

CMS | Romania transposes EU Directive on transparent and predictable working conditions into law



Romania has finally adopted local legislation to transpose the Directive (EU) 2019/1152 on transparent and predictable working conditions in the EU, which will come into force on 22 October.

While this new legislation (Law 283/2022) mirrors to a great extent the provisions of the above-mentioned Directive, certain provisions were missed in the national transposition, such as the long-awaited segment concerning part-time individual employment contracts with unpredictable schedules.

After Law 283/2022 comes into force, all companies should assess the impact of the new legislation on their employment documents, policies, regulations and HR processes.

The following are the most important changes under Law 283/2022:

Application of the Labour Code to foreign employees: The Labour Code will be applicable to any employee performing work for an employer headquartered in Romania, irrespective of the place of work, but subject to the following:

- ◆ the choice of law of the parties; and
- ◆ the mandatory rules of the country where the work is actually performed or any more favourable rules the employee may be entitled to.

Additional information to be provided to the employee upon hiring: Any monetary benefits in addition to the salary (and evidenced separately from the basic salary), conditions for performance and compensation of overtime, the way shift work is organised, information on private medical insurance, and information on additional contributions to private pension funds or occupational pension funds (if applicable), etc. Most of this information should also be reflected in individual employment agreements.

Amendment of the standard form of the individual employment agreement: Labour authorities will publish a new standard form for the individual employment agreement, which will reflect the additional mandatory information (referred to above). Once published, companies will need to adjust their existing employment agreements to reflect these standard changes.

Additional mandatory information to be included in the Internal Regulations: In addition to the existing information, employers should also include the following in their internal regulation:

- ◆ rules for notice periods; and
- ◆ general rules regarding the training of the employees, if such training exists.

Set-up of temporary individualised work schedules: Employers can put in place temporary individualised work schedules (i) upon the employee's request, or (ii) by obtaining the employee's consent. If the employer refuses the employee's request for such a temporary individualised work schedule, it must communicate to the employee the reasons for the refusal within five working days upon receiving the request.

Provision of a new type of leave – caretaker leave: Caretaker leave is granted to employees in case of care or support of a relative or a person living in the same household as the employee, for serious medical matters. This type of leave is granted for five working days during a calendar year, upon the written request in the employee.

Absence in case of unpredictable personal circumstances: Employees are entitled to be absent from work in the case of unpredictable circumstances (i.e. urgent family matters caused by disease or accident), based on the prior notice of the employer in this respect. This type of absence extends for a maximum of ten working days during a calendar year and is subject to the employee performing additional work pro-rated to the number of absent working hours.

Parallel employment: Employees are expressly given the right to enter into more than one individual employment agreement at the same time with the same company or with different companies, provided that the work schedules do not overlap.

For more information on this legislation and employment law in Romania, contact your CMS client partner or local CMS experts: **Cristina Popescu, Ruxandra Georgescu and Alexandra Voinia.**