulgarian Commercial Register, the company must also disclose its ultimate beneficial owners (UBO) with the Commercial Register. A UBO registration is not required only if the direct shareholders are individuals and are registered as shareholders with the Bulgarian Commercial Register.

### 2.2.2. Incorporation of LLC

An LLC can be incorporated as a single-shareholder LLC or an LLC with multiple shareholders without any limitation on the number of shareholders.

The minimum capital required for an LLC is BGN 2 (approximately EUR 1). If the company is to be incorporated with capital exceeding the minimum of BGN 2, at least 70% of the capital must be paid at the time of incorporation, with the remainder payable within two years.

The following documents must be executed by the shareholders and the managers of the company for the incorporation of an LLC:

(a) Resolution of the shareholders for the incorporation of the company;

(b) Deed of Incorporation (for a single-shareholder LLC) or Articles of Association (for an LLC with multiple shareholders);

(c) Declaration of consent and a specimen of the signature of the managers, signed before a notary public. If notarized outside Bulgaria, legalization may be required, depending on the country of execution;

(d) Standard declaration for the correctness of data, signed by the managers of the Bulgarian company;

(e) Power of attorney by the managers of the Bulgarian company for the lawyers in Bulgaria to complete the official registration of the company with the Bulgarian Commercial Register;

Once these documents are executed, a capital bank account must be opened with a bank in Bulgaria and the shareholders must transfer the capital to this account. After the transfer, the incorporation documents are to be submitted to the Bulgarian Commercial Register for the official registration of the company. The company comes into existence from the date of registration with the Bulgarian Commercial Register.

If the direct shareholders are legal entities, a UBO registration with the Bulgarian Commercial Register is required.

### 2.2.3. Incorporation of JSC

A JSC can be incorporated as a single-shareholder JSC, or a JSC with multiple shareholders without limitation in the number of shareholders. The minimum capital of a JSC is BGN 50,000 (circa EUR 25,600). Upon incorporation of a JSC, at least 25% of the nominal value of the shares must be paid, and the remainder must be paid within two years after incorporation.

For the incorporation of a JSC, the following documents must be executed by the shareholders and the board members of the company:

(a) Resolution of the shareholders for incorporation of the company; in the case of a JSC with more than one shareholder, the shareholders must hold a meeting to adopt resolutions for the incorporation of the JSC;

(b) Statutes of the JSC;

(c) Declarations by the shareholders that they are not declared insolvent;

(d) Declaration of consent and a specimen of the signature of the directors of the company, signed before a notary public. If notarized outside Bulgaria, legalization may be required, depending on the country of execution;

(e) Board resolutions of the directors of the JSC for determination of the manner of representation and/or election of executive directors;

(f) List of shareholders who subscribed for shares;

(g) Standard declaration for the correctness of data, signed by the representative ( executive director) of the Bulgarian company;

(h) Power of attorney by the representative (executive director) of the Bulgarian company for the lawyers in Bulgaria to complete the official registration of the company with the Bulgarian Commercial Register.

Once the above documents are executed, a capital bank account must be opened with a bank in Bulgaria, and the shareholders must transfer the capital of the company to the capital bank account.

After the transfer of the capital to the capital bank account, the incorporation documents are to be submitted to the Bulgarian Commercial Register for the official registration of the company.

The company comes into existence as of the date of the official registration with the Bulgarian Commercial Register.

A UBO registration with the Bulgarian Commercial Register is required if there is more than one shareholder, irrespective of whether the direct shareholders are legal entities or individuals. A UBO registration is also required even if the JSC is a single-shareholder JSC, in case the direct shareholder is a legal entity.

## 2.3. Governance Structures

In both an LLC and a JSC, the shareholders are competent to resolve the most important matters regarding the existence of the company, such as the amendment of the Deed of Incorporation, Articles of Association, or Statutes, capital increase, reorganization, termination, appointment of management bodies, and approval of financial statements.

### 2.3.1. Management bodies in LLC

LLCs have a simple management structure and it is sufficient for them to have only one manager appointed by the shareholders to represent the company. If the shareholders appoint more than one manager, they can provide for either individual, or joint representation. Except for joint representation by two or more managers, no other limitations to the representative powers of the managers can be effective with respect to third parties.

A manager of an LLC can be only an individual, and not a legal entity. There are no citizenship or residence requirements for the managers provided for by law.

### 2.3.2. Management bodies in JSC

A JSC can have a one-tier board structure or a two-tier board structure. In the case of a one-tier board structure, there is a Board of Directors consisting of 3 to 9 members. In the case of a two-tier board structure, there are a Management Board (consisting of 3 to 9 members), and a Supervisory Board (consisting of 3 to 7 members).

The members of the Board of Directors, Management Board, or Supervisory Board can be either individuals or legal entities. There are no citizenship or residence requirements for the board members provided for by law.

The Board of Directors or Management Board is responsible for the management of the company, and it can also elect from among its members representatives or executive directors to represent the company individually or jointly. Except for joint representation by two or more representatives (executive directors), no other limitations to the representative powers of the representatives can be effective with respect to third parties.

## 2.4. Liability of the Directors and Shareholders

The managers of LLCs and directors of JSCs are obliged to manage the company, and their obligations are towards the company, and not towards the shareholders. If managers or directors cause damages to the company, the company can file a civil claim against them to seek compensation for the damages. Under Bulgarian law, damages can include direct damages suffered or loss of profit. Indirect damages cannot be compensated.

As a rule, the shareholders in LLCs and JSCs are not liable for the obligations of the company towards third parties. There are some exceptions to this rule, where the tax authorities can claim from the majority shareholders payment of the company's taxes, if the shareholders, acting in bad faith, have approved the performance of actions aiming at decreasing the property of the company, which has resulted in the failure to pay taxes and/or social security contributions by the company.

## 2.5. Liquidation Procedure

Liquidation of an LLC or JSC is a voluntary procedure aimed at ceasing the company's operations and removing its registration from the Bulgarian Commercial Register.

The liquidation process generally requires a minimum of one year and involves these steps:

### 2.5.1. Preparing corporate documents to commence the liquidation process

The necessary documents include resolution by the shareholders for the termination of the activities of the company and the appointment of a liquidator, standard declarations by the liquidator, power of attorney, etc.

### 2.5.2. Notification to the tax authorities

The company is required to notify the tax authorities in Bulgaria about its intention to begin a liquidation process. The tax authorities will provide a certificate of notification within two months after the notification has been filed.

### 2.5.3. Optional – ending employment contracts (if applicable)

The resolution by the shareholders for the termination of the activities of the company may serve as grounds for terminating the employment contracts with the employees by giving a termination notice, as per the notice period provided under the employment contracts.

### 2.5.4. Registering the initiation of liquidation and appointing a liquidator

After the tax authorities issue a certificate that they have been notified about the intended liquidation procedure (see 2.5.2 above), the company must register the initiation of the liquidation procedure with the Bulgarian Commercial Register and the appointment of a liquidator for the company.

The liquidator must be an individual, and not a legal entity. The liquidator represents the company during the liquidation process instead of the managers or executive directors, whose powers are terminated with the registration of the initiation of the liquidation procedure with the Commercial Register.

The liquidator must also publish in the Commercial Register an invitation to the company's creditors to submit their outstanding claims to the company. The minimum term for completion of the liquidation procedure is six months and it starts running after the publication of the invitation to the creditors in the Commercial Register.

### 2.5.5. VAT formalities

Within 14 days after the registration of the initiation of the liquidation procedure with the Commercial Register, the company must either: (a) file an application with the tax authorities for VAT deregistration, or (b) file an application with the tax authorities for the company to remain registered for VAT purposes during the liquidation procedure.

### 2.5.6. Submitting employment documents to the National Social Security Institute

All employment files (contracts, annexes, payroll documentation, etc.) must be submitted to the National Social Security Institute for safekeeping. For this purpose, the company must file an application to the National Social Security Institute within 30 days after the registration of the initiation of the liquidation procedure with the Commercial Register, and the authorities will schedule a date for the delivery of the employment documentation to them. Usually, the scheduled delivery date is 3 months after the filing of the application.

After the delivery of the employment files to the authorities, the National Social Security Institute issues an official certificate confirming the due completion of the delivery of the employment files.

If there are no employees hired by the company, the company will still need to notify the National Social Security Institute about the liquidation and let the Institute know that there have not been employees ever hired by the company. In such a case, the National Social Security Institute issues an official certificate confirming that no employment files are to be delivered to them due to the absence of any employees.

### 2.5.7. Settlement of relations with third parties

During the liquidation process (the minimum six-month period referred to in 2.5.4. above), all relations with creditors and debtors must be settled: the receivables must be collected, any assets must be sold, all obligations must be paid, any intercompany loans must be settled, etc.

At the end of the six-month period for completion of the liquidation, the company should not have any material assets, receivables or obligations to third parties. Only if, as a result of the liquidation, there are any funds remaining for payment as a liquidation quota to the shareholders, must such funds remain in the company and be paid to the shareholders after the expiration of the six-month liquidation term.

### 2.5.8. Closing balance sheet

After the expiration of the term of the liquidation (the minimum six-month term referred to in 2.5.4. above) and the settlement of the relations with any third parties (2.5.7. above), a liquidation closing balance sheet must be prepared.

The liquidation closing balance sheet must show that the company does not have any material assets, receivables, or obligations, except for any potential funds in bank accounts that are to be paid to the shareholders as a liquidation quota.

### 2.5.9. Preparation of corporate documents for deregistering the company

After the completion of the liquidation formalities, the shareholders must adopt a resolution for the approval of the closing balance sheet, the approval of the distribution of the liquidation quota (if any), and the deletion of the company from the Commercial Register.

#### 2.5.10. Closure of the company's bank accounts in Bulgaria

Once the liquidation quota (if applicable) is paid, the company's bank accounts are to be closed.

#### 2.5.11. Removal of the company from the Commercial Register

The deletion of the company from the Bulgarian Commercial Register is to be done by an application filed by the company, supported by: (a) the certificate from the National Social Security Institute regarding the delivery of the employment files (see 2.5.6. above); (b) the closing balance sheet (see 2.5.8. above); and (c) the resolution of the shareholders for the deletion of the company (see 2.5.9. above).

#### 2.5.12. Tax reporting

Once the company is removed from the Commercial Register, final tax returns must be submitted to the tax authorities.

# 3. INVESTMENT MANAGEMENT

## 3.1. Employment

The Bulgarian legislation is based on the civil law system. Employment relationships between individuals and employers are regulated predominantly by the Constitution of the Republic of Bulgaria, the international treaties to which the Republic of Bulgaria is a signatory, and which have been ratified by the Bulgarian Parliament, and any domestic legislation, including the Bulgarian Labour Code, as well as various special laws and a large number of regulations, collective labour agreements, and the internal rules and orders of the employers.

The Labour Code is based on the principle of setting the minimum standards for the relationship between an employer and an employee. The majority of its provisions (for example,, regarding working hours, breaks, leave, labour discipline, information and consultation, duration, termination of the employment, etc.) are mandatory in nature and cannot be waived, even with the consent of the employee. Any mutual understanding to that effect could result in a violation of the Labour Code and the imposition of sanctions for the employer.

### 3.1.1. Employment of expatriates (visas, residence permits, work permits)

#### 3.1.1.1. EU nationals

EU nationals are entitled to work in Bulgaria without any work permit. They may either conclude employment contracts with a Bulgarian host entity, or they may be seconded to Bulgaria while remaining on the payroll with their home country employer.

Only in cases of secondment of EU nationals to Bulgaria, is there a requirement to perform a simple notification procedure before the Bulgarian Employment Agency.

EU nationals are entitled to enter and reside in Bulgaria for three months without any residence registration requirement, and a new three-month period of permitted stay starts running each time they enter Bulgaria.

If the assignees need to stay in Bulgaria for more than three months at a time, without leaving and re-entering the country, they need to obtain residence certificates.

#### 3.1.1.2. Non-EU nationals

A non-EU individual is entitled to work in Bulgaria only after obtaining work and residence permits. The entire process includes three main steps:

**Step 1**: Work permit procedure;

**Step 2**: Long-term visa procedure; and

**Step 3**: Residence permit procedure.

There are different types of work and residence permits that could be obtained depending on the payroll country, duration of the intended assignment, qualification of the individual, etc.

In general, the immigration procedures are formalistic and time consuming: usually, the completion of the entire work and residence authorization procedure until the individual can start working in Bulgaria takes 5-6 months.

One of the most important requirements for successful completion of a work permit procedure (Step 1 above) is the possession of a degree certificate by the individual: preferably, a university degree relevant to the respective position.

Bulgarian law provides for a few exemptions from the work permit obtainment requirement (Step 1 above) – e.g., managers of Bulgarian companies officially registered as such with the Bulgarian Commercial Register do not need work permits, but only visas and residence permits (Step 2 and Step 3 above), provided that the companies have hired at least 10 Bulgarian citizens under full-time employment contracts.

The costs for the procedures (official fees and other disbursements, such as fees for notarization, translation, and legalization of documents) depend on the type of the work and residence permits and may also vary on a case-by-case basis within the range between EUR 500 – EUR 1000.

Family members of a non-EU individual may also join the individual in Bulgaria after obtaining Bulgarian visas and residence permits. It should be noted that the procedures for family members may not be carried out simultaneously with the work/visa and residence permit procedures for the respective individual. The procedure for the family members may only be initiated after the completion of the entire immigration process for the individual and may take additional 3-4 months.

The spouses of non-EU individuals who join them in Bulgaria as family members also need work permits, if they wish to work in Bulgaria.

### 3.1.2. Characteristics of the employment contracts

The employment contract must be concluded in writing in order to be valid. The employer is obligated to provide the employee with a copy of the employment contract before the commencement of work. In addition, the employer is obligated to notify the Bulgarian National Revenue Agency of the employment contract within three days of signing it. The employee must be presented with a copy of that notification before the commencement of work.

The Labour Code lists the minimum mandatory content of each employment contract:

(a) the data of the parties (for the employee: full name, permanent address, personal identification number, type and degree of education, if related to the work; for the employer (legal person or sole proprietor): business name, seat and address of management, unified identification code, full names and personal identification numbers of the contract signatories; for the employer (natural person): full name, permanent address, personal identification number);

(b) the place of work;

(c) the title of the position (the name of the position in the employment contracts is to be determined in accordance with the National Classification of the Professions and Positions) and the description of the work;

(d) the date of signing and the commencement date;

(e) the period of contract duration;

(f) the duration of the basic and additional annual leave;

(g) the notice period for each party (the notice period should be equal for both parties);

(h) the base monthly salary and the additional labour remuneration of a permanent nature, as well as the periodicity of payment thereof;

(i) the duration of the working day or the working week.

If any of those elements are missing, they are substituted by the relevant provisions of the applicable law, as applicable. Upon conclusion of the employment contract, the employer is obligated to provide the employee with a job description and obtain their signature to that effect.[8]

[8] Note that an employment contract could also be established through a competitive examination, which is required for certain job positions specified by statute or by an act of the Council of Ministers, or employment of a government minister, or of a head of another central-government department, or may be required by the employer.

There is no legal requirement for the employment contract to be in Bulgarian, but a Bulgarian language version is recommended.

An employment contract for a fixed term can be concluded only as an exception and on legal grounds that are explicitly and exhaustively listed by the law. On one of the grounds, the term cannot exceed three years; however, some of the other grounds do not have a maximum term applicable to them. The fixed-term employment contract is transformed into a contract for an indefinite period if the employee continues to work for five or more working days after the expiry of the agreed fixed period if no written objection is issued by the employer and if the position is vacant.

### 3.1.3. Vacations and leaves

#### 3.1.3.1. Paid annual leave

All employees are entitled to paid annual leave if they have at least four months of service (with any employer). The amount of the basic paid annual leave is 20 working days in each leave year, not counting any public and bank holidays.

Certain categories of employees, depending on the special nature of their work, are entitled to an extended paid annual leave, which includes the term of the basic paid annual leave. The categories of such employees, and the minimum amount of such leave, are specified in an ordinance issued by the Council of Ministers.

Furthermore, some categories of employees are entitled to an additional paid annual leave, as follows:

(a) for work under specific conditions and life and health hazards: not less than five working days;

(b) for work under open-ended working hours: not less than five working days.

#### 3.1.3.2. Paid annual leave postponement

The employee must take their paid annual leave during the calendar year for which it is due. However, the paid annual leave may be postponed and carried forward to the next calendar year:

(a) by the employer – due to important production reasons and within a "carry-over" limit of 10 working days;

(b) at the employee's written request specifying important reasons: with the employer's consent and with no limitation of the days that may be carried forward;

(c) in case the employee was not able to use their entire paid annual leave due to the use of a statutory leave for pregnancy, maternity, adoption, taking care of a small child, or temporary disability, as well as the use of another statutory leave during the same year: with no limitation of the days that may be carried forward.

The right to use the unused paid annual leave lapses two years after the end of the year to which the respective paid annual leave pertains. Where the paid annual leave has been postponed due to the use of another statutory leave, the employee's right to use such leave lapses two years after the end of the year in which the reason for the non-use of the leave has ceased to exist.

For the time of paid annual leave, the employer must pay the employee remuneration calculated on the basis of the average daily gross remuneration charged at the same employer for the last calendar month preceding the use of the leave during which the employee has worked for at least 10 working days.

#### 3.1.3.3. Leave for civic, public and other duties

Employees are entitled to a leave for the performance of certain civic, public, and other duties, including:

(a) marriage: two working days;

(b) when the employee is summoned to appear before a court of law or by other authorities as a party, witness, or expert, etc.;

(c) educational leaves.

During such leaves, the employees are paid their salary in the cases provided by the law or any applicable collective bargaining agreement.

#### 3.1.3.4. Public holidays

The public holidays in Bulgaria are:

(a) 1 January – New Year's Day;

(b) 3 March – Day of the Liberation of Bulgaria from the Ottoman Empire, National Holiday;

(c) 1 May – Labour and International Workers' Solidarity Day;

(d) 6 May – Gergyovden (St. George's Day) – Day of Valour and of the Bulgarian Armed Forces;

(e) 24 May – Day of Bulgarian Education and Culture and of Slavic Script;

(f) 6 September – Unification Day;

(g) 22 September – Bulgaria Independence Day;

(h) 1 November – National Enlighteners Day (Holiday for all educational institutions);

(i) 24 December – Christmas Eve;

(j) 25 and 26 December – Christmas Days;

(k) Easter Holidays – 4 days (Good Friday, Holy Saturday, Easter Sunday, and Easter Monday) according to the Orthodox calendar of the respective year.

The Council of Ministers may also proclaim other days as one-time public holidays, or for the commemoration of certain professions.

In cases when an employee is granted another type of paid or unpaid leave (especially in the cases of sick leave) during a period of a statutory annual leave, they may interrupt the use of such annual leave (upon the employee's explicit request) and take it at some other time, even if this means that such leave is to be carried forward to the following leave year.

#### 3.1.3.5. Maternity leaves

Female employees are entitled to pregnancy and childbirth leave of 410 days paid by the government for each child, 45 days of which must be used prior to childbirth. Such employees have the right to cash benefits, provided that they have at least 12 months of insured length of service. Where birth occurs prior to the lapse of 45 days after commencement of the use of the benefit, the remainder of the 45-days' period may be used after the confinement.

Cash benefits are payable directly by the National Social Security Institute for pregnancy and childbirth at 90% of the average daily gross wage or the average daily security income on which security contributions have been paid or are due for the period of 24 calendar months preceding the month in which the temporary disability has occurred. The daily cash benefit may not be more than the average daily net remuneration for the period based on which the benefit is calculated, or less than the minimum daily wage for Bulgaria.

A female employee who adopts a child of up to 5 years of age is entitled to an adoption leave of 365 days as of the day when the child was delivered for adoption, but not later than the child's fifth birthday. When the child is adopted by spouses, with the consent of the mother (female adopter), the father (male adopter), if working under an employment relationship, may use the leave upon the expiry of 6 months as of the day when the child was delivered for adoption, but not later than the child's fifth birthday.

After the use of the pregnancy, childbirth, or adoption leave, if the child has not been placed in a child-care establishment, the female employee is entitled to an additional child-care leave for a first, second, and third child until the child reaches two years of age, and to 6 months for each additional child. With the consent of the mother (or female adopter), such leave can be granted to the father (or male adopter) or to one of their parents, if such parent works under an employment relationship.

The employees or their parents are entitled to child-care benefits in an amount determined by the State Social Security Budget Act for the respective year, provided that they have at least 12 months of contributory service.

Where the mother and father are married or share a household, the father is entitled to a 15-day leave upon the birth of a child from the date of discharge of the child from the medical-treatment facility. In such cases, the father (employee) is entitled to cash benefits from the National Social Security Institute in the amounts and under the conditions valid for the mother.

#### 3.1.3.6. Sick leaves

Employees are entitled to leave for temporary incapacity to work due to general sickness or occupational disease, occupational injury, sanatorial treatment, or urgent medical examination or tests, quarantine, suspension from work prescribed by the health authorities, taking care of a sick or quarantined member of the family, urgent need to accompany a sick member of the family to a medical examination, test, or treatment, as well as for taking care of a healthy child dismissed from a children's establishment by reason of a quarantine imposed on the establishment or on the child.

Employees are entitled to cash benefits in lieu of salary for the duration of such leaves, provided that they have at least 6 months of insured length of service. The requirement for 6 months of insured length of service does not apply to those younger than 18 years of age. Employees are entitled to cash benefits for an industrial accident or an occupational disease, and to benefits for occupational rehabilitation in such cases, regardless of the duration of their insured length of service. The cash benefits for temporary disability must be paid from the first day of absence until recovery or until disablement is established. The cash benefits for the first 2 days of a temporary disability leave are paid at the expense of the employer at 70% of the average daily gross salary for the month during which the disability occurred, but no less than 70% of the average daily agreed salary, and the cash benefits for the remaining period are paid directly by the National Social Security Institute.

The temporary disability is to be evidenced through a medical certificate. Persons authorized to issue medical certificates are:

(a) medical doctors from emergency units of hospitals or from separate emergency medical centres: for a leave of up to 3 days;

(b) general practitioners and dentists: for a leave of up to 14 days but not more than an aggregate of 40 days in a year;

(c) Medical Consultancy Commission: for a leave exceeding 14 days and up to 6 months;

(d) Territorial Expert Medical Commission: for a leave of 6 months up to 18 consecutive months.

### 3.1.4. Working time

#### 3.1.4.1. Working hour restrictions

Bulgarian working hour restrictions apply to all types of employees, including managerial and executive employees.

The normal working time is 8 hours a day within a 5-day working week. The maximum working week is 40 hours long.

For employees who perform work under specific conditions and where the risks to their life and health cannot be eliminated or reduced regardless of the measures taken, and where reduction of the duration of working time mitigates the risks to their health (as determined by an Ordinance of the Council of Ministers), the regular normal work day is 6 to 7 hours, depending on the category.

The working time of employees younger than 18 years of age is 35 hours per week and 7 hours per day in a 5-day working week. Note that the labour remuneration and the other entitlements of the employees under the employment relationship may not be reduced solely because they work reduced normal working time.

The normal working time cannot be extended by the parties to the employment contract, except as provided by the law.

(a) **Extension of working time**

One example of permitted extension of the normal working time is the so-called "**extension of the working time**". For production reasons, the employer may, by an order in writing, extend the working time on some working days and compensate the employees' working time on other working days accordingly, after consultation with the trade union organizations' representatives and the employees' representatives in advance. The employer is obligated to notify the Labour Inspectorate in advance of any such extension of the working time.

The duration of the extended working day may not exceed 10 hours or, for employees at reduced working time, 1 hour in excess of their reduced working time. The working week may not exceed 48 hours and, for employees at reduced working time, 40 hours. The employer is obligated to keep a special book for recording the extension and compensation of the working time.

Extension of the working time is permissible for a period of up to 60 working days in 1 calendar year, but for not more than 20 consecutive working days. In addition, the employer is obligated to compensate for the extension of the working time by a reduction of the working time for each extended working day within a period of 4 months. Where the employer fails to compensate the employees for the extension of the working time within this time limit, the employees are entitled to determine at their own discretion the period when the extension of the working time is to be compensated, by notifying the employer in writing of the exercise of such discretion at least 2 weeks in advance. In case the employment relationship is terminated before compensation of the extended working time, the balance must be paid as overtime work.

(b) **Open-ended working hours**

The second case of permitted prolongation of the normal working time is the system of open-ended working hours. Due to the special nature of work, the employer, after consultation with the trade union organizations' representatives and employees' representatives, may establish open-ended working hours for certain positions. Open-ended working hours may not be

established for employees working at reduced working time. The list of positions for which open-ended working hours are established must be determined by an order issued by the employer. The employees at open-ended working hours must be obligated, where necessary, to perform their labour duties even after expiry of the normal working time. In case of open-ended working hours, the employees are entitled to an additional break of not less than 15 minutes after expiry of the normal working time, and the aggregate duration of the working time may not interfere with the minimum uninterrupted daily and weekly rest period as established by the Labour Code. The work in excess of the normal working time on working days must be compensated by additional paid annual leave, and the work on weekends and holidays must be compensated by increased remuneration for overtime.

(c) **Overtime work**

The last example of working in excess of the normal working time is overtime work. Overtime work is performed on the order of, or with the knowledge of, and with no objection from, the employer or the respective superior, by an employee beyond the working time fixed for them. As a general principle, overtime work is forbidden, except for the performance of work related to national defence, the performance of work by the Ministry of Interior officials in connection with elections, the drawing up of expert opinions and psychological support in operative-search activities and the handling of critical situations, as well as for other work related to security and protection of public order, for the prevention, management, and mitigation of the effects of disasters, for the performance of urgent publicly necessary work to restore water and electricity supply, heating, sewerage, transport, and communication connections, and for the provision of medical care, for the performance of emergency repair on working premises, machinery or other equipment, for the completion of work that cannot be performed within the normal working time, and for the performance of intensive seasonal work.

Overtime work performed by an employee within any one calendar year may not exceed 150 hours, that is:

i. 30 hours of daytime work, or 20 hours of night work during one calendar month, or

ii. 6 hours of daytime work, or 4 hours of night work during one calendar week, or

iii. 3 hours of daytime work, or 2 hours of night work during two consecutive working days.

Through a collective bargaining agreement, the employers and the trade unions may negotiate a longer annual duration of overtime work, but no more than 300 hours within a calendar year.

Overtime work is prohibited for employees younger than 18 years of age, pregnant female employees, and female employees in an advanced stage of in-vitro treatment, as well as for some employees working at reduced working time. The following categories of employees may be obligated to perform overtime only with their explicit consent: mothers of children under 6 years of age, as well as mothers who take care of children with disabilities, irrespective of the child's age, employees with decreased working capacity – only when such employment

will not adversely affect their health according to a conclusion by the health authorities, and employees who pursue their studies without interruption of employment.

The employer is obligated to keep a special book to account for overtime work. The overtime work performed is notified to the labour inspectorate by January 31 of the following year.

Overtime work must be paid with an increase agreed between the employee and the employer but no less than:

i. 50% for work on working days;

ii. 75% for work on weekends;

iii. 100% for work on public holidays;

iv. 50% in the case of a summarized calculation of the working hours.

The employment contract may not provide for a single global salary that includes payment for all overtime without paying for extra hours. Overtime work (if performed) is to be paid in addition at the amounts provided above.

#### 3.1.4.2. Breaks

The employer must provide each employee with a meal break, which may not be shorter than 30 minutes. The breaks must not be included in the working time. In continuous production processes and at enterprises where work is uninterrupted, the employer must provide the employee with time for a meal break during the working time.

Employees are entitled to an uninterrupted daily rest period which may not be shorter than 12 hours.

In the case of a 5-day working week, the employee is entitled to a weekly rest of 2 consecutive days, one of which must in principle be Sunday. In such cases, the employee is to be provided with a weekly rest period of at least 48 consecutive hours. In the case of a summarized calculation of the working hours, the uninterrupted weekly rest period must be not less than 36 hours. In the case of changes of shifts with a summarized calculation of the working hours, the uninterrupted weekly rest period may be less than 48 hours, but not less than 24 hours, provided that this is required by the actual and technical work organization at the enterprise. In the case of overtime work performed during the 2 days of the weekly rest period, when calculating working time on a daily basis, employees are also entitled, in addition to increased pay for such work, to an uninterrupted weekly rest period of not less than 24 hours during the following working week.

Working time is calculated in terms of working days, on a daily basis. The employer may, however, provide for a summarized calculation of the working hours on the basis of a week, a month, or over another calendar period, which may not be longer than 4 months. Summarized calculation of the working hours is not allowed for employees working under open-ended working hours. The maximum duration of a work shift upon summarized calculation of the

working hours may be up to 12 hours, while the total duration of the working week may not exceed 56 hours. For employees at reduced normal working time, it may be up to 1 hour beyond their reduced working time.

Violation of the rules concerning the working hours and rests would result in administrative measures or fines. Also, the violation may entitle the employee to terminate the employment relationship without notice.

There are some special provisions for night work and shift work. Where the nature of the production process so necessitates, work at the enterprise must be organized in 2 or more shifts. A work shift can be mixed where it includes daytime work and night work. A mixed work shift of 4 or more hours of night work is considered a night shift and has the duration of a night shift, and a shift of less than 4 hours of night work is considered a day shift and has the duration of a day shift. The rotation of shifts in the enterprise must be determined by the internal work rules. Assigning work for 2 consecutive work shifts is prohibited.

Night work is work performed between 10:00 p.m. and 6:00 a.m., and for employees under 18 years of age: work performed between 8:00 p.m. and 6:00 a.m. The normal duration of the weekly working time at night for a 5-day working week is up to 35 hours (up to 7 hours per night). Night work is not permitted for certain categories of employees. Employees whose normal working time includes at least 3 hours of night work, as well as employees who work in shifts, where one shift includes at least 3 hours of night work, must be treated as employees who perform night work. Night work is paid with an increase agreed between the parties, but not less than the amounts determined by the Council of Ministers (currently at 0.15% of the minimum wage established for the country, but not less than EUR 0.50 per hour).

### 3.1.5. Mandatory deductions

Employers are required to make deductions from the employee salary for income tax under the Natural Persons Income Taxes Act. The deductions are in the amount of 10% of the employees' gross labour remuneration on an annual basis.

Employees hired to work for more than 5 working days, or 40 hours, within a calendar month, regardless of the nature of the work, the method of pay, and the source of funding, must be insured against general sickness and maternity, disability due to a general sickness, age or death, industrial accidents and occupational diseases, and unemployment. Persons included in the Employment Encouragement Program and the Maternity Support Program are not to be insured against unemployment.

Both employers and employees have to make mandatory social security contributions on employees' monthly insurance income. Every year, the Parliament sets a minimum monthly insurance base depending on the economic activity, and a maximum monthly insurance base (for 2024, the maximum monthly insurance income is BGN 3,750, i.e., approximately EUR 1,917). The exact amounts of the social contributions are calculated on the basis of the employee's gross remuneration, but within these minimum and maximum limits.

The amount and the type of the mandatory social security contributions depend, *inter alia*, on the category of labour performed by the respective employee. A special regulation defines three categories of labour. This regulation lists exhaustively the types of work conditions and professions that fall within the first and second categories, and the third category covers all those that do not fall within the scope of the first and second categories. The amount of the social contributions (for the third category of labour) is as follows:

(a) 19.8% to the State Pension Fund for employees born before 1 January 1960, and 14.8% for employees born after 31 December 1959;

(b) 5% to the private pension funds for employees born after 31 December 1959;

(c) 3.5% to the General Sickness and Maternity Fund;

(d) 1% to the Unemployment Fund; and

(e) up to 1.1% for Industrial Accidents and Occupational Diseases Fund.

In addition, for employees, health insurance contributions must be paid on all earnings at a rate of 8%.

These contribution amounts are divided between the employer and the employee on the basis of complex rules, roughly following the ratio of 60% at the employer's expense and 40% at the employee's expense.

### 3.1.6. Trade unions and collective bargaining agreements

Employees are entitled, with no prior permission, to freely form, by their own choice, trade union organizations and to join and leave them on a voluntary basis. Trade union organizations represent and protect employees' interests before the state bodies and the employers with respect to the industrial and social security relations and living standards through collective bargaining, participation in tripartite co-operation, organization of strikes, and other actions within the provisions of the law. Irrespective of how many employees are hired by one employer, the employees may form a trade union within the enterprise or become members of a broader trade union organization.

The collective bargaining agreements (the "**CBA**") regulate the industrial and social security relations of employees. Within an enterprise, the CBA is concluded between the employer and a trade union organization. The individual employer, the group of employers, and their organizations are obligated to negotiate with the employees' representatives the conclusion of a CBA and to make available to the employees' representatives the CBAs concluded that bind the parties on the basis of industry, territorial or organizational affiliation, as well as timely, true and understandable information on the economic and financial position of the employer relevant to the conclusion of the CBA.

The CBAs on a branch-of-industry level are mandatory only for their parties, i.e., the employers' representative organization (and the employers that are members thereof) and the trade union organizations (and their individual members).

However, the Bulgarian law provides for the possibility for a CBA on an industry or branch-of-industry level to apply to all enterprises in the respective sector, subject to the following two conditions:

(a) the CBA is executed by all trade union organizations and employers' representative organizations in the respective industry or branch-of-industry; and

(b) an application to that effect is filed by the parties to the agreement with the Minister of Labour and Social Policy.

Where the abovementioned conditions are fulfilled, the Minister of Labour and Social Policy may, at their own discretion, issue a decision that extends the scope of the CBA to all enterprises in the respective industry or branch of industry.

All employees within a company, including enterprises providing temporary employment, form the Employees' General Meeting, regardless of the headcount. Where a limited liability company or a joint-stock company has hired more than 50 employees, their representatives are allowed to participate in the general meetings of shareholders without the right to vote.

Membership in a Trade Union is not mandatory and the initiative to form a Trade Union at a company level lies solely with the company employees.

### 3.1.7. Termination of employment contracts by the employer

The procedure and grounds for the termination of an employment contract are not freely negotiable between the parties. The employer may terminate (with or without notice) an employment contract only on certain grounds that are exhaustively listed in the Labour Code and must follow a specific procedure.

#### 3.1.7.1. Employer-initiated termination with prior notice

The employer may unilaterally terminate an employment contract by providing a prior written notice on the following grounds (non-exhaustive list):

(a) the closing down of the entire enterprise;

(b) the closing down of part of the enterprise or downsizing of personnel (redundancy);

(c) the reduction of the volume of work;

(d) the suspension of work for more than 15 working days;

(e) if the employee lacks the qualities required for efficient work performance;

(f) if the employee does not have the required education or vocational training for the assigned work;

(g) if the employee refuses to follow the enterprise or a division thereof when it is relocated to another community or locality;

(h) if the position occupied by the employee is to be vacated for the reinstatement of an unlawfully dismissed employee who had previously occupied the same position;

(i) if an employee has become eligible for a full retirement pension in terms of length of service and age;

(j) where the employment relationship was established after the employee has acquired and exercised their entitlement to a pension;

(k) where the employment relationship was established after the employee is granted a reduced retirement pension for length of service and age under the Social Insurance Code;

(l) if the job requirements for the position have been changed and the employee does not meet them;

(m) employees occupying managerial positions may also be dismissed with notice by reason of the conclusion of a (new) contract for the management of the enterprise (the appointment of a new executive director, board of directors, management board, etc.). The dismissal can be effected after the performance of the (new) management contract has started but within a period not exceeding 9 months thereafter.

In the event of a partial closure of the enterprise or staff cuts and a reduction of the volume of work, the employer is entitled to make a selection and may, in the interest of production or business, dismiss employees whose positions have not been cut, in order to retain employees with higher qualifications and better performance. The selection must be performed by a committee appointed by the employer. The selection committee must hold at least one meeting to examine the qualifications and the performance of the employees to be dismissed and incorporate any findings in duly signed minutes. Any proposal made by the selection committee for the dismissal of employees must be in writing and well-founded.

#### 3.1.7.2. Employer-initiated termination without prior notice

Employer-initiated termination without prior notice is permissible if, among others:

(a) the employee has been detained in custody for the execution of a sentence;

(b) the employee has been deprived, by a court sentence or by an administrative order, of the right to practice a profession or to occupy the position at which they have been appointed;

(c) the employee has been deprived of an academic degree if the employment contract has been concluded in view of them holding the respective degree;

(d) the employee refuses to take a suitable job offered in the case of medically

proscribed reassignment;

(e) the employee is dismissed for breach of discipline, in which case the employer must follow a certain procedure to ensure that the dismissal for breach of discipline is lawful;

(f) a conflict of interest has been ascertained by an effective act under the Conflict of Interest Prevention and Ascertainment Act.

#### 3.1.7.3. Implications of illegal termination

The employee can challenge their dismissal before the court within a period of 2 months after the dismissal is enforced. If the court finds the dismissal unlawful, the consequences for the employer could be:

(a) annulment of the dismissal and pronouncing it unlawful;

(b) reinstatement of the employee to their position;

(c) compensation for unemployment, but for not more than 6 months after the dismissal, i.e., the compensation is capped at 6 monthly salaries. In the case that within this time the employee has started work for a lower remuneration, the employer will have to pay them the difference between the new and the old remuneration, but for the same period of 6 months;

(d) contribution of the mandatory insurance instalments due by the employer for the entire period between the date of dismissal and the date of the employee's reinstatement to work or the expiry of the 14-day period for reinstatement (if the employee does not return to work).

#### 3.1.7.4. Special protection

Some categories of employees enjoy special protection against termination on specific exhaustively listed grounds: (a) the partial closing down of the enterprise or staff cuts; (b) the reduction of the volume of work; (c) when the employee lacks the qualities for efficient work performance; (d) when the job requirements for the position have changed and the employee does not meet them; and (e) dismissal for breach of discipline.

In these cases, the following groups of employees enjoy special protection:

(a) mothers of children up to 3 years of age;

(b) employees who have been reassigned to lighter positions due to reasons of health;

(c) employees suffering from certain diseases, listed in a Regulation of the Minister of Health;

(d) employees who have started using their permitted leave;

(e) employees elected as employee representatives during the period when they occupy

such a position;

(f) employees elected as employee health and safety representatives during the period when they occupy such a position;

(g) employees who are members of a special negotiating body, a European Works Council or a representative body in a European Company or a European Cooperative Society, for the duration of the performance of their functions.

The above-listed types of employees can be dismissed only with the permit of the Regional Labour Inspectorate. Prior to the dismissal of the employees falling under items (b) and (c) above, the opinion of an expert medical commission should also be considered.

Pregnant employees may be dismissed only on the grounds of:

(a) the closing down of the entire employer's enterprise;

(b) if the employee refuses to follow the enterprise or a division thereof, if it is relocated to another community or locality;

(c) if the position occupied by the employee is to be vacated for the reinstatement of an unlawfully dismissed employee, who had previously occupied the same position;

(d) if it is objectively impossible to implement the employment contract;

(e) if the employee has been detained for the execution of a sentence; and

(f) in the case of dismissal for breach of discipline with the permit of the Regional Labour Inspectorate.

Employees using a pregnancy and childbirth leave may be dismissed only in the case of the closing down of the entire enterprise.

The notice period is at least 30 days but not more than 3 months (as agreed) in the cases of indefinite-term labour contracts, and 3 months, but not more than the remainder of the term, in the cases of fixed-term employment contracts.

The party that has been given notice of termination may terminate the said relationship even before the expiry of the notice period, in which case the said party owes the other party compensation amounting to the employee's gross labour remuneration for the unobserved notice period.

## 3.2. Business Taxation

### 3.2.1. Corporate taxation

Bulgarian companies are subject to corporate tax on their worldwide income. As a rule, a company is resident in Bulgaria for corporate tax purposes if it is incorporated in Bulgaria.

#### 3.2.1.1. Permanent establishment

Permanent establishments ("**PE**") of foreign tax residents (e.g., branches), although not separate legal entities, are treated, for tax and accounting purposes, as Bulgarian corporate tax residents. A PE represents a fixed place (owned, rented, or otherwise used) at which a foreign entity partly or entirely conducts business in Bulgaria (Double Taxation Avoidance Treaties may apply different definitions for their purposes).

#### 3.2.1.2. Taxation of corporate income

The worldwide profit of a Bulgarian resident company is subject to corporate income tax at the rate of 10%. The tax base is the accounting profit/loss determined in accordance with the applicable accounting standards, adjusted for tax purposes. The tax assessment period is the calendar year. The deadline for reporting and payment of corporate income tax is 30 June of the following year.

Other companies are taxed for income with a source in Bulgaria, including if the income is derived through a PE. If not, the income may be subject to withholding tax. A branch (a PE) of a non-resident company would therefore be subject to corporate income tax at the standard rate of 10% and, if such non-resident company receives other taxable income that is not related to its PE, such income may be subject to a separate withholding tax at the rates established by law or by the respective Double Taxation Avoidance Treaty.

The loss set-off/carry forward is for a period of 5 years with no tax losses carry back.

#### 3.2.1.3. Tax/accounting depreciation

The tax depreciation is calculated using a straight-line depreciation method. It is determined by the Corporate Income Tax Act, and it may be different from the accounting depreciation. The law provides the following maximum tax depreciation rates for categories of assets.

| Category Assets | Rate (%) |
|---|---|
| Buildings, facilities, communication devices, electricity carriers and communication lines | 4% |
| Machines, manufacturing equipment and other equipment | 30%<br>(or up to 50 % if they are part of initial investment) |
| Transportation vehicles, excluding automobiles, road coverings and aircraft runways | 10% |
| Computers, software and the right to use software, and mobile phones | 50% |
| Automobiles | 25% |

| | |
|---|---|
| Intangible assets and other tangible assets that have a limited usage period due to contractual agreements or legal regulations; | Depreciation rate determined by dividing 100 by the number of years of the legal restriction. The maximum rate is 33⅓ %. |
| Other tangible assets | 15% |

Goodwill arising from business combinations is not treated as a depreciable asset for tax purposes.

#### 3.2.1.4. Thin capitalisation rules and other limitations

The Corporate Income Tax Act provides for thin capitalisation rules. Overall, thin capitalisation rules do not apply if the debt-to-equity ratio does not exceed 3:1. The tax deductibility for interest expenses that exceed interest income is restricted to 75% of the accounting result of the company, exclusive of interest income and expense. When the taxable result of a company, before including interest income and expenses, is a loss, none of the net interest expenses will be deductible for tax purposes. The thin capitalisation regulations do not apply to interest on bank loans and interest under financial lease agreements, unless in the case of related parties.

Interest expenses that are not deductible in a particular year due to the thin capitalisation regulations may be deducted from the taxable financial result within the following years.

#### 3.2.1.5. Global minimum tax

Starting on 1 January 2024, Bulgarian entities within the scope of the so-called "global minimum tax" are subject to a minimum effective tax rate of 15%. The EU Global Minimum Tax Directive 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the EU and the implementation of Pillar Two of the OECD have been transposed into Bulgarian law through new and complex rules introduced in the Bulgarian Corporate Income Tax Act. The effective tax rate is calculated on an aggregate basis for all entities in each jurisdiction and top-up taxes are due where the effective tax rate for a jurisdiction is below 15%.

Alternative taxation regimes apply for the gambling industry and for the maritime merchant shipping industry.

#### 3.2.1.6. One-off taxes

The following corporate expenses are subject to a one-off tax of 10%:

(a) representative expenses related to a company's business;

(b) social expenses provided to employees in kind; and

(c) expenses in kind related to the private use of company assets.

#### 3.2.1.7. Available tax credits/incentives

Tax incentives are provided for by law and include the following main incentives:

(a) **Exemption from corporate income tax**: collective investment schemes, admitted to public offering in Bulgaria, national investment funds and alternative investment funds, set up for the implementation of financial instruments under funding agreements pursuant to Article 38(7) of Regulation (EC) No 1303/2013, and special purpose investment companies are exempt from corporate income tax. Certain organisers of games of chance are also exempt from corporate income tax for this activity.

(b) **Incentives for hiring unemployed personnel:** companies employing unemployed individuals (e.g., persons registered as unemployed for more than one year, or unemployed persons who are at least 50 years old, or those who have reduced working capacity) for at least 12 consecutive months are entitled to reduce their taxable profit by the amounts paid in remuneration and social and health security contributions during the first 12 months of employment.

(c) **Social and health security funds**: if established by law, these may be allowed to retain 50% of their corporate tax.

(d) **Tax relief for manufacturing activities in municipalities with an unemployment rate above the national average**: companies are entitled to retain up to 100% of their corporate tax in respect of taxable profit derived from manufacturing activity performed in municipalities with a rate of unemployment of 25% or more than the national average, subject to certain other conditions.

#### 3.2.1.8. Transfer pricing

Under Bulgarian law, companies must apply the arm's length principle to prices at which they sell or buy goods, services and intangibles to and from related parties. The Bulgarian transfer pricing rules follow the OECD Transfer Pricing Guidelines.

If prices for the supply of goods or services or interest over loans differ from the market standard, they would deviate from the arm's length principle. The market prices are determined by specific methods (e.g., comparable uncontrolled price method; resale price method; cost-plus method, etc).

Companies should generally be able to demonstrate that the transactions with their related parties are in line with the arm's length principle. Mandatory transfer pricing documentation rules apply as of 1 January 2020. Under these rules, Bulgarian companies, non-residents that have a permanent establishment in Bulgaria, and sole traders are generally required to prepare a local file, but are exempt from the obligation if at least two of the following thresholds are not exceeded for the year prior to the reporting period:

(a) BGN 38 million in asset net book value;

(b) BGN 76 million in net sales revenue; and

(c) an average of 250 staff members for the reporting period.

Entities that carry out only domestic controlled transactions are also exempt from the obligation to prepare a local file. Regardless of whether an entity is required to prepare mandatory transfer pricing documentation, a general requirement applies that during tax audits the taxpayer must prove the arm's length basis of its related parties' transactions.

The local file must be prepared for any transactions that exceed the following annual thresholds:

(a) Sales of goods: BGN 400,000;

(b) Loans: a principal of over BGN 1 million or interest and other revenue and expenses related to the loan of over BGN 50,000; and

(c) All other transactions: BGN 200,000.

Entities that are required to prepare a local file and that are part of a multinational group must also have a master file prepared by the group's ultimate parent entity or another group member.

The local file must be prepared by 30 June of the year following the reporting year, and the master file must be available by 30 June of the second year following the reporting year.

#### 3.2.1.9. Tax anti-evasion rules

The general tax anti-evasion rules are stipulated under the Corporate Income Tax Act. One of them is that if related parties enter into commercial and financial relationships under terms affecting the tax base and differing from the terms at arm's length, the tax base is to be determined and taxed under the terms at arm's length. Furthermore, if transactions (including at arm's length) are concluded under terms leading to tax evasion, the tax base is determined by ignoring the tax evasion aspects.

The Corporate Income Tax Act provides for certain examples of tax evasion (e.g., substantial excess of production inputs and other production costs; gratuitous use of assets; interest-free loans; and charging for services not actually performed).

If a transaction is concealed by a fictitious transaction, the tax liability is assessed under the terms of the concealed transaction.

#### 3.2.1.10. Withholding tax

A company that is a Bulgarian tax resident must deduct withholding tax on payments made to non-residents of any dividends; liquidation quotas; interest and royalties; fees for technical services; fees for the use of properties, under operating leasing, franchising and factoring agreements; and management fees. The withholding tax rates are between 5% and 10%, unless a Double Taxation Avoidance Treaty provides for a lower rate.

Dividend and quota proceeds payable to a legal entity that is a tax resident in an EU/EEA Member State are exempt from withholding tax.

The deadline for reporting and payment is the last day of the month following the quarter of accrual of the income.

### 3.2.1.11. Value added tax (VAT)

The standard VAT rate for Bulgaria is 20%.

A reduced VAT rate of 9% applies to:

(a) hotel accommodation services;

(b) baby foods and diapers; and

(c) books and physical or electronic periodicals, such as newspapers and magazines.

Other reduced rates are applied for limited time periods (e.g., a 9% rate for restaurant and catering services applies, and 0% for wheat bread and wheat flour applies until the end of 2024).

A 0% VAT rate is also applied to intra-community supplies, the export of goods to countries outside the EU, international transport of goods, and supplies of goods and services related to vessels and aircraft.

Certain supplies are VAT-exempt (e.g., the sale of land; the leasing of residential property to individuals; and financial, insurance, gambling, educational, and health services).

The taxable event for goods is the transfer of ownership of the goods, the transfer of another right in rem of the goods, or the transfer of any other right to dispose of the goods. If the transfer of ownership in goods is deferred until the fulfilment of certain conditions, the date of supply is the date the goods are handed over. VAT for imported goods is chargeable when the goods are cleared for customs purposes.

The taxable event for services is the date of completion of the service. VAT also becomes due on the date of receipt of an advance payment for the supply of goods or services to the extent of the payment received.

The mandatory VAT registration is triggered upon meeting certain conditions (e.g., reaching a statutory registration threshold of BGN100,000 in the preceding 12 months). Starting on 1 January 2025, the VAT registration threshold will be increased to BGN166,000 (approximately EUR85,000). The registration is due by the 7th of the month following the month when the turnover is reached; or, if the turnover is reached within two consecutive calendar months, the application should be filed within 7 days from the date on which the turnover is reached.

There is no VAT registration threshold for taxable persons that are not established in Bulgaria and perform any taxable supplies. Non-established taxable persons are obliged to apply for VAT registration seven days before VAT becomes chargeable regardless of the generated turnover.

Local reverse charge can be applied in limited cases, for example, for investment gold, for the sale of waste materials and agricultural products. A taxable person receiving cross-border services subject to the reverse charge in Bulgaria must register for VAT purposes in Bulgaria regardless of its taxable turnover.

Voluntary VAT registration is also possible before the commencement of business or at any time.

The reporting month for VAT purposes is the calendar month. VAT returns and ledgers are filed and the VAT must be paid by the 14th of the following month. Effective from 1 January 2018, VAT returns must be filed in electronic format only.

### 3.2.1.12. Other taxes

(a) **Excise duties**

Excisable products comprise petrol, diesel fuel, liquefied petroleum gas, heavy oil, kerosene, beer and spirits, tobacco, tobacco products, and electricity. Excise duties are charged as a percentage of the sales price or customs value or as a flat amount in Bulgarian lev per unit (or per other quantity measures, depending on the type of excisable good).

(b) **Taxation of real estates**

The owner of real estate is subject to a real estate tax ranging from 0.01% to 0.45% of the higher of the gross book value or the tax value of non-residential property, and from 0.01% to 0.45% of the tax value of residential property. The actual rate is determined annually by the municipality. Effective from 1 January 2020, the municipality may use a different value in determining the tax base if the taxpayers have violated the accounting legislation.

The owner of real estate is also subject to a garbage collection fee determined by each municipality. The garbage collection fee is generally levied as a percentage of the gross book value of the real estate property. Alternatively, it may be determined based on the number and volume of waste containers used, or by a direct contract with the garbage collection company.

(c) **Transfer tax**

A transfer tax is due on the value of transferred real estate or motor vehicles. The rate of the tax is between 0.1% and 3% and is determined by each municipal council for the territory of the relevant municipality.

(d) **Insurance premium tax**

A tax of 2% is levied on all insurance premiums paid under insurance agreements covering risks insured in Bulgaria. Exemption is provided for certain premiums (e.g., for life insurance, aircraft and international transport). Insurance companies deduct the tax and remit it to the budget.

## 3.3. Construction Related Matters

### 3.3.1. Main regulations governing construction

#### 3.3.1.1. Legal framework for construction in Bulgaria

The primary legislative acts and secondary regulations that constitute the legal framework for construction in Bulgaria include:

(a) **Spatial Development Act and subsidiary legislation for its application**

The Spatial Development Act is the main law regulating construction in Bulgaria. It deals with the regulation of land, investment design approval, construction and commissioning of construction sites. The Spatial Development Act also defines construction categories, regulates construction contracts, property rights, grounds and procedures for expropriation and compensation, and administrative control over spatial development. The subsidiary legislation for the application of the Spatial Development Act includes:

i. Ordinance No. 4 of 21.05.2001 on the contents of investment design;

ii. Ordinance No. 2 of 31.07.2003 on the commissioning of construction sites in Bulgaria and minimum warranty periods for completed construction and assembly works;

iii. Ordinance No. 3 of 31.07.2003 on the preparation of acts and protocols during construction;

iv. There are numerous other ordinances regulating specific types of construction.

(b) **Obligations and Contracts Act and Commerce Act**

The Obligations and Contracts Act and the Commerce Act (in particular, Chapter Twenty-one) form the backbone of Bulgarian contract law and, together with the Spatial Development Act, regulate construction contracts under Bulgarian law. They establish mandatory rules that cannot be modified by the parties` agreement, as well as non-mandatory rules that apply unless the parties agree otherwise.

(c) **Construction Chamber Act and rules for its application**

The Construction Chamber Act establishes the Bulgarian Construction Chamber as a professional organization for builders in Bulgaria. The Bulgarian Construction Chamber is responsible for the registration (licensing) of construction companies in the Central Register of Professional Builders. The criteria for registration, as set out in the Construction Chamber Act and the rules for its application, include, among others, the appointment of the necessary technical personnel, the ownership of assets meeting minimum value requirements, relevant

experience and requirements for third-party liability insurance. Registration (licensing) is carried out for specific construction categories and types.

(d) **Health and Safety at Work Act and Ordinance No. 2 of 22.03.2004**

The Health and Safety at Work Act and Ordinance No. 2 of 22.03.2004 on the minimum requirements for health and safety during the performance of construction and assembly works set out the main health and safety requirements and rules to be observed during construction. Most of their provisions are mandatory.

(e) **Rules for the use of construction products in Bulgaria**

Regulation (EU) No 305/2011 laying down harmonised conditions for the marketing of construction products, the Act on Technical Requirements Towards Products and Ordinance No. RD-02-20-1 of 05.02.2015 on the use of construction products in construction in Bulgaria specify the requirements for the use of construction products in Bulgaria, including the mandatory quality documentation to be presented.

### 3.3.1.2. Regulatory overview

In Bulgaria, construction projects are classified into five categories as defined by the Spatial Development Act and Ordinance No. 1 of 30.07.2003 on the nomenclature of construction types. These categories are determined by the nature of the project, its complexity and the level of public interest involved. Projects are implemented on the basis of a construction permit issued by the competent authorities and an approved investment design. Any deviation from the construction permit or the approved design may result in the suspension of construction by the administrative authority, possible demolition of completed works and administrative penalties for those involved.

Construction work is performed by Contractors who are licensed (registered in the Central Professional Register of Builders) to perform work within the specified category and type of construction. Companies registered for a lower category of construction may only work as subcontractors of licensed contractors.

Construction work in Bulgaria is performed under a written contract between the Employer and Contractor(s) (see Section 3.3.2 below). While a written contract is required for validity, the law allows the parties freedom to negotiate the terms of their relationship. However, as Bulgaria follows a civil law system, certain mandatory rules cannot be modified or waived by agreement. These include, for example, the length of limitation periods, the prohibition on limiting or waiving liability for wilful misconduct and gross negligence, and the transfer of risk when a creditor fails to cooperate or accept performance. Construction contracts may be either custom (bespoke) agreements or based on standard contract forms, such as those of the International Federation of Consulting Engineers (FIDIC).

Construction in Bulgaria is subject to extensive administrative regulation, with numerous requirements to be met from commencement of construction to the commissioning of the works. Of key importance among these are the obligations to produce specific construction documentation (known as "acts and protocols") at each stage of construction, as well as requirements for the use of construction products, including the submission of specified quality documentation.

A construction site is commissioned when all construction work has been completed, the site is suitable for its intended purpose (certified by the execution of Act No. 15 – see below), and all legally required tests and inspections have been successfully completed. These conditions are verified by an administrative commission appointed by the Construction Inspectorate after an on-site inspection, which is concluded by the signing of the Site Commissioning Protocol (Protocol No. 16 – see below). The site is officially put into operation when the Construction Inspectorate issues of a Use Permit. The intended use of the construction is prohibited until the Use Permit is issued.

### 3.3.2. Main parties involved in the construction process

The main parties involved in construction in Bulgaria, as defined by the Spatial Development Act, are the Contractor(s), the Employer, the Designer, the Consultant, and the person responsible for the supervision of structural works.

#### 3.3.2.1. Employer

The Employer is either the owner of the land plot on which the construction is being carried out or has the right to build on it (superficies right). Before construction begins, the Employer must sign contracts for construction supervision, execution of construction works (construction contracts), and author`s supervision.

#### 3.3.2.2. Contractor

The Contractor is a company or individual registered in the Central Professional Register of Builders for the relevant category and type of construction. The Contractor's personnel must include certified technical staff qualified to oversee construction on site. In addition, the Contractor must maintain third-party liability insurance with the minimum coverage specified in the Ordinance on Mandatory Insurance for Design and Construction.

#### 3.3.2.3. Consultant

The Consultant, or construction supervisor (known as "*Nadzor*" in Bulgarian), is a licensed company responsible for key oversight functions throughout the construction process. These functions include:

(a) Conducting conformity assessments of project designs (required for the issuance of a construction permit);

(b) Exercising construction supervision during the project;

(c) Ensuring that construction products comply with applicable regulations.

The construction supervision by the Consultant includes various activities to ensure compliance with regulatory requirements, including:

(a) Verification that construction has commenced in accordance with legal requirements;

(b) Overseeing the proper preparation of acts and protocols in accordance with Ordinance No. 3 of 31.07.2003 on the preparation of acts and protocols during construction;

(c) Stopping construction work that violates mandatory legal standards;

(d) Enforcement of health and safety requirements;

(e) Submitting a final report to the Employer upon construction completion.

The Consultant works under an agreement with the Employer, and its instructions are binding on all participants in the construction process.

### 3.3.3. Mandatory construction documentation

Bulgarian law provides for certain acts and protocols to be signed throughout the construction process. Ordinance No 3 of 31.07.2003 on the preparation of acts and protocols during construction ("**Ordinance No. 3**") provides a complete list of these acts and protocols, along with mandatory templates. The key acts and protocols of significant importance include:

(a) **Protocol No. 2**: This document officially opens the construction site and establishes the construction line and level. Upon signing, the project site is designated as a "construction site", thus authorizing the commencement of construction work. Protocol No. 2 is signed by the Employer, Contractor, Consultant, and Designer.

(b) **Order Book:** This book is the official log of all instructions given by the Consultant and Designer.

(c) **Act No. 14:** This act certifies the compliance and completion of the building's shell structure.

(d) **Act No. 15:** This is an important document that certifies the completion of construction and the formal closing of the construction site. Protocol No. 15 is also the document by which the completed construction is turned over to the Employer.

(e) **Protocol No. 16:** Signed by the administrative commission after the final inspection,

this protocol allows for the issuance of the Use Permit.

Depending on the type of construction work performed, the Contractor may be required to prepare additional specific acts. All acts and protocols pursuant to Ordinance No. 3 are part of the official project documentation required for commissioning of the site and issuance of the Use Permit.

### 3.3.4. Minimum warranty periods

Bulgarian law sets minimum warranty periods for construction works, which cannot be changed by mutual agreement. The regulations lack specificity, especially for roads and other linear infrastructure, which leads to practical challenges.

The minimum warranty periods are defined in Ordinance No 2 of 31.07.2003 on the commissioning of construction sites in Bulgaria and minimum warranty periods for completed construction and assembly works. They are as follows:

| Category | Minimum warranty period |
|---|---|
| Structural works, including the underlying earth base | 10 years |
| Major repairs and reconstruction of existing structures, including earth base | 8 years |
| Waterproofing, thermal insulation, acoustic insulation and anti-corrosion works | 7 years in non-aggressive environments;<br>5 years in aggressive environments |
| General construction, assembly and finishing works (flooring, wall coverings, tiling, hardware, carpentry, etc.) | 5 years |
| Internal MEP (Mechanical, Electrical and Plumbing) works | 7 years;<br>major repair and reconstruction: 5 years |
| Industrial construction plants and equipment installation | 5 years |
| Water treatment facilities and solid waste landfills | 7 years |
| Transmission and distribution networks, technical infrastructure facilities | 10 years |
| Roads | 7 to 3 years, depending on category |
| Road transportation facilities | 12 years;<br>major repair and reconstruction: 6 years |
| Railways | 13 years;<br>major repairs and reconstruction: 10 years |

| | |
|---|---|
| Railway infrastructure facilities | 13 years;<br>major repair and reconstruction: 8 years |
| Aircraft runways | 13 years;<br>major repairs and reconstruction: 10 years |
| Hydropower, irrigation, and water supply facilities and systems | 10 years;<br>major repair and reconstruction: 8 years |
| Port and coastal protection facilities and systems | 10 years;<br>major repair and reconstruction: 8 years |
| Plants and equipment | Subject to product warranties according to manufacturer terms |

Warranty periods begin from the date of the Use Permit. The law sets this start date and it cannot be changed by any agreement.

## 3.4. Intellectual Property Protection

The national legislative framework in relation to copyright law and industrial property rights is structured as a three-tier system comprising of: (a) international agreements to which Bulgaria is a party; (b) European legislation, including directives that have been transposed into the Bulgarian legislation or regulations that are directly applicable; and (c) national legislation, such as the Copyright and Neighbouring Rights Act (the "**Copyright Act**"); the Trademarks and Geographical Indications Act; the Patents and Registration of Utility Models Act, and the Industrial Design Act.

### 3.4.1. Copyright and related rights

#### 3.4.1.1. Works protected by copyrights

The Bulgarian Copyright Act grants copyright protection to all literary, artistic and scientific work resulting from a creative endeavour and expressed by any means and in any objective form, such as:

(a) literary works, including works of scientific and technical literature, publicism and computer software;

(b) musical works;

(c) performing art works: dramatic, musical-dramatic works, pantomime, choreography, etc.;

(d) films and other audio-visual material;

(e) works of fine art, including works of applied art, design and crafts;

(f) completed works of architecture;

(g) photographic works and works created in a manner analogous to photography;

(h) blueprints, maps, schemes, plans and others related to architecture, urban planning, geography, topography, museum research and any other area of science and technology;

(i) graphic design of publications;

(j) cadastral maps and state topographic maps;

(k) translations and adaptations of existing works and works of folklore, including works for which the copyright protection term has expired;

(l) arrangements of musical works and works of folklore;

(m) periodicals, encyclopaedias, collected works, anthologies, bibliographies, databases and other similar objects that include two or more works or products.

(n) parts of the listed works, as well as preliminary plans, schemes and similar preparatory works are also entitled to copyright protection.

**3.4.1.2. Economic rights over copyrighted works**

The Copyright Act provides for the protection of both the economic and the moral rights of the author. The recognized economic rights for copyrighted works include the following acts:

(a) reproduction of the work;

(b) distribution of the original of the work or copies thereof among an unlimited number of persons;

(c) public presentation or performance of the work;

(d) broadcasting of the work;

(e) transmission and retransmission of the work;

(f) public display of a work of art or a work created by photographic or similar means;

(g) translation of the work into another language;

(h) revision and synchronization of the work;

(i) implementation of an architectural design by constructing the building or manufacturing the object described therein;

(j) provision of electronic access to the work or a part thereof;

(k) import or export of copyright protected works in commercial quantities.

#### 3.4.1.3. Moral rights over copyrighted works

The Copyright Act grants authors the following moral rights over their copyrighted works:

(a) to decide whether the work created thereby may be made available to the public and to determine the time, place and manner in which this may be done;

(b) to claim the authorship over such works;

(c) to decide whether such works are to be made available to the public anonymously or pseudonymously;

(d) to require that their name, pseudonym or other identifying mark be displayed in an appropriate manner whenever their work is used;

(e) to demand that the work be preserved in its entirety and oppose any alteration of it, as well as any other action that may violate their legitimate interests or personal dignity;

(f) to make modifications to the work provided that such modifications do not affect the rights acquired by other persons;

(g) to have access to the original of the work when it is in the possession of another person and when such access is necessary for the exercise of non-economic or economic rights;

(h) to suspend the use of the work due to a change in their beliefs, except for architectural works that have already been carried out, with compensation for the damage caused to persons who have lawfully acquired the right to use the work.

#### 3.4.1.4. Neighbouring rights

With respect to neighbouring rights, the Copyright Act grants rights to the following subjects:

(a) performing artists over their performances;

(b) producers of phonograms over their recordings;

(c) producers of the initial recording of a film or another audio-visual work over the

original copy, as well as over the copies produced as a result of such recording;

(d) radio and television organizations over their programs;

(e) publishers of press publications over their press publications.

#### 3.4.1.5. Terms and conditions of protection

The Bulgarian Copyright Act does not provide for any formalities or registration requirements for the existence of copyright protection. Any original work expressed in a tangible form is protected under the Copyright Act from the moment of its creation. The Copyright Act recognizes only natural persons as authors and contains a presumption of authorship for the person identified or otherwise designated as the author of the work.

As a rule, the copyright belongs to the author. Under the Copyright Act, the author has the ability to grant either an exclusive or non-exclusive license for the use of the work for a certain period of time.

Nevertheless, for works created in the course of employment or commissioned works, the copyright belongs to the author *unless* the employment or commission agreement provides otherwise (except in the case of computer programs and databases, where the employer automatically holds the copyright unless otherwise specified).

Pursuant to the Copyright Act, the period of protection for copyrighted works is 70 years from the death of the author, with some exceptions for certain works, such as computer programs (70 years from the date of publication). For the neighbouring rights, the general period of protection is 50 years from the date of publication or performance of the work.

Both copyright and neighbouring rights may be inherited by successors to the original right holder.

### 3.4.2. Trademarks and geographical indications

#### 3.4.2.1. Geographical indications

Under the Trademarks and Geographical Indications Act, a **geographical indication** (in Bulgarian: "*geografsko oznachenie")* means a "designation of origin" (in Bulgarian: "*naimenovanie za proizhod*") or a geographical indication of origin (in Bulgarian: "*geografsko ukazanie*").

A **designation of origin** is the name of a country, a region or a specific place in that country, which serves to designate goods originating therefrom and whose quality or properties are mainly or exclusively attributable to the geographical environment, comprising natural and human factors.

A **geographical indication of origin** is the name of a country, a region or a specific place in that country, which serves to designate goods originating therefrom and possessing a quality, a reputation or any other characteristic, that may be attributed to that geographical origin.

In order to obtain legal protection for geographical indications, it is necessary to obtain a formal registration with the Bulgarian Patent Office.

National protection of geographical indications is of limited practical significance.

### 3.4.2.2. Trademarks

Under the Trademarks and Geographical Indications Act, a **trademark** is defined as consisting of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of their packaging, or sounds, provided that such signs are capable of:

(a) distinguishing the goods or services of one undertaking from those of other undertakings; and

(b) being represented in the register in such a way as to enable the competent authorities and the public to determine clearly and precisely the subject-matter of the protection afforded to its proprietor.

The registered trademark confers on the proprietor exclusive rights to it. The proprietor is entitled to prevent any third party without their consent from using in the course of trade:

(a) any sign which is identical with the trademark in relation to goods or services which are identical to those for which the trademark is registered;

(b) any sign where there exists a likelihood of confusion on the part of the public because of the sign's identity with, or similarity to, the trademark and identity with, or similarity to the goods or services covered by the trademark and the sign; the likelihood of confusion includes the likelihood of association between the sign and the trademark.

In order to obtain legal protection for national trademarks, it is necessary to obtain a formal registration with the Bulgarian Patent Office (the "**BPO**"). The BPO maintains up-to-date registries of registered objects of industrial property pursuant to the Trademarks and Geographical Indications Act and other laws.

After the trademark application and accompanying documentation are filed, the BPO conducts an examination to ensure compliance with formal requirements and absolute grounds for refusal. Upon completion of such examination, the trademark application is published in the BPO's Official Bulletin. Third parties have the right to file oppositions against the trademark application within three months of its publication. If no oppositions are received, the BPO issues a decision to register the trademark.

The initial trademark registration is granted for a period of 10 years and may be renewed indefinitely for successive 10-year periods. The registration may be revoked if the registration holder has not actually begun to use the trademark in Bulgaria for a period of 5 years from the date of registration, or has ceased to use it for a period of 5 years.

Rights pertaining to trademarks are assignable and subject to licensing. However, for transfers and licenses of trademarks to be effective against third parties, they must be registered with the Bulgarian Patent Office.

### 3.4.3. Patents and utility models

In view of the fact that there is no general EU legislation on patents and utility models, the provisions of the Patents and Registration of Utility Models Act are modelled on those of the international Patent Cooperation Treaty.

In Bulgaria, the protection of an invention requires the grant of a patent by the Bulgarian Patent Office. Patents are granted for inventions in any field of technology that are new, involve an inventive step, and are industrially applicable. The following are not considered inventions and, therefore, cannot be patented:

(a) discoveries, scientific theories and mathematical methods;

(b) results of artistic work;

(c) schemes, rules and methods of performing mental acts, playing games or doing business, and computer programs;

(d) presentations of information.

In addition, the following objects are not eligible for patenting:

(e) inventions the exploitation of which would be contrary to public order or morality;

(f) methods for treating humans or animals through therapy or surgery, as well as diagnostic methods applied to humans or animals, except for products, particularly substances or compositions, used in these methods.

(g) plant and animal varieties

(h) biological processes for the production of plants or animals as well as plants and animals produced by such methods.

Utility models may also be registered if they meet the criteria of novelty, industrial applicability and inventive step, subject to lower requirements compared to patents. Utility model protection covers all fields of technology, excluding biotechnological inventions, methods (processes), chemical compounds or their uses, and objects that are not eligible for patenting (as described in letters (e)-(h) above).

The term of a patent is 20 years from the date of filing. The term of registration of a utility model is 4 years from the date of filing but may be extended for two consecutive periods of 3 years each.

The Patents and Registration of Utility Models Act contains comprehensive procedural provisions concerning, amongst others, the patent granting procedure, examination

requirements, dispute resolution, international applications, and the validation of European patents in Bulgaria, among other matters. These provisions reflect the legal obligations of the Republic of Bulgaria under the Patent Cooperation Treaty, the European Patent Convention, and other relevant legal frameworks.

All rights in patents and utility models are transferable and may be subject to licensing. Compulsory licenses may be granted under certain conditions established by law.

### 3.4.4. Industrial design

The protection of industrial designs is governed by the Industrial Design Act.

An industrial design is defined as any new, external appearance of an article, which is distinguished by its shape, pattern, ornamentation, combination of colours or other elements, and which is suitable for reproduction by industrial methods.

A design can be protected only to the extent that it is new and has individual character. A design must be considered to have individual character if the overall impression it produces on the informed user differs from the overall impression produced on such a user by any design which has been made available to the public before the date of filing the application. In assessing the individual character, the degree of freedom of the designer in developing the design needs to be taken into account.

The right to an industrial design is acquired by registration with the BPO from the date of filing the application for registration. Applications for registration are examined for compliance with formal and absolute requirements. The BPO does not conduct an *ex officio* substantive examination as to whether the design applied for satisfies the requirements of novelty and individual character.

The term of registration of industrial designs is 10 years from the date of filing of the applications. The registration may be renewed for three consecutive periods of 5 years each.

The holder of a registered design has the right to use it and dispose of it, and to prohibit others from making unauthorized copies or using a design within the scope of protection in the course of their business. The use of a design includes making, offering for sale, placing on the market or using of a product in which a design within the scope of protection is incorporated, or to which it is applied, as well as the importing, exporting or stocking such a product for these purposes. Any of the above uses of a registered design in commercial activities without the consent of the right holder constitutes an infringement of the right to the design.

### 3.4.5. Trade secrets

The Trade Secrets Directive (EU) 2016/943 has been implemented in Bulgaria by the Trade Secret Protection Act, which entered into force on 5 April 2019.

Apart from the civil law protection introduced by the above legislative act, trade secrets are also protected under the laws dealing with unfair competition.

In line with the Trade Secrets Directive (EU) 2016/943, the Bulgarian Trade Secret Protection Act provides a legal definition of the term "trade secret". According to this definition, any information is a trade secret if it meets all of the following requirements:

(a) it is secret, in the sense that it is not, as a body or in the precise configuration and assembly of its components, generally known among, or readily accessible to, persons within the circles that normally deal with the type of information in question;

(b) it has commercial value because it is secret;

(c) the person lawfully in control of the information has taken reasonable steps under the circumstances to keep it secret.

The most noteworthy element is the reasonable measures that the trade secret owners must take to identify and protect their trade secrets. If companies are unable to prove that such steps have been taken, the information may lose its trade secret status. The practice of the Bulgarian courts sets a very high evidentiary threshold for plaintiffs to prove that the relevant information qualifies as a trade secret. Courts often find that trade secret holders have not demonstrated adequate measures to maintain the secrecy of the information, resulting in the rejection of infringement claims on this basis alone.

The law protects trade secrets against direct wrongful acts (acquisition, use or disclosure), as well as against indirect infringements.

The acquisition of a trade secret without the consent of right holder of the trader secret is unlawful in cases of (a) unauthorised access to, appropriation of, or copying of any documents, objects, materials, substances or electronic files, which are lawfully under the control of the trade secret right holder, which contain the trade secret or from which the trade secret may be derived, as well as in cases of (b) any other conduct that is considered to be contrary to fair commercial practices within the meaning of the Protection of Competition Act.

The use or disclosure of a trade secret without the consent of the trade secret right holder is unlawful if committed by a person who (a) acquired the trade secret unlawfully; (b) breached a confidentiality agreement or any other duty not to disclose the trade secret; or (c) breached an obligation to limit the use of the trade secret.

The acquisition, use or disclosure of a trade secret shall also be deemed to be unlawful if, at the time of the acquisition, use or disclosure, a person knew or should have known under the circumstances that the trade secret had been obtained, directly or indirectly, from another person who was using or disclosing the trade secret unlawfully.

Any production, offering or placing on the market of infringing goods, or any importation, exportation or storage of infringing goods for these purposes, is also considered to be an

unlawful use of a trade secret if the person engaging in such activities knew under the circumstances should have known that the trade secret was being unlawfully used. Under the law, "infringing goods" are defined as goods whose design, characteristics, functioning, production process or marketing significantly benefit from trade secrets that have been unlawfully acquired, used or disclosed.

### 3.4.6. Remedies for infringement

The Bulgarian civil and criminal law provides various remedies for infringements of intellectual property rights.

The main remedy is the filing of a civil lawsuit for infringement of intellectual property rights where the right holder may request from the court to:

(a) identify the infringing activity;

(b) issue an injunction against the defendant prohibiting the continuation of the infringement;

(c) order the destruction of the infringing goods; and

(d) award compensation for the damages suffered by the plaintiff as a result of the infringement.

In the course of such litigation, it is also possible to file an application for a preliminary injunction, requesting the court to impose certain injunctive measures, such as provisional restraining order against the continuation of the infringement.

# 4. FREQUENTLY ASKED QUESTIONS

## 4.1. What are the procedures and regulations for acquiring real estate in Bulgaria?

The acquisition of interests in real estate or other tangible property in Bulgaria can generally be structured as an asset deal by acquiring the specific property, or as a share deal by acquiring the shares in a legal entity that holds ownership of the property. Before deciding how to proceed, the foreign investor should carefully examine the advantages and disadvantages each option will entail.

In real estate transactions taking place in Bulgaria the performance of an ownership legal due diligence is a vital step and should cover a period of at least 10 years before the transaction. Further investigations may be deemed necessary considering the circumstances of the case. For example:

- the acquisition of land plots in areas with industrial background may necessitate environmental checks; or

- the acquisition of land plots for construction purposes in areas with high density of cultural values (such as the city center of Sofia, the capital of Bulgaria) may require the performance of cultural heritage checks; or
- the acquisition of real estates that are owned or have been previously owned by the state or a municipality requires a check of complex administrative procedures where a defect of those may lead to voidness of the deal (including previous deals); or
- the acquisition of land plots for construction purposes (especially if they are or have been agricultural or forestry lands) requires a check of complex administrative and zoning procedures.

At the practical level, the due diligence exercise is preceded either by a letter of intent or by a binding preliminary contract between the parties, based on which the seller provides the buyer with the respective legal documents about the real estate (this is necessary as the publicly available information in the land registry would be generally insufficient to conclusively determine ownership).

Although not mandatory, the conclusion of a preliminary contract is strongly recommended and is considered standard practice for transactions between private individuals and legal entities. Preliminary contracts lay down, among others, the framework of the legal and economic relations of the parties, the conditions precedent to closing and clauses allowing for the preliminary contract to be declared as final by the court if the seller refuses to transfer title over the real estate.

As a rule, real estate in Bulgaria is to be transferred by means of a notary deed with the assistance of a notary with territorial jurisdiction at the location of the property. In financial terms, it is customary to use escrow agents (financial institutions or notaries) to facilitate the closing in respect of the payment of the purchase price.

The acquisition of property from the municipalities and the state is subject to specificities compared to the purchase of real estate from private individuals and legal entities. For example, depending on the circumstances of the case, in some cases the acquisition may require a tender procedure; in some cases the signing of a preliminary agreement may not be required or even possible, while in other cases it may be mandatory; in any case, the transfer of such real estate is made only by means of a written contract (and not a notary deed); the purchase price may not be less than the market price and a prior market price assessment is required, etc.

The notary deed or written contract (if the real estate that is subject of the transaction is owned by the state or by a municipality) must be registered with the Property Register.

Foreign nationals or legal entities are generally free to acquire ownership of buildings or parts thereof, as well as limited rights *in rem* (e.g., right of use and construction/superficies right) over land plots in Bulgaria. However, they may not directly acquire full legal ownership of land plots (except if not specifically permitted under international treaty effective for Bulgaria); that restriction does not apply to foreign nationals and legal entities from member states of the EU and the EEA. There also is no legal prohibition for non-EU/EEA entities or nationals to incorporate entity in Bulgaria or in another EU/EEA member state for the purpose of acquiring full legal ownership over land plots in Bulgaria.

Some of the most important regulations concerning the acquisition of real estate are the: Ownership Act, Obligations and Contracts Act, State Property Act, Municipal Property Act, Commerce Act, Agricultural Land Ownership and Use Act. However, it should be noted that, depending on the case, a significant number of other laws and regulations may also apply.

## 4.2. Do foreign investors need to obtain any kind of official authorization to remit payments abroad?

Payments and international financial remittances from Bulgaria are generally unrestricted (companies can only export hard currency via bank transfers). In particular, under the Bulgarian Currency Act cross-border payments and transfers are free and unrestricted, subject to certain statistical and/or information requirements. Anti-money laundering procedures may also have effect on the payment remittance.

### 4.2.1. Justifying to local banks the grounds for and the amount of cross-border transfers and payments

Banks and other payment service providers are required to execute cross-border payments abroad after the grounds for the transfers have been declared.

In the event that payments or transfers to third countries (outside the EU) exceed BGN 30,000 (approximately EUR15,000), in addition to declaring the grounds of the transfer (in a sample form declaration), additional evidence must be provided in addition to the grounds of the transfer being declared. The payment service provider (e.g. the servicing bank in Bulgaria) must be provided with the relevant documents and information justifying the grounds for and the amount of the transfer or payment in accordance with Ordinance No. 28 of the Bulgarian National Bank and the Ministry of Finance on the information and documents to be provided to to payment service providers when executing cross-border payments and transfers to third countries.

In particular, a Bulgarian company making a cross-border transfer to the account of the foreign counterparty in a bank in a non-EU third country may be required to provide the local bank or other payment service provider with the following documents, among others: (i) for imported goods – contract, invoice, customs declaration or another import document; (ii) for the supply of goods or services - contract, invoice, declaration or other document justifying the grounds for and amount of the transfer or payment; (iii) for labour and non-labour remuneration - employment contract, management contract, civil contract, invoice or other document justifying the grounds for and the amount of the transfer or payment; (iv) for dividends and liquidation quotas – a decision of the general meeting of the shareholders of the company; (v) for the granting or repayment of a loan, including interest - the credit agreement; (vi) for transfers of currency, the amount of which does not exceed the amount of the currency deposited by bank transfer in the country – a certified copy of the document certifying the receipt of the transfer. Other documents may be needed in specific cases.

In the event that the documents provided are in a language other than Bulgarian, a Bulgarian language translation shall be provided upon request of the Bulgarian bank or payment service provider executing the transfer.

#### 4.2.2. Filing declarations and statistical reports with the Bulgarian National Bank ("BNB") regarding transactions between local and foreign persons

In accordance with the Bulgarian Currency Act, any transaction related to the initial establishment of a direct investment abroad by a local legal entity (or sole proprietors), as well as for the purpose of extending financial credit between local legal entities (or sole proprietors) and foreign persons must be reported. Furthermore, any transactions involving the opening of accounts abroad, the issuance of securities abroad and/or the purchase of securities without the involvement of a local investment broker must also be reported to the BNB within 15 days after the transaction is closed. The objective of this regulation is to maintain balance of payments statistics. It is detailed in Ordinance No. 27 of 13 March 2014 on the Statistics of the Payment Balance, the International Investment Position and the Statistics of Securities of the Bulgarian National Bank, which sets out additional reporting requirements.

In the event that a local entity issues a transfer order to a local bank for funds related to a transaction subject to statistical declaration with the BNB, the local bank shall complete the transfer only after verifying that the local legal person has filed the requisite declaration.

Furthermore, local legal entities (or sole proprietors) are required to report on a regular basis (e.g. quarterly or annually, as applicable) certain operations, claims and liabilities from and to foreign persons to the BNB using the prescribed statistical forms.

#### 4.2.3. Anti-money laundering (AML) legislation

In addition, money transfers are subject to anti-money laundering legislation. As an EU Member State, Bulgaria has implemented the provisions of the EU AML Directives in its Law on the Prevention of Money Laundering.

Under the above rules, banks and other payment institutions conduct extensive know-your-customer due diligence on their customers, including information on the source of funds, ultimate beneficial owners, politically exposed persons in management and others.

In the event of a suspicion of money laundering, the completion of transactions or transfers may be temporarily delayed or blocked.

### 4.3. How can we deal with administrative disputes? (court system and administrative adjudication)?

#### 4.3.1. Administrative acts

Bulgaria's Constitution allows anyone to challenge administrative acts affecting them in court, unless explicitly excluded by law. Administrative bodies must serve public interests while avoiding unnecessary interference with private activities. Balancing community and individual interests is challenging, so authorities are required to involve interested parties in the process. They must gather opinions from those affected before issuing their acts.

Bulgarian administrative law has two main areas: general administrative law and specialized laws. The Administrative Procedure Code (**APC**) governs the principles of issuing administrative acts, contesting them before higher administrative bodies and courts, and enforcing final acts. Specialized laws cover specific sectors like tax, environmental, competition, and construction, each with its own administrative procedures.

The APC outlines principles for administrative activities and issuing acts, including independence, impartiality, acting within the scope of the powers established by law, transparency, proportionality, and predictability. It details procedures for three types of administrative acts: individual, general, and statutory instruments of secondary legislation. The APC specifies rules for involving interested parties before adopting individual acts and regulates similar processes for general and statutory acts.

Two categories of individuals or entities may challenge administrative acts: those directly affected by the act (through an appeal) and the prosecuting authorities (through a protest).

The term "interested parties" refers to the individuals or entities whose rights and legitimate interests are affected by the act in question. In any case, this presupposes the existence of a personal and direct interest in the legality and appropriateness (correctness) of the administrative act, which, if violated, would also be the basis for challenging it.

The prosecutor (the prosecuting authorities) is empowered to challenge an administrative act as part of their general supervisory function. It is the responsibility of the prosecuting authority to ensure that administrative acts comply with the principle of legality, which gives them the right to protest against administrative acts.

As a rule, anyone may initiate legal proceedings to establish the existence of an administrative right or legal relationship, provided that the applicants have standing and no other available recourse.

The first stage of an appeal against an administrative act is internal to the higher level of the administration, occurring before the administrative authority. The procedure is one of review and annulment, since the matter is re-examined on its merits by the institution that issued the act, which may itself annul it. Only individual and general administrative acts are subject to administrative appeal. The appeal itself can only be lodged by interested parties, i.e. parties whose rights and legitimate interests are directly affected by the act. The interest must be legal, direct and personal (this requirement does not apply to the public prosecutor).

At the administrative appeal stage, both the legality and the appropriateness (correctness) of the act may be challenged. The administrative appeal is lodged with the administrative authority. Its decision can be challenged in court, but only on the grounds of legality, not on the grounds of correctness. Depending on the complexity of the case, the administrative review procedure takes between 6 months and 1 year.

Statutory administrative acts are subject only to judicial review. Administrative acts of certain state bodies (the President of the Republic, the Council of Ministers, regional governors, etc.) are not subject to administrative appeal. Acts of bodies which have no superior administrative authority are also not subject to administrative appeal.

The judicial review procedure in Bulgaria is carried out by two instances: the competent administrative court, sitting in a panel of one judge, acting as the first instance, and the Supreme Administrative Court, sitting in a panel of three judges, acting as the second and final instance.

The Bulgarian administrative justice system consists of 28 provincial administrative courts and the Supreme Administrative Court.

The administrative courts shall have jurisdiction to hear and resolve all actions seeking to:

(a) issue, amend, annul or revoke administrative acts;

(b) annul agreements under the APC;

(c) redress against unreasonable acts or omissions by the administration;

(d) protection from unlawful enforcement;

(e) compensation for damage resulting from unlawful acts, actions or omissions by administrative authorities and officials;

(f) compensation for damage caused by unlawful enforcement;

(g) annul, nullify or set aside the decisions of administrative tribunals;

(h) challenge the authenticity of administrative acts in accordance with the APC.

The administrative court with territorial jurisdiction over the seat of the regional office of the authority that issued the contested act hears cases involving challenges of individual administrative acts, if the applicant's permanent/current address or seat is within the catchment area of that regional office. In such cases the administrative court with territorial jurisdiction over the seat of the authority that issued the contested individual administrative act will hear the case if:

(a) the contested act has several addressees whose permanent or current addresses are not within the catchment area of the regional office of the issuing authority;

(b) the authority which issued the contested act does not have a regional office.

Cases involving challenges to general administrative acts are heard by the administrative court with territorial jurisdiction over the seat of the authority that issued the contested act.

The Sofia City Administrative Court has jurisdiction over cases where the authority that issued the contested administrative act has its seat in another country.

In the event that the duly competent court is unable to hear a case, the Supreme Administrative Court shall issue an order for the case to be transferred to an administrative court with an equivalent level of competence.

The judicial review of administrative acts directly pursuing Bulgaria's foreign, defence and security policy is not permitted, unless otherwise provided for by law.

The Supreme Administrative Court has jurisdiction in the following areas:

(a) appeals against legal regulations, with the exception of those issued by local councils;

(b) appeals against decisions of the Council of Ministers, the Prime Minister, Deputy Prime Ministers and Ministers;

(c) appeals against decisions of the Supreme Judicial Council;

(d) appeals against decisions of the Bulgarian National Bank and its bodies;

(e) appeals in cassation and procedural appeals against judgments of courts of first instance;

(f) appeals by parties to proceedings against decisions and orders;

(g) applications to set aside final judicial decisions in administrative cases;

(h) appeals against other acts provided for by law.

The Supreme Administrative Court is structured into sections, including panels. Each section is led by a president (or a deputy president), who may also preside over the benches of judges within the section.

Depending on the complexity of the case, the judicial review process takes between three and four years.

An administrative act may be declared unlawful if it infringes at least one of the following five legal requirements:

(a) to be issued by a competent authority;

(b) the form prescribed by law to be observed;

(c) the substantive provisions to be complied with;

(d) the procedural requirements for its adoption to be complied with;

(e) the purpose of the law to be respected.

The grounds for challenging an administrative act in the proceedings before administrative authorities are the same as those for challenging it in court (Article 146 of the APC).

When considering the appeal, the court is not limited to discussing the grounds raised in the appeal. Instead, it must review the legality of the contested administrative decision on all legal grounds on the basis of the evidence submitted by the parties.

### 4.3.2. Administrative punishments

It should be noted that **administrative punishment** is a separate matter. Each law regulating administrative relations contains provisions on the violation of certain legal regulations, for which the laws provide for the imposition of an administrative penalty if the violation does not constitute a crime. As a rule, administrative offences are less serious than criminal offences. The types of administrative penalties that may be imposed for administrative offences are fines for natural persons and monetary sanctions for legal persons. The applicable general law is the Administrative Offences Act (**AOA**).

The AOA contains the rules of the special procedure for establishing the administrative offence and issuing investigation protocols, establishing the offence and issuing an act establishing the administrative offence and imposing the penalty, and issuing a penalty decree.

In general, fines and monetary sanctions are not imposed by individual administrative acts, but rather by special acts of the administration. In the case of penal decrees imposing administrative fines and monetary sanctions, the aforementioned appeal process for administrative acts (regulated by the APC) does not apply. Instead, the decisions imposing these administrative penalties are generally subject to special appeal rules under the AOA in front of the regional courts as the first instance and the administrative courts as the second and final instance.

It is not uncommon for the sanctioning authority to issue an order imposing a coercive administrative measure (such as, the sealing of an establishment) at the same time as it issues an act establishing the administrative offence, which precedes the imposition of a fine or penalty. This order is closely linked to and accompanies the process of establishing the infringement, but it is essentially a separate individual administrative act which is subject to appeal under the APC independently of the penal decree which is subject to appeal under the AOA. The appeal process of such orders follows the rules of traditional administrative procedure.

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**ABOUT THE AUTHORS**

Since 1990, BOYANOV & Co. has earned wide international recognition as the preferred legal partner of over 4,500 prestigious international and institutional clients. The law firm is constantly being ranked as a market champion with a key role in most of the Bulgaria's landmark transactions. BOYANOV & Co. excels in various industries, including energy, manufacturing, ICT, pharma, food & beverages, etc. The law firm's practice groups: M&A, Energy & Natural Resources, Banking & Finance, Intellectual Property, Competition, Tech, Real Estate and Infrastructure, Employment and Dispute Resolution offer a comprehensive range of highly professional services and expertise.

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