

Employment Law Updates



Emergency Ordinance no. 53 of 4 August 2017 amending and supplementing Law no. 53/2003 – the Labour Code

This recently adopted ordinance brought some key changes to the Romanian Labour Code, especially in relation to the concept of the undeclared work, registration of working time, formalities around the employment agreement and applicable fines.

Please see below an overview of these changes – we would be happy to further discuss with you about the impact on your business.

Concept of undeclared work further detailed

- hiring an individual without previously concluding an individual employment contract, in written form, the day prior to the start of the activity;
- hiring an individual without transmitting the employment report to the General Register of the Employees, no later than the day prior to the start of the activity;
- performance of work by an individual when his individual employment contract is suspended; and
- performance of work outside the working hours set under the employee's part-time individual employment contract.

Obligations for employers

- express obligation to conclude the individual employment contracts **prior to** the effective start of the work by the employee;
- express obligation to **keep a copy** of its employees' individual employment contracts at the worksite where such employees perform their work;
- any **addenda** to the individual employment agreement must be **concluded prior to** the relevant amendment taking effect;
- to **keep records** reflecting the daily worked hours of each employee, highlighting the exact work schedule (i.e. **the start and end of the work day**) – these may be subject to the audit of labour inspectors.

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Changes related to applicable fines and sanctions

The sanctioning regime for several offences has been aggravated, with fines increased up to RON 20,000 (approx. EUR 4,500). Please see below some examples:

- failure to keep the copy of the employment agreement at the workplace may be sanctioned with a fine of RON 10,000 (approx. EUR 2,250);
- failure to observe the provisions regarding undeclared work is sanctioned with a fine of RON 20,000 / each case identified;
- the performance of work outside the working hours set under the employee's part-time individual employment contract, is sanctioned with RON 10,000 / each case identified;
- hiring an individual who is illegally residing in Romania, having knowledge of the fact that such individual is a victim of human trafficking represents a criminal offense sanctioned with imprisonment from 3 months to 2 years or with a fine.

Payment of the fine within 48 hours as of the date of the sanctioning minutes reduces the fine to half of the amount.

Apart from the administrative fines, **the labour inspectors may also decide the cessation of the activity** performed at the employer's workplace that is being audited, as a complementary sanction. The employer may resume the work only after payment of the fine and after providing proof of remedying the deficiencies that led to such cessation.

Further updates are expected from the authorities in connection to this cessation procedure.

Emergency Ordinance no. 55 of 4 August-2017 amending and supplementing the Government Emergency Ordinance no. 111/2010 on parental leave and the monthly indemnity for raising children

This new piece of legislation introduced a **maximum threshold to the monthly indemnity** granted to parents on parental leave.

The monthly indemnity is set at 85% of the average net income earned in the last 12 months of the last 2 years preceding the date of birth and may not be less than 85% of the national minimum gross salary (currently of RON 1,450 / approx. EUR 320) or higher than RON 8,500 (approx. EUR 1,900).

This briefing is correct as at 9th of August 2017. Please note that all matters mentioned herein are a summary of the new legislation. This does not constitute legal advice and a thorough analysis is highly recommended to determine what impact these amendments will have on any specific project.

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