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# Employment in Albania

**Boga & Associates**

*Authored by: Renata Leka & Gladiola Ago*

# EMPLOYMENT IN ALBANIA

## LABOR MARKET

The labor market in Albania over the year 2021 was characterized by an unemployment rate which, according to the Albanian Institute of Statistics, amounts to 11.5 % of the active population, i.e., 162,560 persons<sup>1</sup>. In comparison to 2020, the official unemployment rate has reduced by 0.2%.

Employment relations in the Republic of Albania are primarily governed by Law no. 7961, dated 12.07.1995 *“The Labor Code in the Republic of Albania”* as amended (**“Labor Code”**) and Law no. 7703, dated 11.05.1993 *“On Social Insurance in the Republic of Albania”* as amended (**“Law on Social Insurance”**) as well as other laws regulating various aspects of employment that accommodate new social and economic realities. Furthermore, the unifying decisions of the Albanian Supreme Court are an important source regarding disputes arising from employment relationships.



## **RIGHTS AND OBLIGATIONS DERIVING FROM THE EMPLOYMENT RELATIONSHIP**

The employee is required to accomplish the assigned duty with diligence and accountability, in compliance with the highest standards and applicable legislation.

Employees are bound to demonstrate competence, consistency, rationality, cooperation, and professionalism, as well as to respect the employer's organization of work and business, conditions and rules of employment related to the fulfillment of contractual and other obligations arising from employment relations.

Employees are required to carry out the duties in accordance with the employer's instructions and orders; to comply with all measures related to the safety and health at work, and to notify the employer on any possible danger to life and health of the employees; treat fairly other employees; protect business interests and reputation of the employer, as well as to refrain from any activity that could harm its reputation, interfere with performance of the employer's business activities or cause damage to the employer in any other way; notify the employer on essential circumstances that influence or could influence the performance of jobs stipulated in the employment contract.

## **ESTABLISHING EMPLOYMENT RELATIONSHIP**

Each employee is employed by the employer on the basis of an individual employment contract. In particular, the contract stipulates the position, place of work, salary and contains other special provisions if required.



## **BUSINESS PROTECTION AND NON-COMPETE AGREEMENT**

During the employment, the employee cannot perform paid work for third parties that could harm or compete with the work of the employer.

The Labor Code provides the possibility to enter into a non-compete agreement, according which upon termination of the employment relationship the employee undertakes the obligation not to compete and establish, work for or have any interest in a competitive enterprise.

The non-compete agreement is valid only if the employment relationship has given the employee the opportunity to gather information about the employer's manufacturing or trade secrets and if the use of such

secrets could cause the employer a serious damage. Also, the employer may require the execution of the non-compete agreement only if during the non-compete term which may not be longer than one year, the employee is offered at least 75% of the pay that he/she would have received if working for the employer. The non-compete agreement must determine the territory, duration and nature of the competition that is prohibited.

### **SAFEGUARDS AGAINST DISCRIMINATION**

Protection from discrimination is guaranteed by both the Labor Code and Law no. 10221, dated 04.02.2010 "*On the Protection Against Discrimination*" (the "**Anti-discrimination Law**").

Discrimination includes, but is not limited to any difference, exclusion, limitation or preference based on race, skin color, ethnicity; language; gender identity; sexual orientation; political opinions; religious or philosophical beliefs; economic, educational or social status; pregnancy; parentage; parental responsibility; age; marital or family status; residence; health status; genetic predispositions; any kind of disability; HIV/AIDS; joining or belonging to unions; affiliation with a particular group etc.

Further, the Labor Code stipulates that the employer must respect and safeguard the personality of its employee. In particular, the employer must take all necessary measures to prevent sexual harassment of employees.

When an employee alleges that the employer has discriminated against them, the latter has the burden of proof and is required to provide evidence that the discriminatory situation does not exist. In this regard, under the Anti-discrimination Law, employees are entitled to file a complaint with the employer, the Commissioner for the Protection Against Discrimination or the court if he/she believes that has been discriminated against.



## **WORKING HOURS**

The employees are in principle required to work 8 hours per day and the normal working time is 40 hours per week. The employer is not entitled to request the implementation of weekly overtime work if the employee has worked 48 hours per week.

Work performed during the weekend will be compensated with an additional remuneration of at least 25% or with paid time-off equal to the time of the performed work plus an additional time-off of at least 25% of the performed work.

Work performed during official holidays when the latter falls on a workday, will be compensated with an additional remuneration of at least 25%, and with paid time-off equal to the time of the performed work.

## **ANNUAL LEAVE, MATERNITY, PARENTAL LEAVE AND OTHER LEAVES**

### **Annual leave**

The employees are entitled to at least four weeks of paid vacation during the current year of employment. In the event that the employee has not completed a full year of employment, the duration of the paid annual leave is determined in relation to the duration of the employment. Annual leave shall be granted during the working year or until the end of the first quarter of the following year and shall not be less than one uninterrupted week.

Annual leave is determined by the employer, by considering the employee's preferences. The beginning date of annual leave must be communicated to the employee at least thirty (30) days in advance.



### **Maternity leave**

The pregnant employee is prohibited from working 35 days prior to the due date and 63 days following the birth. The first term is extended to 60 days when an employee is pregnant with several children.

The pregnant employee is eligible for a 365-day maternity leave, with the first 35 days before childbirth and the first 63 days following birth covered by social insurance, provided that social insurance contributions have been paid for a minimum of 12 months. The employee decides, at her sole discretion, whether she will enjoy the benefits of the entire maternity leave or not.

In accordance with Law no. 7703/1993, "On social security", for the period before and 150 days after childbirth, the employee is entitled to 80% of her daily net estimated salary from the previous calendar year. For the subsequent period up to the maximum maternity leave duration, the employee receives 50% of her anticipated daily net wage from the previous year.

If, after 63 days, the employee decides of her own free will to return to work, she is entitled to the following benefits until the kid reaches the age of one:

- two-hour paid break during working hours, or
- two-hour reduction in working hours with the same pay.

The Labor Code prohibits the termination of the employment during maternity leave.



### **Parental leave**

Any employee who has worked for the employer for at least one year is entitled to at least four months of unpaid leave until the child turns six years old. The parental leave is individual for each employee and may not be transferred from the mother to the father or vice-versa, except in case of death of one of the parents.

### **Other leaves**

The Employee is eligible for paid leave in the following situations:

- Marriage – 5 working days;
- Spouse's labor – 3 working days;
- Death of consort/partner, direct ascendants and descendants - 5 working days.

The employee is entitled to 12 days of paid leave per year to care for dependent children in the event that such care is required.

In the event that his/her child is ill, an employee with dependent children under the age of 3 is entitled to a maximum of 15 days of paid leave, which must be supported by a medical certificate. The employee is eligible for up to 30 days of additional unpaid leaves each year. The leave is granted to the spouse who effectively cares for the child, or it may be alternately granted to the parents.

### **EMPLOYEE PRIVACY**

The protection of employees' personal data is crucial and it constitutes a legal obligation for the employers. The processing is subject to the rules established by law no. 9887, dated 10.03.2008 "*On Personal Data Protection*".

During the employment relationship, the employer is not permitted to collect information about its employees other than information related to the employee's professional skills, which are required for the performance of the employment contract.

The employer, who becomes aware of the employee's processed data during the exercise of his duties, is obliged to maintain confidentiality and reliability. These data shall not be disclosed except as provided by law. The obligation to maintain confidentiality is unlimited in time.

Data processed in the employee's file after termination of the employment relations shall be maintained by the employer for a period of six months.

## WHISTLEBLOWING

In relation to whistleblowing, Law no. 60/2016 “*On whistleblowing and protection of whistleblowers*” establishes rules on whistleblowing, whistleblowers’ rights and obligations pertaining to public and private entities. Subject to the provisions of the said law, public entities employing more than 80 employees and private entities employing more than 100 employees, must appoint a responsible official/structure to register and perform an administrative investigation and examine all alleged malpractices.

Any person who becomes aware of dubious corruption conduct or practices in the course of employment or in connection with his/her activity during employment with the organization shall be entitled to whistle-blow on this fact with the responsible unit within this organization or with the High Inspectorate of Declaration and Audit of Assets and Conflict of Interests, as appropriate.



## EMPLOYMENT TERMINATION, BUSINESS TRANSFERS AND REORGANIZATIONS

Labor Code provides that during the probation period, which is the first three months of employment, both the employer and the employee may terminate the employment contract by serving at least five days' written notice to the other party. Upon the elapsing of the probation period, the Labor Code stipulates different notice periods ranging from two weeks to three months, depending on the length of employment as below:

- during the probationary period - at least five days in advance;
- during the first six months of employment - two weeks;
- for between six months and two years of employment – one month;
- for two to five years of employment - two months; and
- for more than five years of employment – three months.

Employers shall follow the termination procedure outlined in the Labor Code. The employer must serve a written notice to the employee informing that it is considering the termination of employment contract and invite him/her in a meeting for discussing the reasons of termination. The decision to terminate the employment is communicated in writing, not earlier than 48 hours from the meeting but not later than one week from the meeting. The employer must state in the termination letter the reasons for the termination of employment.

### **Business transfers**

In case of partial or complete business sales and transfers (share sale or asset transfer), the Labor Code stipulates those rights and obligations of the employment contract in effect at the time of transfer

would remain unaltered. In such cases, the new employer must undertake from the prior all obligations and responsibilities of the employment relationship that are in effect on the date of the change of the employer. The dismissal of the employee due to the transfer of the business is invalid. Exceptions to this rule are dismissals that occur for economic, technological or structural reasons that require changes in the employment plan of the employer.

The transferor and the transferee are required to inform and consult the trade union recognized as the representative body of the employees and in its absence the affected employees regarding the transfer at least 30 days prior to the transfer date. During the same time frame, consultations addressing the measures impacting employees as a result of the transfer must also be conducted.

### **Collective dismissals**

Prior to collective dismissals, the Labor Code requires that the employer notifies in writing the employee group recognized as the representative of the employees, or if there is no such group, the employer shall notify the employees in writing by publishing in the working premises a notice containing the reasons for dismissal, the number of employees to be dismissed, the number of employees normally employed, as well as the time during which the dismissals will take place. A copy of the said notice should also be delivered to the Ministry responsible for labor.

A collective dismissal of employees occurs when the employer terminates the employment for reasons unrelated to the employee and when within 90 days, at least the following number of employees are dismissed:

- 10 employees for enterprises with up to 100 employees;
- 15 employees for enterprises with 100–200 employees; and
- 20 employees for enterprises with more than 200 employees.



### **TRADE UNIONS**

The Labor Code guarantees the freedom of association and action without undue interference from any other organization or public body for both employees and employers. Employees are entitled to establish and join trade unions and professional organizations, whose purpose is to represent and protect the economic, professional and social rights and interests of their members.

Trade unions represent their members in negotiations of the collective contracts with the employers, as well as in negotiations regarding the change of terms and conditions of the existing collective employment contracts. Trade unions are further entitled to protect the interests of their members before the courts, in order to oblige the employer to observe the provisions of the employment legislation, collective employment contract or individual employment contracts.



**Boga & Associates**, established in 1993, has emerged as one of the premier law firms in Albania and Kosovo, earning a reputation for providing the highest quality of legal, tax and accounting services to its clients. From 2000, until May 2007, the firm was a member firm of KPMG International and the Senior Partner/Managing Partner, Mr. Genc Boga was also Managing Partner of KPMG Albania.

With its diverse capabilities and experience, the firm acts for leading businesses in most major industries, including banks and financial institutions, as well as companies working in insurance, construction, energy and utilities, automobile, entertainment and media, mining, oil and gas, professional services, real estate, technology, telecommunications, tourism, transport, infrastructure and consumer goods sectors. The firm also enjoys an outstanding litigation practice, representing clients before all levels of the Albanian judicial system.

Over the years, the firm has advised on privatization transactions, concessions, real estate transactions, setting up businesses, credit facilities and customs and tax issues, all with a keen sensitivity to developments in the Albanian and Kosovo business environment.

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**Renata Leka** is a Partner at Boga & Associates, which she joined in 1997.

Ms. Leka advises private companies, NGOs and international organizations in all aspects of their business, including compliance with regulatory and general corporate governance matters, including employment law matters, competition and contracts.

She is described as a “highly regarded” lawyer and ranked as a “leading individual” by major international legal directories. She has more than 25 years of commercial, corporate and finance experience including a large number of landmark transactions in the market.

**Gladiola Ago** is a Senior Associate at Boga & Associates, which she joined in 2019.

She assists foreign investors on various business law aspects, including corporate, compliance and regulatory implications for clients operating in a range of industries such as consumer goods, telecommunications, energy and other.

She is a specialized lawyer advising clients on company law, employment and immigration law, taxation, contract law, intellectual property law, telecommunications law and concessions.

Her experience covers both international and domestic work across the full range of industry sectors.

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<sup>i</sup> Source: Institute of Statistics (INSTAT)