

# NEW REGULATIONS ON SUBSIDIES GRANTED TO EMPLOYERS AND THE AMOUNT OF PREMIUMS FOR THE ACTIVATION, ADMISSION OR INSTALLATION FOR THE UNEMPLOYED

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## Abstract

*Emergency Ordinance no. 60/2016 establishes major facilities which will enjoy employers who employ unemployed people or graduates of educational institutions, and also additional support measures for the unemployed who find a job or move their domicile to be employed. They are regulated in this regard: first employment, the first installation and the first activation as inedited measures to stimulate internal mobility of workers. And the Emergency Ordinance no. 6/2017 granted from the unemployment insurance budget a relocation unemployed falling employment in another locality situated at a distance of 50 km from the town where they domicile or residence and, as a consequence, moving house or taking up residence in the respective locality or its neighboring towns. In the following we offer a brief analysis of them and their effect on labor mobility.*

Key word: *graduates; facilities for employers; first activation; first of employment; first installation; grant relocation.*

JEL Classification: [K31]

## 1. Introduction

Emergency Ordinance no. 60/2016 amending and supplementing Law no. 76/2002 on the unemployment insurance system and stimulation of employment<sup>1</sup> determines the increased facilities granted to employers who accept unemployed people or graduates of educational institutions, and also additional support measures for the unemployed who find a job or move their domicile in order to be employed.

According to the explanatory memorandum in the mentioned normative act, such measures were necessary “given the shortage of manpower in certain regions claimed by representatives of the business environment, associated with their tendency to relocate work in other states, it calls for urgent measures to stimulate internal mobility of workers”, as an expression of “state intervention in labor relations through legal rules.”<sup>2</sup>

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<sup>2</sup>A. Țiclea, *Tratatde drept al muncii*, ediția a IX-a, editura Universul Juridic, București, 2015, p. 219

The granted subsidies will come from national and European sources, and Romania has assigned, until 2020, approximately 230 million Euros<sup>3</sup> to boost employment by reducing unemployment and labor market integration of young people.

The new regulation sets out increased amounts of subsidies granted to employers who employ new categories of people, such as the unemployed<sup>4</sup> or young people between 16 and 24 who do not have a job and are not in education.

## 2. Facilities for employers

Thus, employers who employ, for an indefinite period of time, among graduates with disabilities receive monthly, over a period of 12 months, for each graduate employed, a sum amounting to 900 lei, while the former regulation established a maximum amount of 750 lei in this case.

In case they employ for an indefinite period of time graduates with disabilities, they receive monthly for each graduate, the amount indicated above for a period of 18 months. Such a provision existed previously, because, as stated in doctrine, they represented “the occupational categories experiencing the greatest difficulties when getting employed”.<sup>5</sup>

In the new formulation of art. 80 paragraph 3 it is shown that such provisions do not apply to:

*a) employers who have the legal obligation to employ the graduates of educational institutions;*

*b) employers who in the last 2 years were in employment relationships with graduates of educational institutions;*

*c) employers where the position of manager/associate is held by one or more natural or legal persons who act as administrator/associate to other employers who have benefited from at least one of the facilities provided in paragraph (1) and (2), as well as art. 85, for people whose work relationships with the employer who benefited from facilities were terminated by resignation, as required by law, in the last 2 years;*

*d) employers who, at the date of the request of incentive for employment, are subject to insolvency, in enforcement proceedings, judicial reorganization, bankruptcy, dissolution, liquidation or receivership, which have restrictions or suspensions on their activities.*

The incentives provided for in art. 80 shall not be granted for periods in which labor relations are suspended, in return they are granted for periods when the person is on annual leave.

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<sup>3</sup>E. Popescu., Subvenții majorate pentru șomerii care încep să lucreze și pentru angajatorii acestora, [www.avocatnet.ro](http://www.avocatnet.ro), 5 octombrie 2016.

<sup>4</sup>R. Oprea, *Subvenționarea locurilor de muncă pentru șomerii indemnizați sau neindemnizați și stimulentele oferite acestora – unele observații* în Revista română de dreptul muncii, nr. 1/2012, p. 33-44.

<sup>5</sup>I. T. Ștefănescu, *Tratat teoretic și practic de drept al muncii*, Universul Juridic, București, 2014, p. 218.

Compared to the formulation in art. 83 paragraph 4, according to which “graduates may be employed under the conditions of art. 80, only once for each form of education, within 12 months after graduation of studies”, it is regrettable that it was not clearly regulated if such grants may be awarded to graduates with a master’s degree who had, just like the graduates with a Bachelor’s degree, a subsidized job, considering that the master’s degree is obtained after the graduation of an education institution which is distinct from license and doctorate, which is delimited from the other two by separate procedures for admission and graduation, having own specific proper legal framework, or on the contrary that they are both included in the education form regarding higher education and would not be able to be subsidized, in this case, the work place of the graduate with master’s degree, or conversely that differentiated regulation of higher education studies (bachelor, master’s, doctorate) does not justify the grant of subsidies for each of these cycles of higher education. Such a statement would have removed any interpretation causing shortcomings in practice.

In accordance with art. 85 of the new regulation, employers who employ, for an indefinite period of time, unemployed aged over 45, unemployed who are single parents supporting the single parent families, long-term unemployed or NEET<sup>6</sup> young people receive monthly over a period of 12 months, for each person employed from these categories, a sum amounting to 900 lei, with the obligation to maintain the labor or service relationships for at least 18 months.

The facilities provided above are granted to employers also in the situation where, during their grant or where there is a legal obligation to maintain the work relationships, the beneficiary persons no longer have the status of a single parent supporting the family or person with disability, as appropriate. It should be noted that the grants will be awarded proportionally with the actual time worked.

But, if employers terminate the employment relationships previously to the period of 18 months, they are required to repay, in full, to the employment agencies the amounts collected for each person who has ceased the employment relationship previous to the service period mentioned, plus reference rate of the National Bank of Romania in force on the date of termination of employment or service relationships, if their termination took place for the reasons provided in Art. 83 paragraph 2.

A new facility for employers is that mentioned in art. 85 paragraph 5, which states that “the employers who employ, according to the law, unemployed persons who, in term of 5 years from the date of employment shall, by law, fulfill the conditions for requesting early partial retirement or retirement pension for age limit, if they do not fulfill the conditions for requesting early partial retirement, they beneficiate monthly, during the employment period, until the date of fulfillment of those conditions, of a sum amounting to 900 lei.”

There are exempted from the provision of such facilities:

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<sup>6</sup>According to art. 5, Section IV<sup>4</sup>, the NEET young is the young person aged between 16 and 24 who has no place of employment, is not attending an education form and is not participating in any professional training activities.

a) employers who in the last 2 years were in employment or service relationships with employed persons from the categories set out in paragraphs (1), (2) and (5);

b) employers where the position of manager/associate is held by one or more natural or legal persons who act as administrator/associate to other employers who have benefited from at least one of the facilities provided in art. 80 and paragraphs (1), (2) and (5), for people whose work relationships with the employer who benefited from facilities were terminated by resignation, as required by law, in the last 2 years;

c) employers who, at the date of the request for facility, are subject to insolvency, in enforcement proceedings, judicial reorganization, bankruptcy, dissolution, liquidation or receivership, which have restrictions or suspensions on their activities.

An important specification is made by art. 85<sup>2</sup>, which provides that “measures... are financed based on the principle of additionality, according to art. 95 of (EU) Regulation no. 1.303/2013 of the Parliament and Council of 17 December 2013, from non-refundable external funds and national public funds approved in the budget of unemployment insurances”.

### 3. The premium of first activation

In respect of the unemployed, art. 73<sup>2</sup> establishes a non-taxable activation premium, worth 500 lei, for those persons registered at the agencies for employment, who are employed full time through a work contract valid for at least three months, such a facility was not provided in Law no. 76/2002<sup>7</sup>.

Are exempted those who are employed by the employers that they were in work or service relationship with during the past 12 months.

It also provides that persons benefiting from the first activation premium are entitled to maintain it also in the situation where, in 3 months since the employment, their work or service relationship ceases and they are employed, within 30 days, with another employer in the same conditions.

In the legal literature on this subject it is mentioned that “the subvention of work places has limited character in time and aims at stimulating employers to hire certain categories of unemployed with fewer opportunities to find a job (i.e. that they would not hire otherwise).”<sup>8</sup>

Employees have an obligation, under article. 73<sup>3</sup> to repay in full the amounts received according to the provisions of art. 73<sup>2</sup>, in the situation where the employment or service relationships terminate, in a period of less than 3 months from the date of employment.

This way it is imposed the return of the activation premium if the individual employment contract ends: by agreement of the parties according to art.

<sup>7</sup> Published in the Official Monitor of Romania, Part I, no. 600 of 8 December 1999.

<sup>8</sup> A. Ștefănescu, *Resurse umane. Legislație și proceduri*, Lumen, 2015, p. 162.

55 letter b of the Labor Code; following the execution of a sentence of imprisonment, from the date of the final judgment, according to art. 56 paragraph 1 letter f the Labor Code; as a result of the prohibition to practice a profession or function, as a safety measure or complementary punishment, from the date of the final court decision which ordered the interdiction under art. 56 paragraph 1 letter h of the Labor Code; if the employee has committed a serious deviation or repeated violations of the rules of labor discipline or from those set by the individual employment contract, collective agreement or the applicable rules of procedure, as a disciplinary sanction, appropriately to art. 61 letter a of the Labor Code; if the employee is in custody for a period exceeding 30 days, under the Code of Criminal Procedure, according to art. 61 letter b of the Labor Code; and in the event of resignation or termination of the individual employment contract during or at the end of the probationary period.

However repayment is required in case of termination of service relationship pursuant to the Act no. 188/1999 on the Status of public servants<sup>9</sup>: by mutual consent recorded in writing, according to art. 97 letter b; resignation of the civil servant; when the public servant has been convicted by a final judgment for an offense under Art. 54 letter h or who ordered a penalty of imprisonment, on the date of the final and irrevocable judgment of conviction, according to art. 98 paragraph 1; following the interdiction of exercising the profession or function as a safety measure or as complementary punishment, from the date of the final court decision which ordered the interdiction, according to art. 98 paragraph 1 letter g or due to dismissal from public office.

#### 4. First of employment

The activation premium is not cumulated with the employment premium and the installation premium, but it may be added to the employment premium under art. 74, which states that “persons registered as unemployed at the agencies for employment and who get employed, according to the law, in a town situated at a distance exceeding 15 km from the town where they are domiciled or resident, may benefit from a tax-free employment premium.”

As previously appreciated in the doctrine “in order to encourage work at relatively large distances from the stable residence, the legislature has introduced a number of useful solutions by Law no.76/2002”<sup>10</sup>.

The amount of the employment premium is calculated at 0.5 lei/km, but no more than 55 Euro/day, proportional with the number of days that the persons concerned actually develop their activity with the employer that hired them. Such premium shall be granted for a period of 12 months.

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<sup>9</sup> Published in the Official Monitor of Romania, Part I, no. 365 of 29 May 2007 amended.

<sup>10</sup>I. T. Ștefănescu, *op.cit.*, p. 217.

## 5. First installation premium

Another novelty is brought by art. 75 according to which “persons registered as unemployed at the agencies for employment and who get employed, according to the law, in a town situated at a distance exceeding 50 km from the town where they are domiciled or resident and, as a consequence, they change their domicile or establish residence in the respective locality or in neighboring localities may benefit from an installation premium, tax-free, designed to stimulate employment, insure costs for living in the new home or new residence, and/or for family reunification, where appropriate”.

It further adds that the installation premium is granted in differentiated amount, as follows:

*a) 12,500 lei for persons registered as unemployed at the agencies for employment and who get employed, according to the law, in another town and, as a consequence, they change their domicile or establish residence in the respective locality;*

*b) 15,500 lei for individuals referred to in letter a), who change their domicile or establish residence, when they are accompanied by family members in the sense of Law no. 287/2009 on the Civil Code, republished, amended, and in case of single parent families, if they are accompanied by the dependent child or children.*

It should also be noted that if both spouses are eligible for the installation premium, one will receive the amount provided in paragraph 2 letter a), and the other will receive an installation bonus amounting to 3.500 lei.

The determined installation premium is given in two instalments, as follows:

a) an instalment equal to 50% of the determined amount on the date of installation;

b) an instalment equal to 50% of the determined amount after the expiry of the 12 months of employment.

If the employer or public local or central authorities provide service housing or bearing the afferent costs from funds of the employer or public funds, the installation premium is granted in differentiated amounts as follows:

a) 3.500 lei per person in the situation provided in paragraph (2) letter a);

b) 6.500 lei for the person in the situation provided in paragraph (2) letter b);

c) 3.500 lei for each spouse in the situation referred to in paragraph (3).

The installation premium established in the amount specified above shall be granted in a single instalment.

According to art. 75<sup>1</sup> the employment and installation premiums, provided under art. 74 and 75, called mobility incentives, are not cumulative. Such premiums are granted to persons who are domiciled or resident or establish their new domicile or new residence in the areas set out in the national Plan for mobility that is approved and updated by Government decision, at the proposal of the Ministry of Labor, Family, Social Protection and Elderly Persons.

Beneficiaries of the mobility premiums are the persons who get employed, full time, for a period of at least 12 months, being exempted:

a) persons who have benefited from an employment premium or an installation premium in the last 36 months before the application for the mobility premium;

b) persons who are hired by employers that they were in employment or service relationships during the past 2 years;

c) persons who are hired by employers where the position of manager/associate is held by one or more natural or legal persons who act as administrator/associate to other employers that people were in employment or service relationships during the last 2 years;

d) persons for whom the payment of the unemployment benefit has been suspended according to art. 45 paragraph (1) letter c), and then, following a change in the duration of the individual employment contract, the payment of the unemployment benefits ceases according to art. 44 letter a);

e) licensed graduates of faculties of medicine, dentistry and pharmacy, who on the date of request of the right, have promoted the national residency contest by places or positions within the conditions of the law;

f) graduates of educational institutions towards which the employers have the obligation, by law, to hire.

It should also be mentioned that persons benefiting from the mobility premiums are entitled to maintain it also in the situation where, in 12 months since the employment, their work or service relationship with the employer who hired them ceases and they are employed, within 30 days, with another employer in the same conditions.

In accordance with article 76 employees are required to repay the full amounts received under the provisions of art. 73<sup>1</sup>, 74 and 75, in the situation where the employment or service relationships terminate, in a period less than 12 months from the date of employment under the Labor Code or Law no. 188/1999 regarding the Statute of civil servants.

It also stipulates that employees have the obligation to repay the full amount received as installation premium according to art. 75, in the situation where they return to the former domicile or residence in a period of 12 months since the employment.

The installation premium is granted also to Romanian citizens who have exercised their right to free movement of workers within the European Union and European Economic Area for a period of at least 36 months, in the amounts set out in art. 75 paragraph (2)-(4) and subject to the conditions laid down in art. 75<sup>1</sup> and 76.

The analyzed normative act stipulates as novelty to art. 58 that information and professional advice are a set of services provided free of charge to persons seeking employment, who have as purpose:

a) providing information on the labor market and the evolution of occupations;

b) shaping and framing the level of occupancy: easy to be occupied busy, medium to be occupied, hard to be occupied and very hard to be occupied;

- c) developing the ability and self confidence of people looking for a job, in order to enable this decision on their own career;
- d) training in methods and techniques of searching for a job;
- e) guidance throughout the process of socio-professional integration in the new job.

Services provided above are realized in employment agencies, and services provided in paragraph 1 letter a, c-e can be achieved also by service accredited providers in the public or private sector.

Persons for which the level of occupancy was set to hard and very hard as a result of profiling can benefit from the services provided in paragraph 1 letter e after being employed for a period of maximum 3 months, with the employer's consent.

The profiling procedure of jobseekers registered at the agencies for employment is approved by order of the National Agency for Employment.

Emergency Ordinance no. 6/2017 for the amending and supplementing certain normative acts, as well as the establishment of measures on realization of investments financed by public funds<sup>11</sup> showed that in accordance with the provisions of Government Program 2017-2020, through this emergency ordinance is granted from the unemployment insurance budget a relocation premium to the unemployed getting employment in another locality situated at a distance of 50 km from the town of the domicile or residence and, as a consequence, moving their domicile or establishing residence in the respective locality or its neighboring localities. The premium, awarded under the Program "First rent" equal to 75% of the amount destined for insuring the costs for living in the new domicile or new residence, but no more than 900 lei, is given to persons whose net monthly income realized as single persons or with family do not exceed 5000 lei/month, given the fact that these elements aim the general public interest and constitute emergency and extraordinary situations whose regulation can not be postponed.

In this regard, according to article 76<sup>1</sup> of Law no. 76/2002 on the unemployment insurance system and stimulation of employment<sup>12</sup>, are introduced three new articles, articles 76<sup>2</sup>-76<sup>4</sup>.

## 6. Premium of relocation

According to art. 76<sup>2</sup> the persons registered as unemployed at the agencies for employment who get employed, according to the law, in another locality situated at a distance of 50 km from the town of the domicile or residence and, as a consequence, they move their domicile or establish residence in the respective locality or its neighboring localities, they beneficiate from a relocation tax-free premium, paid from the unemployment insurance budget, equal to 75% of the amount for insuring the

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<sup>11</sup> Published in the Official Monitor of Romania, Part I, no. 62 of 25 January 2017.

<sup>12</sup> Published in the Official Monitor of Romania, Part I, no. 103 of 6 February 2002 amended and completed.

costs for living<sup>13</sup> in the new domicile or new residence, but no more than 900 lei. The relocation premium is granted to persons whose net monthly income realized as single persons or with families<sup>14</sup> do not exceed 5000 lei/month.

As an exception in paragraph 5 is provided that where the employer or local or central government authorities provide service housing or support the expenses related to rent from funds of the employer or public funds, the relocation premium is not granted.

The relocation premium established in the amount provided above is given monthly for a period not exceeding 36 months, in the situation where during this period are observed the conditions provided by law.

According to art. 76<sup>3</sup>, the relocation premium provided for in art. 76<sup>2</sup> is granted on request and is not cumulative with the activation premium, the employment premium or installation premium provided for in art. 73<sup>2</sup>, art. 74, respectively art. 75.

The relocation premium is similar to the installation premium already regulated by Law of unemployment, both can be granted to the unemployed who are employed for at least 12 months, at a firm situated at a distance greater than 50 km away from the domicile/residence locality. But the main difference concerns the money received based on premiums, plus that the installation premium is granted only once. Thus, if for the relocation premium we are talking about a monthly sum of 75% of expenditures for housing, but not more than 900 lei, the installation premium is granted only once and its amount is different, as follows:

- 12.500 lei for unemployed person who changes the domicile to be employed;

- 15.000 lei for unemployed person who changes the domicile to be employed and is accompanied by family members.

It is provided that the beneficiaries of the relocation premium are the persons who are employed, full-time, for a period of at least 12 months.

Do not benefitate from the relocation premium:

a) the persons who have benefited from a relocation premium or one of the premiums provided in art. 74 and 75, during the last 36 months before the application for the relocation premium;

b) the persons who are hired by employers that they were in employment or service relationships during the past 2 years;

c) the persons who are hired by employers where the position of manager/associate is held by one or more natural or legal persons who act as administrator/associate to other employers that the persons were in employment or service relationships during the last 2 years;

d) the persons for whom the payment of the unemployment benefit has been suspended according to art. 45 paragraph 1 letter c, and then, following a

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<sup>13</sup> The phrase living expenses means necessary expenses for rent and utilities in the new domicile or new residence.

<sup>14</sup> Single persons and families are defined in the sense of art. 2 of Law no. 416/2001 regarding the minimum wage guaranteed, as amended and supplemented.

change in the duration of the individual employment contract, the payment of the unemployment benefits ceases according to art. 44 letter a;

e) licensed graduates of faculties of medicine, dentistry and pharmacy, who on the date of request of the right, have promoted the national residency contest by places or positions within the conditions of the law;

f) graduates of educational institutions towards which the employers have the obligation, by law, to hire.

g) persons who own or co-own another house in the locality where they move the domicile or establish residence or the neighboring towns as a result of employment.

Persons benefiting from the relocation premium have the right (provided by paragraph 4) to maintain it and in the case where, during 36 months since the employment, their employment or service relationship ceases with the employer who employed them and are employed within 30 days with another employer in the same conditions.

Art. 76<sup>4</sup> provides that employees have the obligation to repay in full the amounts received under the provisions of art. 76<sup>2</sup> paragraph 1, in the situation where the employment or service relationship terminates in a period less than 12 months from the date of employment, under the following provisions:

a) art. 55 letter b, art. 56 paragraph 1 letter f and h, art. 61 letter a and b and art. 81 of Law no. 53/2003 – Labor Code, republished, with subsequent amendments;

b) art. 31 paragraph 3 of Law no. 53/2003, republished, as amended and supplemented, if the termination is from the initiative of the employee;

c) art. 97 letter b and e, art. 98 paragraph 1 letter f and g and art. 101 paragraph 1 of Law no. 188/1999 regarding the Statute of public servants.

Employees are required to repay the full amount received as relocation premium according to art. 76<sup>2</sup> paragraph 1 in the situation where they return to the former domicile or residence in a period of 12 months since the employment.

These changes are added to those who lately have caused active measures to boost employment, an important aspect of economic and social life.

## 7. Conclusions

All analysis regulations are part of active measures which the State deems necessary to relieve labor shortages in some regions of the country and to stimulate internal mobility of workers. They add such regulatory framework of active measures to boost employment, which is a constant concern in social policy.

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