

New regulations on foreign nationals' right of work and residence in Romania

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In brief

Government Ordinance no. 25 amends and supplements certain normative acts regarding the conditions for entry and residence of third-country nationals ("Government Ordinance no. 25/2016"). It was published in the Official Gazette on 31 August 2016.

Government Ordinance no. 25/2016 transposes into national law the provisions of the European Parliament and European Council Directive 2014/66/EU, regarding the assignment of such foreign nationals within the same company, and of the European Parliament and European Council Directive 2014/36/EU, regarding the employment of such foreign nationals as seasonal workers.

In detail

Government Ordinance no. 25/2016 amends and supplements "Government Ordinance no. 25/2014 on the employment and assignment of foreign nationals on Romanian territory and for the amendment and supplementing of certain normative acts regarding the status of foreign nationals in Romania" as well as "Government Emergency Ordinance no. 194/2002 on the status of foreign nationals in Romania, republished, with subsequent amendments and supplements", regarding:

1. Right of work and residence in Romania of third-country nationals in the context of an assignment within the same company or the same group of companies

Government Ordinance no. 25/2016 introduces the term "ICT worker", defined as a foreign national (national of a State outside the European Union, European Economic Area or Swiss Confederation), transferred for a period up to three years as a manager / specialist, or for a period of up to one year as trainee, by an employer established in a third State, to one or more entities belonging to that company or to the same group of companies, of which at least one is located on the Romanian territory.

The normative act regulates the right of work and residence

of ICT employees under two circumstances:

- When the transfer is from an employer company established in a third state to a company in Romania which either belongs to the first company or to the same group of companies;
- When the foreign national is an ICT worker in a European Union Member State and is assigned to Romania, either for a period of up to 90 days (inclusive) in any period of 180 days, called "short-term mobility", or for a period of longer than 90 days, called "long-term mobility".

According to the new normative act:

- An ICT worker or an ICT worker within a mobility programme may obtain the

right to work and implicitly be granted the necessary assignment approval upon the fulfilment of certain general and special conditions, as expressly provided by law;

- The right of work and residence of the ICT workers is granted through a long-term residence visa for assignment. Subsequent extension of the residence right on Romanian territory is granted by obtaining an “ICT permit”, valid for a period up to three years for managers and specialists, and for a period up to one year for trainees;
- In exceptional circumstances, holders of ICT permits issued by European Union Member States may perform work activities on Romanian territory within a mobility programme as of the date of the assignment approval request and then based on it having been granted, without the obligation to obtain a long-term residence visa for assignment. The right of residence on the Romanian territory of an ICT worker within a long-term mobility programme is attested by the long-term mobility permit, called the “mobile ICT permit”.
- For ICT workers within a long-term mobility programme, the foreign national’s previous residence periods as an ICT worker on the territory of European Union Member States will also be considered.

All other obligations imposed on the beneficiaries of the services in relation with the access of foreign nationals on the Romanian labour market are maintained.

2. The right of work and residence of “seasonal workers”

- Seasonal workers may be employed on the Romanian territory, subject to obtaining work permit / approval, for a fixed period of time, in order to perform seasonal activities. A list of such activities is to be set by Government decision, within 60 day as of the entry into force of Government Ordinance no. 25/2016;
- If the employer provides accommodation for a foreign national, this has to be mentioned in the employment approval for seasonal workers. Failure to observe the assumed accommodation obligations constitutes a contravention and will be sanctioned with a fine of between RON 2,000 and RON 5,000;
- Long-term residence visas for seasonal workers are granted for a period equal to the term of the employment agreement, plus five days, but for no more than 90 days in total;
- When long-term residence visas for work are granted, the recipient seasonal workers will receive written notification of their rights and obligations, including challenge / complaints procedures.

3. Other amendments

- A foreign national holding a temporary residence permit for work may be granted a new work permit for employment with another employer, based on a part-time employment agreement and under certain conditions;
- If the immigration authorities notify the employer that the foreign

national has to leave Romania, the employment agreement is suspended as of the notification date;

- Additional obligations are to be introduced regarding service beneficiaries, such as the requirement to inform the authorities of any modification of the elements that formed the basis on which the assignment permit was issued. The failure to observe such obligations constitutes a contravention sanctioned with a fine amounting to between RON 1,000 and RON 2,000;
- Holders of residence permits as ICT workers or ICT workers within mobility programmes may request to be joined by their families, even if the validity of the residence permit is less than one year.

[Source: Official Gazette no. 670, published on 31 August 2016]

The takeaway

The legal framework is to be put in place for obtaining the right of work and residence by foreign nationals transferred / assigned for a period up to three years, either within the same company or within the same group of companies, under certain conditions provided by law.

Failure to meet the obligations imposed by the legislation concerning the access of the foreign nationals on the Romanian labour market may have, among others, fiscal consequences.

The provisions of Art. I, points 20-25 of Government Ordinance no. 25/2016, on sanctions, enter into force within 30 days as of their publication in the Official Gazette, so they apply as of 30 September 2016.

The other provisions of Government Ordinance no.

25/2016 entered into force within three days as of their publication in the Official

Gazette, so they apply as of 3 September 2016.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:



Mihaela Mitroi, *Partner,
Tax and Legal Leader*
mihaela.mitroi@ro.pwc.com



Ionut Simion, *Country
Managing Partner*
ionut.simion@ro.pwc.com



Daniel Anghel, *Partner,
Indirect Tax Leader*
daniel.anghel@ro.pwc.com



Diana Coroaba, *Indirect
and Financial Services
Partner*
diana.coroaba@ro.pwc.com



Ionut Sas, *Partner*
ionut.sas@ro.pwc.com

PwC Romania

*Lakeview Building
301-311 Barbu Văcărescu Street
Sector 2, Bucharest
Tel.: + 40 21 225 3000
Fax: + 40 21 225 3600*

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