REVIEW OF THE LEGAL FRAMEWORK IN THE WESTERN BALKANS
Definition of the word ‘Internship’ for the purposes of this legal overview

• Short term employment (usually between 3 and 6 months); and

• That is conducted by students in the course of their tertiary (third level) education/studies.

It is important to note that:

• Employment as part of vocational educational training studies at secondary (high school) level is not within the scope of the study.

• Furthermore, the focus is on general internships rather than just on regulated occupations such as those in the medical or legal sectors.
Examples of such third level students that would be undertaking such Internships

<table>
<thead>
<tr>
<th>Discipline</th>
<th>Internship Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Economics student</td>
<td>Working with The Dept of the Economy or for an Economic analysis Company</td>
</tr>
<tr>
<td>Architecture/Civil engineering student</td>
<td>Working for a private Architecture firm or public body such as a city council;</td>
</tr>
<tr>
<td>Law student</td>
<td>Working for a law firm, in-house legal team or governmental department;</td>
</tr>
<tr>
<td>Carpentry/wood work student</td>
<td>Working for a qualified carpenter;</td>
</tr>
<tr>
<td>Journalism Student</td>
<td>Working for a local paper or internet news source;</td>
</tr>
<tr>
<td>Mechanical Engineer Student</td>
<td>Working for a local manufacturing design company</td>
</tr>
<tr>
<td>Biomedical engineering student</td>
<td>Working for a Biomedical manufacturing company or research centre; or a</td>
</tr>
<tr>
<td>Languages/ student</td>
<td>Working with a qualified translator or translation team.</td>
</tr>
</tbody>
</table>
The relevant legal jurisdictions

- Albania
- Bosnia and Herzegovina
- Croatia
- Macedonia
- Montenegro
- Serbia
- Kosovo
General trends that each jurisdiction have in common

- A lack of specific laws or regulations relating to Internships and the organisation/formalisation of the concept of an ‘Internship’.

- A general lack of a developed ‘Internship infrastructure’ connecting universities/third level institutes and public and private sector companies and entities.

- The general absence of a compulsory or ‘integral’ Internship element in courses organised by the universities in the region.

- A lack of formal incentives (such as tax breaks or grants) for private or public sector companies/entities to take on/engage Interns.
Question:

What is the best way to currently employ an Intern using the existing legal infrastructure in these seven jurisdictions?
The current ‘preferred method’ of engaging an Intern in Albania

- Instructions issued by the Ministry of Education and Science provide a non mandatory ‘recommended’ framework regarding the structure of Internships. Accordingly, in practice when engaging an Intern:
  - The university or third level institute enters into an ‘agreement’ under which the terms and conditions of the Internship are specified.
  - Under the agreement the Intern is considered neither an employee or a service provider.
  - The agreement is a ‘sui generis’ or a unique type of agreement.
Albania: Further points to note

• Interns completing such Internships should be completing their third level studies as students at the third level institution that they are attending.

• There is no legal obligation for a company/’employer’ to pay Interns. Any such payment is voluntary.

Please note that, instead of utilising the ‘sui generis’ agreement an Internship could be concluded under an employment agreement. However, under the eyes of the law, the ‘Intern’ would be considered an ‘employee’ and the greater expenses that this would generate for an employer mean that this is rarely an option that is considered when engaging an Intern.
The current ‘preferred method’ of engaging an Intern in Bosnia and Herzegovina

- Bosnia and Herzegovina labour regulations state that there are no special provisions regulating student work during their studies that would differentiate it as a distinct category of engagement.

- Parties must find the most practical method for the engagement of students.

- Theoretically this can be achieved using any one of three types of agreements.
The current ‘preferred method’ of engaging an Intern in Bosnia and Herzegovina

The three types of agreements:

1. An employment agreement can be concluded however, due to certain restrictions regarding specific types of work that can be undertaken by the Intern, these are not considered very practical.

2. A service agreement is usually the favoured method used by employers when engaging Interns. It is far less regulated than an employment contract and provides for more flexibility. Under such an agreement, parties are free to agree whether or not payment will be received for such work.

3. A special ‘sui generis’ or alternative agreement that is neither an employment contract or a service contract is possible. Generally speaking such an agreement is between the company and the third level institution. However, if remuneration is to be provided to the Intern, an additional service agreement between the Intern and the Company must be concluded.
The current ‘preferred method’ of engaging an Intern in Croatia

• Employment agreements under Croatian law are generally not permitted where third level students fall under obligatory ‘third level school attendance’.

• Accordingly, Internships for students in tertiary or post secondary school/third level education are best served through certain types of service agreements.

• The most widely used type of service agreement when it comes to the engagement of Interns is a ‘student service agreement’.
The ‘student service agreement’

• Such agreements adhere to the ‘obligatory school attendance requirement’ as laid down by universities/third level institutions.
• These special service agreements do not regulate Internships, but they are an effective way of engaging an Intern.
• They are slightly more advantageous than a regular service agreement.
• The agreements are provided under the ‘student service’ which is an institution run by the ‘student centre’ body in most universities/third level institutes.
• Such student service agreements are regulated under the ‘Rules on Intermediation of Employment of Students with Obligatory School Attendance (The Rules’).
• Payment is governed by the service agreement. Payment is always voluntary.
• It is not regulated by labour laws.
The current ‘preferred method’ of engaging an Intern in Macedonia

• There are several ways of engaging an intern in Macedonia:

• An employment agreement for a definitive period. However, such an option may require the student/Intern to re-register as a different category of student with their 3rd level institute. An Intern can be paid under such an agreement and is treated like a regular employee.

• A voluntary agreement can be concluded whereby the ‘volunteer offers their services voluntarily and without remuneration. Such an agreement needs only to be signed if the Intern works in excess of 40 hours per month.

• Finally, the most ‘Intern friendly’ agreement is governed by the Professional Consulting Consortium for the Development of Human Resources and the Promotion of Business Processes (‘ITC’).
The ‘ITC’ Intern Agreement

- The ITC is a private owned agency that carries out the Internship framework that was proposed by USAID.

- According to the ITC, their national program is the only organised and methodologically comprehensive form of Internship engagement in Macedonia.

- In practice, it is supported by all the relevant state ministries.

- The ITC have signed a memorandum of understanding with 12 of the accredited universities in Macedonia with regard to the engagement of Interns.

- Currently more than 7,000 students, 250 companies, 80 municipalities and 12 universities are using these ITC services.

- The agreement involves a trilateral agreement organising the Internship between the Intern, the agency and the employer.

- The agreement may or may not stipulate remuneration.
The current ‘preferred method’ of engaging an Intern in Montenegro

There is no ‘preferred method’ of employing an Intern in Montenegro. Instead one of four common methods are used depending on the particular circumstances surrounding the Internship position.
Common methods for engaging Interns

- **A regular employment agreement**: Can only be concluded where the Intern has the requisite qualifications to complete the task. - I.e. An Intern could work as a general assistant to an Architect as long as they did not perform the primary tasks of an architect. (Involves remuneration).

- **A volunteer agreement**: Only works if in line with special laws passed by a certain industry. It is unpaid and in practice it is rarely used.

- **An agreement on temporary and occasional works**: Can be concluded for a period of up to 120 working days for jobs that do not require particular skill or knowledge.

- **A service agreement**: Can be concluded for the performance of skilled or physical work that is outside the scope of a regular company’s activities.

- **Please note**: In practice, students often attend a work place and ‘observe’ professions, but do not carry out any work. This however, could not be considered to be an Internship as we have defined it.
Common methods for engaging Interns

- There is no ‘preferred method’ of employing an Intern in Serbia. Instead one of three common methods are used depending on the particular circumstances surrounding the Internship position.
Common methods for engaging Interns.

- An employment agreement can only be concluded where the Intern has the requisite qualifications to carry out the job in question and where the position does not permit them to undertake work that would otherwise require them to have completed the qualification that they are pursuing. (Similar to the position in Montenegro – Architect example).

- A temporary or periodic work agreement concluded for up to 120 days per calendar year for the performance of activities within the scope of the companies activities. In practice, this is an effective method of engaging an Intern.

- A service agreement: Can be concluded for the performance of skilled or physical work that is outside the scope of a regular company’s activities.

- Please note: A new draft law on volunteering is being debated however, this currently proposes to limit the duration of volunteering to 6 months and prohibits payment. This is unlikely to have much of an impact on the current state of Internships regulation (or the lack of) in Serbia.
The current ‘preferred method’ of engaging an Intern in Kosovo.

• There is no ‘preferred method’ of employing an Intern in Kosovo. Instead one of three common methods are used depending on the particular circumstances surrounding the Internship position.
Common methods for engaging Interns in Kosovo

Kosovo (UNMIK) labour laws provide for the possibility of concluding short term agreements that may be applied to students in tertiary education.

- A short term employment agreement is established by concluding an agreement for a definite period. Such a period cannot be concluded for longer than 6 months (for the same time of work).

- A general temporary engagement for a short term temporary position can be concluded for no longer than 30 days and does not stipulate payments or compensation. It does not establish employment relations.

- Socially useful temporary engagement is established by concluding and agreement for the performance of ‘socially useful jobs’. This too cannot be established for longer than 30 days and does not stipulate payment nor does it establish and employment relationship.
Conclusions

• There is no specific structure recognising the concept of an Internship in any of the seven legal jurisdictions.

• This does not preclude the possibility of engaging an Intern in any of the seven legal jurisdictions. Although the lack of clarity is not ideal and in certain instances presents obstacles that need to be overcome.

• The general trend in the region of harmonising local laws with those of the European Union (acquis communautaire) should eventually result in a legal infrastructure that is more conducive to Internships.
Recommendations for legal reform

• Adopting specific provisions on Internships would help regulate this issue.

• Any such provisions/regulations concerning Internships should be carried out following consultation between the legislators, third level institutions and the public and private sectors.

• Tax breaks and other such incentives should be adopted in order to encourage companies to engage Interns.

• Internships should be seen as an integral and practical part of most courses/degrees organised by universities in the region.
Thank you for your time.

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