

Legal Alert

12 - 16 June 2017

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Posting of employees in the framework of transnational provision of services on the territory of Romania, clarifications

Some aspects regarding the posting of employees in the framework of transnational provision of services on the territory of Romania were clarified by methodological norms (Decision no 337/2017). For example, the norms present some factual elements to be taken into account by the Labor Inspection in order to identify the existence of actual transnational postings.



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The Methodological Norms govern mainly the following aspects:

- Illustrating, by way of example, the factual elements to be taken into account by the Labor Inspection in order to prevent abuses resulting from the establishment of "letterbox" companies and to identify the existence of actual transnational postings.

The factual elements in question shall take into account:

- a) The activities carried out by undertakings established in other EU Member States which, in the framework of transnational provision of services, post employees in Romania. In this respect, *exempli gratia*, the following aspects shall be analyzed: the place where the undertaking has its registered office and carries out its main activity, respectively the place where it pays its taxes and fees, the basic activity for which the undertaking is authorized, the subject matter of the service agreement concluded with the beneficiary of the services, the number of contracts executed and/or the size of the turnover achieved in the Member State of establishment;
 - b) The work and situation of employees posted on the territory of Romania (e.g.: the date on which the posting begins and ends, the correspondence between the nature of the activity performed by the posted employee and the scope of the service agreement).
- Procedural rules on administrative cooperation between national competent authorities in the field of transnational posting.

In the field of administrative cooperation, among others, the Labor Inspection:

- a) Provides information and / or documents relating to (i) employees posted on Romanian territory, (ii) any legal person registered in Romania, (iii) temporary employment agencies authorized in Romania, (iv) the payroll of salary rights of the posted workers and related proof of payment, (v) collective attendance sheets and (vi) individual employment agreements;
 - b) Receives, via the Internal Market Information System ("IMI"), the decision whereby an administrative financial sanction was imposed on an undertaking established in Romania.
- Annual risk assessment procedure caused by the violation of legal provisions on the posting of employees in the framework of transnational provision of services.
 - Obligation of undertakings posting employees in Romania, to submit to the competent territorial labor inspectorate a declaration on the transnational posting of employees;
 - Contraventions and sanctions imposed by the labor inspectors in case of non-observance of the rules on transnational posting, respectively fine ranging between 5,000 and 9,000 RON.

Entry into force

The Government Decision no. 337/2017 on the approval of the Methodological Norms regarding the posting of employees in the framework of transnational provision of services on the territory of Romania, is applicable starting with the date of its publication in the Official Gazette, respectively 31.05.2017.

For further questions, please contact us.



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