



EMERGENCY LEGAL KIT FOR BUSINESS SERIES

Year 4, Issue 14, August 2017

New amendments to Romanian Labor Code

In another attempt of the Romanian authorities to fight against all forms of undeclared work a new piece of legislation was recently enacted by the Romanian Government. For this reason, the Emergency Governmental Ordinance no. 53/2003, amending the Law no. 53/2017 ("Labor Code"), was passed into law.

As detailed below, the new changes to the Labor Code relate to, for example, the notion of undeclared work, information regarding employees to be retained or stored in the workplace, registration of labor agreements and their amendments with the Electronic Registry of Employees.

As such, the notion of undeclared work will cover from now on:

- (i) work provided without having concluded a written employment agreement a day before the start of activity;
- (ii) work provided without a one day prior registration of the employment agreement with the Electronic Registry of Employees (in Romanian Revisal);
- (iii) work provided by an employee having its employment agreement suspended;
- (iv) work provided outside working hours by an employee working part-time.

Failure to observe the situations of undeclared work and ensure compliance with the relevant legislation is outlawed and sanctioned with a fine of up to RON 20,000 for every person working in such conditions (except for the work based on part-time work agreements provided outside working hours, when the fine is RON 10,000 for every

person identified in this situation). However, the new regulation also provides the wrongdoer with the possibility to pay only half of those fines, provided that it does so in maximum 48 hours from the release of the sanction notice.

Furthermore, the labor inspectors can now decide to cease the labor activities in the respective workplace by taking a complementary sanction when they discover that undeclared work is carried out. The possibility to resume the activity is available only after the fine is paid and the wrongdoing which triggered the complementary sanction is remedied, i.e. conclusion of the employment agreement, submission of the employment agreement to the National Registry of Employees as well as establish and payment of social contributions and income tax.

A number of amendments also concern the employment agreement, which should be concluded in writing and in Romanian language, before the start of activity. This requirement should be linked with the duty of the employer to handover a copy of the labor agreement to the employee prior to commencing the work.

Additionally, any amendment of essential terms in the labor agreement during performance should now be done by way of an addendum concluded before any alteration of the said agreement, as opposed to prior regulations when such alterations could have been done by addendum in 20 days upon occurrence. According to the Labor Code such essential terms of the labor agreement would be those related to the place where work is carried out, the risks regarding the job position, the duration of a fixed-term employment agreement as well as the provisions related to the days of holiday entitlement or base salary.

Also in relation with the employer's obligations regarding the employment agreements is its duty to store in the workplace copies of the individual labor agreements for all employees which are providing work in the same place, subject to a fine of RON 10,000 for failure to comply. Besides this, the employer is obliged to keep a record of the working hours performed by each employee, showing the start and the end of the working time and to submit this record to the control of labor inspectors whenever required.

All these amendments seem to aim at providing a stronger regulation of labor relationships and ensure compliance with the relevant legislation, which can only be beneficial for the business environment.

This publication contains general information only, and it should not be considered as legal or other professional advice. This publication is not a substitute for such advice, nor should it be used as a basis for any decision or action that may affect your finances

or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

For additional information, please contact:



Daniel Vinerean

Managing Associate

daniel.vinerean@maravela.ro



Alexandru Caleap

Associate

alexandru.caleap@maravela.ro