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# Legal Bulletin



## Labour Law

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## Amendments and Supplementations to Law No. 53/2003 – Labour Code

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Law No. 12/2015 amending and supplementing Law No. 52/2003 – Labour Code (“Law No. 12/2015”) was published in the Official Gazette of Romania, Part I, No. 52 dated 22 January 2015. The main amendments brought to the Labour Code by Law No. 12/2015 refer to the wage of temporary employees, as well as to how the annual leave is determined and taken.

### 1. Amendments regarding the wage of temporary employees

Law No. 12/2015 clearly establishes that the temporary employee shall receive - for each assignment - a wage at least equal to that of employer’s staff carrying out the same job or a job similar to the temporary employee’s.

Although, even prior to Law No. 12/2015, it could have been concluded, from the interpretation of the relevant legal provisions, that the temporary employee should benefit from a non-discriminatory treatment in relation to employer’s staff, this amendment expressly settles the issue of the wage owed to temporary employees, establishing that such wage cannot be smaller than that of the employer’s similar staff.

### 2. Amendments regarding the annual leave

In determining the duration of the annual leave, the periods of the temporary disability, the maternity leave, the maternal risk leave and the childcare leave shall also be taken into consideration. Therefore, these periods shall be deemed as periods of actual work, and the duration of the annual leave shall not be affected.

Additionally, the employees shall also be entitled to annual leave if the temporary disability lasts for a whole calendar year. In this case, the employees shall be entitled to take their annual leave within 18 months as of the year after the medical leave.

Another amendment regarding the annual leave is when the employees cannot take, fully or partially, their annual leave for objective reasons. The legislator requires the employer to grant the untaken annual leave to the employees who find themselves in this situation within a period of 18 months as of the year after the right to annual leave was born. Practically, through the new amendment, the term in which the employees may take their annual leave has been extended by 6 months.

Prior to this amendment, the Labour Code provided that the employer was under the obligation to grant the annual leave by the end of the subsequent year to all employees who did not fully take their annual leave to which they were entitled within one (1) calendar year.

### 3. Other amendments

Law No. 12/2015 provides that unjustified absences and unpaid leaves shall not be taken into consideration when calculating the years of service, except for the unpaid training leaves. Also, the individual employment agreement is terminated *de jure, inter alia*, when the pension decision is communicated for the 3<sup>rd</sup> degree disability pension and when the medical decision on capacity to work is communicated for the 1<sup>st</sup> or 2<sup>nd</sup> degree disability.

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## Editors

**Employment** is one of the practice areas in which our lawyers have acquired extensive experience, ranging from management schemes tailored for both entities undergoing privatisation or private entities set up by international corporations in Romania, to preparing and negotiating collective and individual labour agreements and related specific clauses (employee benefits, restrictive covenants, stock option plans and trade option plans). Our attorneys also deal with employment related matters in relation to mergers & acquisitions and privatisations, involving redundancy programs, negotiations with trade unions, pension issues raised in transactions, investment management agreements etc. Our specialists are frequent lecturers on employment law issues and regular contributors to local and foreign publications, whilst being actively involved in the activities of reputed domestic and international associations and organisations such as the European Employment Lawyers' Association (EELA), Multilaw, AmCham etc.



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