

**EMPLOYMENT AND LABOUR**

Work Compensation Fund (WCF) and Work Compensation Guarantee Fund (WCGF)

Changes to the rules

Main changes

Decree-Law 115/2023 was published on 15 December to amend and reformulate the rules governing the Work Compensation Fund (WCF) and the Work Compensation Guarantee Fund (WCGF).

The obligation to join and contribute to the WCF is abolished and new memberships and the obligation to make payments to the WCGF are suspended until the end of the Medium-Term Agreement to Improve Incomes, Wages and Competitiveness (2026).

Ongoing administrative offence proceedings and debts relating to overdue payments to the WCF are cancelled, as are all enforcement proceedings brought and in progress to recover them, together with interest on late payments.

The WCF, which previously served as a guarantee for compensation for termination of employment contracts, will be transformed into a closed fund for accounting purposes and will be used for the following purposes:

- i) Supporting workers' housing costs and investments;
- ii) Supporting other investments made by mutual agreement between employers and the bodies representing their workers, in particular crèches and canteens;
- iii) Financing the qualification and certified training of workers;
- iv) Payment of up to 50% of the compensation due for the termination of employment contracts of workers included in the WCF, calculated in accordance with Article 366 of the Labour Code - applicable only to workers included in the WCF by 1 May 2023.

The obligation to join and contribute to the WCF is abolished and new memberships and the obligation to make payments to the WCGF are suspended.

Employers can use the amounts in the WCF accounts for the purposes set out in the law until 31 December 2026.

The WCF now consists of employers' global accounts, each corresponding to the total value of the balances in the individual accounts of each worker, less the amounts owed to the WCF and operating costs.

Employers can use the amounts in the WCF accounts for the purposes set out in the law until 31 December 2026, up to two times if the balance is less than €400,000 or up to four times if the balance is more than €400,000.

Once the maximum number of mobilisations has been reached, or after 31 December 2026, employers will no longer be able to apply for reimbursements, even for the purposes provided for by law. As a result, the remaining capital will be transferred to the WCGF when the WCF is wound up.

In order to use the funds in the WCF accounts, the employer must follow a procedure that includes making a declaration on the WCF website. Furthermore, depending on the purpose, this may involve consultation with or agreement from the employee representative structure.

These changes raise doubts as to whether they are in conformity with the Constitution, in particular as regards the fact that from 31 December 2026 (or earlier if the limit on mobilisation is reached) the amounts in the WCF cannot be mobilised and are no longer recoverable by employers.

Entry into force and effective dates

Decree-Law 115/2023 enters into force on 1 January 2024, except for the reinforcement of the WCGF, which entered into force on 16 December 2023.

The procedures for operating the funds will also be reviewed within 60 days of the entry into force of this Decree-Law, by amending Ministerial Order 294-A/2013, among other regulations. ■