

employment - draft laws published in March 2017

The draft law ratifying the Agreement between Romania and the Republic of Serbia on Social Security, signed in Belgrade on October 28, 2016 was published on the website of the Ministry of Labor on March 22, 2017.

The draft is aimed at Romania's ratifying the Agreement and thus expressing consent for its entry into force. The Agreement between Romania and the Republic of Serbia in the field of social security will apply to Romanian law on compensation for temporary disability, maternity allowance, allowance for sick child care, allowance for disease prevention and recovery of work capacity, pensions awarded under the Public pension system, benefits in kind in respect of sickness and maternity benefits in kind and in cash in case of accidents at work and occupational diseases, death grants, state allowance for children.

The agreement establishes as a general principle that the person who is employed in the territory of a Contracting State shall be subject only to the laws of that Contracting State (*lex loci laboris*), although domiciled in the other Contracting State or if the employer has residence on the territory of the other Contracting State. Also, self-employed workers operating within a Contracting State are subject to the laws of that Contracting State, even if domiciled in the other Contracting State.

Special provisions apply to workers posted by the employer to carry on an activity in the other Contracting State, self-employed workers who perform temporary work in the other Contracting State, personnel of international transport enterprises, crew and staff aboard a ship, civil servants and persons treated as such, and members of diplomatic missions and consular posts.

The draft is published on the Ministry of Labor's website at:

<http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decizionala/2017-03-22-proiect-lege-ratif-acord.pdf>

Draft Government Decision approving the Methodological Norms on the posting of workers in the provision of transnational services in Romania was published on the website of the Ministry of Labor on March 28, 2017.

The draft law is aimed at the following aspects:

- The Labor Inspectorate's establishing and assessing, through territorial inspectorates, certain factual elements in order to identify the situations representing transnational posting, for preventing abuse and circumvention of law;
- assessing the risks caused by failing to observe the legal provisions on posting of employees noted during controls made by labor inspectors;
- the procedure and communication deadlines for the decision imposing administrative financial sanction, and other relevant documents;
- establishing civil offence penalties for discouraging the intent to circumvent the law.

The draft decision is published on the Ministry of Labor's website at:

http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decizionala/2017-03-28-1-HG_aprobare_norme_detasare.pdf

Draft law for amending paragraph (4) of article 66 of Law no. 76/2002 on the unemployment insurance system and employment stimulation has been registered in the Senate for discussion under no. B115 on March 29, 2017.

The proposed amendment aims to increase the period in which inmates can follow a training program organized by county employment agencies or by the Bucharest employment agency, the necessary expenses incurred in professional training being borne from the unemployment insurance budget. Thus, it is proposed to increase the period until the last day of incarceration from 9 months to 1 year but not less than 3 months (3 months is the minimum duration of a training course). Also, the legislative proposal is aimed at broadening the scope of the text, namely when a person can benefit from training courses, including situations where the person is serving an educational sentence and situations where persons benefit from conditioned parole or the replacement of the admission measure with the measure of daily assistance.

The reasons under this proposal are linked to the idea that the practice of the correctional system proved that the 9 month term is insufficient for going through all the procedural steps necessary for obtaining the documentation requested by the professional training providers, for each inmate selected for these courses.

For additional details on this material, please do not hesitate to contact us.

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