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Working conditions in Romania

Types of employment

According to the Labour Code, an individual becomes able to work at the age of 16. However, with the consent of their parents or legal guardians an individual may sign an employment contract as a salaried person at the age of 15, with a view to carrying out activities that are appropriate for their stage of physical development, skills and knowledge, and if this does not jeopardize their health, development or professional training. Difficult, harmful or hazardous jobs may be performed only by persons aged 18 or over. These jobs are determined by Government Decision.

The employment contract may be permanent or fixed-term, with full-time or part-time working hours. For full-time employees, a full-time employment contract involves 8 working hours per day (40 hours/5 days a week). The distribution of the working time per week is usually even and it includes two days of rest. Depending on the profile of the company, one may opt for an uneven distribution of the working time provided that the normal working period of 40 hours/week is complied with. The maximum number of legal working hours may not exceed 48 hours per week, including overtime. There are exceptions allowing an extension of the maximum period, but they are subject to strict legal rules.

The Labour Code also includes provisions on temporary agency work. This work is provided by a temporary employee who has concluded a temporary employment contract; the employee is made available to a user for temporary work under that user's management and supervision. A temporary work mission cannot exceed 24 months.

Employers may require that employees pass a probationary period of 90 calendar days for operational positions and of no more than 120 calendar days for management positions. Graduates from higher education establishments undergo an internship in the first 6 months. This does not apply to professions for which the internship period is governed by special laws. Any probationary period counts as length of service.

EU citizens may occupy any position, except that of civil servant, which requires Romanian citizenship.

Collaboration contracts are called service provision contracts, and they may only be concluded for independent activities, for persons registered with the National Trade Register Office as having a form of legal personality, such as a sole trader (PFA).

More information about labour relations, work safety and occupational health and security can be obtained by accessing the website of the Labour Inspectorate or of the Ministry of Labour and Social Justice.

Employment contracts

An employment contract is required by law. Several elements are set out in such contracts, such as: the identity of the parties, the job, the employer's registered address, a job description, job-specific risks, the start date of the contract, the amount of annual leave to which an employee is entitled, the base salary, any other elements included in the remuneration, the frequency of salary payments, the normal working hours (in hours/day and hours/week), the collective employment contract governing

an employee's working conditions, and any other applicable clauses. A person may be employed only on the basis of a health certificate attesting that the person concerned is fit to carry out that work.

The individual employment contract has to be concluded in Romanian, exclusively in writing, on the basis of the parties' consent, prior to starting work. The obligation to conclude the employment contract in writing pertains to the employer.

Individual employment contracts are entered in the General Employee Register. The employer shall hand in a copy of the employment contract signed by both parties, prior to starting work. Fixed-term individual employment contracts may be drawn up for a period of up to 36 months. Where a fixed-term individual employment contract has been concluded to replace an employee whose employment contract has been suspended, the fixed-term contract expires as soon as the causes determining the suspension of the latter's individual employment contract cease.

Any amendment to the terms laid down in the employment contract shall be performed via addendum to the contract prior to the enforcement of the amendment, except for cases where such an amendment is expressly laid down in the law or in the applicable collective labour contract.

A part-time individual employment contract is concluded when an employer employs people on a part-time basis (less than the number of hours corresponding to full-time) under individual employment contracts for definite/indefinite periods. The remuneration rights granted are proportional to the actual working time.

It is also possible to telework. Individual telework contracts have to be concluded in writing and include the mention that the employee teleworks, the work schedule that the employer can use to check the employee's work, the method for performing such checks, etc.

Moreover, the Labour Code also includes provisions on work carried out through a temporary agent. This work is provided by a temporary employee who has concluded a temporary employment contract; the employee is made available to a user for temporary work under that user's management and supervision. A temporary work mission cannot exceed 24 months.

More information about labour relations, work safety and occupational health and security can be obtained by accessing the website of the Labour Inspectorate or of the Ministry of Labour and Social Justice.

Special categories

Working hours for young people aged 18 or under are limited to 6 hours per day and 30 hours per week. They may not undertake overtime or night work. In addition, night work may not be imposed on pregnant women, women who have recently given birth or nursing mothers.

Young people aged 18 or less are entitled to a lunch break of at least 30 minutes if their daily working time exceeds 4.5 hours.

Under the Labour Code, employees are entitled to a minimum annual leave of 20 working days. The actual period of the annual leave shall be established in the individual employment contract, proportionally to the activity carried out within a year. Young people aged 18 or less, employees working in harsh, dangerous, harmful conditions, blind persons and other persons with disabilities are entitled to additional annual leave of at least 3 working days.

Persons with disabilities may be employed in specially set up protected workplaces, providing appropriate facilities and adjustments so as to eliminate any impediments.

Persons with disabilities may also telework, in which case the employer must provide transportation to and from the employee's home of any raw materials used and of the end products made by the employee. Persons with severe, advanced or average disabilities who are under an individual employment contract enjoy special protection rights.

The institution responsible for the protection of persons with disabilities is the National Authority for Persons with Disabilities, which is under the authority of the Ministry of Labour and Social Justice.

Refugees are a category of foreigners enjoying legal protection in Romania. They are granted free access to the Romanian labour market and are entitled to access to the social insurance system (unemployment and health benefits).

Foreign nationals coming from non-EU states are granted access to the Romanian labour market insofar as vacant positions cannot be filled by hiring Romanian or EU/EEA and Swiss Confederation citizens. To be employed, they need a work permit issued by the Inspectorate-General for Immigration at the employer's request.

Self-employment

Natural persons who are EU/EEA citizens may carry out business activities in Romania, as follows: as sole traders, individually and on a self-employed basis; as entrepreneurs owning an individual undertaking; as members of a family enterprise, in accordance with Government Emergency Order No 44/2008 on the pursuit of business activities by sole traders, individual undertakings and family enterprises.

Sole traders and individual or family enterprises may be authorised to carry out business activities in any field, trade or profession, with the exception of those governed by special laws, but they must have their domicile in Romania. Registration in the Trade Register and an operating permit are mandatory. Sole traders carrying out independent business activities are regarded as self-employed. Self-employment status refers to the right of being a beneficiary of the public pension scheme and other social insurance schemes, the social health insurance system and the unemployment insurance system, in accordance with the relevant laws.

Sole traders may not employ other persons on the basis of individual employment contracts to carry out the activities for which the legal authorization for self-employment has been obtained. Owners of individual undertakings may employ other persons under an individual employment contract, may collaborate with other sole traders, with other owners of individual undertaking, with representatives of a family enterprise or with other legal persons. Family enterprises have two or several members of the same family. Members of a family enterprise are insured under the state social insurance system (pensions, unemployment, health).

Remuneration

When salaries are established and paid, any form of discrimination – whether related to gender, sexual orientation, age, nationality, race, skin colour, ethnicity, religion, political orientation, social origin, disabilities, family status or responsibilities, trade union affiliation or activity – is prohibited.

Salaries include the base salary, allowances, increments and other supplements. Salaries are to be paid before any other financial obligations an employer might have.

The employer is under an obligation to ensure a monthly gross salary at least equal to the guaranteed national gross minimum wage.

The guaranteed national gross minimum wage from 1 January 2018, as established by Government Decision, amounts to RON 1900/month (approx. EUR 409) for a full working time of 169.3 hours per month in average.

The remuneration scheme for the staff hired by public authorities and institutions which are financed entirely or mainly from the state budget, the public social insurance budget, the local budget and the special funds budgets, is established in accordance with the legal provisions in force, following consultation with the representative trade unions.

In June 2018, the national nominal average gross wage was RON 4527, and the nominal average net wage was RON 2721 (approx. EUR 515).

Working time

Full-time working hours are 8 hours per day and 40 hours per week. Working time may not exceed 48 hours per week, including overtime. Working hours for young people aged 18 or under are limited to 6 hours per day and 30 hours per week.

In the case of shift work, working time may exceed 8 hours per day and 48 hours per week, provided that the total number of working hours, calculated for a period of up to maximum 3 weeks, does not exceed 8 hours per day and 48 hours per week. Working time, including overtime, may exceptionally exceed 48 hours per week, provided that the average number of working hours, calculated for a reference period of 3 calendar months, does not exceed 48 hours per week.

For certain fields of activity, entities or professions, a daily working time shorter or longer than 8 hours may be established following collective or individual negotiations, or by means of specific normative acts. A daily working time of 12 hours must be followed by a 24-hour rest period.

Overtime is compensated by paid time off within the following 60 calendar days after it was carried out or by granting additional pay. If compensation by paid time off is not possible within this time limit, an appropriate additional pay has to be added for the work performed. The additional pay is established following negotiations under the terms of the collective employment contract or the individual employment contract and may not be less than 75% of the base salary.

Work performed between 10 pm and 6 am is classified as night work. A night employee performs night work for at least three hours in the course of the daily working time or performs night work for at least 30% of the monthly working time. Normal working time for employees who perform night work may not exceed an average of 8 hours per day, calculated for a reference period of up to maximum 3 calendar months, in compliance with the legal provisions on weekly resting time.

Employees who perform night work are entitled to:

* a 1-hour reduction of the normal daily working time for days in which they perform at least 3 hours of night work, without any reduction in their base salary; or

* additional pay of at least 25% of the base salary if they perform night work for at least three hours in the course of the normal working time.

Under the Labour Code, the following rest periods are granted to employees: lunch break, daily rest, weekly rest and public holidays.

Where daily working time exceeds 6 hours, employees are entitled to a lunch break and other breaks in accordance with the terms of the applicable collective employment contract or with the terms of the employer's internal rules. Young people aged 18 or less are entitled to a lunch break of at least 30 minutes if their daily working time exceeds 4.5 hours. Unless otherwise established under an applicable collective labour agreement or the employer's internal rules, breaks are not included in the normal daily working time. Weekly rest consists of two consecutive days, usually Saturdays and Sundays.

Leave (annual leave, parental leave etc)

Paid annual leave is guaranteed to all employees; the minimum length of annual leave is 20 working days according to the provisions of the Labour Code, or 21 working days according to the applicable Collective Labour Agreement. In addition to the 21 days, the following are entitled to additional annual leave: employees with disabilities (3 days), blind persons (6 days) and employees working in special conditions (at least 3 days per year).

Public holidays, established by law, and the collective labour agreement, are not included in the duration of the paid annual leave.

For the annual leave period, employees receive an allowance not lower than their base salary plus any other permanent allowances or additional payments normally due for the period in question, as stipulated in their individual employment contracts.

The annual leave allowance must be paid by the employer at least 5 working days before the commencement of the leave period.

According to the Labour Code, paid leave – not included in the annual leave – is granted for exceptional family events. The nature of exceptional family events and the amount of paid leave are established by law or in the applicable collective labour agreement.

Employees are entitled to paid leave for exceptional family events or other situations, as follows: marriage of employee – 5 days; marriage of an employee's child – 2 days; birth of a child – 5 days (10 days in case the employee attended infant care courses); death of spouse, child, parents, parents-in-law – 3 days; death of grandparents, brothers, sisters – 1 day; blood donors – according to the legal provisions in force; upon change of employment within the same company, when relocating to another town – 5 days.

Public holidays which are non-working days are the following: 1 and 2 January, 24 January, Easter Day and Easter Monday, 1 May, Whit Sunday and Whit Monday, 15 August, 30 November, 1 December, Christmas Day and Boxing Day, 2 days for each of the three annual religious holidays declared by the legal religious institutions other than the Christian ones for persons who are members of such institutions.

Leave for vocational training - Employees are entitled, on request, to leave for vocational training. Such leave may be paid or unpaid.

Sick leave and social health insurance allowances to which employees are entitled are as follows: sick leave and allowances for temporary work disability caused by common illnesses or accidents which occurred outside work; sick leave and allowances for illness prevention and recovery of the ability to work, only for situations resulting from work-related accidents or occupational illnesses; maternity leave and allowances, leave and allowances for caring for a sick child, sick leave and allowances linked to maternal risks.

End of employment

An individual employment contract may be lawfully terminated following the parties' consent; by either the employer or the employee.

An individual employment contract is terminated de jure in the following cases:

- * on the date the retirement decision is issued according to the legal provisions in force;
- * following a sentence imposing a mandatory prison term;
- * on the date of withdrawal by the relevant authorities or bodies of the permits, authorizations or certificates required to perform the work stipulated in the employment agreement;
- * following a court sentence which forbids the employee to carry out a certain activity or to hold a certain position, as a safety measure or as a complementary punishment, as from the date the court sentence in question becomes final;
- * on the date of expiry of a fixed-term individual employment contract;
- * in the case of employees aged 15 to 16, on the date of withdrawal of agreement to work from the parents or legal guardians;
- * on the date of the death of the employee or of the employer, where the employer is a natural person, or on the winding up of the employer, where the employer is a legal person.

Dismissal refers to termination of the individual employment contract by the employer. Dismissal may be imposed for reasons pertaining or not to the individual employee concerned.

Individual dismissal is based on: serious breaches of work discipline rules, committed by the employee; the worker's preventive arrest for more than 30 days; the employee's physical and/or mental disability which prevents him from performing his duties; if the employee is not professionally fit for the job.

Dismissal for reasons not pertaining to the employee may be individual or collective. Collective dismissal means the dismissal, within 30 calendar days, of a certain number of employees, as provided for by law, in direct proportion to the total number of employees in the company.

A dismissal decision must be communicated in writing to the employee concerned and must contain the following: the reasons for dismissal; length of notice (20 working days); the criteria for prioritization within the collective dismissal; the list of all the jobs affected.

Resignation is the unilateral voluntary act of an employee who, by means of a written notification, communicates to the employer the termination of his or her individual employment contract after serving a period of notice.

Notice periods are stipulated by the parties in individual employment contracts or in the applicable collective labour agreements, as appropriate, and cannot exceed 20 calendar days for employees in operational positions and 45 days for employees in management positions.

Representation of workers

Trade unions act as social partners and are independent non-profit legal persons set up to protect members' rights as enshrined in labour law, collective and individual employment contracts, employment agreements and staff regulations, and to promote the professional, economic, social, cultural and wellbeing interests of their members.

Trade union representatives take part in the bargaining and conclusion of collective labour agreements, conventions and agreements with public authorities or employers' organisations, as well as in specific social dialogue structures. By law, trade unions are entitled to free association into federations, confederations or local entities. The representative trade unions are members of the Economic and Social Council, alongside representatives of employers' associations and of the government.

Trade unions may use specific means such as bargaining, conciliation, mediation, arbitration, petitions, picketing, marches, rallies, demonstration and strikes, in compliance with the law.

The right of employees to join a trade union is recognised by all employers, and it is one of the rights and liberties guaranteed by the Constitution. An unrepresentative trade union with members employed with a certain employer may be represented by a relevant trade union acting in the activity field of the employer with a view to representing the employees' interests in the relationship with the employer.

Work disputes - strikes

All disputes between employees and the institutions employing them, concerning professional, social or economic interests or rights resulting from employment relationships, are called labour disputes.

Labour disputes relating to the establishment of working conditions during the bargaining of collective labour agreement terms are conflicts of interest.

Labour disputes relating to the exercise of rights or fulfilment of obligations established by legislation, as well as by employment contracts, are conflicts of entitlement.

If a collective labour dispute fails to be resolved by the Ministry of Labour and Social Justice or by its regional inspectorate, the parties may agree to starting the mediation procedure. Mediation or arbitration in a collective labour dispute is compulsory if the parties have decided so before starting a strike or during the strike.

Employees have the right to strike in order to defend their professional, economic and social interests. A strike may start only after all attempts at resolving a conflict have failed and on condition that a warning strike takes place first and that the management of a unit has been given 48 hours' notice before the start of a strike. Strikes can be classified into warning strikes, solidarity strikes and standard strikes.

Prior to the start of a strike, mediation and arbitration of the conflict of interest are mandatory only if both parties have agreed to go through these steps.

Employees are free to decide on their participation in a strike. No employee may be forced to participate or not to participate in a strike. Limitations or restrictions on the right to strike are only possible in those cases and for those categories of employees which are expressly mentioned by the legislation in force.

Taking part in a strike and organising a strike under the terms of the law are not deemed as breaches of employee duties and they may not result in disciplinary sanctions against employees on strike or against strike organisers.

Vocational training

Adults are entitled to equal access to vocational training, without any form of discrimination based on age, gender, race, ethnic background, or political or religious affiliation.

Businesses, national companies and public corporations or other entities under the authority of the central or local public authorities, entities and bodies financed from public or non-public resources (employers) have to ensure that their employees have all the conditions they need in order to have access to vocational training.

Under the terms specified by the legislation in force, jobseekers may attend vocational training courses organized by the National Employment Agency or other legally authorized providers. Lifelong vocational training is after the initial training and helps adults either to further develop the professional skills they already have or to acquire new skills.

The Ministry of Labour and Social Justice and the Ministry of National Education draw up national policies and strategies for the development of human resources, including adult vocational training. Such policies and strategies are based on proposals from the National Authority for Qualifications and are then submitted to the government for approval.

Accredited vocational training providers may organize vocational training programmes awarding qualification or graduation certificates recognized at a national level.