

Labour and Employment Regulations

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Employment regulations and the employer-employee relationship are governed by the Labor Code (Law 53/2003, subsequently amended).

Applicability

The Labor Code covers Romanian employees with employment contracts, who perform activities in Romania or abroad for a Romanian employer, as well as foreign individuals with employment contracts who perform activities for a Romanian employer in Romania. An individual may be employed only based on his/her health certificate.

Working relationship

Types of employment contracts

The law stipulates individual employment contracts for an indefinite period as the common method of employment. In addition, other forms of permitted employment are:

- Individual employment contract for a fixed duration;
- Temporary employment;
- Part-time employment;
- Flexible working arrangements (home-based work).

Under the Labor Code, service agreements (*convenții civile de prestări servicii*) are not considered as employment.

Special clauses in the employment contract

Before or upon conclusion of a new or amendment of an existing employment contract, the employer has the obligation to inform the employee about the terms of the employment (terms of the agreement, leave periods, allowances, etc.). Along with the general terms, an individual employment contract may also include special clauses such as:

Non-competition clause – this clause obliges the employee not to perform any activities, for himself/herself or for others, which can be considered as being in competition with the activities performed by him/her for the employer or to perform activities for a competing third party in

exchange of a non-competition compensation paid by the employer for the duration of the non-competition clause.

The non-competition clause can produce effects only if the Individual Employment Agreement expressly provides:

- The activities an employee is forbidden to undertake at the end of the Agreement;
- The amount of the monthly non-competition compensation;
- The period for which the clause will be in effect (maximum two years);
- The third parties for which the employee is forbidden to undertake activities;
- The geographical area where the employee can be considered as competing with the employer.

The non-competition compensation is not assessed as salary income, it has to be negotiated and amount to at least 50% of the gross average income of the employee for the last 6 months before the end of the Employment Agreement.

In case of an Individual Employment Agreement valid for less than six months, the compensation shall be calculated according to the gross income average within the duration of the Agreement.

In case of breach of the non-competition clause, an employee can be obliged to return the compensation and pay damages according to the prejudice suffered by the employer.

Mobility clause – by which the employee accepts to perform his/her duties under the employment agreement in different locations and is entitled to outstation allowances in cash or in kind.

Confidentiality clause – through the confidentiality clause among parties, during and after the period of Individual Employment Agreement, there is an obligation not to divulge any information known during the employment relations.

The party in breach of this obligation is liable to pay damages to the other party.

General register of employees

Government Decision 161/2006 on the methodology for preparing and filling the General Register of Employees has come into force from 31 December 2006. According to the Decision, the Register shall be prepared and transmitted in electronic format using software approved by the labour authorities and carry the following information:

- identification elements of all employees: name, surname, personal identification code;
- employment date;
- position according to the Classification of Professions in Romania (COR);
- type of individual labour agreement;
- date and grounds for terminating individual labour agreement (when applicable).

The Register shall be sent to the Territorial Labour Agencies on electronic devices within 20 days from the date of employment and within 5 days of any modification in the above-mentioned areas. Non-compliance may be considered as contravention and be subject to fines between RON 2,000 and RON 5,000.

Working hours and paid holidays

Normal working days are of eight-hour duration for full-time employment. Maximum working time per week cannot exceed 48 hours, including overtime. According to the law, payment for overtime must be settled with paid leave or a minimum 75% bonus calculated on the base salary. The standard working week is Monday to Friday.

In addition to statutory holidays, employees are entitled to a paid holiday of minimum 20 working days.

Work security and healthcare

The employer is required to take necessary measures for the security and well-being of employees. The employer is also required to ensure employees have access to medical check-ups. Moreover, the employer is responsible for insuring all employees against accidents on the job and work-related diseases.

Professional training

The employer is required to ensure adequate professional training for employees on a continuous basis by setting up an annual training schedule, which should be attached in the form of an addendum to the individual employment contract. Moreover, employers are required to grant employees paid or unpaid leave for professional training purposes.

Employees' representation

The interests of employees can be pursued via trade unions or employee's representatives elected among employees in accordance with the Labour Regulations.

Employers having over 20 employees must negotiate a collective labour agreement with the employees.