

## employment - draft laws published in September 2017

**The draft law for amending and supplementing the Law no. 416/2001 on Minimum Guaranteed Income** was registered with the Senate for debate under no. B390 on September 5, 2017.

The draft law starts from the idea that, although Law no. 416/2001 on Minimum Guaranteed Income mainly regulates the right of families and single persons to a minimum guaranteed income as a form of social aid, in the latter case it should also have a role to play in stimulating employment.

The legislative proposal aims to empower assisted persons by engaging in community-based activities. The initiative introduces a major amendment according to which, for the amounts granted as social aid, each of the adult working people in the beneficiary family has the obligation to provide monthly, at the request of the mayor, 5 days of work for local actions or works, without exceeding the normal working regime and in observance of the rules of work safety and hygiene, unlike the law in force which establishes this obligation in the charge of only one person in the beneficiary family.

The initiative also provides concrete obligations for mayors to plan actions or work of local interest in order to monitor and streamline these activities.

In order to empower individuals and institutions involved in granting and managing rights, the initiative also amends the sanctioning regime by means of real sanctions, which will no longer allow ignoring of legal provisions.

**The draft law for amending and supplementing the Law no. 416/2001 on Minimum Guaranteed Income** was registered with the Senate for debate under no. B391 on September 5, 2017.

The draft proposes the inclusion of a new article stipulating that, if the persons receiving social assistance in the form of the guaranteed minimum income opt for the seasonal work regulated by Law no. 52/2011 regarding the exercise of occasional activities performed by the day-laborers, the minimum guaranteed income in the form of the social aid is cumulated with the income obtained from the day work.

In support of this idea, the draft's promoters consider that this form of social support regulated by Law no. 416/2001 is not sufficient in the light of the material needs of a family who, in the desire not to lose the minimum guaranteed income, do not opt for seasonal work that brings income for a definite period and not for an indefinite period.

**The draft law for supplementing the Law no. 76/2002 on the unemployment insurance system and the stimulation of employment** was registered with the Senate for debate under no. B396 on September 5, 2017.

The draft aims to include measures to encourage employers to hire people who have served a prison sentence, considering that a new approach is needed to continue and materialize the social inclusion measures initiated since the period of detention, through the contribution of the institutions, central and local public authorities and non-governmental organizations that activate or have the vocation to work in the field of post-detention assistance.

**The Draft law for amending and supplementing Art. 13 par. (1) of the Law no. 52/2011 regarding the exercise of occasional activities performed by the day-laborers** was registered with the Senate for debate under no. B410 on September 7, 2017.

The draft seeks to amend letter p) of art. 13, par. (1) of the Law no. 52/2011 on carrying out of occasional activities by day-laborers, for the purpose of introducing class 5510 - Hotels and other accommodation facilities, as well as the introduction of three other areas where unqualified work can be done, namely: Restaurants - NACE code 5610 , Other caterers - NACE code 5629 and Bars and other beverages - NACE code 5630.

The wording of the draft took into account the fact that there are periods of the year, especially the summer season, when seasonal activity also involves the use of unskilled labor.

**Draft law on the possibility of entirely private companies to grant the 13th and 14th salary** was registered with the Senate for debate under no. B423 on September 14, 2017.

The purpose of the draft is to adopt the Law on the possibility of entirely private companies to grant the 13th and 14th salary, which provides that entirely private companies may grant the 13th and 14th salaries under the following conditions:

- the company registered profit in the current fiscal year;
- the salary expenditures for the 13th and 14th salary are deductible from the income tax according to the provisions of Law no. 227/2015 on the Fiscal Code;
- the salary costs incurred in the application of the provisions of this law must not exceed (i) 20% of the total income tax payable and (ii) 0.5% of the turnover;

It is expected that the introduction of the 13th and 14th salary will produce several positive effects, such as:

- increasing the purchasing power and, implicitly, the quality of life of employees in the real economy;
- increasing the interest of the employees towards the workplace;
- increasing the interest of the Romanian employees to work on the basis of a labor contract and to avoid undocumented work;
- increasing the salary incomes will reduce the exodus of well trained work force obtained with effort from the family and the Romanian state;
- companies will have a new product with which they can stimulate economic activity;
- the company's expenditure budget will not be affected;

- the consolidated general budget will not suffer, on the contrary, the amounts collected from the taxes on salaries, social contributions, health contributions and, by additional consumption, from sales tax (VAT, excises) will increase;
- 20% of the proposed profit tax as the maximum threshold for granting this salary income is currently regulated in the Fiscal Code.

**The draft for amending and supplementing the Law no. 53/2003 - Labor Code** was registered with the Senate for debate under no. B453 on September 27, 2017.

The draft seeks to introduce a series of obligations regarding the liquidation note. Thus, it is proposed to introduce an obligation for the employer to disclose to the employee the notice of liquidation, within 3 calendar days from the date of termination of the individual employment contract. The employer shall state in the liquidation note the name and address of the creditor, the nature of the debit, the amount owed at the date of issue of the liquidation note, the nature, the number, date and issuer of the writ of enforcement, as well as information on the duration of the paid, unpaid and medical leaves. It is proposed that the employer's breach of this obligation be sanctioned with a fine from 1.500 lei to 3.000 lei

It is also proposed to insert the provision according to which, in the case of persons who have been employed, within 30 calendar days from the conclusion of the individual labor contract, the employee is obliged to submit to the employer the liquidation note issued by the employer at the previous workplace.

The draft takes into account the fact that, at the moment of termination of the individual employment contract, there is no legal basis for the employer to issue the liquidation note to the employee. However, it is found that this document is used in practice, but occasionally, on a case-by-case basis, which creates the conditions for arbitrary decisions in the field of labor relations. Thus, there are situations in which some employers do not issue liquidation notes, while other employers do not conclude individual employment contracts in the absence of said note from the former employers, which is a real impediment to employment.