

AMENDMENTS TO LABOR LEGISLATION WITH AN IMPACT ON THE BUSINESS ENVIRONMENT

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Abstract: *The field of occupational safety and health is regulated by the Occupational Safety and Health Law no. 319/2006 and the Methodological Norms for the application of the provisions of this law, approved by the Government Decision no. 1425/2006, with subsequent amendments and completions. Improving the legal framework in the field of occupational safety and health is an important objective of the competent authorities with responsibilities in this field. Interinstitutional consultations have identified the need for changes in the legal framework in the field of occupational safety and health, both as a result of changes in the labor market and in the situations identified in the implementation process.*

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The field of occupational safety and health is regulated by the Occupational Safety and Health Law no. 319/2006 and the Methodological Norms for the application of the provisions of this law, approved by the Government Decision no. 1425/2006, with subsequent amendments and completions.

Improving the legal framework in the field of occupational safety and health is an important objective of the competent authorities with responsibilities in this field. Interinstitutional consultations have identified the need for changes in the legal framework in the field of occupational safety and health, both as a result of changes in the labor market and in the situations identified in the implementation process. By Law no. 208/2021 for the approval of the Government Emergency Ordinance no. 36/2021 on the use of advanced electronic signature or qualified electronic signature, accompanied by electronic time stamp or qualified electronic time stamp and qualified electronic seal of the employer in the field of labor relations, and for amending and supplementing some normative acts amendments were made to the Security Law and occupational health no. 319/2006.

Taking into account the provisions of Law no. 208/2021, changes are also needed regarding the training of workers in the field of occupational safety and health in the Government Decision no. 1425/2006, in the sense of completing it to cover the situation of using the electronic signature in the training of workers.

Regarding the communication / research and recording of events occurring outside the borders of Romania involving workers of Romanian employers, performing state tasks, public interest or duties, these are regulated in Section IV of Chapter VII of the Government Decision no. 1425/2006, with subsequent amendments and completions.

Regarding the communication, this is the procedure by which the employer communicates the occurrence of an event, immediately, but not later than 24 hours from the occurrence of the event, to the authorities provided in art. 27 para. (1) of the law.

Until now, events occurring in another EU / EEA Member State and Switzerland or in a state with which Romania applies a bilateral legal instrument in the field of social security, involving Romanian workers posted by a Romanian employer, have been investigated according to the law of that Member State. In current practice in EU countries, these events are usually investigated by insurers specializing in areas of activity, often decentralized institutions such as police, gendarmerie or prosecutor's office. For this reason, the documents required for the preparation of a research file, by the commission appointed by the employer or by the territorial labor inspectorates according to art. 144 of

the Government Decision no. 1425/2006, with subsequent amendments and completions, are difficult to obtain. to the Romanian employers, by the representatives of Romania in the state where the event took place or are made available only after the completion of the investigations by the institutions authorized to investigate the criminal cases.

The Labor Inspectorate has no jurisdiction outside Romania for investigating events, in which case the circumstances and causes of events are based on “copies of the original investigation documents issued by the competent bodies in the country in whose territory the event occurred, copies of medical documents to the health units that provided specialized care to the victim ”, being inevitable the blocking of these research files that cannot be completed under the conditions provided by the current law.

Regarding occupational diseases, according to the provisions of art.155 paragraph (1) of the Government Decision no.1425 / 2006, with subsequent amendments and completions, in case the employer or his representative or, as the case may be, the natural person authorized in the case of liberal professions or the labor inspector or the worker or insurer does not agree with the conclusions established in the research report or with the technical or organizational measure formulated, drawn up by the occupational medicine specialist within the county public health directorates, may be addressed, in written, within 30 days from the date of receipt of the report of the investigation of the case of occupational disease, the Commission of Occupational Medicine Experts. The composition and attributions of the Committee of Experts are established by the joint order of the Minister of Public Health and the Minister of Labor, Family and Equal Opportunities no. 1256/443/2008, as subsequently amended.

The decisions of the Commission of Experts have the quality of a legal act of an administrative nature and produce full effects in the legal relations, because they result in the confirmation or refutation of occupational diseases and the payment of medical benefits and services from the budget of the Single National Health Insurance Fund. insurance for accidents at work and occupational diseases. Decisions taken by members of the commission can be challenged in the competent court by the dissatisfied party (employer, worker etc.).

Currently, the members of the Commission of Occupational Medicine Experts do not have the right to be represented in court, and this Commission does not have the specialized legal capacity or its own budget to pay legal fees and expenses as a result of final court decisions resulting from appeals. of the Commission.

Also, at present, a simplified procedure for declaring cases of occupational disease is not regulated, in exceptional epidemiological situations (pandemics or epidemics), with the exception of the procedure for reporting-researching-declaring cases of occupational disease, provided in art.149 -art.158. Consequently, it appears necessary to amend the Methodological Norms for the application of the provisions of the Law on safety and health at work no. 319/2006, approved by Government Decision no. 1425/2006.

The main changes that have emerged as a result of the changes taking place on the labor market, the situations identified in the implementation process, as well as the enactment of Law no. 208/2021 for the approval of the Government Emergency Ordinance no. 36/2021 on the use of the advanced electronic signature or the qualified electronic signature, accompanied by the electronic time stamp or qualified electronic time stamp and the qualified electronic seal of the employer in the field of labor relations, and for amending and supplementing regulations and the interinstitutional consultation process; concerning the Government Decision no. 1425/2006 for the approval of the Methodological Norms for the application of the provisions of the Law on safety and health at work no. 319/2006, are:

Chapter V - Training of workers in the field of occupational safety and health - regulated the possibility of using the electronic signature to complete the requirements in force to cover the situation of using the electronic signature in the training of workers in the field of occupational safety and health. These are detailed as follows:

- electronic signature - the electronic signature as defined in art. 3 point 10 of Regulation (EU) no. Regulation (EC) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93 / EC;

- advanced electronic signature - the advanced electronic signature as defined in art. 3 point 11 of Regulation (EU) no. Regulation (EC) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93 / EC;

- qualified electronic signature - the qualified electronic signature as defined in art. 3 point 12 of Regulation (EU) no. Regulation (EC) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93 / EC.

Chapter VII - Reporting and investigating events, recording and recording work accidents and dangerous incidents, reporting, researching, reporting and reporting occupational diseases. Regarding the communication, research and recording of events produced outside the borders of Romania, in which are involved workers of some Romanian employers, who are performing state tasks, public interest or duties, it is provided to modify the investigation procedure of events outside the borders of the country in which Romanian citizens are involved in the sense of simplifying it in order to allow the unblocking of some situations that appeared in the implementation process.

We are also witnessing the introduction of three new annexes necessary in the procedure for investigating events outside the borders of the country in which Romanian citizens are involved, the establishment of a maximum term for the investigation of the above mentioned events, the application of the new when completing the investigation files of the events produced outside the territory of the country and for the research files already in progress, but not finalized, these being registered at the employer, respectively at the territorial labor inspectorates.

In Chapter VII - Occupational Disease Research, the following changes appear:

- modification of the number of days for the research of the occupational disease carried out by the occupational medicine specialist within the county or Bucharest public health directorate (from 7 to 30 days) considering the difficulty of procuring the documents necessary for the research;

- elaboration of the research report in 7 copies, being introduced as a novelty the handing over of a copy of it and to the National Center for risk monitoring in the community environment - National Institute of Public Health (INSP);

- the transfer of the activity of the Commission of experts from the legal area to the exclusively scientific area, of actual expertise, by repealing art. 155 and 156 of the Methodological Norms for the application of the provisions of the Law on safety and health at work no. 319/2006, with subsequent amendments and completions, and taking over the attributions of the Committee of Experts by the Appeals Commissions, set up at the level of Public Health Directorates.

Regarding the Declaration of Occupational Diseases, the following changes are made:

- drawing up the BP2 occupational disease declaration form in 6 copies, for informing the interested parties, respectively: the county or Bucharest public health department, the worker diagnosed with occupational disease, the occupational medicine doctor from the clinic / occupational medicine department or the occupational medicine office in the hospital structure that reported the disease, the territorial labor inspectorate, the National Institute of Public Health

- the National Center for Risk Monitoring in the Community - Occupational Health and Toxicological Information Department, and the territorial insurer;

- regulation of a simplified procedure for reporting-researching-declaring cases of occupational disease, provided in art. 149-158 of the Methodological Norms for applying the provisions of the Law on safety and health at work no. 319/2006, in exceptional epidemiological situations (pandemics or epidemics), respectively: the research is carried out by the occupational medicine doctor from the county or Bucharest public health department based on the documents received in electronic format or by mail, without the need for his presence at the the case of occupational disease has been reported.

Occupational disease reporting makes the following changes:

- the introduction of the 30-day deadline for reporting newly declared occupational diseases by the Public Health Directorate at the National Center for Risk Monitoring in the Community, INSP, for registration in the National Computerized Operational Register of Occupational Diseases.

- the updating of five Annexes (Annex No 13, No 19-22) taking into account the above-mentioned changes as well as new scientific data in relation to occupational diseases.

The implementing rules aim, based on the consensus of all parties involved in its elaboration, the common and unitary framework of actions in the field of occupational safety and health and aim, through the requested changes, to improve medical practice in occupational medicine.

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