

What are the most important changes brought to the Romanian labor market by the Directive on work-life balance?



Recently entered into force, the Directive on work-life balance has the purpose of increasing the participation on the labor force market of women, parents and any employees who have relatives in need of significant care or support (or other persons living together with them and who are in need of care) by regulating certain flexible working arrangements and leaves for family reasons.

But what are the employers' obligations and how should they prepare?

Currently, flexible working arrangements are an attractive benefit which many employers started offering to their Romanian workers, as part of the salary package. If nowadays such a benefit is offered at the sole discretion of the employer, as soon as the new regulations will enter into force, the Romanian employers will have to take into consideration any request for flexible working arrangements and strongly justify any refusal to grant such a right.

Regardless of their industry, Romanian employers will have to consider the impact of the new regulations, both from the perspective of the labor organization, of the way in which they keep track of working time, and of the means in which these requirements are transposed at company level, considering their specifics.

Employers who have recognized different forms of collective representation for their employees (e.g., trade unions, representatives of the employees) will have to inform and start consultations with the respective representative bodies, especially in those situations when the implementation of flexible working arrangements trigger important changes to the labor organization.

The decision making process as well as the effective implementation of certain measures will depend, to a large extent, on the way in which the Directive will be transposed in the Romanian legislation.

Flexible working arrangements are currently ensured in Romania by structures such as teleworking, where the job duties are carried out by workers using information and communication technology, as well as by specifically providing under the individual labor agreements a variable working schedule. None of these structures are specifically designed for parents or carers, these categories being entitled to additional protection in the future.

Leaves for family reasons and the way in which they are currently reflected in the Romanian legislation

Carer's leave is a new concept introduced by the Directive. This type of leave allows employees who take care of their relatives with severe health conditions, to benefit from a paid leave of 5 business days per year. The local legal framework could also allow the use of different reference periods (e.g., number of persons in care or number

of cases) and may include additional conditions in order for this right to be exercised.

The Directive also regulates the possibility to take time off from work on the grounds of force majeure (e.g., for urgent family reasons, illness or accidents) by providing evidence in this respect. Even if this principle is not regulated by the current Romanian legislation, as a matter of practice, there are companies that offer their employees an additional paid day off for urgent situations or for medical reasons.

Among the novelties brought by the Directive one can mention the leaves for family reasons. The Directive regulates the paternity leave of at least 10 business days that is to be taken on the occasion of the birth of the worker's child.

Currently, the Romanian legislation already provides this type of paternity leave, the new born child's father being granted the right to paid paternity leave of 5 business days, respectively 15 business days for the ones who have obtained certificates for attending childcare courses.

Considering that the Directive does not make the granting of paternity leave conditional upon attending childcare courses, one can expect that the future amendments of the relevant legislation will provide an increase of the paternity leave from 5 to 10 business days, without the obligation to attend specialized courses. Nonetheless, the new conditions for granting the paternity leave will not be able to reduce the existing level of protection already granted to this category of employees.

The Directive also establishes the individual right to 4-month paid parental leave, while 2 months of parental leave cannot be transferred between the parents, in comparison to the 1-month non-transferable period (for the parent who did not apply for parental leave) currently in force in Romania. As of this date, the Romanian legislation provides for more favorable rights in what concerns the total period of the parental leave which is 24 months, respectively 36 months for disabled children.

Even if the transposition term of the Directive is the 2nd of August 2022, it is advisable for Romanian employers to take into consideration the impact that the new legal provisions may have with respect to their activity, both with respect to how work is organized and the means in which these requirements are transposed at the organization's level, considering their specifics.

With respect to the beneficiaries of these new regulations, it is important to mention that the rights provided by the Directive could be granted by complying with certain conditions or limitations imposed both by the legislation transposing the Directive and by each employer, by means of internal regulation, collective labor bargaining agreements or policies and procedures applicable at the level of each employer.