



employment - legal changes published in November 2022

Emergency Government Ordinance no. 143/2022 on the amendment of Article 17 of Government Ordinance no. 25/2014 on the employment and secondment of foreigners on the territory of Romania and on the amendment and completion of certain legal acts on the regime of foreigners in Romania was published in the Official Gazette, Part 1, no. 1049 of October 28, 2022, in force from the same date.

Emergency Ordinance no. 143/2022 provides for a number of amendments to Article 17 of Government Ordinance no. 25/2014, on the conditions of employment of foreign citizen in a new job with another employer or the same employer, as follows:

- A foreigner employed on the basis of a work permit, except for seasonal workers, may be **employed on a new job, even by another employer**, during the period of validity of the single permit or EU Blue Card. The employment of a foreigner on a new job with a new employer, without a period of one year having passed since the date of registration of the individual employment agreement with the previous employer, can be performed only with the written consent of the previous employer, that must be submitted by the new employer to the General Inspectorate for Immigration, except in the cases where the individual employment agreement was terminated at the initiative of the previous employer or following the agreement of the parties or by the resignation of the foreigner in cases where the employer does not fulfil the obligations assumed in the individual employment agreement, under the conditions provided by the Labour Code;
- In the event of a **change of the job to another employer**, the employment in the new job will be made on the basis of a new work permit obtained by the new employer in compliance with all the general conditions provided for in article 4 and the special conditions provided for in article 7 and article 9 of Ordinance no. 25/2014;
- If the foreign citizen is **employed in a new job with the same employer**, the latter will be issued with a new work permit, without being necessary to fulfil the general conditions for issuing the permit, namely: **(i)** payment by the employer of the obligations to the state budget for the last quarter prior to the submission of the application; **(ii)** non-exhaustion of the annual quota by type of newly admitted workers to the labour market; **(iii)** the conditions for entry into the territory of Romania to be fulfilled by the foreign employee in accordance with the provisions of article 6 para. (1) (a), (e), (g) and (h), article 11 and article 27 para. (2) letter c) and e) of the O.U.G. no. 194/2002, respectively without the need to fulfil the special conditions for the issuance of the permit consisting in the submission by the employer of diligences for the employment of the vacant job by a Romanian citizen, by a citizen of another Member State of the European Union or of the European Economic Area, by a citizen of the Swiss Confederation or by a foreigner holding the right of long-term residence on the territory of Romania;
- For the issuance of the new work permit it is necessary to submit the criminal record of the foreigner issued by the Romanian authorities.

The Order of the Minister of Labour and Social Protection no. 1.988/1.527/2022 on the amendment and completion of the Classification of Occupations in Romania was published in the Official Gazette of Romania, Part I, no. 1144 of November 28, 2022, in force from the same date.

The Order completes the Classification of Occupations in Romania - occupation level (six characters) with the new occupations practiced in the national economy, namely: sports programme coordinator, online content creator, logistics manager responsible



for orders, e-commerce manager, logistics and distribution manager, recreational policy officer, hydroelectric power plant operator, logistics platform operator, event organizer, trade registry register, hotel technician.

This Order also re-names the occupation of "Occupational Health and Safety Management System Auditor" with the new title "Labour Health and Safety Management System Auditor".

The decision of the High Court of Cassation and Justice no. 15/2022 on the decision on the appeal in the interest of the law which forms the subject-matter of case no. 1.134/1/2022 concerning the referral made by the Governing Board of the Court of Appeal of Galați was published in the Official Gazette, Part I no. 1065 of November 3, 2022 and is applicable as from the same date.

The High Court admitted the referral made by the Governing Board of the Court of Appeal of Galați for an appeal in the interest of the law and, consequently, established that, in the interpretation and unitary application of article 52 para. (2) of Law no. 53/2003 - Labour Code, republished, as subsequently amended and supplemented, with reference to Constitutional Court Decision no. 405 of June, 15 2016, published in the Official Gazette of Romania, Part I, no. 517 of July 8, 2016, in the case of an employee in respect of whom the employer has issued, pursuant to Article 52 para (2), letter b) first thesis of Law no. 53/2003 - Labour Code, a decision to suspend the individual employment agreement, following the effects of the Constitutional Court Decision no. 279 of April 23, 2015, published in the Official Gazette of Romania, Part I, no. 431 of June 17, 2015 (according to which the provisions of article 52 para. (1) letter (b), first thesis, of the Labour Code, which regulated the suspension of the individual employment contract even in cases where the employer has filed a criminal complaint against the employee for criminal offences incompatible with the position held by the latter, have ceased to have legal effect), where the legal relation governed by the provisions of the law found to be unconstitutional has not been definitively consolidated, a right of claim consisting in compensation equivalent to the remuneration due arises in the employee's patrimony, for the entire duration of the suspension, under the rules and principles of contractual civil liability.