



## employment - legal changes published in December 2022

**Government Emergency Ordinance no. 164/2022 amending and supplementing the Government Emergency Ordinance no. 111/2010 on leave and monthly child-raising allowance** was published in the Official Gazette, Part I, No 1173 of December 7, 2022, in force from the same date.

The Government has made a series of amendments to the legislation on parental leave and monthly childcare allowance, aimed at sharing childcare responsibilities fairly between men and women, ensuring a work-life balance between men and women, and increasing the possibility for a parent who did not initially request parental leave to exercise this right.

In this respect, the Emergency Ordinance no. 164/2022 fully transposes into national law Directive (EU) 2019/1158 on the work-life balance of parents and carers and repealing Directive 2010/18/EU.

The main amendments introduced concern the following:

- The amount of the monthly allowance is increased by 50% of the allowance due for each child born of a twin, triplet or multiple pregnancy, starting with the second child born of such a pregnancy. The increase so calculated may not be less than the minimum amount of the child-raising allowance;
- If a person receives, in the same month, both income in Romania and in other countries to which EU Regulation no. 883/2004 applies, without the periods of activity overlapping, the income received in both countries will be taken into account, with the appropriate application of the provisions of Article 12, para (2) of the same Regulation;
- For the entire period until the child reaches the age of 2 years, respectively 3 years in the case of a disabled child, the Ordinance provides the possibility for the beneficiary of the allowance to request a recalculation of the allowance based on a final court decision, certificates or other supporting documents relating to the correction of the income on which the entitlement was based. If the recalculation results in (a) a higher amount of the monthly allowance than that originally determined, the difference shall be paid for the entire period from the date of entitlement to the child-raising allowance, and if (b) a lower amount of the monthly allowance than the one originally determined, the excess amounts paid, which have been wrongly received, shall be recovered from the recipient;
- If both parents meet the requirements for parental leave, it shall be granted as follows:
  - at least 2 months of parental leave to be taken by the parent who did not initially apply for it;
  - if the parent referred to above does not apply for parental leave for at least 2 months, although it meets the requirements set out, the other parent shall not be entitled to parental leave instead.
- In order to apply for parental leave, employees are required to notify their employer at least 10 days before the end of their maternity leave or, where applicable, before the expected start date of their parental leave, by submitting an application indicating the expected period of parental leave. If this period is not specified, the employer will approve the request for the maximum period of parental leave;
- Child-raising allowance may be pursued and enforced regardless of the nature of the claims due, within the limits set by the relevant legal framework.



**Order of the Minister of Labour and Social Solidarity no. 2171/2022 approving the framework model of the individual employment contract** was published in the Official Gazette, Part I, no. 1180 of December 9, 2022, in force from the same date.

The Order approves the framework model of the individual employment contract and repeals the previous model. The main amendments are as follows:

- The new framework model also contains a clause on job-specific risks, stating that these are set out in the risk assessments of the workplace as well as in the identification sheet for occupational risk factors;
- The method of payment of the salary must be expressly stated, regardless of its type;
- It also provides for conciliation as a means of settling disputes related to the completion, execution, modification, suspension or termination of the individual employment contract, in contrast to the old framework model, which stipulated that the court had exclusive jurisdiction to settle such disputes;
- For employees who do not have a fixed place of work, the contract will include details of the amount of additional benefits (in cash or in kind) to which the employee is entitled and how the employer will insure and/or pay for transport;
- Employers will be entitled to provide employees with benefits such as private health insurance, additional contributions to the employee's voluntary pension or occupational pension, as appropriate, which must be stipulated in the individual employment contract;
- The new framework model also requires the individual employment contract to state, in addition to the conditions for working and compensating overtime, the amount of overtime payment;
- It is introduced a new clause concerning the conditions under which professional training is carried out, as well as a clause through which is identified the applicable collective labour agreement.

**Government Decision no. 1447/2022 for the establishment of the minimum gross basic wage per country guaranteed in payment** was published in the Official Gazette, Part I, no. 1186 of December 9, 2022, in force from the same date.

This Decision provides that, as from 1st of January 2023, the minimum gross basic wage per country guaranteed in payment, stipulated in Article 164 para. (1) of Law no. 53/2003 - Labour Code, republished, with subsequent amendments and additions, will be established in Lei, without including bonuses or other additions, in the amount of Lei (RON) 3,000 per month, for a normal work schedule averaging 165.333 hours per month, representing the amount of Lei (RON) 18.145 per hour.

**Government Decision no. 1448/2022 on the establishment of the contingent of foreign workers newly admitted to the labour market in 2023** was published in the Official Gazette, Part I, no. 1186 of December 9, 2022, in force from the same date.

The Decision establishes for 2023 a contingent of 100,000 foreign workers newly admitted to the Romanian labour market.

The measure adopted by the Government was based on data from the General Inspectorate for Immigration, according to which, by September 14, 2022, out of the quota of 100,000 foreign workers newly admitted to the labour market in 2022, established by the Government Decision no. 132/2022, a number of 64,894 employment/secondment permits was issued by the General Inspectorate for Immigration.



**Order of the Minister of Labour and Social Solidarity and of the Minister of Health no. 2172/3829/2022 on granting carer's leave** was published in the Official Gazette, Part I, no. 1241 of December 22, 2022, in force from the same date.

The Order establishes the conditions necessary to be met for granting of carer's leave, defines the notion of "serious medical problems" and regulates the list of serious medical problems on the basis of which the employee may request the carer's leave.

Thus, serious medical problems are defined as those conditions or complications thereof that affect a person's functional status or significantly limit the ability to perform basic activities to the point of making it impossible to perform them, requiring the support of another person.

In order for the carer's leave to be granted, the employee must make a written request to the employer, and no later than 30 working days from the time the request is submitted, the employee must submit to the employer documents proving that the person to whom it has provided care or support is a relative or a person living in the same household as the employee, as well as the existence of the serious medical condition that determined the employee's request for carer's leave.

The list of serious medical conditions for the granting of carer's leave contains several categories of medical conditions, from oncological to neurological, digestive, cardiovascular or psychiatric.

**Law no. 382/2022 approving the Governmental Emergency Ordinance no. 143/2022 for amending Article 17 of Government Ordinance no. 25/2014 on the employment and secondment of foreigners on the territory of Romania and for amending and supplementing certain regulations on the regime of foreigners in Romania** was published in the Official Gazette, Part I, no. 1276 of December 30, 2022, in force since January 2, 2023.

This law establishes the right of foreigners who have legally entered the territory of Romania and whose single permit has expired, to apply for a new permit of the same kind, within 90 days from the entry into force of the law if the termination of the employment relationship of foreigners was registered no later than 18 months before the date of entry into force of this law. This provision does not apply to foreigners for whom the General Inspectorate for Immigration has issued a return decision by the date of entry into force of the law.

**Government Decision no. 1577/2022 for amending the Methodological Norms for the application of the Paternal Leave Law no. 210/1999, approved through the Government Decision no. 244/2000** was published in the Official Gazette, Part I, no. 6 of January 4, 2023, in force from the same date.

The Decision no. 1577/2022 introduces several amendments to the Methodological Norms for the application of the Paternal Leave Law, as follows:

- It is provided the holder entitled to parental leave, namely the father of the new born child or children, in the case of multiple births, who effectively participates in the care of the child or children, in the case of multiple births, whether the child or children, in the case of multiple births, is/are born in or out of marriage or adopted by the holder of the right;
- In order to benefit of this right, the father must notify its employer in writing within 8 weeks of the birth of the child or children in the case of multiple births;
- It is provided that fathers who effectively participate to the care of the child are entitled to 10 working days of parental leave, regardless of whether the child's parents are married or not, or whether the child is adopted;



- The duration of paternal leave may be extended to 15 working days for each new born child, or for each birth in the case of multiple pregnancies, if the father attends childcare courses, in which theoretical and practical notions of caring for a young child are taught;
- Currently, childcare courses can be held during the mother's pregnancy or after the birth of the child, both in the father's family doctor's office and in health units or other establishments that organise such courses. At the end of the course, the family doctor issues the father a certificate of graduation;
- The duration of permission is extended from 7 to 10 working days for individuals entitled to parental leave who are performing military service;
- The Decision also provides that in the event of the mother's death during childbirth or during maternity leave, the father is entitled to an allowance equal to the maternity allowance payable to the deceased mother, the gross monthly amount of which is 85% of the average gross monthly earnings of the last 6 months of the 12 months of the insurance period, up to a maximum of 12 gross monthly minimum wages;
- The allowance is paid whether or not the father has completed the insurance period for the granting of sick leave entitlement and is paid out of the salary fund of the employer where the father works. Paternal leave is granted only if the holder of this entitlement is an employee, regardless of how the employer is organised and financed.