

employment - legal changes published in November 2018

Government Emergency Ordinance no. 96/2018 regarding the extension of certain terms, as well as for amending and supplementing certain acts was published in the Official Gazette of Romania, Part I, no. 963 of November 14, 2018, entering into force on the same date.

Considering **the female employees' right to opt for continuing work until the age of 65**, Government Emergency Ordinance no. 96/2018 amends Article 56 of the Labor Code with regard to the causes of termination of the individual employment contract. More specifically, point (c), which provides for the termination of the individual employment contract as of the date of cumulative fulfillment of the standard age conditions, shall read as follows: "*at the time of cumulative fulfillment of the standard age and minimum retirement contribution conditions or, exceptionally for female employees who opt in writing to continue the performance of the individual employment contract 60 calendar days prior to meeting the standard age and the minimum contribution period, at the age of 65; at the time of the communication of the retirement decision in the case of third degree disability pension, the partial early retirement, the early retirement, the old-age retirement with the reduction of the standard retirement age; at the date of communicating the medical decision on the work capacity in the case of grade I or II disability*". Paragraph 3 shall also be inserted in the same article: "*The employer may not limit or restrict the right of the employee to continue the activity under the conditions provided in paragraph (1) let. c) first sentence.*"

Concerning the **national minimum gross wage**, two new paragraphs are inserted in Art. 164, which read as follows: "(1¹) *By Government Decision, an increase of the minimum gross national wage guaranteed for payment provided in paragraph (1) can be established, differentiated according to the level of education and seniority.* (1²) *All rights and obligations established in accordance with the law in relation to the guaranteed minimum gross national wage shall be determined using the minimum gross national wage guaranteed for payment referred to in paragraph (1).*"

Art. 7 par. (1) let. d), art. 9 par. (1), art. 13 par. (1) and art. 17 of Law no. 279/2005 on apprenticeship at the workplace is also amended. Thus, art. 9 par. (9) regarding **the duration of the apprenticeship contract** shall read as follows: "(1) The duration of the apprenticeship contract shall be determined according to the level of qualification for which the apprentice is to be trained but may not be less than: a) 6 months where apprenticeship at the place of work is organized for acquiring skills corresponding to a level 1 qualification; b) 12 months, if apprenticeship at the place of work is organized to acquire skills corresponding to a level 2 qualification; c) 24 months, if workplace apprenticeship is organized to acquire skills corresponding to a level 3 qualification; d) 36 months if workplace apprenticeship is organized to acquire skills corresponding to a level 4 qualification".

Furthermore, art. 17 of the same Law no. 279/2005 is amended in the sense that the provisions of art. 16 of the Law will not apply to employers who: "a) before the conclusion of the apprenticeship contract, had concluded other apprenticeship contracts with the same person for the same qualification; b) organizes apprenticeship programs in the same field of activity in which the apprentice already has a qualification that includes the skills intended to be acquired through the new

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apprenticeship program; c) had in the last year an employment relationship with the person who is to conclude an apprenticeship contract, unless for that person an individual labor contract was concluded during the holidays, under the conditions of Law no. 72/2007 on the stimulation of the employment of pupils and students, as subsequently amended; d) are in a state of insolvency, mandatory enforcement procedure, reorganization, or have any restrictions on their activity.”

Last but not least, Government Emergency Ordinance no. 96/2018 provides that within 60 days from the date of its entry into force, the Ministry of Labor and Social Justice will amend the Methodological Norms for the application of the provisions of Law no. 279/2005 on apprenticeship at the workplace, approved by the Government Decision no. 855/2013, as amended and supplemented.