

Legal Alert

14 - 18 august 2017

In this issue:

Labor Code: Changes Impacting Employers

Amendments to the Labor Code by Emergency Ordinance no. 53/2017, published on August 7, 2017, have as their primary purpose the fight against undeclared work and mainly target:

- Define the concept of undeclared work
- The sanctioning regime
- Introducing new obligations for employers



Labor Code: Changes Impacting Employers

GEO 53/2017 brings a series of important amendments, as follows:

1. Defining the concept of undeclared work

According to the recent amendments, undeclared work represents:

- hiring a person without concluding an individual employment agreement, in written form, on the previous day of the starting date of activity;
- hiring a person without registering the individual employment relationship in the General Registry of Employees, one day before the starting date, at the latest;
- receiving an employee to work during the period when the employee's individual employment agreement is suspended;
- receiving a part time employee to work outside the working schedule established by the part time employment agreement.

Moreover, hiring more than 5 persons without an individual employment agreement is no longer incriminated as a criminal offence.

2. The sanctioning regime

The employer may be sanctioned for undeclared work with:

- fine of RON 20,000 for each person that is in any of the situations provided at point (a), (b) and (c) above;
- fine of RON 10,000 in the situation provided at point (d) above.

The employer has the possibility of paying only half of the amount of the fine, provided the payment is made within 48 hours from the date of conclusion of the minutes or, as the case may be, from the date of its communication.

Also, according to the new legal provisions, in case of:

- hiring a person without concluding an individual employment agreement;
- hiring a person without registering the individual employment agreement into the General Registry of Employees, one day before the starting date, at the latest;
- allowing a person to work when their individual employment agreement is suspended,

the labor inspector shall dispose, as a complementary sanction, stopping the employer's activity at the working place where the irregularities are discovered. The activity may be resumed only after paying the fine and proving the remedy of the breach that led to the stopping of the activity. However, this sanction cannot be applied yet, as it requires a specific procedure which will be prepared in the future.

3. The conclusion of the individual employment agreement in written form is no longer a condition of validity of the employment agreement

4. Unpaid professional training leave will constitute length of service

5. Introducing new obligations for the employers

GEO 53/2017 introduces as well new obligations incumbent to the employers, namely:

- keeping a copy of the individual employment agreement at the workplace where employees perform their activity (the sanction for non-compliance is a RON 10,000 fine);
- the individual employment agreement must be concluded prior to the starting date of employment;
- any addendum to the individual employment agreement must be concluded before the occurrence of the amendment (except where such amendments are expressly provided by law or in the collective bargaining agreement);

- keeping records of the hours worked by each employee, on a daily basis, showing the starting and ending hours of the working schedule (the sanction is fine ranging between RON 1,500 – RON 3,000).

Entry into force

The Government Emergency Ordinance no. 53/2017 amending and supplementing of Law no. 53/2003 – the Labor Code is applicable starting with the date of its publication in the Official Gazette, respectively 07.08.2017.

For further questions, please contact us.



Florentina Munteanu
Partner Reff & Associates
+40 730 077 934
fmunteanu@reff-associates.ro



Gabriela Ilie
Senior Associate
+40 744 474 622
ailie@reff-associates.ro

Reff | Associates

Reff & Associates SCA is a law firm member of Bucharest Bar, independent in accordance with the Bar rules and represents Deloitte Legal in Romania. Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. Visit the global Deloitte Legal website <http://www.deloitte.com/deloittelegal> to see which services Deloitte Legal offers in a particular country.

This alert is offered as guidance and must not be considered a consultancy service. Before taking any action based on this document, you should ask for professional fiscal/legal advisory.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional advisor. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

© 2017. For information, contact Reff & Associates