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Romania: Wage guarantee in case of insolvency

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Romania

Phase:

Management

Type:

Wage guarantee in case of insolvency

Last modified: 10 December, 2021

Native name:

Legea nr. 200/2006 privind constituirea și utilizarea Fondului de garantare pentru plata creanțelor salariale; Legea nr. 227/2015 - Codul fiscal

English name:

Law no. 200/2006 regarding the establishment and use of a guarantee fund for debt salaries; Law no. 227/2015 - Fiscal Code

Article

8, 10, 13 and 14 (Law no. 200/2006); 209–215 (Law no. 227/2015)

Description

The Guarantee Fund for unpaid salaries is designed to ensure payment of outstanding claims arising from individual employment contracts and collective agreements concluded by employers who were given final judicial decision to open insolvency procedures and to which total or partial removal of the right of management was prepared (employers in the state of insolvency).

Employers are required to pay a monthly contribution to the Guarantee Fund, in the quota of 0.25% of the total monthly wages. They are also obliged to notify the fiscal administration, by day 25 of every month, about the amount of contribution to the Guarantee Fund. The fund is administrated by the National Agency for Employment (Agentia Nationala pentru Ocuparea Fortei de Munca, ANOFM), through its local agencies.

From the Guarantee Fund's resources outstanding wages or compensatory payments and indemnities for temporary interruption of activity may be paid. The fund cannot pay the outstanding social contributions of companies in insolvency.

From the Guarantee Fund, employees may claim the outstanding wages for a period of up to three calendar months in case their employer is in insolvency. Employees or organisations representing them may apply for payment from the territorial employment agency themselves, or the payment application may be filed by the legal administrator of the insolvent employer. Claims for the payment of overdue salaries are assessed by the local employment agencies, which also make the actual payments. Outstanding salaries are paid out of the Guarantee Fund regardless of whether the insolvent employer had paid the contribution to the Guarantee Fund in time. The total amount of the outstanding claims incurred by the Guarantee Fund may not exceed the amount of three monthly salaries at national level per employee.

Comments

Romanian legislation is in line with the EU [Directive 2008/94/EC](#) on the protection of employees in the event of the insolvency of their employer. It has also taken into account the [ILO Convention no. C 173 on the protection of workers' claims](#) from 1992, even though this has not yet been ratified by Romania.

Romanian law does not distinguish between different categories of workers; it applies to all employees, either on fixed-term or open-ended contracts, and regardless of their position in the company. However, employees working for public institutions will not benefit from the provisions of the law because these employers can not be subject to insolvency proceedings.

The annual laws of the state social security budget stipulate the amounts estimated to be collected from employers, respectively paid from the Guarantee Fund for debt salaries. There is a constant surplus set for each year:

- for 2014 revenues 265.9 million lei (€57.8 million), expenses 43.6 million lei (€9.5 million) ([Law No. 340/2013](#))
- for 2015 revenues 245.6 million lei (€53.4 million), expenses 21.6 million lei (€4.7 million) ([Law No. 187/2014](#))
- for 2016 revenues 301.2 million lei (€65.5 million), expenses 22 million lei (€4.8 million) ([Law No 340/2015](#))
- for 2017 revenues 370.8 million lei (€80.6 million), expenses 23.5 million lei (€5.1 million) ([Law No. 7/2017](#))
- for 2018 revenues 839.0 milion lei (€174.4 million), expenses 23.7 million lei (€5.1 million) ([Law No. 3/2018](#))
- for 2019 revenues 905.2 milion lei (€191.0 million), expenses 18.2 million lei (€3.8 million) ([Law No. 47/2019](#))
- for 2020 revenues 1.25 bilion lei (€263.2 million), expenses 11.5 million lei (€2.4 million) ([Law No. 6/2020](#))

- for 2021 revenues 1.30 billion lei (€267.7 million), expenses 110.3 million lei (€22.7 million) ([Law No. 16/2021](#))

Emergency Ordinance 95/6 December 2017 issued by the Romanian Government modified article 8 of the law.

Cost covered by

Companies







Involved actors other than national government

Public employment service

Thresholds

No, applicable in all circumstances

Sources

-  Deutsch, A. (2011), Europäische Beispiele für die Insolvenzentgeltsicherung, Federal Ministry of Labour, Social Affairs and Consumer Protection/IEF, Vienna.
-  [EMCC - Restructuring: support measures for affected workers](#)
-  [Legea nr. 200/2006 \(Law no. 200/2006\)](#)
-  [Legea nr. 227/2015 - Codul fiscal Capitolul VII \(Law no. 227/2015 - Fiscal Code, Chapter VII\)](#)
-  [EMCC - Guarantee fund for debt salaries](#)
-  [Ordonanta de Urgenta a Guvernului nr. 95/6 December 2017 \(Government Emergency Ordinance 95/6 December 2017\)](#)

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