

Legal Alert

27 - 31 March 2017

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Employers who post employees for business purposes in the European Union, EEA or the Swiss Confederation in the transnational provision of services will have to fulfill additional obligations once Law 16/2017 enters into force.

Posting of workers in the transnational provision of services is currently governed by Law no. 344/2006. Since May 20, 2017, this law will be repealed and replaced by Law no. 16/2017, which aims, mainly, to transpose EU directives into Romanian legislation. Law no. 16/2017 was issued last week.

The main new provisions of this law are the following:

- Mentions the criteria to be considered by labor inspectorates in order to identify actual postings (however, the criteria in question will be determined by the norms for the application of the law);
- The possibility to reconsider self-employment as posting of employees according to the above criteria;
- Measures to strengthen administrative cooperation between Member States - Labor Inspectorate was designated as contact institution from Romania (among its responsibilities: to respond to motivated requests from competent authorities of other Member States, to initiate and conduct control actions on transnational posting situations);
- Ensuring accessibility of information on the website of the Labor Inspection (in both Romanian and English) on: the terms and conditions of employment, procedure of posting, administrative measures and control procedures, contact information for each labor inspectorate, data on the CCM applicable to the whole sector; complaints procedure;
- Adopting measures for a more effective control of compliance with statutory provisions (by providing documents to labor inspectorates such as the employment contract of posted employee);
- Provisions regarding the responsibility in subcontracting;
- The adoption of rules for cross-border recovery of amounts from administrative financial sanctions and / or fines.

Within 60 days from the publication date of Law 16/2017, norms for the application of the law are to be elaborated and published.

For further questions regarding the aspects mentioned in this alert, please contact us.

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