



employment - legal changes published in June 2021

Government Emergency Ordinance no. 44/2021 for the amendment of the Government Emergency Ordinance no. 132/2020 on support measures for employees and employers in the context of the epidemiological situation caused by the spread of the SARS-CoV-2 coronavirus, as well as for stimulating employment growth was published in the Official Gazette of Romania, Part I, no. 575 of June 7, 2021, in force from the same date.

The Ordinance establishes that in case of reduction of the working time and/ or income implemented during the state of emergency/ alert/ siege, the persons who benefited from the indemnity provided in art. XV para. (1) and (4) of the Government Emergency Ordinance no. 30/2020 can benefit, upon request, based on a statement on own responsibility, from a monthly allowance in the amount of 41.5% of the average gross salary provided by the Law on the state social insurance budget for 2021 no. 16/2021 (namely, we are talking about the professionals and persons who have concluded individual labour agreements based on Law no. 1/2005 on the organization and operation of cooperation, as well as the individuals who obtain income exclusively from copyright and related rights).

This measure is applicable starting with the rights related to June 2021.

The measure was instituted because the allowances provided in art. XI and XV of the Government Emergency Ordinance no.30/2020 were granted until June 30, 2021.

Government Decision no. 636/2021 on the extension of the state of alert in Romania starting with June 12, 2021 and the establishment of the measures to be applied during its period to prevent and combat the effects of the COVID-19 pandemic was published in the Official Gazette of Romania, Part I, no. 586 of June 10, 2021, in force from the same date.

The Decision establishes that, starting from June 12, 2021, the state of alert throughout the country shall be extended by another 30 days.

As a preliminary point, it should be noted that the Decision was subsequently amended through the Government Decision no. 687/2021 (published in Official Gazette no. 628 of June 25, 2021, in force from the same date), introducing new relaxation measures.

The Decision stipulates that in public spaces, markets, fairs, flea markets, public transport stations, commercial spaces, means of public transportation and at the workplace, the obligation to wear a protective mask may be established so as to cover the nose and the mouth, under the conditions established by the joint order of the Minister of Health and the Minister of Internal Affairs.

Furthermore, for all public or private economic institutions and operators, the obligation to implement the working from home regime or teleworking is maintained, where the specific nature of the activity permits, under the conditions of Article 108-110 of the Labour Code, as well as those laid down by the Law no. 81/2018 on teleworking.

In the situation in which the employee cannot carry out the activity in teleworking/ working from home regime and in order to avoid the congestion of the public transportation, the employers in the private system, central and local public authorities and institutions, regardless of the method of financing and subordination, as well as the autonomous municipal companies, national companies and companies in which the share capital is wholly or mainly owned by the state or by an administrative-territorial unit, with a number of more than 50 employees, have the obligation to organize the work schedule so that the personnel to be divided into groups to start or finish the activity at a difference of at least one hour.



It is also established that the organisation of work shall be carried out in compliance with the legal provisions issued by the competent authorities with regard to the prevention of SARS-CoV-2 virus contamination and for the safety and health at the workplace, taking into account also the degree of vaccination of the employees at the workplace, as reflected in a certificate of vaccination against the SARS-CoV-2 virus presented by the employees for whom 10 days have passed since the completion of the full vaccination scheme, as well as the number of employees who are between the 15th day and the 90th day following the confirmation of the SARS-CoV-2 virus infection and who hold and present to the employer a certificate issued by the family physician.

Government Decision no. 654/2021 for amending and supplementing the Methodological Norms on the secondment of employees in the context of the provision of transnational services on the territory of Romania, approved by Government Decision no. 337/2017 was published in the Official Gazette of Romania, Part I, no. 611 of June 18, 2021, in force from the same date.

The Decision brings the following novelties:

- the deadline within which the companies established on the territory of a Member State other than Romania, or on the territory of the Swiss Confederation that second employees with whom they have established an employment relationship must submit to the territorial labour inspectorate the Statement on transnational secondment of employees: at the latest before the start of the activity (in the previous form of the normative act, the deadline was "with *at least one working day before the start of the activity*");
- a new element to be included in the above-mentioned statement was added, namely the transnational measure corresponding to the situation of secondment;
- the elements that the Notification on the extension of secondment must contain are established; the Notification may be transmitted to the competent territorial labour inspectorate either: **(i)** in letter form, by direct submission or by postal service or courier; **(ii)** in electronic format, through the electronic e-mail service or any other means of communication provided by the law; **(iii)** by filling in an online form, accessible on a single platform managed by the Labour Inspectorate and the territorial labour inspectorates, with the observance of the technical and authentication requirements (the platform is to be implemented);
- it is mentioned that, in the event that an employee is made available by a temporary employment agent for a user company established or operating in Romania (existing an employment relationship, during the period of secondment, between the employee and the temporary work agent), if that employee carries out its activity on the territory of another Member State, other than Romania, in the context of the transnational provision of services by the user company (we are talking about the case where the user company established in Romania is posting the employee on the territory of a Member State other than Romania or on the territory of the Swiss Confederation), then that employee is considered to be posted on the territory of the respective Member State by the temporary employment agent with whom he/ she has an employment relationship;
- in the above-mentioned case, the user company established or operating on the territory of Romania shall be obliged to inform the temporary employment agent who made the employee available, with at least 30 days before the start of its activity on the territory of that State, and to notify the territorial labour inspectorate, at the latest on the day before the employee's secondment to the territory of that Member State;
- Annex 1 containing the template of the Statement on transnational secondment of employees has been replaced and a new Annex (Annex 2) containing the template of the Notification on the extension of secondment has been added.



Order of the Minister of Labour and Social Protection no. 540/2021 on the amendment of the Order of the Minister of Labour and Social Protection no. 741/2020 for the approval of the template of the documents provided in art. XII para. (1) of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of SARS-CoV-2 coronavirus, with amendments and completions brought by Government Emergency Ordinance no. 32/2020 for the amendment and completion of the Government Emergency Ordinance no. 30/2020 for amending and supplementing some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of SARS-CoV-2 coronavirus and for establishing additional social protection measures was published in the Official Gazette of Romania, Part I, no. 622 of June 24, 2021, in force from the same date.

The Order amended one of the documents to be submitted by the employers to the employment agencies to obtain the allowances granted to the employees whose employment contracts have been temporarily suspended, at the initiative of the employer, according to art. 52 para. (1) letter c) of the Labour Code, as a result of the effects produced by the SARS-CoV-2 coronavirus, namely the Table with the restricted activities under the conditions laid down by the Law no. 55/2020 on some measures to prevent and combat the effects of the COVID-19 pandemic.

Government Decision no. 677/2021 on the amendment of the Government Decision no. 719/2020 for the approval of the settlement and payment procedure of the amounts granted based on the Government Emergency Ordinance no. 132/2020 on support measures for employees and employers in the context of the epidemiological situation caused by the spread of the SARS-CoV-2 coronavirus, as well as for stimulating employment growth, was published in the Official Gazette of Romania, Part I, no. 628 of June 25, 2021, in force from the same date.

The following amendments are brought to the Government Decision no 719/2020:

- it is provided that, in order to settle the amounts for the payment of the allowances of the employees whose working time have been temporarily reduced (measure determined by the establishment of the state of emergency/ alert/ siege, in accordance with the law, during the state of emergency/ alert/ siege), the employers must submit an application to the employment agencies of the county, respectively of the municipality of Bucharest, in whose territorial area they have their registered office;
- in case the employer changes the work schedule in the context of the implementation of the measure of temporary reduction of the working time under the conditions mentioned above, the employers will have to submit to the competent employment agencies copies of all decisions on the reduction of the working time, working schedule, the manner of its distribution by days and the related salary rights, as well as copies of their communications to the employee;
- the templates of documents to be submitted by the employers for the settlement of amounts for the payment of the allowances to employees whose working time has been temporarily reduced (application, statement on their own responsibility, list of persons) will be approved by order of the Minister of Labour.