

employment - draft laws published in June 2017

The legislative proposal for amending and supplementing the Law no. 52/2011 regarding the exercise of occasional activities performed by day-laborers was registered with the Senate for debate under no. B249 on June 7, 2017.

The draft law envisages adding to the provision that no day laborer can carry out activities for the same beneficiary over a period of more than 90 days cumulatively during a calendar year, some exceptions, namely: day workers who are engaged in vineyard activities, fruit farming, vegetable farming, extensive animal farming through the seasonal grazing of sheep, cattle, horses, seasonal activities in botanical gardens, as well as in agricultural research and development-innovation activities of the Academy of Agricultural and Forestry Sciences "Gheorghe Ionescu- Sisesti", of the research-development institutes, centers and resorts under its subordination and of the agricultural and forestry education institutions; in their case, the period may not exceed 180 cumulated days during a calendar year.

At the same time, it is proposed to introduce the provision that for the day laborers who work in vineyard, fruit, vegetable farming, extensive animal farming through the seasonal grazing of sheep, cattle, horses, seasonal activities in botanical gardens, as well as in research-development-innovation activities in the field of agriculture of the Academy of Agricultural and Forestry Sciences "Gheorghe Ionescu-Sisesti", of the research-development institutes, centers and resorts under its subordination and of the agricultural and forestry education institutions, the Registry of day laborers is drafted weekly.

The reasoning for these exceptions is the complexity and duration of works in the above-mentioned fields.

Draft law on remote work activities was published on the Ministry of Labor website on June 9, 2017.

The draft law regulates the way in which the employee carries out the work in a remote manner. For the job categories in which the information and communication technology is used, the draft law establishes a right and not an obligation, in the sense of the parties agreeing on the place of the employee's activity.

The purpose of this law is:

- flexibility of work relations and adapting to the social and economic realities, in relation to the new dynamics of the labor market;
- there are benefits for the employer and the employee. More precisely, the employer has reduced administrative costs with leasing of work premises, utilities, fuel, and auto fleet. The employer sees removal of time and money spent traveling to the employer's office, and the freedom to choose place of work and valorizing the working time, in order to improve the work/personal life balance.
- increased opportunities for disabled individuals on the labor market;

The draft law is published on the website of the Ministry of Labor and can be accessed at the following link:

<http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decizionala/4895-2017-06-09-proiect-lege-tele-munca.pdf>

Draft law for amending and supplementing Law no. 53/2003 - Labor Code was published on the website of the Labor Ministry on June 13, 2017.

The draft aims to amend and supplement art. 16 par.1 in the sense of defining undeclared work as:

- the employment of a person without the conclusion of the individual employment contract the day before the start of the activity;
- the non-registration of the employment relationship in the general record of employees no later than the day before the start of the activity;
- the employment of an employee during the period when they have the individual employment contract under suspension;
- the employment of an employee outside the working hours established under the individual part-time contracts.

At the same time, it is considered necessary to introduce a clear provision on how to draw up, supplement, modify, preserve and present records of working time so that the hours actually worked by employees can be checked, given that in many situations the evidence of time worked presented by the employer, usually after the check at the workplace, does not correspond to the factual situation. Thus, it is proposed to amend Art. 119 of the Labor Code, in order to provide the employer's obligation to keep at the workplace the record of the hours worked daily by each employee, highlighting the starting and ending hours of the work program, and subject this to control by the work inspectors, whenever requested to do so.

The draft law is published on the website of the Ministry of Labor and can be accessed at the following link:

http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decizionala/4900-2017-06-13-proiectlege_modif-codulmuncii.pdf

The draft law for amending and completing the Law no. 52/2011 regarding the exercise of occasional activities performed by day-laborers was published on the website of the Labor Ministry on 14 June 2017.

The draft regulates the following aspects:

- the draft establishes the mediation agencies between the demand and the supply of day labor, accredited by the National Agency for Employment through the county employment agencies;

- the mediation between day labor demand and supply is the activity whereby connecting the beneficiaries with day workers, in order to establish employment relations;
- the mediation agencies can be companies with legal personality established in Romania under Companies Law no. 31/1990, republished and amended, having within the scope of activity NACE code 7810 "Activities of employment placement agencies";
- the mediation agencies can be companies with legal personality established in other EU member states,
- The accredited providers of labor mediation services or those who have fulfilled the obligation to notify the county employment agency, respectively the municipality of Bucharest under the conditions provided by the Government Decision no. 277/2002 regarding the approval of the Accreditation Criteria of the providers of specialized services for the stimulation of employment, can provide mediation services between the daily demand and supply of labor without being subject to the accreditation or the notification procedure, whereas previously, they notified the county employment agency, respectively the municipality of Bucharest, regarding the provision of these services and the right to provide labor mediation services has not been suspended or withdrawn, according to the legal provisions.
- day laborers employed through such mediation agency can provide activities for the same beneficiary for a period of up to 180 days cumulatively during a calendar year;
- the mediation agents do not charge fees to individuals who wish to work under this law in exchange for their recruitment by the beneficiary;

The draft law is published on the website of the Ministry of Labor and can be accessed at the following link:

<http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decizionala/4901-2017-06-14-proiect-lege-ag-mediare.pdf>

Draft law on vouchers which can be given to employees was registered with the Senate for debate under no. B266 on June 14, 2017.

The draft aims to regulate the vouchers which can be given to employees: meal, daycare, vouchers, sports and cultural vouchers.

The draft aims, one hand the unification of legislation on employee vouchers, and on the other hand, introducing new type of vouchers: sports and cultural. Sports vouchers have the purpose of increasing employee workproductivity by stimulating purchase of sports equipment, fitness subscriptions, physio sessions, and other such products and services which can only benefit employers and employees. Cultural vouchers are destined for expenses with events, shows, book purchasing.

The draft law for amending and supplementing Law no. 76/2002 on the unemployment insurance system and the stimulation of employment was registered with the Senate for debate under no. B283 on June 21, 2017.

The draft starts from the idea that the unemployment benefit procedure is bureaucratic, and the unemployed are obliged to contact various providers of evidence such as former employers and the territorial structures of the National Agency for Fiscal Administration and the National Agency for Payments and Social Inspection. Practically, the procedure deprives the unemployed, for an important period of time, of two of the conditions by which the law defines it, namely to be looking for a job and to be available to start work in the immediate future, if they find a job.

Thus, the draft law proposes a procedure for granting unemployment benefit relieving both the unemployed and the employers, from the obligation to procure and release documents, and transferring the active role in this respect to the public authorities and institutions.

Draft law for the development of market-driven entrepreneurship and stimulation of new job creation was registered with the Senate for debate under no. B301 on 27 June 2017.

The draft proposes to regulate some tax incentives granted to micro and small enterprises (as defined in Article 4 of Law 246/2004 on the stimulation of the establishment of small and medium-sized enterprises) that meet the following conditions:

- were established at least 3 years before;
- recorded a profit in each of the last 3 years;
- did not achieve more than 20% of income from contracts with public authorities or institutions or companies majority owned by the state;
- did not receive subsidies or other forms of non-reimbursable financing paid from the general consolidated budget.

The tax breaks applicable to these companies could be:

- exemption from paying social security contributions owed by employers for income afferent to work performed by up to 5 employees, employed for an undetermined period;
- exemption from paying healthcare contributions for income afferent to work performed by up to 5 employees, employed for an undetermined period;
- exemption from payment of unemployment security contributions afferent to work performed by up to 5 employees, employed for an undetermined period;

The draft law sets the framework for helping Romanian entrepreneurs who have already demonstrated viable ideas. Without bureaucracy and without selection files, the facility is addressed directly to all companies that have been operating for a minimum of 3 years without any subsidies or contracts with the state. The facility concerns labor taxation so as to encourage the creation of new jobs

Draft law for supplementing Law no. 53/2003 on the Labor Code was registered with the Senate for debate under no. B318 on June 29, 2017.

The draft proposal seeks to add new provisions whereby the modification of the individual employment contract takes place by: (i) delegation, (ii) secondment, (iii) transfer; (iv) moving to another compartment within the same workplace; (v) the temporary exercise of a management function. It is also proposed to introduce Art. 47¹, establishing that the transfer may take place either in interest of work or at the request of the employee and the conditions under which the transfer may take place.

The reason for the proposal is that, according to the current Labor Code, the modification of the individual labor contract can not be done by transfer, as it is done in other professional categories, and in order to ensure similar and equal conditions for all employees in the country, the introduction of these provisions is imposed.