

Romania: Legislation enacted to restrict the use of day-labour

In a recent amendment to Law no. 52/2011 on the performance of occasional activities by day-workers (“Law 52/2011”), the Romanian Government severely restricted the use of day-labour and imposed additional obligations on both day-workers and beneficiaries (i.e. those who use day-labour).

Emergency Government Ordinance no. 114/2018 (“EGO 114/2018”) amending Law 52/2011 entered into force on 29 December 2018. With respect to day-labour, EGO 114/2018 introduces the following restrictions:

- Individuals cannot perform day-labour in excess of 120 days in any one calendar year, irrespective of the number of beneficiaries – there was previously no limitation in this regard. There are some exceptions to this limit e.g. livestock farming, vineyard activities etc. where the threshold has been set to 180 days in a calendar year.
- Beneficiaries cannot use the same day-worker for more than 25 successive calendar days – after this period, if the beneficiary wants to retain the services of a particular individual, an individual labour agreement should be put in place.
- The scope of industries in which day-labour was permitted has now been significantly restricted to three sectors: (a) agriculture, hunting and ancillary services; (b) forestry; and (c) fishing and aqua-cultures.

Prior to this change, the list of permitted industries included a broad range of other activities, such as restaurants & catering; hotels & leisure; waste collection/treatment; publicity; artistic and support activities; landscaping; wholesale trading in agricultural products and livestock; research and development in biotechnology, etc.

Beneficiaries will now need to evaluate the extent to which they are still permitted to use day-labour, given the new restrictions both in terms of scope of activity and the overall duration of services. The use of day-workers in Romania was previously attractive due to the relaxed tax regime for both the individual and the beneficiary i.e. remuneration obtained from day-labour was subject only to income tax, but exempt from social contributions (e.g. pensions and health insurance).

Using day labour in areas of activity other than the (now restricted) list of industries is subject to a fine of up to RON 20,000 (approx. 4,450 EUR). Additionally, exceeding the 25 calendar day threshold on the cumulative use of the same individual day-worker raises the risk of the individual acquiring employment status, with all that entails. Furthermore, individuals who violate the 120 day/year restriction face a fine of up to RON 2,000 (approx. 445 EUR).

The measures have been introduced by the Government in an attempt to curb the use of day-labour, which leaves the State budget deprived of pensions and health insurance contributions, and little social protection for the individuals.

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