

employment - legal changes published in August 2017

Government Emergency Ordinance no. 53/2017 for amending and completing Law no. 53/2003 - Labor Code was published in the Official Gazette of Romania, Part I, no. 644 of August 7, 2017.

The Emergency Ordinance amends, supplements and repeals provisions of the Labor Code, the most important amendments to the provisions of the Labor Code being the following:

- Par. (1) of art. 16 of the Labor Code no longer stipulates that the written form is mandatory for the valid conclusion of the individual labor contract; it also adds the provision that the individual employment contract is concluded before the start of the activity by the employee;
- Article 16 of the Labor Code is complemented by a new paragraph (4), according to which the employer is obliged to keep a copy of the individual labor contract for the employees who work in that place;
- Par. (5) of art. 17 stipulates that any change during the individual employment contract of one of the elements regarding the information of the person selected for employment requires the conclusion of an addendum to the contract before the change is made (it previously stipulated a term of 20 working days from the date of the occurrence of the amendment in which the addendum could have been concluded), unless such amendment is expressly provided for by law or the applicable collective bargaining agreement;
- Art. 119 stipulates that the employer has the obligation to keep at the work place the record of the hours worked daily by each employee, highlighting the starting and ending hours of the work program (the old regulation did not provide the obligation to highlight the starting and the end time of the work program);
- Lit. e) of art. 260 is amended in the sense that the employment of a person without the conclusion of an individual labor contract, according to art. 16 par. (1) shall be sanctioned with a fine of 20,000 lei for each identified person; the previous regulation provided that the recruitment of up to five persons without the conclusion of an individual employment contract constitutes a criminal offense and is punishable by a fine;
- Par. (2) of art. 265 is supplemented, providing that the admission to work of a person in a situation of illegal stay in Romania, knowing that they are a victim of human trafficking, constitutes a crime and is sanctioned by imprisonment from 3 months to 2 years or by a fine;

Here are some of the new provisions:

- Art. 15¹, defining undeclared work, establishes the cases considered as instances of such;
- Art. 260 contains 3 new minor offences, punished as follows:
 - (i) the admission to work of a person without transferring the employment relationship in the General Register of Employees no later than the day before the start of the activity, with a fine of 20,000 lei for each identified person;
 - (ii) the admission to work of an employee when their contract is suspended, by a fine of 20.000 lei for each person;
 - (iii) the admission to work of an employee outside working hours set in the part-time contract, by fine of 10.000 for each person.

Art. 260 also provides that the breach of the obligation to keep a copy of the individual employment contract for the employees performing the activity in that place is a minor offence and is sanctioned with a fine of 10,000 lei.

For a part of the newly introduced minor offences, the possibility of the offender to pay half of the fine within 48 hours from the date of conclusion of the citation was also established, as well as the intervention of the additional sanction to stop the activity of the organized work place ordered by the labor inspector.

Government Emergency Ordinance no. 55/2017 amending and supplementing Government Emergency Ordinance no. 111/2010 on parental leave and allowance was published in the Official Gazette of Romania, Part I, no. 644 of August 7, 2017.

The new act concerns the insertion of a cap of the monthly allowance: 8,500 lei. This provision shall apply starting with the rights afferent to September 2017.

Also, the Emergency Ordinance determines the time limit by the insertion incentive is granted under Art. 7 par. (2), namely: (i) until the child reaches the age of 3; or (ii) until the child reaches the age of 4 in the case of the disabled child, clarifying that the situation provided by art. 7 par. (2) is an exception to the termination of the right to the insertion incentive provided by art. 17 par. (1) let. a). These clarifications do not affect the establishment and payment of the insertion incentive, these taking place as before.