The Bulgarian Parliament adopted changes to the Law on Obligations and Contracts introducing an absolute limitation period for debts of natural persons

With an Act for amendment and supplementation of the Law on Obligations and Contracts, promulgated in State Gazette, issue 102 from 01.12.2020, a new provision of art. 112 is adopted, which provides for absolute limitation period for debts of natural persons. In accordance with the adopted amendments with the expiry of 10 years every debt, which has not been deferred, will be time-barred.

This 10-years' term continues to expire regardless of the arising of any grounds for interruption of the regular 5-years' imitation – such as acknowledging the debt or filing a claim. This term though can be stopped – therefore, the 10-years' term will not expire when an obstacle for filing a claim exists, for instance from a child against a parent exercising parental rights of from a company against its acting manager with regard to the latter's liability. The absolute limitation period for debts of natural persons shall also not expire while civil proceedings are pending with regard to the debt in question.

The absolute limitation period shall not apply to debts arising from the commercial activity of a sole entrepreneur or a partner in a civil partnership, as well as obligations for compensations for torts or arising from unjust enrichment, alimony, work wages and compensations under the Labour Code, privatization deals or restitution of property on merits of a normative act.

If the debtor does pay after the expiry of this absolute limitation period, the paid amount shall not be subject to a refund as paid without any legal grounds.

The regime shall apply as of 02.06.2021, whereas the absolute limitation period for debts of natural persons shall apply also to pending cases – whereas it shall be considered, that the 10-years' term has started expiring on the date the debt become due. If the debt is acknowledged with a court decision, then the limitation period shall expire as of the date of the first enforcement action, and if such was not undertaken – as of the date of entry into force of the act for acknowledging the debt.

The created regime gives rise to a number of questions – for instance, how it will be applied to the obligations of partners with unlimited liability in unlimited partnerships or limited partnerships, who are treated differently from sole entrepreneurs and partners in civil partnerships. There is unclarity also concerning which debts shall be time-barred – the rules should apply for debts from valid, still active contracts, but not from contracts which are invalid or have been rescinded, since the debts arising from the latter are regulated under the terms of unjust enrichment. The most serious problems arise the application of the

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absolute limitation period for the debts of natural persons to pending cases, since it is possible that for a lot of obligations the term has already expired. This means that the law will have a retroactive effect with regard a lot of debts, by regulating a new the legal consequences of the expiry of a period of time in the past, which in turn contradicts to the principle of legal security.

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