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framework and financial control practice
for compliance with labour legislation in
the age of globalization**

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Chapter 3

Redefining Global Economic Thinking for the Welfare of Society: New Features in the Bulgarian Legal Framework and Financial Control Practice for Compliance With LAB

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ABSTRACT

This chapter examines the legal and financial control issues regarding compliance with labor legislation. On the one hand, the legal analysis shows that legislation is one of the main factors influencing the financial control practice for compliance with labour legislation. On the other hand, the problems and specifics of the control procedures applied by the General Labor Inspectorate Executive Agency in Bulgaria are presented. The overall inspection process is presented sequentially, analyzing the individual stages that the control procedures go through. The problems and the specifics of carrying out an independent inspection activity by the agency are presented, and the peculiarities of carrying out joint control activities with executive bodies or their administrative structures by the specialized administration are examined. Different types of factors that influence the implementation of control procedures by the General Labor Inspectorate Executive Agency in Bulgaria are considered.

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INTRODUCTION

Labour right, in terms of rights deriving from employment, is a fundamental human right. The obligation of the countries to take appropriate measures to protect this right is regulated in a number of international acts: the International Covenant on Economic, Social and Cultural Rights; EU Treaty; Treaty on the Functioning of the EU; EU Charter of Fundamental Rights. The International Covenant on Economic, Social and Cultural Rights, adopted by the UN, has been ratified and enforced in Bulgaria in 1976. От 2007 г. Bulgaria is an EU member state, and in this sense, the principles of precedence over the national law of the Member States and direct effect of the norms of European law are applicable to the law of the Union (primary and derivative).

According to the provisions of the EU Treaty and the Treaty on the Functioning of the EU, the Union does not have exclusive competence in the field of labour and social policy. As regards labour law, the EU complements Member States' initiatives by setting minimum standards on working conditions, informing and consulting workers. EU membership and the subsequent reforms of Member States' legislation, as well as the accompanying processes of globalization, lead to many challenges and raise a number of fears of job losses and social injustice. Therefore, each state has a responsibility to respect the rights of its citizens and workers at a national level, as well as within international institutions. And in the beginning, it should be clarified that **the subject of the research is the control for compliance with labour legislation, under which the employers are the main subject**, and the responsibility of the state is not considered.

Given that the EU has 27 Member States and more than 240 million workers, respect for labour rights is of direct benefit to a large number of citizens and has a positive impact on one of the most important and tangible areas of their daily lives. Respect for the basic labour rights of employees goes hand in hand with the united market. The free movement of goods, services, funds and workers must be accompanied by appropriate rules to ensure that the Member States and the companies compete on the basis of the quality of their products and not by lowering the labour law standards. (1). Therefore, monitoring compliance with labour law in both its legal and economic aspects is of great importance given the impact of globalization on the labour market. (Blagoycheva, H. 2016) (Andreeva, A., Yolova, G., 2017) (Blagoycheva, H., Andreeva, A., Yolova, G., 2018).

In view of the above, **the relevance of the topic** is determined by the importance of the issues concerning the legal framework and financial control practice for the observance of labour rights in accordance with the commitments arising from Bulgaria's membership in the EU. At present, the chosen topic is relevant given the changed social reality of working in the digital environment, when employers

have expanded their employer's power, despite the lack of such regulations at the legal level. The pandemic situation and the measures taken to preserve public health have changed the rules of labour law, giving other priorities. This implies increased administrative control by the state to respect the labour rights of employees, so as not to obtain arbitrariness on the part of the employers.

The scientific purpose of this work is to explore, from a legal and economic point of view, some new features in legislation, control procedures and financial control practices for the observance of labour legislation. To achieve this goal, the authors set the following **research tasks**:

1. To analyze the new features in the legal framework of the control for the observance of labour legislation in the context of the membership of Bulgaria in the EU
2. To analyze the control procedures performed by the General Labour Inspectorate Executive Agency and to give some guidelines for improving the performed inspections;
3. To investigate the factors that influence the control practice regarding the observance of labour legislation;
4. To draw conclusions and summaries on the applicability of legal regulations and financial control problems regarding compliance with labour legislation.

According to the approved subject and object of research, the inductive approach is applied (from the general to the particular), and for the study of the individual factors that influence the control practice, factor analysis is applied with the help of the software program SPSS. The present study is adapted from the theoretical model of Jae-On Kim and Charles W. Mueller (Jae-On Kim & Mueller, 1978).

1. TRANSPOSITION OF EUROPEAN NORMS IN THE FIELD OF CONTROL FOR COMPLIANCE WITH LABOUR LEGISLATION IN BULGARIA

The legal regulations set the framework in which public relations are developed in each area, including the ones in the field of state control for the observance of labour legislation. The protection of labour right requires an active influence on the part of the state through appropriate legislation, given the fact that employees are the weaker party in the employment relationship, due to the subordinate position in which they are to the employer and the established order of work. (Dimitrova, D., 2020).

The specificity of the legal regulations concerning the control for the observance of the labour legislation is determined by the sources of the labour law, being the

main branch of our national legal system. In Bulgaria, the sources of labour law are characterized by diversity both in terms of their legal force (given the subordination of legal acts) and in terms of the entities entitled to issue acts - sources of this legal branch (Andreeva, A., Yolova, G., 2020, p. 19).

Among the national sources in the field of labour law, the main spot is occupied by the laws, which regulate in detail the labour legal relations, the basic labour rights of the employees, as well as the control by the state over the observance of the labour legislation. Among the legal acts, the purpose of which is directly aimed at regulating the state control over the observance of the rights coming as a result of the employment, the following must be indicated: the Labour Code, the Health and Safety at Work Act, the Labour Inspection Act, the Act on Labour Migration and Labour Mobility, the Employment Promotion Act.

From the mentioned normative acts the Labour Code (promulgated in Official Gazette issue 26/April 1, 1986, last amended in OG issue 109/December 22, 2020) can be determined as the most significant source of labour law in Bulgaria, due to its codified nature and the substantive rules relating to a wide range of issues. Since its adoption in 1986, it has undergone dozens of amendments, including the ones with regard to the regulations concerning compliance control and administrative liability for breaches of labour law.

According to the current legal framework, the overall control over the observance of labour legislation is carried out by the General Labour Inspectorate Executive Agency under the Minister of Labour and Social Policy (Article 399, paragraph 1 of the Labour Code). If, as a result of the exercised control, violations of the labour legislation are established, the Labour Code provides in Art. 412a an imposition of administrative penalties.

In addition to exercising control over compliance with labour legislation and imposing penalties for its violation within the national state, the General Labour Inspectorate Executive Agency also has functions to carry out administrative cooperation through the Internal Market Information System with the competent authorities of the EU member states (Article 417, paragraph 1 of the Labour Code). Thus, in 2016, pursuant to Chapters 3 and 6 of Directive 2014/67 / EU in the Labour Code, a new Chapter 20 - "Administrative cooperation through the Internal Market Information System and cross-border enforcement of imposed financial administrative sanctions and fines, including fees and accruals" - was created. (Official Gazette, issue 105/2016).

According to Art. 417, para. 2 and 3 of the Labour Code, as the main body exercising control over the observance of labour legislation, the General Labour Inspectorate Executive Agency is competent to receive and send requests through the Internal Market Information System:

- Requests for collection of public receivables under Art. 162, para. 7 of the Tax and Social Insurance Procedure Code (promulgated in OG issue 105/ December 29, 2005, last amended and supplemented in OG issue 105/ December 11, 2020) (2);
- Requests for collection of receivables under imposed property sanctions or fines, for violations of labour legislation regarding the posting and sending of workers or employees within the framework of the provision of services, the implementation of which cannot be performed on the territory of Bulgaria.

The types of administrative cooperation are regulated, including the sending and receiving of documents through the Internal Market Information System, with the competent authorities of other countries and the terms in which it is carried out (Article 418 of the Labour Code). The implementation of the enforced acts sent with a request for collection of receivables through the Internal Market Information System is also regulated, by which the competent authorities of another EU member state impose financial administrative sanctions or fines on Bulgarian employers for violations of labour legislation regarding the posting or sending of workers or employees (Art. 419, para. 1 of the Labour Code).

The General Labour Inspectorate Executive Agency is also competent to send a request for collection of amounts of imposed administrative penalties. The penal decrees that have entered into force, by which fines or property sanctions have been imposed on an employer under Art. 121a, para. 1, item 2 and para. 2, item 2 of the Labour Code (3) for violations of the labour legislation regarding the posting or sending of workers or employees within the provision of services, the implementation of which cannot be performed on the territory of Bulgaria, shall be sent together with the collected amounts to the competent body of the state for registration of the employer or of the company, which provides temporary work, with a request for collection through the Information system of the internal market (art. 422, para 1 of the Labour Code).

The reasons for the adoption of the considered changes in the Bulgarian labour legislation derive from the obligation of the member states to apply the EU law (4). The amendments to the Labour Code (OG, issue 105/2016) introduced the requirements of two European directives (Directive 96/71 / EC and Directive 2014/67 / EU), providing for mandatory rules for minimum protection, which must be observed by employers in the host country, as well as rules for administrative cooperation and control between the competent authorities of the member states.

Directive 96/71 / EC introduces mandatory minimum protection rules that need to be observed in the host country by employers who send workers on business trips for temporary employment in the territory of the member state, where service is provided related to the following: the maximum length of the employment and

the minimum length of the rest, the minimum paid days off, the minimum rates of pay, including overtime rates, the conditions for offering workers for employment, in particular by companies providing temporary work, health, safety and hygiene at work, protective measures with regard to the conditions of employment of pregnant women or women in labour, children and young people, equal treatment for men and women and other nondiscrimination provisions.

Accordingly, Directive 2014/67 / EU introduces a package of measures to ensure better protection of the sent workers in the framework of the service provision, to ensure also fight against so-called “social dumping” and a more transparent and predictable legal framework for service providers. It aims to improve the process of implementation and enforcement of Directive 96/71 / EC by introducing rules for administrative cooperation and control between the competent authorities of the member states, the administrative requirements for service providers and the control measures at a national level.

The full functioning of the EU presupposes the right of the Union not only to be established but also to be applied and respected throughout the EU. Accordingly, member states are required to adapt their national law to the requirements of European law. Given the fact that the acts mentioned above are directives, their application in the domestic legal order is done by transposition into the national law, for in general, they are not directly applicable and have no direct effect.

In the years after Bulgaria’s membership in the EU, in addition to the already mentioned directives, the provisions of a number of other directives relevant to the state control over the observance of the rights of the employees have been transposed into our national labour legislation (5). Directives are the Union’s main legislative way of creating the united internal market and implementing its policies as a whole, which is why their correct and timely implementation in the member states must be ensured. The process of transposing the EU law is complex and no measure can be effectively implemented in the same way as the relevant European institution or body has adopted it without any national administrative measure. (Popova, Zh., 2011, p. 396) (Dimitrova, D., 2019).

At the time of developing this study, a legislative procedure for amending the Labour Code (6) is underway, which is already a fact (Official Gazette issue 109/22 December 2020), and a large part of the changes concern the control and sanctioning activities relating the observance of the labour law. The imposition of administrative sanctions by the control bodies in case of violation of the labour legislation provides protection to the employees and ensures fair competition between the companies, which supports the functioning of the labour market. The latest amendments to the Labour Code have the main goal of improving the adequacy of the labour legislation in terms of labour market trends, the level of the industrial relations, the socio-economic conditions in the country and the international acts and standards.

In this sense, it is necessary to develop the legislation in the field of labour law in accordance with the EU law, the standards of the International Labour Organization and the national socio-economic peculiarities.

Due to the changes in the labour market related to the processes of globalization and digitalization (Andreeva, A., Yolova, G., 2019) (Andreeva, A., 2020) (Andreeva, A., & Yolova, G., 2020), the number of employment relationships that have a cross-border element is increasing. Labour mobility and job change is an increasingly common trend in the labour market, especially among young people seeking realization and suitable employment. The adoption of the proposed bill into our national legislation introduces the requirements of Directive (EU) 2018/957 of the European Parliament and of the Council of 28 June 2018 amending Directive 96/71 / EC on the sending of workers in the framework of the provision of services (OJ L 173/16, 9 July 2018).

The above shows that Bulgaria's membership in the EU has a significant impact on the development of national law in the field of control over compliance with labour legislation. EU labour law covers two main areas:

- **working conditions** concerning full-time work, part-time work, fixed-term work and sending workers on a business trip; and
- **informing and consulting workers** on collective redundancies, transfers of companies, etc. (7)

As already mentioned, the EU does not have exclusive competence in the field of labour law, but only complements the initiatives of individual member states by setting minimum standards regarding the working conditions and informing and consulting the employees. Nevertheless, the EU labour law benefits not only the employees but also the employers and the society as a whole, because it provides a clear framework of rights and obligations in the workplace, protects the health of the workforce and promotes sustainable economic growth.

As a result of the analysis of the new features in the legal framework, and in particular, the transposition of the European norms in the field of the control for the observance of the labour legislation in Bulgaria, the following conclusions and summaries can be made regarding the applicable legislation concerning the considered issues:

First, the provision of the workforce in today's globalization requires the creation of regulatory guarantees for the observance of the rights resulting from employment. The provision of employment is related to the economic and organizational dependence of the employee on the employer. In view of this, the legislation must determine the limits within which the counter-rights and obligations under the employment

relationship may be exercised in the conditions of a dependent position of the employee by the employer.

Second, the protection of the right to work requires the active influence of the state through the relevant legislation. The regulation of the right to work, including its recognition as a fundamental right in a number of international acts, shows its function and its importance both for the society and for the individual.

Third, the modern social conditions of globalization and digitalisation set new challenges to the legal framework requiring administrative protection of the fundamental labour rights (for example, health and safety at work, right to remuneration, right to have a vacation or a leave, etc.). In this sense, the administrative control and administrative punitive liability provided for in the labour legislation are of great practical importance.

Fourth, some of the considered changes in the Labour Code aim at more effective implementation of the control activity and better prevention in connection with the envisaged administrative sanctions in case of violation of the labour legislation. This, on the one hand, shows the role and importance of administrative-legal protection in ensuring the necessary level of protection of the labour right. On the other hand, the national legislation, which transposes the European norms in the field of control for the observance of the labour rights of the employees, is one of the main factors influencing the control procedures and the financial control practice for the observance of the labour legislation.

2. CONTROL PROCEDURES PERFORMED BY THE BODIES OF THE GENERAL LABOUR INSPECTORATE EXECUTIVE AGENCY. SOME GUIDELINES FOR IMPROVING THESE INSPECTIONS

The objective related to the effective and efficient functioning of the control system carried out by the General Labour Inspectorate Executive Agency to ensure appropriate working conditions is part of the strategic objectives of the Agency and the meaning of its existence. In this way, the social character of the control activity of the General Labour Inspectorate Executive Agency stands out. Through the control exercised by the agency, the socio-economic goals in the government's policy are achieved, because organizationally, the agency is a structure under the Minister of Labour and Social Policy. The purpose of the General Labour Inspectorate Executive Agency is exercising comprehensive control over compliance with labour legislation in all sectors and activities of the state.

Depending on the tasks set before Agency for the respective year, the specific control activity is carried out and planned. During the different periods, the General

Labour Inspectorate Executive Agency has had different priorities. Depending on these priorities, different goals have been set in these particular years, related to the scope of control to ensure compliance with labour legislation and legal requirements to ensure healthy and safe working conditions. The main form used by the agency to exercise control is doing inspections in the companies (8).

The control procedures applied by the General Labour Inspectorate Executive Agency have the character of preventive, ongoing and follow-up control. Of considerable interest are the inspections carried out on enterprises, which have the character of ex-post control. The elements of the inspection technology performed by labour inspectors may consist of the following procedures and guidelines:

2.1. Selection of the Object for the Inspection

Here, an object can be understood as an entire company as well as its individual parts. The selection of the object for inspection is related to the annual inspection plan of the General Labour Inspectorate Executive Agency, the specific priorities for the year and the objectives through which these priorities should be achieved.

In carrying out its control activities, the Agency cooperates with other state control bodies. In this regard, as a result of the control activity of another state body, it may determine the object of the inspection carried out by the inspectors of the General Labour Inspectorate Executive Agency. In many cases, these are signals of the lack of employment with employees established for the company, as well as non-payment of wages or their significant delay (Andreeva, A.; Dimitrova, D., 2019). For this reason, the interaction with other control bodies is a basis for improving the efficiency and effectiveness of the control carried out by the Agency.

It should be noted that if the inspection is the first for the specific enterprise, the labour inspectors should make a more comprehensive assessment of the degree of compliance of the enterprise's activity with the relevant legislation. This assessment should focus on the compliance of the activity, in particular with labour legislation and health and safety legislation. Labour inspectors should also assess the employer's ability to comply with these provisions. In carrying out this assessment, it is good for the inspector, as far as possible, to interact with all representatives of the employees or trade unions in the company, as well as with the employer. Such interaction is crucial for solving specific problems affecting the health and safety conditions at work, as well as for avoiding possible conflicts.

Another direction, which the choice of the object for the inspection depends on, is related to the structure of the economy. Given the peculiarities of our economy, the largest relative share is owned by the micro-enterprises (9), which will most often fall within the scope of the inspections.

2.2. Selection of the Scope of the Performed Inspection

In this case, the scope is of dual importance - being a period to which the inspection should relate and being control activities to be included in this inspection. The scope of the inspection may be limited depending on the purpose of the inspection. This scope may also be affected by the control activities carried out by the state bodies, cooperating with the General Labour Inspectorate Executive Agency. The scope of the inspection also includes the period for which it is carried out. This period may be limited by the period of a delayed payment of wages or the period for which it has been established that people without employment contracts work at the object of the inspection.

In determining the scope of the inspection, all previous inspections of the company, if any, should be examined. When it comes to the results of these inspections, it should be established to what extent the mandatory instructions given in them have been fulfilled and implemented. Attention should be paid to compulsory compliance, especially in the field of health and safety at work. This will ensure the existence of a favourable work and social environment for the workers, which will lead to an improvement in the result of the work that employees do.

2.3. Preparation and Performance of the Inspection

Once the subject of the inspection has been identified, all results of previous inspections of the specific object, if any, should be reviewed. At the next stage, the normative acts and documents applicable to the object of the inspection should be determined. It should be foreseen whether special means will be used to carry out control measurements related to the inspection. This procedure can also be implemented during the inspection, as it is possible, certain circumstances, that were not known during its preparation, to be found in the course of the inspection. At the next stage, the members of the inspection team are determined, taking into account all the circumstances known at the time of determining the team of inspectors.

When carrying out the inspection, attention should be paid to certain procedures to improve the effectiveness of inspections as a tool to improve the performance of the companies. When performing the inspection in the object of control, certain factual circumstances are found, and if they are in contradiction with the effective normative acts, they can be characterized as violations. For example, when certain infringements are identified, the control bodies of the General Labour Inspectorate Executive Agency should not immediately impose coercive administrative measures, as they can lead to significant unpleasant economic consequences, especially for micro-enterprises. Usually these coercive measures are related to the suspension of

the activity, the shutdown of a specific machine or facility, the suspension of illegal orders or orders of the employer, etc.

In this sense, the Agency's inspectors should be extremely prudent in applying these more extreme measures from an economical point of view. In the case of protection of the lives and health of the employees, this soft approach to imposing such coercive administrative measures should not be encouraged. In cases where it is found that there are workers and employees who are not familiar with the rules of healthy and safe working conditions, especially in hazardous work environments, they can be suspended from work until the completion of their training. This can also be done by prescribing the introduction of a special routine for safe work.

2.4. Completion, Documentation and Reporting of the Inspection Results

In this regard, if the violations found during the inspection are not serious and if the inspector considers that there is a high probability the employer will correct his activity, as well as that he will cooperate, then the use of the prescriptions should be applied. This form of impact on the controlled object is the most economical and administrative one from an economic point of view. At the same time, this approach is effective and the results that can be achieved will be the most lasting. Thus, we have prescriptions, in the form of a mandatory recommendation, accompanied by clear written instructions on how to make the necessary changes so that the activity of the object meets the regulatory requirements directly related to labour legislation and health and safety at work legislation.

The prescriptions should be justified and based on the legal obligations of the employer. Prescriptions, as an approach to completing the ongoing inspection, should be a top priority when carrying out controls in micro-enterprises. Surely, the prescriptions should have a deadline for implementation, and it is mandatory to check their compliance. In this case, a more flexible approach can be applied with regard to micro-enterprises.

Where possible, the inspection bodies carrying out the inspection should inform all representatives of the employees or trade unions in the company about the results of the inspection. This can be done by informing them of any breaches of labour law they have encountered, as well as of the further actions they intend to take. This approach is extremely effective and allows the control authorities to get acquainted in advance with the possible effects of the actions they will take as a result of the performed inspection. On this basis, an impact system can be built that achieves real and effective results for businesses, rather than pursuing only internal goals for the Agency.

In the case of established violations, which also are a violation of the current legislation, the control bodies should seek administrative liability, through which to force the employer to fulfil his obligations. In exceptional cases, when the employer gives objective reasons, including those which he proves with documents, the control body should analyze these circumstances and, if they are of an extraordinary nature, it should not seek administrative liability. The behavior of the employer should also be taken into account. If the employer behaves in accordance with the law, it is appropriate in these cases to use the mechanism of mandatory prescriptions, the implementation of which should be subsequently checked.

Upon completion of the inspection, the control bodies should document in writing all established facts, circumstances and actions, which they have taken during its performance. When no violations are found during the inspection, it may end with a description of the actions taken and performed in connection with it.

The reporting of the results of the inspection in the General Labour Inspectorate Executive Agency should be in accordance with the established reporting system in the Agency.

The control activity of the Agency is realized through planned and unplanned inspection. The planned inspection shall be carried out in accordance with the annual activity plans of the directorates, in implementation of the programs and measures set out in the annual activity plan of the Agency. The plans of the directorates also take into account the territorial structure of the economy, the degree of risk in enterprises, the severity and type of violations of labor legislation, the level of occupational injuries and occupational diseases.

The unplanned inspection is carried out:

1. by order of the Minister of Labor and Social Policy, of the executive director, the chief secretary or of the directors of the specialized administration, as well as of other state bodies, explicitly determined by law, as well as at the discretion of the inspectors;
2. by order of the court, of the bodies of the prosecution and of the bodies, carrying out pre-trial criminal proceedings;
3. upon requests and signals from workers and employees under labor legal relations, from organizations of the workers and employees, as well as in connection with information from the mass media;
4. upon requests and signals from the bodies for appointment, by the heads of the inspectorates in the administrative structures and of the trade unions or upon complaints from civil servants;
5. for establishing the reasons for occurred accidents during and on the occasion of performance of work.

3. PROBLEMS AND FACTORS INFLUENCING THE FINANCIAL - CONTROL PRACTICE IN COMPLIANCE WITH THE LABOUR LEGISLATION

There are three main control institutions in Bulgaria, which are authorized to control the observance and application of the labour insurance legislation by companies, enterprises and citizens, namely - National Revenue Agency /NRA/, General Labour Inspectorate Executive Agency and the National Social Security Institute / NSSI /. Each control institution has its own scope of action in control proceedings. Due to the specific nature of the control activities, we turn our attention to the General Labor Inspectorate Executive Agency (10).

The implementation of the control function of the General Labour Inspectorate Executive Agency is carried out through 28 territorial directorates, namely: Varna, Dobrich, Burgas, Silistra, Shumen, Razgrad, Targovishte, Ruse, Veliko Tarnovo, Sliven, Yambol, Haskovo, Kardzhali, Smolyan, Asenovgrad, Stara Zagora, Gabrovo, Lovech, Pleven, Vratsa, Montana, Vidin, Sofia, Sofia region, Pernik, Kyustendil and Blagoevgrad. The survey covers the 28 territorial directorates, and each inspectorate has surveyed 15 inspectors who monitor the observance of the labour legislation. The survey was conducted through pre-prepared questionnaires. Each questionnaire contains 16 questions.

The General Labor Inspectorate Executive Agency carries out its activity in the following manner (11):

1. It exercises comprehensive control over the observance of the labour legislation in all branches and activities.
2. It exercises specialized control over the observance of the Health and Safety at Work Act, the Employment Promotion Act, the Labour Migration and Labour Mobility Act, the legislation related to the performance of the civil service, and the rights and obligations of the parties to the employment relationship, and other normative acts when this is assigned by law.
3. It provides information and technical advice to employers and employees on the most effective methods for the observance of the labour legislation, as well as the legislation governing the health and safety at work, and other regulations, the control of which is entrusted to the Agency by law.
4. It exercises the right, provided for in the Commercial Law, to file a claim for initiating the insolvency proceedings of a trader with due and unfulfilled for more than two months wage obligations to at least one-third of the employees of the trader.

The control inspectors, who carry out both the overall control over the observance of the labour legislation and the specialized control, have powers “established in the Labour Code, in the Health and Safety at Work Act, in the Employment Promotion Act, in the Labour Migration and Labour Mobility Act, in the Civil Servant Act and in other normative acts, which assign control to the Agency” (11). When violations are found, the inspector has the following rights (11):

1. To apply coercive administrative measures, defined in the normative acts, under which the Agency carries out control activity
2. To issue a decree under Art. 405a of the Labour Code for declaring the existence of an employment relationship
3. To draw up an act for ascertaining an administrative violation and initiate administrative penal proceedings
4. To give oral orders

3.1. Research Approach and Research Methodology

The control practice of the General Labour Inspectorate Executive Agency is influenced by various external factors that affect the inspection procedures and actions of the inspectors. In order to examine the relevant main factors, a questionnaire with 16 questions was created, which was provided to each territorial directorate for questioning of 15 inspectors from the respective directorate. Descriptive, factorial and correspondent analysis was applied to analyze the results. A total of 420 questionnaires were processed, which is a good representative survey for the control activity of the General Labour Inspectorate Executive Agency. Respondents assess (on a scale of 1-5) the extent to which they consider the following seven factors, having been tested, affect the quality of the control activity carried out by the inspectors of the General Labour Inspectorate Executive Agency: regulations (f1), political and economic factors (f2), social factors (f3), corruption factors (f4), staff qualifications (f5), specifics of the controlled object (f6) and administrative - organizational capacity of the respective directorate (f7).

The legal framework as a factor is studied in detail and presented in the first part of the study. Here we mainly focus on the impact that this legislation has on achieving the goals and objectives of the controllers. The active dynamics of the regulatory framework is also a prerequisite for changing internal procedures regulating the control activities for carrying out inspection activities (Nedyalkova, 2019). Most of the changes in the normative acts require additional explanations and clarifications from higher institutions / persons regarding the manner of application of the respective legal requirements in practice. These regulations are not always displayed and provided immediately. In most cases, the issues or questions of practice

are explained through various letters and inquiries to the relevant institutions - the Ministry of Labour and Social Policy, the National Revenue Agency / NRA /, the National Social Security Institute or the Labour Inspection General Agency. The institutions in Bulgaria assist legal entities and individuals with questions and written inquiries, sent to them, regarding the legal interpretation and application of the regulations (Nedyalkova, 2019), but not always the relevant stakeholders benefit from this opportunity. This, in turn, gives rise to a number of violations in the observance and application of labour laws.

The political - economic factor (Aslaksen, 2020) is the next factor that is studied in the present study. The economic situation in which the business organizational units and enterprises develop, with its favourable and unfavourable changes, give a different impetus to the development of their activity. When this type of change is combined with the changes in the political environment, the impact is not only on the respective companies but also on the adaptive change of the control institutions I regard to the imposed organizational and structural changes.

The social factors (Kothe, 2013), influencing through the implementation and strengthening of the relevant social policy, have an impact on life expectancy and human health. The application and observance of the labour insurance legislation is a prerequisite for the establishment of a partnership between the citizens, the businesses, the non-profit organizations, the social partners and the state in the observance of the social policy. A policy, which aimed at “social inclusion and personal realization” (12). Bulgaria’s common social policy has changed on the basis of the restrictive measures imposed to combat the COVID-19 pandemic and the subsequent economic and social challenges. The announced pandemic of COVID-19, as well as the imposed restrictive measures against the various industries, caused a number of serious socio-economic problems for both ordinary citizens and businesses. The priority of the control institutions is to preserve the health of the people, by observing not only the labour legislation but also the various prescriptions and instructions given by the Ministry of Health. The focus of the inspections in 2020 has expanded, as also has the scope of the inspections. In 2020, the joint inspections of the Regional Health Inspectorates / RHI / and the Labour Inspection Territorial Directorates increased by 35%, compared to 2019. The actions of the control institutions are complex and cover both the establishment of the labour legislation and the observance of the hygienic and health norms. Also in 2020, the joint inspections between the structural units of the MIA / Ministry of Interior /, the National Revenue Agency / NRA /, the Regional Health Inspectorate and the Labour Inspection Territorial Directorates “increased by 45%. The scope of these inspections is aimed at establishing crimes, violations of labour and tax legislation and compliance with hygiene and health standards. For identified deficiencies, “acts have been drawn up by the competent institutions, mainly related to the lack of cash registers, inaccurate reporting of cash

turnover and actual availability, lack of employment contracts of employees, lack of issued or uncertified health insurance books, non-compliance with sanitary hygiene standards. Where necessary, statements of findings have been issued and acts are to be drawn up by the owners or persons in charge of the sites for the identified irregularities” (13).

The corruption factor (Salinas-Jiménez, 2011), always with its negative effect, without which it is impossible to achieve gradation. Similar to the natural laws of nature, in which we see good and evil, positive and negative, the same is found in all other units / administrative-territorial units, centres of government, organizations, communities, etc., in which the impact of corruption cannot but manifest itself. The corruption factor is a prerequisite for the adoption and amendment of a number of normative acts in order to impose adequate prevention, applied as a way to reduce the crime caused by corruption.

The qualification of staff (Aouhassi § Hanoune, 2019) is also a significant factor in the implementation of the inspection activities by the General Labour Inspectorate Executive Agency. The general administration of the executive agency consists of the following directorates: Human Resources Management Directorate; Financial and Economic Activities; Public Procurement and Property Management; Administrative Services and Information Technologies; and Human Resources Management Directorate. The Human Resources Management Directorate is engaged and responsible for planning and organizing the training of the employees of the Labour Agency in order to increase the qualification and career development.

The Specifics of the controlled object factor influences the implementation of the inspection activity by the Labour Agency. The specifics of the site determine the approaches and methods by which the inspection activity will be carried out. The practical control activity starts from the stage of planning the inspection activity, passes through the preparation for the inspection, and the next stage is the implementation of the inspection itself. It is possible, depending on the specifics of the controlled object and according to the specifics of the inspection scope, to perform some subsequent inspection actions. Whether there is a follow-up inspection or not, any inspection activity should be completed with a report. It is common practice for the report to be kept by the inspectorate and for the company and the other parties concerned to be notified by letter of the relevant problems. In this way, the confidentiality of the information collected by the companies is preserved.

Administrative-organizational capacity (Orr § Burchill, 2016) is the next factor that has been explored. This factor considers the administrative structure of the Labour Agency, as well as the interaction between the individual structural organizational units and territorial directorates. The interaction should be both vertical (from top to bottom - from the top management to the individual employee) and horizontal - according to the individual organizational units.

The study is based on factor analysis, and accordingly the following basic requirements are met:

1. The output data is random.
2. The observations and research made are independent.
3. The variables involved are in a mutual correlation.
4. The data have a multidimensional normal distribution. The adequacy condition is met by a preliminary check of the data, using the Kaizer-Mayer-Olkin test, and the data must be > 0.5 . The result of the verification is presented using Table 1

Table 1. Kaizer-Mayer-Olkin and Bartlett's Test

KMO and Bartlett's Test		
Kaiser-Meyer-Olkin Measure of Sampling Adequacy.		,913
Bartlett's Test of Sphericity	Approx. Chi-Square	2896,353
	df	21
	Sig.	,000

5. Hypothesis testing, i.e. testing whether the tested seven factors - regulations, political and economic factors, social factors, corruption factors, staff qualifications, specifics of the controlled site and administrative - organizational capacity of the directorate - affect the quality of control activities carried out by the inspectors of the General Labour Inspectorate Executive Agency. Testing is performed using the Bartlett test. With its help, it is necessary to check whether the correlation matrix is identical, i.e. to find out whether the variables are not related, which will mean they are inappropriate because they lie on the same line. In the studied case, the examined data are "spherical" because Sig is 0.000 (see Table 1), i.e. $KMO = 0.913 > 0.5$ and the Bartlett test has $Sig. = 0.000 < 0.05$, i.e. the significance level is $Sig. = 0.000$ and is less than the critical risk level of 0.05. Therefore, the null hypothesis is rejected, i.e. there is a significant correlation between the primary variables, and in that case, the factor analysis is applicable.

3.2. Analysis of Results and Testing

The descriptive analysis of the data shows that the studied factors have a strong impact on the inspection activity of the General Labour Inspectorate Executive

Agency in all the surveyed 28 territorial directorates. The predominant estimates of the tested factors are over 3, i.e. the median is over 3, which means that they have a significant impact. The strongest influence is exerted by the factors: normative regulation (f1), political-economic factors (f2), social factors (f3) and the corruption factor (f4). The other factors - staff qualification (f5), specifics of the controlled site (f6) and the administrative - organizational capacity of the respective directorate (f7) have a lesser impact on the inspection activity carried out by the inspectors of the General Labour Inspectorate Executive Agency.

The study of the relation between the factors and their grouping required to determine their correlation and dependence and the data are presented using the correlation matrix. The corresponding distribution of the data from the correlation matrix is given in Table 2.

Table 2. Distribution of the values of the correlation matrix

Total Variance Explained						
Component	Initial Eigenvalues			Extraction Sums of Squared Loadings		
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %
1	5,583	79,750	79,750	5,583	79,750	79,750
2	,490	7,001	86,751	,490	7,001	86,751
3	,341	4,867	91,618	,341	4,867	91,618
4	,191	2,722	94,340	,191	2,722	94,340
5	,144	2,059	96,400			
6	,132	1,891	98,290			
7	,120	1,710	100,000			
Extraction Method: Principal Component Analysis.						

From the data presented in Table 2, it is found that only with the compilation of the first four factors (regulatory framework (f1), political-economic factors (f2), social factors (f3) and the corruption factor (f4) their impact on the inspection activity reaches 94%. Therefore, it can be assumed that they have the strongest impact and influence on the control activity of the inspectors. The other factors affect only 6% in total, which means that their severity is less and it can be assumed that these factors are not so significant and important for control practice.

When testing the four variables (*regulations* (f1), *political-economic factors* (f2), *social factors* (f3) and *the corruption factor* (f4)), the concentration of these

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variables was actually tested. A variable is a separate factor. For this reason, the variances of these variables ($\sigma^2 = 1.00$) are treated as inclusion coefficients, the

Table 3. Concentration of variables

Component Matrix ^a				
	Component			
	1	2	3	4
VAR00001	,854	,185	,462	-,027
VAR00002	,860	-,413	,187	,037
VAR00003	,911	-,243	-,091	,172
VAR00004	,844	,475	-,058	,121
VAR00005	,913	-,011	-,137	-,363
VAR00006	,937	,020	-,085	-,035
VAR00007	,926	,010	-,235	,104
Extraction Method: Principal Component Analysis.				
a. 4 components extracted.				

data of which are presented in Table 3.

From the data in Table 3, it is found that the concentration of the components of the first variable is the highest (f1), i.e. this is the regulatory framework, and the other factors contribute to the achievement of this high concentration, i.e. the change

Figure 1. Composition of factors

KMO and Bartlett's Test

Kaiser-Meyer-Olkin Measure of Sampling Adequacy.		,913
Bartlett's Test of Sphericity	Approx. Chi-Square	2896,35
	df	3
	Sig.	,000

of the regulatory framework is a result of the political and economic events, social events and the fight against corruption.

Taking into account all the data presented so far, and after the analysis of the main components (principal component analysis), we have grouped the factors that affect the inspection activity of the General Labour Inspectorate Executive Agency. The grouping of these factors is presented in FIG. 1:

Therefore, based on all the above, it can be assumed that the two main factors X1 and X2 consist of the following variables, namely X1 - the regulatory framework, political-economic variables, social variables and corruption variables. The main factor X2 is composed of the following variables qualification of the staff, specifics of the controlled site and the administrative organizational capacity of the respective territorial directorate of the General Labour Inspectorate Executive Agency.

CONCLUSION

The overall study is a comprehensive study on the impact of various variables on control practices in the application of labour law. The object of study is the activity of one of the main control institutions in Bulgaria, namely the General Labour Inspectorate Executive Agency.

Firstly, the new features in the legal framework of the control for the observance of the labour legislation in the context of the membership of Bulgaria in the EU are analyzed, because the legal regulation sets the framework in which the public relations in the field of the state control for the observance of the labour legislation are being developed. Bulgaria's membership in the EU has a significant impact on the development of the national law in the field of control over the observance of labour rights. Accordingly, the legislation is one of the main factors influencing the financial control practice for compliance with labour legislation.

Secondly, based on an analysis of the control practice of the General Labour Inspectorate Executive Agency, some guidelines are given for improving the performed inspections.

Thirdly, as a result of the factor analysis, it was found that the seven main variables that influence control practice, namely: legislation (f1), political-economic (f2), social (f3), corruption (f4), qualifications of the staff (f5), the specifics of the controlled site (f6) and the administrative-organizational capacity of the respective directorate (f7) are the main components of two main factors X1 and X2. Both factors have an equal impact on the control activity of the General Labour Inspectorate Executive Agency.

In conclusion, it should be emphasized that there is a clear relation between the legal framework and the efficiency of financial control practices for compliance

with labour legislation. This conclusion is reached, firstly, through the legal analysis of the current legislation, made in the first part; secondly, through the analysis of the control practice of the General Labour Inspectorate Executive Agency, made in the second part; and thirdly, through the analysis of the factors influencing the inspection activity, made in the third final part of the research.

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ENDNOTES

^{1.} <https://ec.europa.eu/social/main.jsp?catId=157&langId=bg>, seen on 27th Dec 2020

^{2.} According to Art. 162, para. 7 of the Tax and Social Insurance Procedure Code: Public claims are claims for financial administrative sanctions and/or fines, including fees and charges, imposed by the competent authorities or confirmed by the administrative or judicial authorities of EU member

states, or, where applicable, by the labour courts of the EU member states in connection with non-compliance with Directive 96/71 / EC of the European Parliament and of the Council of 16th December 1996 concerning the sending of workers in the framework of the provision of services (OB, L 18/1 of 21st Jan 1997) or Directive 2014/67 / EU of the European Parliament and of the Council of 15th May 2014 to ensure the implementation of Directive 96/71 / EC on the sending of workers in the framework of the provision of services and amending Regulation (EU) No 1024/2012 on administrative cooperation through the Internal Market Information System (IMI Regulation) (OB, L 159/11 of 28th May 2014)

3. Art. 121a, para. 1, item 2 of the Labour Code: Sending of employees in the framework of the provision of services is present when an employer, registered under the legislation of another EU member state, a member state under the Agreement on the European Economic Area, of the Swiss Confederation, or a third country, sends a worker or employee to the territory of the Republic of Bulgaria: (a) at its own expense and under its own direction on the basis of a contract between the employer and the service user; (b) a company in the same group of companies.
4. Reasons for the Draft Law for amendment and supplement of the Labour Code (602-01-60 / 20.10.2016); published at: <https://www.parliament.bg/bg/bills/ID/66447/>, seen on 27th Dec 2020
5. For example, Council Directive 2001/23 / EC of 12 March 2001 on the approximation of the laws of the member states relating to the guaranteeing of employees' rights in the event of transfers of companies, businesses or parts of companies or businesses; Council Directive 98/59 / EC of 20 July 1998 on the approximation of the laws of the member states relating to collective redundancies; Council Directive 94/33 / EC of 22 June 1994 on the protection of young people at work; Council Directive 89/656 / EEC of 30 November 1989 on the minimum safety and health requirements for the use of personal protective equipment at work (Third individual Directive within the meaning of Article 16 (1) of Directive 89/391 / EEC); Council Directive 89/391 / EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work, etc.
6. Draft Law on Amendments to the Labour Code (002-01-32/03.08.2020); published at: <https://www.parliament.bg/bg/bills/ID/163309/>, seen on 27th Dec 2020
7. <https://ec.europa.eu/social/main.jsp?catId=157&langId=bg>, seen on 27th Dec 2020
8. This term is used, but in different cases, it has a different scope. It is used in this statement to maximize the scope of organizationally, administratively and

economically differentiated entities, where the General Labour Inspectorate Executive Agency can exercise control.

9. Law on Small and Medium Enterprises, published in Official Gazette issue 84/September 24, 1999, last edited in issue 21/March 13, 2020.
10. General Labour Inspectorate Executive Agency - <https://www.gli.government.bg/bg/node/6364>, seen on 27th Dec 2020
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13. Joint inspections of the police, NRA, RHI and the Labor Inspectorate of commercial objects in the area - <https://oborishte.bg/съвместни-проверки-на-полиция-нап-рзи/>, seen on 27th Dec 2020