REMUNERATION OF THE HOUSEHOLD EMPLOYEE THROUGH WORK VOUCHERS

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Abstract: *The regulation of the work of the domestic staff is a socio-economic imperative. Housework includes activities related to cleaning, cooking, washing, caring for children and the elderly, gardening, guarding, caring for pets, etc. contains specific security features, series and unique number, which will allow individualization and tracking. It remains to be seen how specific the regulation of this special employment relationship will be, as there is a possibility that individuals may not want to become employers if this means taking on a huge package of obligations and formalities. From 2024, individuals who will carry out occasional activities in a household, as a home provider, will be able to be rewarded with vouchers that will have to be exchanged for money, but for which they will owe the contribution to pensions and income tax.*

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Romanian labor legislation does not contain special provisions regarding the domestic worker¹, although the doctrine has analyzed a number of particularities² compared to the ordinary individual employment contract, instead, the national legislation of some European Union member states (Belgium, Switzerland, France) includes regulations regarding domestic activities that can be performed under an individual employment contract.

Regulatory systems are different: in Austria and Spain - by a special law; in France - by a collective labor agreement³ concluded for the domestic sector and by certain norms of the Labor Code; in Italy - by collective labor agreement at the level of the domestic sector.

The International Labor Organization has adopted Convention no. 189/2011 on domestic staff⁴, which entered into force in 2013, not ratified by Romania, as defined in art. 1 the domestic worker as any person involved in work at home (in one or more households), on the basis of an employment relationship.

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¹ Dan Țop, *Tratat de dreptul muncii*, editura Wolters Kluwer, București, 2008, p. 27

² Ovidiu Ținca, *Comentarii despre contractul individual de muncă al angajatului casnic*, în *Revista română de dreptul muncii*, nr. 3/2006, p. 39-47.

³ Convenția colectivă națională din 24 noiembrie 1999, modificată printr-un acord din 10 octombrie 2002, publicat în *Journal Officiel* din 29 mai 2003

⁴ Biroul Internațional al Muncii, Programul Condiții de Muncă și Angajare, Sectorul Protecție Socială <http://www.ilo.org/ilolex/english/convdisp1.htm>

Housework includes activities related to cleaning, cooking, washing, caring for children and the elderly, gardening, guarding, caring for pets, and more.

A domestic worker can work full-time or part-time, for a single employer or in several households. He can be an internal worker, ie living in the employer's household or an external worker.

Since at the level of the Member States of the European Union, either the domestic regulation lacks provisions on the work of the domestic worker or if there are such provisions are extremely varied, I appreciated⁵ that it would be necessary, even if the European Commission urges Member States to ratify the Convention. no. 189/2011, the elaboration of a Directive in the field, which tends to harmonize the legislations of the member states regarding the domestic employee.

The doctrine states that "the regulation of the work of domestic staff is a socio-economic imperative. As a result of the normative intervention of the state authorities, a new special type of individual employment contract suitable for domestic staff would be legislated.

The contract may be for an indefinite period (usually) or for a fixed period, with full or partial working time.

Such a contract may be concluded directly between the employer and the employee or through a temporary employment agent. Rationally, taking into account the specifics of the workplace in the case of the domestic worker, his work will not be able to be performed at home ... The expected legal regulation can be carried out as shown in the doctrine or by way of the adoption of a special normative act having as object the stabilization of the work of the domestic staff"⁶.

The domestic activity carried out is defined according to the National Recovery and Resilience Plan (PNRR)⁷, as "work performed for the benefit of a household by a domestic provider - an individual, who has the capacity to work and who carries out domestic activities at home or in a household in return for remuneration granted exclusively in the form of work vouchers".

The work voucher is a voucher, with special regime, intended for the payment of the equivalent value of the domestic activities performed and will contain specific elements of security, series and unique number, which will allow its individualization and tracking.

The initial value of the work ticket would be 15 lei, and in the future, the Government will increase this value, so that the National Agency for Employment Labor will issue vouchers worth 15 lei that can be granted to people who provide

⁵ Dan Țop, *Necesitatea unei reglementari la nivel european privind personalul casnic*, Conferința Societății Române de Drept European „Probleme actuale ale spațiului politico-juridic al UE”, București, octombrie 2013, Supliment al revistei Române de Drept European, editura Wolters Kluwer, ISSN 2068-8083, p.180

⁶ Ion Traian Ștefănescu, *Reglementarea legală a muncii personalului casnic - un imperativ de actualitate certă* în Dreptul nr.12/2014, p. 183

⁷ <https://mfe.gov.ro/pnrr>

household activities (cleaning services, gardening, babysitting, personal driver, electrician, etc.).

These vouchers, which may be issued by persons receiving such services, shall be taxable and health and pension contributions shall be paid by persons not officially employed.

These vouchers can benefit any person who has reached the age of 16, because the natural person acquires, according to art. 13 para. 1 of the Romanian Labor Code and art. 42 para. 1 of the Civil Code, the full capacity to conclude an employment contract upon reaching the age of 16 years.

We consider that the provisions of art. 13 para. 2, according to which, in a very exceptional way, minors who have reached the age of 15 can also conclude an employment contract, being able to say that between 15 and 16 years old, the person has a limited capacity to be employed.

The household is defined as "all immovable property consisting of residential buildings, their outbuildings, courtyards and gardens, as well as movable property used in the performance of the household business".

The home provider will not be able to be a member of the beneficiary's family and will need to be at least 16 years old.

These vouchers, with a nominal value of 15 lei each, will be bought by the employer or any natural person who benefits from housework and sent to the person who performs the above-mentioned activities.

The service provider will be able to convert the vouchers into cash and will obtain the quality of insured if he exchanges in cash at least 50 household activity vouchers in a calendar month, ie vouchers with a total value of 750 lei.

It wants to reduce undeclared work and the introduction of occupational categories that are not currently found in the labor market and, at the same time, to increase the number of those who will pay social security contributions to have access to medical services or to obtain a pension right, about 1.2 million people.

Individuals can be employers at this time, as the law will allow them to do so.

The National Recovery and Resilience Plan (PNRR) provides the following:

- the payment of the providers will be made through vouchers printed by the National Agency for Employment (ANOFM), each ticket having the value of 15 lei. The vouchers will be bought by the employer (the individual who benefits from the housework) and sent to the employee (the individual who performs the household activities). The provider then converts these tickets into cash;

- out of the gross amount paid by the employer, the household provider receives 79.2%, and the state withholds 20.8% in the form of pension and health and tax contributions;

- the provider acquires the quality of insured in the social and health insurance system;

- the payment of the social insurance contribution confers to the domestic provider the quality of insured in the public pension system;

- ANOFM will create an electronic platform for recording the development of domestic activities where it registers household providers, household beneficiaries and ensures the record and payment of tax obligations;

- the quality of the insured in the health insurance system is obtained when the domestic provider exchanges in cash a number of at least 50 domestic activity vouchers in a calendar month. The amounts withheld for the payment of the social health insurance contribution in the months in which the provider does not acquire the quality of insured in the health insurance system, are reimbursed once a year, between January 1 and January 31 of the year following the year in which the activity was provided. at the request of the home provider.

Tax facilities for beneficiaries (employers):

- they can benefit, annually, based on a fiscal document (receipt, invoice, fiscal receipt proving the purchase of household activity vouchers), from the reduction of the level of the income tax base in the amount of 50% of the value of purchased vouchers;

- for the remuneration paid to the domestic provider in the form of domestic activity vouchers, the beneficiary does not owe the insurance contribution for work.

From 2024, individuals who will carry out occasional activities in a household, as a home provider, will be able to be rewarded with vouchers that will have to be exchanged for money, but for which they will owe the contribution to pensions and income tax.

The legal regime of the domestic provider, compared to its original form, specifies that domestic activity is, in fact, unskilled work. Specifically, the definition of domestic activity states that it is "occasional, unskilled, carried out by an individual in close contact with the household or households of a family or a single person, as a household beneficiary."

It is also established to provide incentives to those who will turn to domestic work providers. Specifically, if they buy and use, in a calendar year, at least 600 vouchers for household activities, the beneficiaries of these activities will be able to receive from the state, free of charge, another 50 additional vouchers. These may be required next year.

Another important change will allow any employer to give their employees, in the form of a bonus or bonus, in addition to the established salary, household activity vouchers.

The number of household activity vouchers and the frequency of their granting will be decided by the employer together with the trade union organization or with the employees' representatives.

Last but not least, the updated form stipulates that household providers will not be able to redirect part of the income tax on household activity vouchers to support non-governmental organizations or churches.

It also provides for the establishment of a system of payment and registration of persons who carry out occasional domestic activities based on domestic activity

vouchers, vouchers that will have to be exchanged for money and for which the contribution to pensions and income tax will be due.

The beneficiary will not have all the rights and obligations of an employer, but rather similar to the beneficiary of the daily activity, will have to ensure first of all that he pays the domestic worker properly, but also that he keeps the confidentiality of his personal data.

It should be noted that a ticket for one hour provided will have the value of 15 lei (approx. 3 euros).

Beneficiaries, individuals, will buy these tickets from employment agencies, from the post office or from a special platform that does not currently exist, but which will represent the electronic way of purchasing them. The home provider and the beneficiary will verbally agree on the work and the amounts paid.

In addition, the domestic worker will be able to exchange a ticket in cash within a maximum of 12 months of receiving it. The draft states that these vouchers cannot be passed from one person to another, and can only be used by the home provider who actually did the work - which means, most likely, that their cash exchange will be conditional on proof. an identity document showing that he is the same person as the one on the ticket.

Household providers will be required to pay income tax and pension contributions for the vouchers received. The tax (10% rate) will be applied to 50% of the value of the ticket as well as the pension contribution (25% rate). When the received tickets are exchanged for cash, the tax and the contribution will be withheld directly by the agencies (they will declare them and actually pay them).

This means that home providers will be insured in the public pension system, and health insurance will be optional (more precisely, neither the health contribution nor the work contribution will be due). Also, the household activity vouchers will not generate tax obligations for the persons who grant them to the providers.

From the point of view of the record of these activities, there will be a special platform on which data on beneficiaries and providers will be recorded, the same from which it will be possible to buy electronically and tickets by beneficiaries and where there will be evidence of payment of taxes and pension contributions. .

It remains to be seen how specific the regulation of this special employment relationship will be, as there is a possibility that individuals may not want to become employers if this means taking on a huge package of obligations and formalities.

On the other hand, these activities, which are desirable to be accessible to the unemployed and the guaranteed minimum income, will be attractive enough for people to prefer to work legally, not illegally.