

## employment - draft laws published in December 2017

**The legislative proposal for supplementing paragraph (1) of art. 139 of the Law no. 53/2003 - The Labor Code** was registered at the Senate for debate under no. B634 on 8 December 2017.

The legislative initiative envisages setting the Day of Good Friday as a non-working legal holiday.

In addition to the importance of this religious day, the initiative highlights that Good Friday is an official holiday in most EU Member States, for example in Germany, the United Kingdom, Greece, Spain, Portugal, Sweden, Finland, Slovenia, Czech Republic, Denmark, Lithuania, Estonia, Malta, Cyprus, Luxembourg.

Moreover, in Romania, the Labor Code provides for 14 days of legal holidays, less compared to other European Union countries (Belgium, Lithuania, Cyprus) where there are 16 or 17 legal holidays.

**The Draft Government Decision for determining the categories of persons with disabilities who receive, for the work carried out within the normal working hours, an increment of 15% to the basic salary / wage / function pay / hiring allowance** was published on the website of the Labor Ministry on 11 December 2017.

The draft has its origin in the current regulation, according to which the 15% increase of the basic salary is granted to the blind with severe disability, for the work done within the normal work program, a situation that differentiates on the basis of disability, concerns salary earnings made by people with disabilities.

As a result, a draft Government decision is proposed to establish the categories of persons with disabilities who will benefit from the 15% increase of the basic salary / wage / function pay / hiring allowance provided in art. 2 of the Law no. 153/2017 on the remuneration of personnel paid from public funds.

Thus, the 15% increment provided in art. 22 of Law no. 153/2017 regarding the salaries of personnel paid from public funds will apply to all persons classified as severely disabled or having high degree of disability on the basis of and during the validity period of the document attesting to the disability degree, regardless of the type of disability, issued according to the law by the disability assessment commissions of the county, and the local sections of the Bucharest Municipality or the Higher Commission for Evaluation of the Adult Disabled Persons, based on the psycho-social criteria based on which the disability degree is established.

The Draft Decision is published on the Ministry of Labor website until January 25, 2018 and can be accessed at the following link: [http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decisionala/5030-11122017\\_P\\_hg\\_spor\\_AI.pdf](http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decisionala/5030-11122017_P_hg_spor_AI.pdf).

**Draft for amending and supplementing Law no. 263/2010 on the unitary pension system** was registered at the Senate for debate under no. B645 on 12 December 2017.

The proposal seeks to introduce the provision that persons who meet the standard retirement age limit and have a contribution period less than the minimum contribution period or in specialty, as the case may be, be entitled to a pension in proportion to the contribution period in relation to the minimum contribution period or the specialty period.

This provision is intended to eliminate inequality between those who have a minimum contribution period or in specialty and those who have a lower contribution period than that. The latter are entitled to receive a pension in proportion to the contribution period. It is considered unfair that the state does not grant them any money entitlements as a result of the work done and the payment of contributions to the state.

**Draft Government Decision for amending Government Decision no. 1352/2010 on the approval of the Structure of Occupation Classification Romania - basic group level according to the International Standard Classification of Occupations - ISCO 08, republished**, was published on the website of the Ministry of Labor on 14 December 2017.

The draft Government Decision aims to amend the structure of COR only as regards the renaming of the main group 9 from "Unskilled Workers" to "Basic Occupations".

In support of the draft, it is mentioned that in discussions with major players on adult vocational training and qualifications, it emerged that in COR main group 9, "Unskilled Workers", there are occupations that require the possession of some basic general knowledge and specific skills for practicing them.

Also, the Sectoral Committees, public social dialogue institutions, participating in the development of national and sectoral vocational training strategies, as well as in the developing and updating the qualifications of their respective sectors, identified in the main group 9 series of occupations for which skill levels 1 are required.

The Draft Decision is published on the Ministry of Labor website until 02 February 2018 and can be accessed at the following link: <http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decisionala/20171214-HG-clasificare-ocupatii-COR.pdf>.

**The draft law on the approval of Government Emergency Ordinance no. 99/2017 for the amendment and supplementation of the Government Emergency Ordinance no. 158/2005 on sickness leave and healthcare insurance contributions** was registered at the Senate for debate under no. B670 on December 18, 2017.

The promotion of the draft law is mainly determined by the need to:

- observing the implementation of some healthcare measures included in the Governance Program 2017-2020;
- alignment of the provisions of GEO no. 158/2005 on sickness leave and healthcare insurance contributions with the provisions of Law no. 227/2015 regarding the Fiscal Code, as amended and supplemented by GEO no. 79/2017, as regards the work insurance contribution;

- introducing measures to regulate the legal framework for the implementation of the IT solutions for administration of the electronic sick leave system, in the absence of which the prescribing physicians will not be able to fill in and submit to the employers / beneficiaries the electronic sick leave certificates in electronic form by remote transmission, with certified electronic signature;
- the implementation in the healthcare insurance system of fiscal measures related to the elimination of the contribution for holidays and health insurance allowances, starting with January 1, 2018, transposed into the Law no. 227/2015 regarding the Fiscal Code by GEO no. 79/2017;

Government Emergency Ordinance no. 99/2017 was published in the Official Gazette no. 1005 of 19 December 2017 and contains provisions relating to:

- increasing the age limit, from 7 to 16 years, in the case of serious illnesses of the sick child for which one of the parents or the insured who, under the law, adopted or has been appointed guardian, may be entitled to sick leave and allowance for the care of the sick child;
- the possibility of granting the maternity allowance calculated in relation to all the incomes on the basis of which the contribution for leave and health insurance indemnities was calculated and paid;
- the possibility of optional insurance in the healthcare insurance system of natural persons, other than those who earn salary or wages or unemployment benefits, in order to receive paid leave and healthcare insurance benefits, based on an insurance contract for leaves and healthcare insurance benefits;
- considering that through the Fiscal Code the contribution for leaves and healthcare insurance indemnities has been eliminated, provisions are introduced whereby persons who earn income from salaries and similar sources are insured in the healthcare system, under the conditions of payment to employers of the labor insurance contribution.

**Draft Law amending and supplementing the Government Emergency Ordinance no. 194/2002 on the foreigners regime in Romania republished, with the subsequent amendments and completions and of the Government Ordinance no. 25/2014 on the employment and posting of foreigners on Romanian territory and on the amendment and supplementation of some normative acts regarding the foreigners regime in Romania, with subsequent amendments and completions**, was registered at the Senate for debate under no. B677 on December 19, 2017

The legislative initiative aims at eliminating the need to obtain the employment permit for temporary cross-border workers for a period of up to 9 months in a calendar year. It is also proposed that for the extension of the temporary right of residence for work purposes, the cross-border employee's salary should be at least equal to the gross minimum wage.

In support of the initiative, it is mentioned that the changes are necessary in the context in which the local authorities in the border counties are developing closer ties with the neighboring states. Therefore, the provisions of the legislative

proposal can only apply to neighboring countries that are not part of the European Union, namely the Republic of Moldova, Ukraine and Serbia.

**The draft law to amend Law 62/2011 on social dialogue** was registered at the Senate for debate under no. B681 on December 19, 2017.

The proposal aims to amend the Law on Social Dialogue by proposing the increase of the associativity level among employees and encouraging them to make trade unions easier.

The initiators of the proposal consider that the current legislative framework drastically limits the right of employees to associate in order to collectively defend their rights. The Law of Social Dialogue establishes in art. 3 par. (2) the number of members required to form a trade union, requiring 15 founding members for a trade union to be formed within an entity. It is argued that such provision does not take into account the structure of the Romanian economy, predominantly made up by small enterprises with a number of employees smaller than the threshold established by the law for the creation of a trade union. Therefore, it is proposed to reduce the number of members needed for a trade union to be set up, from 15 to 3, in order to give to employees more chances of organizing themselves in trade unions in order to defend their rights and interests effectively.

**The draft law on the approval of Government Emergency Ordinance no. 103/2017 on the amendment and supplementation of some normative acts in the field of social security** was registered at the Senate for debate under no. B682 on 19 December 2017.

Approving GEO no. 103/2017 proposed through this draft law is determined by the necessity of (i) correlating the provisions of Law no. 263/2010 on the unitary pension system and Law no. 346/2002 regarding the insurance against accidents at work and occupational illness with the recent amendments to the Fiscal Code; (ii) the unitary regulation and the removal of existing legislative parallelism.

Therefore, GEO no. 103/2017 published in the Official Gazette, Part I no. 1010 of 20 December 2017 provides that in the field of compulsory social contributions, Law no. 263/2010 will contain only regulations regarding voluntary insurance in the public pension system based on the social security contract, which is not managed by the National Agency for Fiscal Administration, but by the National House of Public Pensions. Also, in Law 263/2010:

- the phrase "monthly income from a professional activity" is clarified, the realization of these incomes being a condition for granting the survivor's pension for the surviving spouse;
- regulations are introduced regarding the conclusion of the social security contract, voluntary form of insurance in the public pension system;
- it clarifies the way in which a pension within the public pension system may be cumulated with a service pension regulated by other normative acts of a special nature.

As regards Law 346/2002 on insurance against accidents at work and occupational illness, GEO no. 103/2017 provides for changes to: the classification of persons entitled to benefit from the services covered by Law 346/2002, the revision

of some benefits in terms of amount, the clarification of the settlement procedures with the clinics/ wards and the occupational medicine practices within the structure of hospitals and types of benefits granted.

**Draft Government Decision for amending and supplementing the Decision no. 332/2014 on the establishment of a State aid scheme to support investments promoting regional development through job creation** was published on the website of the Ministry of Labor on 20 December 2017.

The draft is aimed at amending and supplementing the Government Decision no. 332/2014, thus:

- establishing the Ministry of Labor and Social Justice as the authority managing the scheme, instead of the Ministry of Public Finance; Thus, the administration of the scheme at the level of the Ministry of Labor and Social Justice will be achieved through the specialized structure, which is organized and operates at the level of direction, under the direct subordination of the minister of labor and social justice;
- establishing the tasks of the specialized structure consisting in the evaluation, selection and issuance of financing agreements as well as in the provision, notification and reporting to the European Commission of the state aid established by the scheme;
- establishment of the administration of the state aid granted within the scheme for the investment drafts for which the financing agreement was approved, which are in progress at the date of publication of the Government Decision

The Draft Decision is published on the website of the Ministry of Labor by February 6, 2018 and can be accessed at the following link:

[http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri\\_publice/20171220-HG-modif-HG-332\\_2014.pdf](http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri_publice/20171220-HG-modif-HG-332_2014.pdf).

**The draft law for the approval of Government Emergency Ordinance no. 116/2017 regarding some budgetary measures and for amending the Law no. 263/2010 on the unitary pension system** was registered at the Senate for debate under no. B714 on December 29, 2017

Applying GEO no. 116/2017 proposed by this draft law is determined by: (i) the need to increase the collection rate of the amounts to the general consolidated budget; and (ii) the unitary regulation of certain situations resulting from the implementation of Law no. 263/2010.

GEO no. 116/2017 (published in the Official Gazette, Part I No. 1043 of December 29, 2017) repeals para. (4) and (5) of art. 51 of Law no. 263/2010 on the impossibility of cumulating a pension within the public pension system with a service pension regulated by other normative acts of a special nature. At the same time, art. 36 by introducing a minimum threshold for the basis of calculating the social security contribution for insured persons under an insurance contract, namely 35% of the gross average earnings used to substantiate the social security budget.