

Flood of new regulations in Romanian labor law

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At the end of the past year, a considerable number of relevant and fundamental innovations occurred in Romanian labor law. Although a separate article should be devoted to each one, the innovations of the past two months are presented below only in a synopsis.

New minimum salary as of 01.01.2023

As previously announced in the press and hotly debated, as of 01.01.2023 the statutory minimum base salary for a full-time position was increased by RON 450 to RON 3,000 gross by Government Resolution 1447/2022. There is a tax allowance of RON 200 if the base salary is equal to the minimum salary and the total salary does not exceed RON 4,000.

For the construction sector, the new minimum salary is RON 4,000 gross.

Labour Code significantly modified

As previously reported, the Labour Code was extensively amended on 22.10.2022. New mandatory contents for internal regulations and especially for employment agreement were published (these were not reflected in the old statutory employment agreement template, which caused some uncertainty regarding the contents of new employment contracts for a transitional period of almost two months), new information obligations were regulated, new forms of leave (e.g. for carers or in case of force majeure), flexible working time regulations and others were introduced.

New Employment Agreement Template

By virtue of Order No. 2171/ 2022, the new legal template for employment contracts was also published on 09.12.2022. All employment contracts concluded since then must comply with this template.

This changes the previously familiar contract structure, while taking into account the new mandatory elements regulated in October 2022 - and even goes beyond them, as it also includes some aspects which, according to the amended Labour Code, are actually only subject to an information obligation without having to be part of the contract. Therefore, we assume that the legislator intended the template with regard to these aspects only as a guidance, but not as mandatory content.

In any case, all employers' contract templates must be amended if this has not already been done.

Whistleblowing

The law on the protection of whistleblowers, which was long overdue due to expired implementation deadlines in accordance with the EU Directive, was also published on 22.12.2022, following a very tough legislative process.

This has been and continues to be criticized, in theory and in practice, particularly because a whistleblower must in principle still indicate his or her identity. This is - understandably - seen as detrimental to the purpose of the law, which is to protect persons who disclose information of public interest and often want to do so anonymously.

New collective labour law

In addition to the changes outlined above, a new Law on Social Dialogue entered into force on 25 December and completely replaced the previous framework for collective labour law (the old Law 62/2011).

The new Law 367/2022 is the result of more than 5 years of difficult negotiations between trade unions and employer associations and is considered a reaction to the 2011 law, which was perceived by the unions as curtailing their rights. Its purpose is, among other things, to increase collective bargaining coverage. Accordingly, it entails a high number of changes that are likely to be perceived as unpleasant from the perspective of many employers. These include

- strengthening the rights of trade unions and federations, but also of employee representatives;
- a lower representativeness threshold of unions (35% of the workforce is sufficient at company level);
- an obligation to conduct collective bargaining already from a workforce of 10 employees in a company;
- an obligation to conduct collective bargaining at the level of economic sectors, and under certain circumstances even an obligation for companies to adhere to such agreements;
- the reintroduction of a national collective agreement (which, like sectoral collective agreements, can possibly be declared generally binding);
- expansion of the reasons that entitle to industrial action - possibly even during the existence of a collective bargaining agreement.

We will report on this separately.

Conclusion

The end of the year brought not only a fresh breeze, but a veritable storm to the Romanian labour law. From the employer's point of view, there are many changes which can cause additional work on the one hand and costs on the other.

In particular, the practical effects of the new collective labour law have to be followed closely – Romanian employers might possibly soon (again) have to observe collective bargaining agreements in the negotiation and conclusion of which they were not involved.

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