

## employment – draft laws published in February 2018

**Draft Order for Amendment and Supplementation of Annex 1 to the Order of the Minister of Labour, Family and Social Protection no. 1372/2010 approving the procedure for the authorization of protected units** was published on the website of the Ministry of Labour on 9 February 2018.

The project aims at supplementing the annex to the Order of the Minister of Labour, Family and Social Protection no. 1372/2010 approving the procedure for the authorization of protected units and establishes, inter alia, the following:

- The authorization is issued by the National Authority for Persons with Disabilities, hereinafter referred to as ANPD, by a decision of its president, at the proposal of the specialized structure.
- In order to be authorized as a protected unit, the entity must comply with the provisions of Article 5 paragraph 29 and Art. 81 paragraph (1) and (2) of Law no.448 / 2006 on the protection and promotion of the rights of persons with disabilities, republished, as subsequently amended and supplemented, namely, to be:
  - (a) an economic operator with legal personality and self-management, in which at least 30% of the total number of employees with an individual employment contract are disabled /have grade III invalidity;
  - (b) units, workshops or other structures, without legal personality, within public institutions, where at least 30% of the total number of employees with an individual employment contract are disabled / have grade III invalidity; or
  - (c) a natural person who employs at least 30% disabled and persons with grade III invalidity and who carries out economic activities as a natural person authorized as an entrepreneur of an individual enterprise or as a natural person certified under special laws to carry out their activity both individually , and in one of the forms of organization of the profession.
- The authorizing conditions of the requesting entities are as follows: a) to have its own management; b) at least 30% of the total number of employees to have disability / III<sup>rd</sup> grade invalidity; and c) the submitted documents to be valid.
- The withdrawal of the authorization is made by decision of the ANPD president, based on a note drawn up by the specialized structure.

The Draft Decision is published on the website of the Ministry of Labour and can be accessed by 22 March 2018 at the following link:

[http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decizionala/5076\\_09022018\\_Proiect\\_ordin\\_procedura\\_upa\\_final.pdf](http://www.mmuncii.ro/j33/images/Documente/MMJS/Transparenta-decizionala/5076_09022018_Proiect_ordin_procedura_upa_final.pdf)

### **The legislative proposal for amending Law no. 416/2001 on the minimum guaranteed income**

was registered at the Senate for debate under no. B25 on February 14, 2017.

Law no. 416/2001 on Minimum Guaranteed Income was adopted to prevent and combat poverty and the risk of social exclusion by guaranteeing a minimum income which, according to the principle of social solidarity, is ensured by granting social assistance.

The legislative initiative proposes that social welfare payments to be made also in the form of social vouchers.

In this regard, the initiative proposes that the payment of social aid to be made as follows:

- 50% of the amount of social aid, as the case may be, depending on the beneficiary's option, by postal money order or into a bank account;
- 50% of the amount of social aid as social aid voucher.

According to the legislative proposal, the vouchers for social aid are issued only by the issuing units authorized by the Ministry of Public Finance, on the basis of the service contracts concluded with the county agencies for social benefits, and that of the municipality of Bucharest.

The initiative proposes to regulate only the electronic social aid voucher, since social aid does not exist in a fixed amount, but variable.

The most important aspect of the legislative initiative is that it prohibits the use of the voucher for the purchase of cigarettes and/or alcoholic beverages or its capitalization through cash transformation.

The legislative proposal also provides for the same source of funding for the cost of purchasing social vouchers, coupled with postal money order and bank account fees, all of which will still be covered by the Ministry of Labour and Justice budget of the same funds from which social assistance is paid. In addition, it introduces a maximum limit for the cost of purchasing social aid vouchers similar to bank charges.

### **Legislative proposal to amend let. i) paragraph (1) of art. 260 of the Law no. 53/2003 - The Labour Code**

was registered at the Senate for debate under no. B27 from February 15, 2018.

The legislative proposal mentions that overtime has a negative impact on the health and performance of employees and affects family and personal life by reducing time spent with the family and resulting in low involvement in child development.

The legislative proposal also highlights the fact that, according to the current provisions of the Labour Code, fines for additional work are between 1500 and 3000 lei, with no correlation between the amount of the fines, the number of overtime worked and the number of overtime workers .

To this end, the initiators propose linking the amount of fines to the number of overtime workers in order to ensure proportionality between the fine and the extent of the misdemeanor in order to discourage overtime with beneficial consequences for both the health of employees , and for productivity.

**Legislative proposal for the repeal of paragraph (1) of Article 3 of the Government Decision no. 250/1992 on the paid leave and other leaves of public administration employees, specialty autonomous government entities and budgetary entities** was registered at the Senate for debate under no. B39 of February 19, 2018.

The legislative proposal points out that art. 3 of the Government Decision no. 250/1992 provides that employees who perform, in addition to the full-time job, another function, are entitled to paid leave only from the entity in which they hold the main position. The entity where the employees cumulate time will grant them, upon request, unpaid leave for the days of paid leave received from the other entity.

In this context, the legislative proposal mentions that there is an implicit repeal of the "main position" institution of G.D. no. 250/1992, considering that the content of Law no. 53/2003 on the Labour Code does not include the "main position" institution. Thus, initiators consider that the institution of the main position has been replaced by the institutions of the full-time or part-time individual employment agreement.

At the same time, the initiators point out that in Law 53/2003 on the Labour Code there is no distinction between the full-time employee and the part-time employee, but the fact that all employees are entitled to paid leave, which can not be limited.

In conclusion, in order to avoid contradictory situations regarding the existence of two categories of public servants, one represented by those who have earned in court the salary rights for the part-time contract and those who do not enjoy these rights, the initiators propose to repeal the provisions on this paid leave in art. 3 of GD no. 250/1992.

**Draft Order no. 1086/20.02.2018 regarding the approval of the framework model of the Annual Action Plan on social services managed and financed from the budget of the county council/ local council/general council of Bucharest** was published on the website of the Ministry of Labour on 20 February 2018

The draft aims to approve the framework model of the Annual Action Plan on social services managed and financed from the budget of the county council/local council/general council of Bucharest.

The Draft Decision is published on the website of the Ministry of Labour and can be accessed by 02 April 2018 at the following link:

[http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri\\_publice/20180220-Ordin-PAA.pdf](http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri_publice/20180220-Ordin-PAA.pdf)

Annex to Order no. 1086 / 20.02.2018 - the framework model of the Annual Action Plan on social services managed and financed from the budget of the County Council/Local Council/General Council of Bucharest can be accessed by 02 April 2018 at the following link:

[www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri\\_publice/07032018\\_Anexa\\_1\\_la\\_Ordin\\_privind\\_PA\\_A\\_-\\_prop\\_Dezbateri.pdf](http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri_publice/07032018_Anexa_1_la_Ordin_privind_PA_A_-_prop_Dezbateri.pdf).

**Draft Order no. 1085/20.02.2018 regarding the approval of Methodology for the selection and financing of projects in the field of the protection of persons with disabilities for the year 2018** was published on the website of the Ministry of Labour on the 20th of February 2018.

The project aims to approve the Methodology for selecting and financing projects in the field of the protection of persons with disabilities for 2018.

The draft decision is published on the website of the Ministry of Labour and can be accessed by 02 April 2018 at the following link:

[http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri\\_publice/Ordin-metodologie-20022018.pdf](http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri_publice/Ordin-metodologie-20022018.pdf)

The methodology for selecting and financing projects in the area of the protection of persons with disabilities for the year 2018 provides, inter alia, that non-governmental organizations active in the field of the protection of persons with disabilities, accredited as social service providers can receive the necessary funds to finance projects, and projects can be done on their own or in partnership with other public or private social service providers, accredited under the law.

It also mentions that projects that are in line with the specific objective established by the Financing Authority, namely providing adults with disabilities access to family-type alternatives to institutionalized protection, in order to promote independent living conditions and community integration.

Eligible activities are, according to the Methodology, the establishment of social services such as day centers, ambulatory neuromotor recovery centers or protected dwellings, corresponding to the individual needs of persons with disabilities.

The Annex to the Order no.1085 / 20.02.2018 - The Methodology for the selection and financing of projects in the field of the protection of persons with disabilities for the year 2018 can be accessed by 02 April 2018 at the following link:

[http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri\\_publice/20022018-Anexa-Metodologie-proiecte-ONG-2018.pdf](http://www.mmuncii.ro/j33/images/Documente/Transparenta/Dezbateri_publice/20022018-Anexa-Metodologie-proiecte-ONG-2018.pdf).

**The legislative proposal for amending Art. 159 of Law no. 263/2010 on the unitary pension system** was registered at the Senate for debate under no. B61 on February 27, 2018.

In support of the initiative, it is mentioned that the natural and legal persons who kept the work cards and the documents afferent to them were obliged to hand them over to the National House of Public Pensions ("NHPP"), together with the copies of the ID, under misdemeanor penalty, in order to create a national database with the

insurance history and the income of all pension system policyholders in order to ensure safer procedures for setting pension rights and to better serve the citizens.

The initiators mention that for the processing of the work cards the data regarding the periods of contribution in the public pension system prior to April 1, 2001, there were expenditures from the state social insurance budget of LEI 76,5 million and USD 2,8 million.

In this respect, although the electronic archive was designed to allow for a link between the image of the document and the data on the electronic support, having the personal numeric code as the link and identification key, Law no. 263/2010 provides that proof of seniority until 1 April 2001 is still carried out with the work card, which is again requested from the insured.

The initiators therefore point out that it is necessary that the data retrieved in the electronic archive of the NHPP have value of proof and should be used as a priority for the calculation of pension entitlements, without requiring the insured's work card again. The work card will only be required from the insured if it is not retrieved in the electronic archive or if it was inappropriately taken over.

**The legislative proposal for amending the Emergency Ordinance no. 103 of 20 December 2017 for amending and supplementing certain acts in the field of social security** was registered at the Senate for debate under no. B60 dated February 27, 2018.

The proposal is represented by the necessity of correcting the legislative error that causes shortcomings to citizens and the return to the previous legislation, considering that the adoption of GEO no. 103/2017 has limited the right of patients who are registered with occupational diseases or accidents at work to specialized medical services. Thus, art. Article 14 (1) of that law provides that: "In the event of accidents at work or occupational diseases declared in accordance with the law in the course of their professional activity, the right to benefits and insurance services shall also be maintained after the termination of the employment relationship **until the retirement conditions are fulfilled or until retirement age**".

In this regard, initiators want to return to the old regulation to avoid long-term consequences for patients in the above situations, given that after retirement they can no longer be treated, hospitalized and supervised by the labour clinics they were registered with.

**The Draft Law on amending and supplementing Art. 10 of the Law no. 76/2002 on the unemployment security system and the stimulation of employment** was registered at the Senate for debate under no. B56 of February 27, 2018.

The draft law aims at amending and supplementing the labour legislation regarding Romanians working abroad, aligning the Romanian legislation with good practices in other EU Member States and other democratic states of the world and avoiding wage differences between Romanian citizens and citizens of the destination country, avoiding the inappropriate working conditions, the constraints to which they are subjected when they arrive and are being forced to accept illegal employment.

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The initiative seeks to optimize the working conditions applicable to Romanian citizens, as well as the clear evidence of the persons active on the labour market, the legal conditions in which the work is carried out and the fulfillment of the Romanian state's obligation to guarantee the respect of the individual rights of every Romanian citizen going abroad and guaranteeing by the Romanian state of the obligation of protector of Romanian citizens.