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**GD No. 1214/05.10.2022 for amending and supplementing GD No. 1074/2021 on establishing the deposit-return system for non-reusable primary packaging (DRS)**

On October 07, 2022, it was published in the Official Gazette No. 979 GD No. 1214/05.10.2022 for amending and supplementing GD No. 1074/2021 on establishing the deposit-return system for non-reusable primary packaging (DRS).

**Amendments brought to the Labour Code by Law no. 283/2022 for the amendment and completion of Law no. 53/2003 - Labour Code, as well as Government Emergency Ordinance no. 57/2019 regarding the Administrative Code**

On October 19, 2022, it was published in the Official Gazette no. 1013 the Law no. 283/2022 for amending and supplementing Law no. 53/2003 - Labour Code, as well as the Government Emergency Ordinance no. 57/2019 regarding the Administrative Code. The amendments target the transposition of two directives, namely the Directive 2019/1152 on Transparent and Predictable Working Conditions in the European Union and the Directive 2019/1158 on work-life balance for parents and carers.

## GD No. 1214/05.10.2022 for amending and supplementing GD No. 1074/2021 on establishing the deposit-return system for non-reusable primary packaging (DRS)

GD No. 1214/05.10.2022 brings several amendments and additions to the regulation of the deposit-return system for non-reusable primary packaging (DRS), the main change of immediate interest being the postponement of the date from which it becomes mandatory, from 01.10.2022 until 30.11.2023.

Also, the normative act brings several other amendments and additions to the rules applicable to the DRS administrator, producers and retailers, including:

- clarification of the fact that the producers' extended responsibility obligations for the collection and recycling of waste from DRS packaging are fulfilled exclusively within the DRS;
- extension the deadline within which existing producers who place products packaged in DRS packaging on the national market and traders of products packaged in DRS packaging are required to register in the DRS; the new deadline is at least 150 days before the date from which the DRS becomes mandatory;
- a minimum collection target for the DRS system is no longer set for the first incomplete calendar year of DRS operation, i.e., for the period 30.11.2023 – 31.12.2023; however, we expect this to be a lack of correlation that will be remedied by a subsequent modification of GD No. 1074/2021;
- the deadline for the DRS administrator to establish and publish on its website the registration procedure in the DRS is amended;
- in addition to the possibility of the consumer to claim the refund of the value of the guarantee in cash, in case of manual take-over of DRS packaging there was introduced also the possibility of refunding the value of the deposit by voucher;
- both in the case of manual take-over and take-over by automatic equipment for taking-over DRS packaging, the return of the deposit by bank transfer is possible, at the request of the consumer / end user, only with the retailer's consent and subject to the bank charges being borne by the requesting consumer/ end user;
- the vouchers offered in exchange for the DRS packaging returned to the return points organized by the administrative-territorial units/inter-community development associations (UAT/ADI) may be exchanged for cash or used at any of the sales structures within the UAT/ADI's radius;
- the vouchers offered in exchange for DRS packaging returned at the return points organized based on partnerships between UAT/ADI and retailers with sales structures with an area of less than 200 sqm can be exchanged for cash or used at any of the sales structures of the associated retailers;
- the regulation of a grace period up to 31.12.2024 during which the placing on the market and marketing of products in the stock of producers or retailers on 30.11.2023 is permitted, even if the packaging is not marked with the specific DRS marking;
- the possibility of goods imported or subject to intracommunity acquisition starting with 30.11.2023 onwards not to be marked with the specific DRS marking at the time of import/intra-community acquisition, provided that they are marked before the first supply for distribution, consumption or use;
- introducing the possibility of the DRS administrator to request at any time to the Ministry of Environment, Waters and Forests to modify the value of the deposit, without any minimum period during which the current value must be applied; the modification of the value of the deposit must be approved by Government decision;
- for the return points organized by association with other retailers or through partnership agreement with UAT/ADI, a differentiation of the maximum distance between the return points and the sales structures through which DRS packaging is not collected was introduced, i.e., 500 m in rural localities and 150 m for urban localities;

- the elimination of the condition whereby the barcode affixed to the packaging of the DRS or to the label of the product must allow the identification of the date of manufacture and the batch number;
- at the reasoned request of the DRS administrator addressed to the Ministry of Environment, Waters and Forests no later than 60 days before 30.11.2023, the deadline for the entry into operation of the DRS may be extended by Government decision, in which case the collection targets set for 2024 will only be calculated for the period between the date of entry into operation of the DRS and 31.12.2024;
- regarding the applicable sanctions, compared to the initial form of GD 1074/2021, several additions were introduced, including the introduction of a fine between RON 20,000 and RON 40,000 for violation of the retailers' prohibition to market products packed in DRS packaging which are not marked with the specific DRS marking, the National Authority for Consumer Protection being responsible for establishing and sanctioning the offence;
- there was introduced the definition of the product packed in DRS packaging, meaning that it represents a single unit of product bottled in a single DRS packaging.

GD 1074/2021, as amended by GD 1214/2022, has a major impact over the physical processes and flows, over the processes and flows existing in the information technology management systems of retailers and producers as well as in the financial and accounting processes. It is therefore necessary for each entity covered by this regulation to perform an analysis of the flows related to the non-reusable primary packaging deposit-return system covered by the DRS and the corresponding accounting monograph, to identify correctly and completely the applicable obligations and implement the necessary changes to ensure compliance.

#### I. **Amendments brought to the Labor Code by Law no. 283/2022 for amending and supplementing Law no. 53/2003 - Labor Code, as well as Government Emergency Ordinance no. 57/2019 regarding the Administrative Code**

Law no. 283/2022 for amending and supplementing Law no. 53/2003 - Labor Code, as well as Government Emergency Ordinance no. 57/2019 regarding the Administrative Code ("**Law no. 283/2022**") aims at amending the Labor Code to transpose the provisions of two directives, namely the *Directive 2019/1152 on Transparent and Predictable Working Conditions* and the *Directive 2019/1158 on work-life balance for parents and carers*. The amendments are relevant for both the private and public sector.

Some of the amendments to Law no. 53/2003 – Labour Code:

##### ✓ **Additional rules regarding the adverse treatment**

Apart from the already regulated cases, it will be prohibited to exert any adverse treatment:

- in cases where the employee files a complaint with competent public authorities for breach of any legal rights (not only regarding the equal treatment and non-discrimination principles, as in the past) – representing victimisation, according to the Labor Code;
- in relation to employees, trade unions, employee representatives who initiate complaints or any type of procedure with the purpose of ensuring the protection of rights regulated under the Labor Code.

The law enshrines the right of the employee who considers to have been the victim of an adverse treatment to file a court complaint, request damages and request the annulment of the adverse treatment and the reinstatement of the previous state of facts.

##### ✓ **New information obligation**

Employers will have to provide to their new or existing employees information relating to:

- The possibility for the employee to work in different places, as well as if the trip is organized or reimbursed by the employer;
- The base salary and other constitutive elements of the remuneration, evidenced separately and the payment method and schedule;

- The performance and compensation of overtime, as well as, if the case, the implementation of a shift schedule;
- The conditions regarding the probation period, if it exists;
- Professional training offered by the employer;
- The conditions under which the employer covers private medical insurance, occupation pension contributions/private pensions, as well as the conditions for granting, at the employer's initiative, any other rights, representing benefits in cash aimed in consideration of the employee's professional activity;
- The country/countries where work is to be performed – in case of employees who are required to travel abroad.

✓ **Rules regarding the probation period**

It is prohibited to establish a new trial period if, within 12 months, a new individual employment agreement is concluded between the same parties for the same position and with the same duties.

✓ **Additional provisions regarding the right of employees to aggregate multiple employment agreements**

Employees that work based on multiple individual employment agreements (with the same employer or with different employers) will have to ensure that there is no overlap between working schedules.

It will also be prohibited to apply any adverse treatment to employees who aggregate employment agreements.

✓ **A new right for the employees - the right to ask to be moved to a vacant position with more favorable working conditions**

Employees will have the right to ask to be moved to a vacant position with more favorable working conditions, after the elapse of the trial period if he/she has a seniority of more than 6 months with the same employer.

✓ **New prohibitions regarding dismissals**

New dismissal prohibitions are added, such as:

- The dismissal for reasons related to the enforcement of the information obligation, enforcement of employees' rights during the trial period, trial period for fixed term agreements and professional training; or
- The dismissal during the paternal leave, carer leave or absence due to force majeure.

✓ **Definitions for work schedule, work organization model, flexible way of organizing the work schedule**

The law defines concepts such as work schedule, work organization model, flexible way of organizing the work schedule.

Additionally, the employer is entitled to establish individualized working schedules at the request or with the employees' consent.

✓ **New types of leaves – carer leave and absence due to force majeure**

**Carer leave** must now granted at the request of the employees in order for them to offer care or personal support to a relative (meaning parent, child or spouse) or another person living with the employee and who needs support/care as a result of a serious illness. The carer leave will be of maximum 5 working days/year.

The employees will also be from now on entitled to be absent for work due to unpredictable situations, triggered by family emergencies caused by illness or accident, which impose the employees' immediate presence, under the condition of informing the employer prior to the absence and by fully recovering the absence period.

The absences will not exceed 10 working days in a calendar year and will be compensated according to the employer and employee's agreement.

✓ **New contents of the internal regulation**

New sections will have to be included in the internal regulation, such as:

- Rules regarding the notice period;
- Information on the general employee training policy, if it exists.

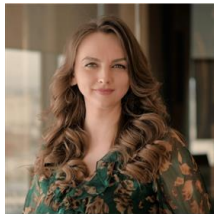
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