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Digitalization as a factor for the development of the modern labour legislation

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Abstract: The paper examines some of the main reflections of the digitalization process on the development of the labour legislation. The examination is based on the legislative acts of the EU and the Bulgarian national legislation. As result of the analysis some of the main tendencies are highlighted and some recommendations for adaptation of the Labour legislation to the contemporary dynamic necessities are made.

Key words: digitalization, labour market, labour legislation

Introduction

Labor legislation has a profound social role in the development of society, and, accordingly, its change is inextricably linked to the ongoing social processes at the relevant historical stage. At the moment, our society is facing the challenges of the fourth industrial revolution (Andreeva, A., Yolova, G., 2019) (Andreeva, A., Yolova, G., 2019) and the digitalisation process. With its impact on the labor market, digitalisation is about to become a leading factor in changing labor law in the direction of the development of legal institutions, changes in relations between the parties in the employment relationship, updating legal principles and the whole process of evolution in the industry.

The development of labor law in Bulgaria has gone through many stages from its inception in the beginning of the last century to the present. In the current phase, it is under the direct influence of European Union (EU) law, given the country's EU membership. This fact implies both the application of EU labor law acts and the synchronization of national sources with those existing at European level. At the same time, the transition to digitalisation also requires that national legislations and

European rules be adapted very quickly (Banov, 2017) (Банов, 2016). The challenge in this legislative process is to bring about change, while maintaining fairness and respecting European values that recommend full employment, social progress, a high level of protection, poverty and inequality reduction¹.

The topic chosen for the study is **up-to-date**, and this is determined both by the changes that have been made so far, influenced by the digitalization process, and by the need for new updates and comprehensive concepts that various challenges present to the European and national legislator (Andreeva, A., Dimitrova, D., 2019).

The use of digital technology has radically changed the organization of work, bringing it beyond the boundaries of a fixed workplace and working hours (Благойчева, 2019). Therefore, digitalization also brings up a number of issues that provoke debate in legal theory related to the rethinking of established legal concepts, e.g. the subject of law (Димитрова, 2019) (Андреева, А., Йолова, Г., 2018), the obligation of the parties in the employment relationship, the responsibility of robots, etc.

This paper does not claim to present a comprehensive research on the subject, but it does raise some of these issues at the level of scientific debate and outlines the importance of digitalisation for the development of labor law.

The scientific goal of this paper is to explore some of the major implications of the digitalization process for the development of Bulgarian labor law. The research is based on EU legislative acts and national Bulgarian legislation. As a result of the analysis, some of the leading trends are outlined and recommendations are made for the adaptation of labor legislation to the current dynamic needs.

To achieve this scientific goal, the author sets out the following specific **tasks**:

- To study the impact of the digitalisation process on the development of labor legislation;
- To identify the main challenges facing labor law institutes;

¹ Opinion of the European Economic and Social Committee. The EU concepts for managing the transition to the digital world of work - a key contribution to the EU White Paper on the future of work [exploratory opinion requested by the Austrian Presidency] Rapporteur: Franca Salis-Madinier (FR – II)

➤ To summarize, draw conclusions and criticisms for the adaptation of the national legislation on the basis of the analysis.

The subject of the research is predominantly the applicable Bulgarian legislation at the level of state sources, but for the purposes of the analysis some legislative acts and opinions of the European institutions are also used.

In order to accomplish the goal and the scientific tasks in the paper, the author uses the traditional methods of conducting legal research.

Body

Digitalisation is a process that, with its pace, goes beyond national borders, respectively national regulation. For this reason, Bulgarian labor law is influenced both by digitalisation and the development of international labor law instruments.

The systematization of the changes in the Bulgarian legislation in recent years allows them to be divided into several groups:

- Introducing new forms of employment contracts influenced by the digitalisation process (Андреева А. , 2015);
- Changes in legal norms related to education and qualification of employees. Digital skills are a necessity for all employees and this requires the application of the lifelong learning model (Банов, Трудовият договор за обучение по време на работа като форма за осъществяване на международно признати права на човека, 2018) (Банов, Утвърждаване на правото на професионално образование и професионално обучение в актовете на МОТ и в българското трудово законодателство, 2020). In this context, there is a need for flexibility on the part of employers, who are in direct contact with educational institutions in order to constantly update the knowledge needed on the labor market (Андреева, А., Йолова, Г., 2019) (Банов, Трудовият договор за обучение по време на работа - нова перспектива за професионална преквалификация, 2017) (Банов, Особенности на сключването на трудов договор при осъществяването

на дуално обучение, 2019) (Банов, Допълнителни изисквания за придобиване на качествата на работник (служител) и на работодател при осъществяване на дуално обучение, 2019).

Unfortunately, not all the additions and amendments made to the Bulgarian labor legislation are a positive sign. In support of this, we can give some examples of unsuccessful attempts to reform in line with the needs of a dynamic labor market influenced by digitalization. Flexible forms of work have been introduced into the Bulgarian legislation with the inclusion in the Labor Code (LC) of several new forms of employment contracts – distance work, working at home, staff outsourcing. Thus, the Bulgarian legislature supplemented the set of different types of employment contracts in a timely manner with regard to the undergoing processes of digitization in the different spheres of job placement. At present, these contracts are not implemented on a large scale, not all of them are practical, and some have proved to be empty of content and not applicable in the real labor market. According to the indicator related to flexible forms of work Bulgaria occupies one of the last places in the EU.

The reasons for this are complex - making adjustments to individual legal norms without a clear concept of reform in the institutions, cumbersome texts and a lack of connection with related concepts and application of legal principles.

Along with the changes and additions made to traditional legal institutes so far, digitalization also outlines some of the needs that the Bulgarian legislator should consider in the future reforms.

As noted in the EESC opinion² only 0,3 % of the total public expenditure in the EU is intended for investment in social policies. It is necessary, mainly within the next multiannual budget plan for Europe after 2020, to provide appropriate means to strengthen these policies, as well as measures to accompany digital transformation in the field of work for the benefit of workers, businesses and society at large.

² Opinion of the European Economic and Social Committee. The EU concepts for managing the transition to the digital world of work - a key contribution to the EU White Paper on the future of work [exploratory opinion requested by the Austrian Presidency] Rapporteur: Franca Salis-Madinier (FR – II)

Digitization also touches on traditional legal ties that have been marked by the sign of stability for many years. Changing the rights and obligations of the employment relationship in the direction of regulation of new types of rights, respectively obligations and responsibilities is one of the needs, influenced by the process of digitalization.

On the other hand, the role of artificial intelligence and robots in the work process should be rethought. This issue is currently under-represented, both in the national legislation of the Member States and in the Community legislative acts. **Automation and robots** are yet to show their impact on the future of employment. In this respect, Bulgarian labor law is conservative, but in the legal doctrine the issue has been investigated and many problems have been theoretically examined, however the solutions are yet to be sought, e.g. the questions concerning the legal personality of robots, rethinking the responsibilities in the labor process in the hypotheses of artificial intelligence involved, etc. (Andreeva, A. , Yolova, G. , Dimitrova, D., 2019).

Conclusion

The impacts of digitalisation on the Bulgarian labor law presented in this paper are only a part of the global process of rethinking the labor-law institutes. In view of the goal set and the limited volume of the paper, the latter does not claim to be exhaustive on the subject, but still it provides an opportunity for some conclusions to be drawn and some summaries made.

First of all, the Bulgarian legislator has started the process of adapting state sources to the dynamics of the labor market generated by digitalization.

Secondly, in national Bulgarian law, the updating of rules has been influenced by the need to comply with EU development guidelines.

Thirdly, non-state sources play an important role in the evolutionary process of labor law development. Given the "contracting" of labor law, it is increasingly possible for parties in the employment relationship to directly influence their rights and obligations. This is a positive trend in which business processes and new technologies are directly impact the labour-law sources.

There is yet another important trend, namely the strengthening of the role of tripartite cooperation in the process of changing the sources of labor law.

Along with the identified trends and taking into account the changes made as a result of the direct and indirect impact of digitalization, some concerns and criticisms cannot be overlooked.

Digitization, along with a positive impact on the work process, has a number of negative aspects that are associated with workplace stress, the introduction of technologies that affect the privacy of employees and workers (Andreeva, A., Mateeva, Z., 2018) (Mateeva, 2019), etc. All of the above highlights the need to consider a comprehensive and timely concept for the transformation of labor law and not only for piecemeal adjustments of individual institutes and legislative norms, but also adjustments of a set of principles, entities and institutes covered by a common reform in line with the spirit of modernity.

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