



Guide for access to the labour market

FOR MIGRANTS AND BENEFICIARIES
OF TEMPORARY PROTECTION IN ROMANIA

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Introduction

This guide is dedicated to migrants and beneficiaries of temporary protection who want to access the Romanian labour market. It provides a detailed introduction to the Romanian labour system, providing essential resources understanding the legal aspects of job search.

The guide covers various aspects of the employment contract, provides information about its conclusion and content. It also addresses situations where the employer violates the rights in the employment contract or harassment occurs in the workplace.

Self-employment options are also explored, such as the establishment of an Authorized Natural Person (PFA), a Limited Liability Company (SRL), or the copyright assignment agreement.

This guide provides an insight into the process of setting up an economic entity, outlining the necessary steps as well as the main applicable tax issues. Last but not least, explanations are offered for certain terms essential in understanding the specifics of the Romanian system.

You can find an extended version of this guide on the website of *the Coalition for the Rights of Migrants and Refugees* www.cdmir.ro/ghid, where you will find additional information and resources that will help you in your integration into the Romanian labour market.

About the project

This guide was drawn up within the project „CDMiR 4 Ukraine: *Raising awareness on human rights and equal treatment for Ukrainian refugees in Romania*”. The project aims to address the humanitarian crisis in Ukraine by providing information services and materials for Ukrainian refugees, especially regarding access to socio-economic rights. Considering that access to the labour market is an essential element of the integration and empowerment process for refugees, the project also offers complementary training services on the labour market and entrepreneurship in Romania.

In parallel, the project contributes to raising awareness among public authorities, civil society and other relevant actors regarding the rights of Ukrainian refugees, encourages cooperation at local and national level, including through the conclusion of relevant partnerships, and will contribute to mapping existing services. Last but not least, after consulting refugee communities, it has initiated a series of data-driven advocacy efforts aimed at improving the legal and policy framework for refugee integration.

See more details on the project page www.cdmir.ro/cdmir4ua.

The aims of this project are:

- To carry out an Awareness Campaign among Ukrainian refugees on respect for human rights, gender equality and gender-based violence;
- To carry out advocacy activities for the long-term integration of beneficiaries of temporary protection, refugees from Ukraine;

- Improve services provided to refugees through support and coaching activities for refugees from Ukraine, who are employed or willing to work on the Romanian labour market and partnerships with other institutions, coalitions and relevant actors.

Direct and indirect beneficiaries

- 4000 refugees from Ukraine who will benefit directly and indirectly from improved information and/or services, training and capacity building in accessing socio-economic rights;
- Non-governmental organizations active in the field of immigrant integration;
- Public institutions with responsibilities in the field of immigrant integration;
- Other labour market actors: trade unions, employers' associations, employers, academia;
- Media and other organizations active in related fields, the general public.

The project is executed by Novapolis Association – Centre for Analysis and Initiatives for Development, in partnership with the Romanian National Council for Refugees Foundation and the Centre for Public Innovation. The duration of the project is 12 months, which will be implemented between March 15th, 2023 and March 14th, 2024. The eligible value of the project is Euro 199,900.00.

About CDMiR

The Coalition for the Rights of Migrants and Refugees (CDMiR) was created in early 2017, and it initially brought a number of 11 non-governmental organizations with experience in migration, anti-discrimination, human rights and public policies. So far, it is the only Civil Society Coalition in Romania active in the field of migration, asylum and integration. In the first three years of activity, the number of coalition member organizations went double. CDMiR englobes a number of 23 NGOs from all the regions of Romania, as well as 5 supporters from academic community and international organizations. CDMiR members cover a wide range of areas of expertise, including research, advocacy, material, legal and medical assistance, cultural orientation and dialogue.

CDMiR contact info:

Email: coalitie.migratie@gmail.com, **Website:** www.cdmir.ro, Facebook Page: www.facebook.com/cdmir.ro.

About Active Citizens Fund Romania

The Active Citizens Fund Romania programme is funded by the EEA Grants 2014-2021. The general objective of the Grants is to reduce economic and social disparities and strengthen bilateral relations between the 15 beneficiary states and the donor states (Iceland, Liechtenstein, Norway). The Programme is administered by the consortium composed of Civil Society Development Foundation, Partnership Foundation, Resource Centre for Roma Communities, PACT Foundation and Frivillighet Norge, acting as Fund Operator designated by FMO – EEA and Norway Grants Financial Mechanism Office. Active Citizens Fund Romania aims at strengthening the civil society and active citizenship and increase the capacity of vulnerable groups. With a total allocation of Euro 46,000,000.00 the programme aims at developing the long-term sustainability and capacity of the civil society sector, enhancing its role in promoting democratic participation, active citizenship and human rights, while strengthening bilateral relations with the donor states Iceland, Liechtenstein and Norway. For more information about Active Citizens Fund in Romania, please visit www.activecitizensfund.ro. For more information about the EEA and Norway Grants, visit www.eeagrants.ro.

About the programme promotor and partners

Novapolis Association – Centre for Analysis and Initiatives for Development aims to contribute to the consolidation of a democratic, inclusive and diverse society, socially and economically balanced, able to meet everyone's needs. Its mission is to support and promote democratic values, models and interventions for the development of a society based on freedom, responsibility and respect. Check for more information at www.novapolis.ro.

The Romanian National Council for Refugees is a non-governmental organization founded in 1998, which has functioned as a public utility organization since 2003. The mission of the CNRR is to promote and defend by all legal means human rights in general and the rights of migrants, refugees and asylum seekers in particular. Check for more information at www.cnrr.ro.

The Centre for Public Innovation Association is a non-governmental organization legally registered in 2014 with the mission to build an open society in which transparent institutions provide access to information in open formats, decide together with and in the interest of those they represent, guaranteeing equal rights for all people, and citizens take an informed attitude towards what is happening around them. Check for more information at www.inovarepublica.ro.

The project is carried out by Novapolis Association – Centre for Analysis and Initiatives for Development, in partnership with the Romanian National Council for Refugees Foundation and the Centre for Public Innovation and benefits from a financing of 199,900 euros, through the Active Citizens Fund Romania program, funded by Iceland, Liechtenstein and Norway through the EEA Grants 2014-2021. The content of this guide does not necessarily represent the official position of the EEA and Norway Grants 2014-2021; For more information, go to www.eeagrants.org. Information about Active Citizens Fund Romania is available at www.activecitizensfund.ro.



ACCESS TO WORK IN ROMANIA

Ukrainian citizens, legally entering Romania, have a 90-day right of residence on the territory of the country.

One form of regulating the right of residence is by obtaining a **temporary protection** permit. This permit is issued by the *General Inspectorate for Immigration (IGI)*, following which the person concerned receives a personal numerical code (CNP) and also access on Romanian territory to a set of socio-economic rights.

Thus, beneficiaries of temporary protection in Romania have the right to be employed by natural and legal persons, but also the right to carry out independent activities.

Following the situation triggered on February 24, 2022, displaced persons from Ukraine can be employed in Romania **without a work permit** (document issued by the General Inspectorate for Immigration certifying the employer's right to hire a person for a certain position).

Also, if Ukrainian citizens do NOT have documents proving the professional qualification / experience in the field for which they apply, they can submit a declaration on their own

responsibility regarding the fulfillment of the conditions of professional qualification and experience in activity necessary for the respective job and do not have a criminal record that is incompatible with the activity in question.

(model declaration:
www.cdmir.ro/ghid)



This exception does NOT apply to **professions regulated by special laws, such as doctor, dentist, pharmacist, architect and the like.**

List of professions regulated by special laws:



<https://lege5.ro/Gratuit/g42tonrvga/lista-profesiilor-reglementate-in-romania-ordonanta-43-2015?dp=hazdaobxga4ti>.

However, this employment can be done under these conditions **only** for a period of 12 months, with **the possibility of subsequent extension with periods of 6 months, for a maximum of one year.**

Persons with temporary protection status have the following possibilities to exercise the right to work:

- i. Work based on an individual employment contract;
- ii. Self-employment by setting up an AUTHORIZED NATURAL PERSON or a LIMITED LIABILITY COMPANY;
- iii. Work under a copyright assignment agreement.



RESOURCES FOR FINDING A JOB

- *The National Employment Agency (ANOFM)* and the County Employment Agencies (AJOFM) (located in each county and in Bucharest).
- *Jobs4Ukraine platform*: it is necessary to create an account on the platform and fill in the fields to create a Curriculum Vitae (CV): <https://jobs4ukr.com>.
- *Adecco*: This platform works both for finding a job and for posting a recruitment ad. It is necessary to create a profile containing personal data: <https://www.adeccojobsforukraine.com>.
- *Ateliere fara Frontiere*: is a non-governmental organization that aims to reintegrate vulnerable people into the labour market. It requires sending an email: carriere@atelierefarafrontiere.ro, <https://atelierefarafrontiere.ro>.



"Ukrainian schools near Romania" Project ("Școli ucrainene lângă România"): initiative coming from the Ukrainian community, with the aim of hiring Ukrainian teachers for various subjects. It is necessary to contact them at the e-mail address: ukrscoalaromania@gmail.com.

- LinkedIn platform: need to create a profile with relevant data about yourself.
- Various NGOs activating-working with beneficiaries of temporary protection.



NB: you will often need to have a CV (a format that summarises the most important information about yourself, such as education or professional experience). The most popular CV format is EUROPASS, being a document recognized at European Union level (you need to create an account and fill in the fields with the required information, and in the end, the website will generate this document: <https://europa.eu/europass/eportfolio/screen/cv-editor?lang=ro>).



- Platforms such as E-Jobs or BestJobs- need to create a profile (sites are in Romanian and English): <https://www.ejobs.ro/en> and <https://www.bestjobs.eu/en>.

ABOUT THE EMPLOYMENT CONTRACT

An employment contract is an agreement between a person as an employee and an employer, whereby the former agrees to perform certain tasks and follow the instructions of the employer, in exchange for a salary.

Essential and defining elements of the employment contract

- performance of work (tasks for which you were hired)
- salary (amount of money you will be paid in exchange for your work)
- **the subordination relationship** between the employee and the employer (the first and the latter are NOT on an equal position, as the employee has the obligation to follow the employer's instructions, otherwise, the employer can sanction him; also, the employer is the one who approves the employee's work program)



In Romania, the rules (conclusion, execution, termination) of an employment contract are in the Labor Code (<https://legislatie.just.ro/Public/DetaliiDocument/128647>), and the purpose is to ensure *employee protection*. Thus, there is a minimum set of rights that the employee can NOT give up

even if he proposes and even if he signs a contract in this regard. At the same time, the employee and the employer are obliged to comply with a set of obligations.



Attention, do not confuse this with **the service contract** (which is an agreement concluded between two or more persons, whereby one party (the provider/executor) undertakes to provide services to the other party (the beneficiary) in exchange for payment or other compensation). **There is NO subordinate relationship**; the beneficiary will NOT be able to control and supervise the activity of the provider, interested only in receiving the contractually agreed service in the end. Also, even if the contract agrees certain terms at which the service will be delivered, the beneficiary will NOT be able to establish a work schedule for the provider.

Employment contract	Service contract
<i>Essential and defining elements:</i> • performance of work • Wage • subordination relationship	<i>Essential and defining elements:</i> • provision of services • the amount of money owed • equal relationship between the two parties
<u>The material base</u> is provided by the employer for the employee to perform the work on behalf of the employer (headquarters, uniform, cars, computer, machinery, telephone, etc.)	<u>The material base</u> necessary for the activity to be performed is provided/ purchased by the provider, on his own account.
The employee will organize his/her activity according to a <i>timetable established by the employer</i>.	The Provider will organize his/her activity <i>on their own</i>, being held to comply only with the terms agreed upon in the contract.
The terms of the contract must comply with the rules of the <i>Labor Code</i>.	The terms of the contract must comply with the rules of <i>the Civil Code</i>.
Negotiation of clauses is possible, but there is a minimum set of rights and obligations from which the parties cannot deviate, otherwise those clauses lose their value. Even modification or termination of the contract will be subject to strict rules.	Negotiation is possible, the parties being able, by agreement, to establish all the terms of the contract.

Employment contract

Service contract

The employee has certain specific rights:

- the right to leave;
- the right to rest;
- the right to probationary period;
- the right to resign, etc.

The provider does NOT benefit from rights such as an employee.

Work without a legal employment contract is sanctioned by imposition of a fine: on the one **hand, the employer will be sanctioned: “the act of the employer who receives up to 5 people at work without concluding an individual employment contract in writing, with a fine from 10,000 lei to 20,000 lei for each identified person”** (art. 260 letter e of the Labor Code), on the other hand, the other party will also be sanctioned, **employee** - “*performance of work by a person without concluding an individual employment contract, with a fine from 500 lei to 1,000 lei*” (art. 260 letter f of the Labor Code).

CONCLUSION OF AN EMPLOYMENT CONTRACT

The employment contract is concluded:

- In written form (verbal agreements are NOT accepted); The obligation to draft and register the contract is for the employer;
- In Romanian (It can also be concluded bilingual, Romanian-foreign language, the bilingual version having the sole purpose of informing the non-Romanian speaking party). Failure to comply with the wording in Romanian language entails **the nullity** (sanction leading to the termination of the contract concluded in violation of certain rules) of the employment contract.
- And it is signed no later than **one day before the start of the activity**;

It is registered and transmitted in electronic format in *the register of employees* (REVISAL*) will be made no later than **one day before the actual start of the activity** (obligation also for the employer).

THE MAIN TYPES OF EMPLOYMENT CONTRACTS IN ROMANIA

- 1) *Employment contract for an indefinite period of time*: it represents **the rule** in this matter, the contract mentioning **only the date on which it begins to take effect**, the contract being concluded through one of the legal means regulated by the contract.

* REVISAL includes all individual employment contracts in progress in Romania.

- 2) **fixed-term employment contract**: the exact period for which the employment contract will be concluded will be mentioned in writing. This period may not exceed **36 months, i.e., 3 years**.
- 3) **part-time or part-time employment contract**: The part-time employment contract involves a daily norm of 4 hours, while the part-time employment contract can be concluded with a norm between 2 and 7 hours per day. Part-time employees enjoy the rights of full-time employees, rights arising from the incident normative acts, and salary rights will be granted proportionally to the actual time worked, in relation to the rights established for the normal work schedule (8 hours / day).
- 4) **Home office/work contract**- under this contract, the employee will carry out the activities according to the job description at home. Thus, ***in the contract it must be specified that the activity will be carried out at home*** and the program in which the employer can verify the employee's activity and the concrete way of carrying out this control. If these mentions do not appear clearly in the contract, then the activity is considered to be carried out at the employer's headquarters / work points.

MANDATORY INFORMATION IN AN EMPLOYMENT CONTRACT

Identity of the parties

- The employer has the obligation at the date of signing (at the latest) to inform the employee about his own identification data (eg will mention the headquarters / domicile, tax registration number / personal numerical code, etc.);
- Employment contracts can be concluded with persons aged **at least 16**;
- For persons aged 15, the consent of the parents / legal representative is required, and the activities carried out must NOT endanger the development, health and professional training of the minor;



For certain hazardous activities, the person must be at least 18 years old.

Place or places where the activity will be carried out

- This depends, to a large extent, on the field of activity;
- The activities can be carried out only at a certain location or, in the absence of a fixed place, there is the possibility of providing in several locations (about which there is a description as accurate as possible in the employment contract of these locations);

- The information will take place **before** (before) the moment of signing the employment contract;
- Any subsequent amendment also requires **the agreement** of the other party and it is necessary to sign an **addendum** mentioning the change.

Position/occupation of the employee

- According to **the Classification of Occupations in Romania (COR) Nomenclature**;
- This COR, elaborated by the Ministry of Labor and Social Solidarity, aims to identify, centralize and codify occupations in Romania; (See: <https://mmuncii.ro/j33/index.php/ro/2014-domenii/munca/c-o-r/>)
- The responsibility for choosing this code correctly lies with the employer, while the employee has more of a duty of care (which means that he must make every effort, in relation to his knowledge, to ensure the correctness of the COR code, but in case of a mistake, he will NOT respond).



Job description and express duties of the employee

- The document detailing the tasks, responsibilities of the employee and how to fulfil them, document that is signed by **both parties**, at the date of conclusion of the employment contract, *in two copies*;
- Represents an **Annex** to the employment contract;
- It is the employer's obligation to draw up this document;



EXCEPTION! It is NOT an obligation for micro-enterprises (companies with a small turnover and a small number of employees) with at least 9 employees. However, in case of a **written request** from an employee, the form will be communicated in writing.

Duration of the contract

- Employment contracts can be of **indefinite duration** (only the date of commencement of work is specified) and **fixed-term** (both the date on which work begins and the date on which the work will be completed for the employee are specified);

- A maximum of 3 successive fixed-term employment contracts may be concluded between the same parties;
- The maximum duration for a single contract can be up to 36 months.

Length of the trial period

- The role of this period is for testing by the employer the skills of the new employee, the way of interacting with the team, the quality of his work;
- This period **can NOT exist outside an employment contract**, because this would be undeclared work, being *illegal* (the contravention can be applied to both parties);
- Contractual rights and obligations arise normally (e.g. the person can take days off if the employer also agrees);
- Throughout this period, both the employee and the employer may request termination of employment **without the need to observe the notice period** (only written notice is required):
 - ◆ For contracts concluded for ***an indefinite period***, the maximum probationary period is 90 days/120 days.
 - ◆ For fixed-term contracts, ***the*** probationary period ranges from 5 to 45 days, depending on the duration of the employment contract.
- The law establishes ***only the maximum*** period, so it is up to the two parties to negotiate, and there may be employment contracts without a probationary period.

Normal working hours and the time interval / intervals in which the employee will perform the work

- It refers to the period of time that the employee uses to fulfill the work obligations, according to the provisions of the employment contract;
- **The rule is 8 hours / day, totalling a a number of 40 hours / week, 5 days / week + 2 days of rest;**



A total of 48 hours/week (including overtime) may NOT be exceeded;



A total of 12 hours/day may NOT be exceeded;

- For 12 hours worked in one day, a rest period of 24 hours is required.
- An unequal distribution of working time can be negotiated and **expressly mentioned in the contract**, but respecting the 40 hours / week;
 - ◆ For those under the age of 18, the duration can NOT exceed 6 hours / day, with a total of 30 hours / week, nor can they perform additional work or night work (22:00-06:00).
- Work performed at night can be compensated either with a reduction of one hour of the working hours, but without reducing the basic salary, or compensated with an increase of 25% gross salary.
 - ◆ Pregnant women, mothers or women who are breastfeeding can NOT be forced to work at night.

Remuneration conditions

- Basic element: **salary** (amount of money due for the work performed);
 - The gross salary consists of the net salary and taxes due to the state. The obligation to pay these taxes is the responsibility of the employer (obligation that can NOT be waived by agreement of the parties or unilaterally);
 - **It is mandatory that the gross salary be mentioned** in the employment contract;
 - **The gross minimum salary** in the Romanian economy is currently RON 3,000.00. From this, the employee will receive effectively a **net salary** of RON 1,898.00;
 - Taxes:
 - ◆ Social Security Contribution (SSC = pension): 25%
 - ◆ Health Insurance Contribution (CASS): 10%
 - ◆ Income Tax: 10%
 - In addition to the salary, the parties can negotiate **other amounts of money** (vouchers/food stamps, commissions, bonuses, etc.).
-

Length of the annual leave

- The minimum **duration** of annual leave is 20 working days;
 - The days to which an employee is entitled if he was employed during the year, are calculated **directly proportional to the period worked**;
 - Public holidays in Romania where there is no work, recovery days for weekends worked, will NOT be taken into account for annual leave days;
 - This right is **paid and guaranteed to** all employees (this right can NOT be waived unilaterally or by agreement);
 - During the rest leave, the employee **can NOT be dismissed**;
 - **You can NOT turn vacation days into sums of money**;
 - Cash compensation is allowed only when the employment contract is terminated and the employee has not taken all the due vacation days.
-

Notice period

Resignation: it usually implies the existence of a notice period, of maximum 20 days depending on the execution / 45 days management position (but also depending on what was negotiated at the time of signing the employment contract);

Dismissal: the employee benefits from the right to notice, under the conditions negotiated in the employment contract, assuming a minimum right of 20 days (regardless of whether it is an executive / management position);

- The notice period is equally right and obligation for both parties, depending on who has the initiative to terminate, but **the employer can waive his right, while the employee could not do this**;
 - During the period of notice, all rights and obligations continue to have effect (for example, the employee can enjoy the days of leave);
 - At the end of the notice, the period of annual leave not taken will be compensated in money.
-

TERMINATION OF EMPLOYMENT

Modalities of termination of the individual employment contract:

- A) De jure (independent of the will of either party)
- B) By the will of one of the parties
- C) By agreement of the will of both parties, **on an agreed date**.

Modalities of termination of employment involving at least one act of will

	Resignation	Dismissal	Agreement of the parties
Essential features	Employee's option;	Employer's option;	The request can come from either party;
	- It may be tendered without the approval of the employer; - It does NOT need to be approved by the employer;	The acceptance of the employee is NOT a condition;	The consent/ agreement of the other party is a must;
	It must be submitted in written form;	It is presented in written form;	It must be presented in written form;
	The employee has NO obligation to motivate their resignation notice;	The reasons that lead to the dismissal decision must be set down therein;	There is NO obligation to motivate in the agreement, and both parties agree on all the terms under which the employment contract will be terminated;
	it usually implies the existence of a notice period, of maximum 20 days depending on the execution / 45 days management position (but also depending on what was negotiated at the time of signing the employment contract);	the employee benefits from the right to give notice, under the conditions negotiated in the employment contract, assuming a minimum right of 20 days (regardless of whether it is an executive / management position);	There is NO notice period;
	The contract will cease either on the date of the notice period or on the date of waiver by the employer of the notice period.	The contract will cease on the date of expiry of the notice period.	The contract will cease on the date agreed by the two parties.

OTHER SPECIFIC MENTIONS:

Resignation:

- The employees has the obligation to register the resignation (in case of refusal, the employer may be sanctioned by imposition of a fine ranging between RON 1,500.00 and ROIN 3,000.00 (art. 260 para. (1) letter n) of the Labor Code).
- From the moment of registration of the resignation, the notice period also runs.
- Resignation model:



https://www.inspectiamuncii.ro/documents/66402/266891/Formular_demisie.pdf/183a23ac-fe33-44ec-8beb-e0d81f0adc71

- If the employer waives the notice period, the legal status of the act of will called “resignation” does NOT change and will NOT turn into termination by agreement of the parties.
- If the employer does NOT fulfill the obligations assumed by the employment contract, then the employee may resign, without observing the notice period.
- Furthermore, during the trial period, the employee may resign without respecting the notice period.

Dismissal:

- It can be ordered either *for reasons related to the employee's person* (reasons related to the employee's conduct/skills/training) or for reasons not related to the employee's person (job termination).
- If the reasons for dismissal are professional inadequacy, then the employer can appeal for dismissal, only after offering another job corresponding to his training, and the latter has refused it.
- **The trial period is exempt from the obligation to go through the notice period** and does NOT imply the obligation of motivation by the employer.
- Professional inadequacy entails the notice period.
- As an employer, you can NOT dismiss the employee if the latter is on annual leave.

Dismissal on grounds pertaining to the employee:

- 1) The employee is under preventive arrest for a period longer than 30 days (c.f. Criminal Code):
 - It is important that this situation leads to a state of impossibility for the employee to carry out the activity;
 - If the preventive arrest is for a period of less than 30 days, it is compulsory that the employee be reinstated;
 - Dismissal before expiry of that period shall render the decision null and void.

- 2) The physical / mental incapacity of the employee must be acknowledged by the competent bodies of medical expertise:
 - This condition of the employee must be ascertained by the occupational medicine specialist through an official document called “medical opinion”;
 - The decision of the competent bodies may be contested by the employee;
 - Because of this condition, the employee can no longer perform his duties corresponding to the job;
 - The incapacity relates only specifically to the job where he/she is employed for, it does NOT have to concern the entire work capacity for other jobs;
 - If dismissal is desired, the employer must first prove that he has made available to the employee another vacancy compatible with the employee’s ability to work.
- 3) The employee does NOT correspond professionally for the job for which he/she was employed:
 - Dismissal may NOT be ordered prior to the existence of a performance appraisal procedure (it contains clearly established criteria, the persons on the committee and the interval in which this evaluation can be carried out) established by the employment contract or internal regulations;
 - On the basis of this assessment, it must be possible to clearly prove that the performance targets have not been met;
 - It does NOT involve the fault of the employee.
- 4) Employee misconduct:
 - The employee has committed a serious misconduct or has committed several violations of the contract or of the employer’s internal regulations;
 - **Disciplinary misconduct** is an action or inaction with guilt that violates legal norms, employment contract, internal regulations or orders of hierarchical leaders;
 - A prior disciplinary investigation procedure must be followed.

Dismissal on grounds not pertaining to the employee’s person:

- It must have a **real and serious cause** (e.g. economic difficulties, the need to reorganize the activity to reduce personnel costs, costs with certain services);
- it must be substantiated in a decision of the management body of the employing unit;
- the post must be effectively removed from the establishment chart;
- written notification must be given to the employee that the position will be terminated;
- the employee will benefit from a **notice period of at least 20 working days** from the moment of notification;
- The measure of dismissal must also appear in a written decision.

The dismissal decision must contain:

- the reasons for the dismissal;
- the length of notice,
- the time limit and the court before which it may be appealed.

Agreement of the parties:

- a date agreed by both parties – in such case, a notice period is NO longer in question.
- a document called "Agreement for termination of the individual employment contract by agreement of the parties" shall be executed in two counterparts.
- a **request for termination by agreement of the parties will NOT automatically turn into a notice of resignation, if the employer does NOT show his agreement.**

Termination *de jure* of the employment contract: Termination occurs as a result of the occurrence of an event or factual situation *expressly provided for by law* (independent of the will of the parties).

Termination of the employment contract by right

Death of employee / employer natural person / dissolution of legal entity	• The contract is concluded in consideration of a specific person (employee or employee).
Placement under interdiction of the individual employee/ employer (on the date of the final court decision)	• the person's lack of discernment; • It implies a limitation on the exercise of civil rights; • The imposition of such a protection measure can only be decided by a court of law.
On the date of cumulative fulfilment of standard retirement conditions: (retirement age) and minimum contribution period.	• for Ukrainian citizens, beneficiaries of temporary protection, this provision can NOT be applied for the time being; • for Romanian citizens, the retirement age is 63 years for women, 65 years for men; the minimum contribution period being 15 years; • There is currently NO agreement between Romania and Ukraine regarding the "transfer of years worked from one country to another".
Situation when the employment contract is found to be null and void.	• This is a legal sanction and refers to the fact that an essential condition for the existence of an employment contract has been breached; • example: <i>conclusion of an employment contract for carrying out an illicit or immoral activity.</i>

Termination of the employment contract by right

Reinstatement to the position held by the employee dismissed on illegal/groundless grounds	If the vacant position was assigned to a new employee, and in the meantime a decision is issued to reinstate the dismissed employee on illegal/groundless motives, then the employer will have to terminate the employment contract to release the position of the new employee.
Following a final custodial sentence	there must be a physical impossibility to report to work.
Withdrawal of authorizations / approvals required for the exercise of the profession	termination will be imposed after the expiration of a period of 6 months from the withdrawal of documents. Following a final custodial sentence
Following the application of a measure prohibiting the exercise of the profession	In the case of an offence, in addition to the main penalty, a secondary penalty of disqualification for a period of time may be imposed, facilitating the commission of the offence.
Expiry	in the case of fixed-term contracts.
Withdrawal of parents/legal representatives' consent	in the case of employees aged between 15 – 16 years



SELF-EMPLOYMENT BY INITIATING AN ACTIVITY AS AN AUTHORIZED NATURAL PERSON (PFA) OR A LIMITED LIABILITY COMPANY (SRL)

Law governing the two legal entities:

PFA	LLC (SRL)
Emergency Ordinance No. 44/2008 regarding the performance of economic activities by authorized individuals, individual enterprises and family businesses corroborated with art. 133 letter c) of Law 122/2006 on asylum in Romania.	Law no. 31/1990 on commercial companies.

Elements to be taken into account when choosing the form under which the economic activity will be carried out

1. Number of partners

PFA	LLC (SRL)
One person (only one physical person).	- At least one person*- LLC with sole administrator; - Maximum 50 people*.
- As a partner, you can NOT hire yourself at your own PFA under an employment contract. - In the case of an LLC, the quality of administrator of an associate is regulated by a <i>mandate</i> contract (if remunerated, the person will pay taxes related to assimilated income), but the person concerned may also conclude an <i>employment contract</i> for another position.	

2) Number of NACE codes**

PFA	LLC (SRL)
Maximum 5 NACE codes.	Unlimited number of NACE codes.
- The entity may have only one primary NACE code (for the main core business to be carried out), but may have several other secondary NACE codes. Thus, for example, an entity may have the principal NACE code 7311 - <i>Advertiser activities</i> and a secondary code 7420 - <i>for photography activities</i>. - There is a list of NACE codes PROHIBITED for carrying out those activities in the form of a PFA, such as: 4932 – <i>Taxi transport</i>; 2020 – Manufacture of pesticides and other agrochemical substances/materials; 6622 – Activities of insurance agents and brokers; 8010 – Protection and guard activities .	

* It can be a natural person and/or a legal entity.

** **The NACE code** is a four-digit number used to differentiate economic activities in Romania, provided in the *Classification of Activities in the National Economy Register* and it establishes the field of activity of the company that the person wants to establish. There is a list regarding the Classification of activities in the national economy regulated by [Government Decision no. 656/1997](#).

3) Number of employees

PFA	LLC (SRL)
• Maximum 3 employees.	• There is no condition on this.
• In the case of a PFA, in addition to the person of the associate who establishes the legal entity, he can hire with an employment contract within the PFA only a maximum of 3 persons (art. 17 GEO 44/2008).	

4) The need to demonstrate professional training/experience in the field in which the entity will carry out its economic activity

PFA	LLC (SRL)
• This is a basic condition and can be proven with one of the following documents: <i>diploma proving graduation from an educational institution, certificates of length of service, attestation of professional qualification, etc.</i>	• This is NOT a condition that must be met.
• For higher education graduation diplomas / courses abroad, their translation and legalization will be required. • The PFA holder will have to prove professional experience / training in the field of each NACE code provided in the articles of incorporation.	

5) Legal personality*

PFA	LLC (SRL)
• It does NOT have legal personality.	• It has a distinct Legal Personality from the person(s) who established the company.
• In the case of a PFA, because there is no distinction between the patrimony of the founding person and the patrimony of the legal entity, in case of debts, it will be liable with own / personal assets. • In the case of an LLC, there is a distinction between the patrimony / patrimony of the founder / founders, so creditors will only be able to track the assets of the company.	

* **Legal Personality:** the ability of a legal person to acquire rights and assume obligations in its own name, to conclude various legal acts through legal representatives.

Steps to be taken and required documents

1. ESTABLISHMENT OF PROFESSIONAL HEADQUARTERS

PFA+LLC (SRL)

- Proof **of the** right to use that space that can be done by a *sale-purchase agreement, lease agreement**, *free lease (commodatum) agreement***, *heir certificate* or any other legal document certifying the right to use.

The lucrative activity is carried out at the professional headquarters;

- If the activity will be carried out in a residential building, the set of documents necessary for the registration/incorporation must contain a favourable opinion of the owners' association and neighbours with whom the space has a common wall.

The economic activity is NOT carried out at the professional headquarters;

- The set of documents necessary for the registration/incorporation must include an affidavit made under oath and under private signature, stating that the economic activity will NOT take place at the professional headquarters.

- The documents certifying the right to use the professional headquarters (and secondary offices, if any) will be submitted together with the other documents, in original or in certified copy to the ONRC.

2) RESERVATION OF THE NAME

PFA+LLC (SRL)

- The verification and reservation is made at the request of the interested person, being a **procedure prior** to submitting the file for the establishment of the legal entity;
- Fill in a standard application containing **at least 3 name proposals**, in order of preference;

* **Lease agreement:** one party, called the *lessor*, undertakes to provide the other party, called the *lessee*, with the use of an asset for a certain period, in exchange for a price, called rent.

** **Commodatum Agreement** („Loan-for-Use Agreement“): whereby one party transfers the right of use with the obligation that the other party return it after a specific, mutually agreed period, without there being an obligation to pay for this transfer.

PFA+LLC (SRL)

- the application may be submitted:
 - ♦ at the counter of the Trade Register Offices attached to the courts (the application can be downloaded from the following website: <https://www.onrc.ro/templates/site/formulare/11-10-181.pdf>
 - ♦ e-mail, fax, mail (payment by payment order; additional payment of the auxiliary fee of 7.68 lei) (contact details can be accessed depending on the county from the following website: <https://www.onrc.ro/index.php/ro/onrc-contact?id=73>
 - ♦ online: https://portal.onrc.ro/ONRCPortalWeb/appmanager/myONRC/public?nfpb=true&pageLabel=login#wlp_login (requires creating an account on the ONRC website).



"It is not possible to reserve and register a company that is already reserved, for the duration provided by law or registered in the Trade Register" (Art. 50 Law 265/2022 on the Trade Register).

PFA

LLC (SRL)

- The name will contain the full name written in full or names / combinations of initials or other mentions until a sufficient distinction is reached from other similar entities, followed by the phrase *"authorized natural person"* (Art. 52 paragraph (1) and (2) Law 265/2022).
- Own name, to which may be added the name of one or more shareholders and will be accompanied by the written mention in full *"limited liability company"* or *"S.R.L."* (Art. 57 Law 265/2022).
- The name must have sufficient identification elements so that it is not confused with other already existing companies, but the law does not provide exact criteria related to distinctiveness.

PFA+LLC (SRL)

- It is forbidden to use the following phrases: *"scientific"*, *"academy"*, *"academic"*, *"university"*, *"university"*, *"school"*, *"school"* or their derivatives, as well as *"notary"*, *"executor"*, *"lawyer"*, *"legal adviser"*, *"legal advice"* or words that are associated with professions involving the exercise of public authority (Art. 49 para. (2) Law 265/2022).

PFA+LLC (SRL)

- The following phrases “national”, “Romanian”, “institute” or their derivatives or words or phrases characteristic of central public authorities and institutions may NOT be used, if this is likely to create confusion with the name of a central or local public authority or institution (art. 49 para. (3) Law 265/2022).
- The name must contain **Latin characters**.

3) ARTICLES OF INCORPORATION OF THE COMPANY

LLC (SRL)

- It is concluded by agreement of the wills of **at least two people** (model: http://www.onrc.ro/documente/acte_constitutive/MODEL%20AC%20SRL%20MM%20ASOCIATI.pdf).
- This document specifies information on the structure of the company, the obligations of the administrator, the rights and obligations of associations (that is, all important aspects regarding the organization and functioning of the firm) and will be signed by both the shareholders and the administrator (considered the legal representative of the legal entity). At its core, it's like a contract.
- The Articles of Association will specify both the main field and object of activity, as well as secondary activities, if applicable, in accordance with NACE.
- The updating of the Articles of Association can only be done through an amending act (includes amendments) during the meetings of associations (GMS Decision or Decision of the Single Shareholder). The amending act will be accompanied by the Articles of Association in the new form and submitted to the ONRC.
- It can also be established *by the act of will of a single person* (LLC with sole administrator), but the place of the constitutive act can be taken by the document called STATUTE (model: http://www.onrc.ro/documente/acte_constitutive/model%20AC%20SRL%20AS.%20UNIC.pdf).



4. DECLARATION ON ONE'S OWN RESPONSIBILITY REGARDING THE FULFILLMENT OF THE CONDITIONS OF OPERATION / PERFORMANCE OF THE ACTIVITY FOR THE REGISTERED OFFICE AND / OR SECONDARY OFFICES OR, AS THE CASE MAY BE, WITH THIRD PARTIES

PFA+LLC (SRL)

- One must fill in a form acknowledging responsibility for the legality of carrying out activities at the main establishment (+secondary establishments, if applicable) or outside the establishment.

PFA+LLC (SRL)

- The aforementioned form must be signed either by regular handwritten signature or under qualified electronic signature by the associates, administrators.
- Statement model: <https://www.onrc.ro/templates/site/formulare/11-10-141.pdf>



5. IDENTITY DOCUMENTS

PFA

- In certified copy, the identity documents of the **PFA holder will be submitted.**

LLC (SRL)

- in certified copy will be submitted the identity documents of each associate / administrator, i.e. of all persons involved in the **management and control** of the entity.

6. TAX OFFENCE RECORD / DECLARATION ON OWN RESPONSIBILITY OF THE NATURAL PERSON FOREIGN CITIZEN WHO IS NOT REGISTERED AS A TAX PAYER IN ROMANIA

PFA+LLC (SRL)

The person is registered as a tax payer in Romania

- A tax offence record is required.

The person is NOT registered as a tax payer in Romania

- It takes is an affidavit by which the person declares that:
 - ♦ he/she has not committed acts of the nature of those who are registered in the tax record;
 - ♦ he/she is not registered as a taxpayer in Romania.

7. STANDARD APPLICATION FOR REGISTRATION IN THE COMMERCIAL REGISTER

APPLICABLE TAX ASPECTS

TAX MATTERS APPLICABLE AS OF 1 JANUARY 2023

(based on Ordinance nr. 16/2022)

	LLC (SRL) (MICRO-COMPANY)	LLC (SRL) (CORPORATE INCOME TAX PAYER)
Tax due	1% on receipts up to EUR 500,000.	16% applied to <i>taxable profit</i> *.
Other conditions to be taken into account.	Compliance with the condition of full-time employment of at least one employee. The related taxes will be paid (10% income tax, 25% CAS, 10% CASS). Also, in order to qualify as a microenterprise, revenues from consulting / management must NOT exceed 20% of the Turnover.	



NB: Until October 1, 2023, the gross minimum wage for 2023 was RON 3,000, and starting with October 1, **2023 it is RON 3,300** (Government Decision no. 900/2023 for establishing the minimum gross national salary guaranteed in payment).

* **Taxable profit** is calculated as the difference between income and expenses recorded in accordance with applicable accounting regulations.

PFA		
	IN REAL SYSTEM	INCOME NORM

10% applied to *income norms***.

Tax due

10% applied *annual net income* (gross income - deductible expenses).



Receipts must not exceed **the threshold of EUR 25,000**. If this threshold is exceeded during the year, starting with the following year, it will be mandatory to switch to the real system.

Other payment obligations

CAS payment (25%) and CASS (10%) applied to certain thresholds in the amount of revenue.

Information on income norms for 2023, by counties, can be accessed on the ANAF website:

https://static.anaf.ro/static/10/Anaf/AsistentContribuabil_r/NormeVenit2023/NormeVenit_2023.html



The calculation below was made taking into account the gross minimum wage in the country of 3,000 RON!

CONTRIBUTION	THRESHOLD / UPPER LIMIT at which you report receipts	AMOUNT OF MONEY OWED
	Below the ceiling of 12 gross minimum wages per country (below 36,000RON).	You do NOT owe CAS.
CAS (pension) is 25%	The ceiling of 12 gross minimum wages per country (over 36,000 RON).	$36.000 \times 25\% = 9.000$ RON
	The ceiling of 24 gross minimum wages per country (over 72,000 RON).	$72.000 \times 25\% =$ RON 18,000

** **Income norm** = annual limit / amount of money, established by ANAF (tax authority in Romania), by counties, **for certain activities**, to which all taxes will relate.

CONTRIBUTION	THRESHOLD / UPPER LIMIT at which you report receipts	AMOUNT OF MONEY OWED
CASS (health) is 10%.	Below the ceiling of 6 gross minimum wages per country (below RON 18,000).	You DO NOT owe CASS.
	The ceiling of 6 gross minimum wages per country. (of/ over 18.000 RON)	$18.000 \times 10\% = \text{RON } 1,800$
	The ceiling of 12 gross minimum wages per country. (over/over 36.000 RON)	$36.000 \times 10\% = \text{RON } 3,600$
	The ceiling of 24 gross minimum wages per country. (of/ over 72.000 RON)	$72.000 \times 10\% = \text{RON } 7,200$

TAX ISSUES APPLICABLE AS OF 1 JANUARY 2024

(Emergency Ordinance No. 74/2023)

	LLC (SRL) (MICRO-COMPANY)	LLC (SRL) (CORPORATE INCOME TAX PAYER)
Tax payable	1% on income, for receipts up to EUR 60,000. 3% on income, for receipts between EUR 60,000 and EUR 500,000 or carries out certain main or secondary activities corresponding to certain NACE* codes.	16% applied to taxable profit.  NB: Taxable profit is calculated as the difference between income and expenses recorded in accordance with applicable accounting regulations.

	LLC (SRL) (MICRO-COMPANY)	LLC (SRL) (CORPORATE INCOME TAX PAYER)
Other conditions to consider	Compliance with the condition of employing at least one full-time employee. The related taxes will be paid (10% income tax, 25% CAS, 10% CASS). Also, in order to qualify as a micro-enterprise, revenues from consulting/management must NOT exceed 20% of the Turnover.	

***List of NACE codes for which 3% tax can be paid:**

- 5821** – Computer game editing activities,
- 5829** – Editing activities of other software products,
- 6201** – Custom software development activities (customer-oriented software),
- 6209** – Other information technology service activities,
- 5510** – Hotels and similar accommodation facilities,
- 5520** – Holiday and short-stay accommodation facilities,
- 5530** – Parks for caravans, campsites and campsites,
- 5590** – Other accommodation services,
- 5610** – Restaurant,
- 5621** – Event catering activities,
- 5629** – Other food services n.e.c.,
- 5630** – Bars and other beverage serving activities,

***List of NACE codes for which 3% tax can be paid:**

6910 – “Legal activities” – only for lawyers’ activities,

8621 – General health care activities,

8622 – Specialized healthcare activities,

8623 – Dental care activities,

8690 – Other activities relating to human health.’

PFA	
In real system	Income norm

10% applied to *income norms**.

Tax payable

10% applied *annual net income* (gross income - deductible expenses).



Receipts must NOT exceed **the threshold of EUR 25,000**. If this threshold is exceeded during the year, starting with the following year, it will be mandatory to switch to the real system.

Other payment obligations

CAS payment (25%) and CASS (10%) applied at certain thresholds in the amount of income.



The calculation below was made taking into account the gross minimum wage in the country of 3,300 RON, but it may undergo changes in the future!!

* **Income norm** = annual ceiling / amount of money, established by ANAF (tax authority in Romania), by counties, **for certain activities**, to which all taxes will be reported.

Contribution	Threshold/upper limit	Amount of money owed
CAS (pension) and is 25%	Below the ceiling of 12 gross minimum wages per country. (less than 39,600 RON)	NO CAS CONTRIBUTION IS OWED.
	Ceiling 12 gross minimum wages per country. (39.600 RON)	$39.600 \times 25\% = \text{RON } 9,900$
	The ceiling of 24 gross minimum wages per country. (79.200 RON)	$79.200 \times 25\% = \text{RON } 19,800$
CASS (health) and is 10%	Below the ceiling of 6 gross minimum wages per country. (under 19,800 RON)	Even if the receipts are below this threshold, CASS will be paid: $19.800 \times 10\% = \text{RON } 1,980$
	The ceiling of 6 gross minimum wages per country. (19.800 RON)	$19.800 \times 10\% = \text{RON } 1,980$
	The ceiling of 60 gross minimum wages per country. (198.000 RON)	$198.000 \times 10\% = \text{RON } 19,800$



COPYRIGHT ASSIGNMENT AGREEMENT

Copyright is a **form of intellectual property** alongside trademarks, patents, inventions and others.

All original works of literary, artistic or scientific intellectual creation, such as literary writing, studies, courses, photographic works, drawings, design, audiovisual works, video games, including computer programs, etc., constitute **copyright**.

The contract for the assignment of copyright is the agreement by which the holder transfers his patrimonial rights, in whole or in part, to the other party (assignee), who undertakes in exchange for a sum of money (**any material reward offered to the author: direct remuneration, secondary remuneration, fee, royalty and the like**).

Legal regulation

Law No. 8/1996 on copyright and thereto related rights

Elements regarding the employment contract and the copyright contract

Employment contract	Copyright Agreement
Name of the parties to the contract: employee and employer .	Name of the parties to the contract: assignee* and assignor**.
The right to leave is guaranteed and is paid.	Some form of "leave" can exist as long as there is no breach of contract terms, but it will NOT be paid.
The terms of the contract can be negotiated.	The terms of the contract can be negotiated.
It is mandatory that the contract be executed in written form.	It is mandatory that the contract be executed in written form.
The employment contract is subject to the regulations of the Labor Law.	Provisions regarding the assignment of these rights – Law 8/1996.

Mandatory clauses in an assignment contract:

- Transferred patrimonial rights: what exactly will be assigned to the beneficiary;
- Object of the contract;
- Duration and extent of assignment;
- Remuneration of the copyright holder;
- Arrangements for making use of the assigned right (e.g. if it is a literary work, how it is published);
- Consequences of improper use of rights granted by the author;
- Rights and obligations of transferor (provider) and transferee (beneficiary);
- Modalities of termination of the contract.

According to the law, in European Union countries copyright will protect intellectual property for a **period of 70 years** counting from the moment *of the author's death or from the death of the last author left alive*, if we are talking about works made by a group of people.



The person under whose name the work was first made known to the public shall be presumed to be the author unless proven otherwise.

* **Assignee:** one who receives the right to modify, publish, edit the work of the transferor.

** **Transferor (author/right holder):** the transferor;

The rights arising from this agreement can be divided as follows:

The perspective of the moral side

- the right to decide whether, how and when the work will be made public;
 - the right to claim recognition of authorship of the work;
 - the right to decide under what name the work will be made public;
 - the right to demand respect for the integrity of the work and to oppose any alteration or damage to the work if it damages its honour or reputation;
 - the right to withdraw the work, compensating, where appropriate, the holders of rights of use harmed by the exercise of the withdrawal.
-

The perspective of the patrimonial side

- to decide whether, how and when his work will be used, including that consent be used by others.
-

Applicable tax aspects

The revenues obtained as a result of the assignment of copyright are included in the category **of income from intellectual property rights** (Article 70 of Law 227/2015 on the Fiscal Code).

Natural person taxpayers who derive such income from intellectual property rights (including copyright) are required to pay taxes and contributions. Such income shall be deemed to be obtained from Romania if it is received from a Romanian income payer or from a non-resident through a permanent establishment in Romania.

It is a withholding tax payment by the **person procuring the service**. The obligation falls on **the payer**, generally the legal entity, while the natural person/assignor has no other obligations regarding the completion of other formalities regarding this tax (nor the obligation to fill in the Tax Register).

- The tax will be paid until the **25th day, inclusive, of the month following** that for which the tax was withheld.
- The tax represents 10% of **the accumulated net income**.

- **Net income is calculated by deducting the flat rate (40%) from gross income.** The tax is withheld directly at source, which means that it is paid automatically with the payment of the due income. (Art. 72 para. (2) Law 227/2015). Income tax = **10% x (Gross income – 40% x Gross income)**.
- Flat-rate expenditures include, inter alia: social contributions due, commissions, amounts accruing to collective management organisations or other payers of revenue as payment for services rendered for the management of rights by the latter to rightsholders.



NB: Net income (tax calculation base) can also be established **in real system**, based on accounting data (this is more favourable, only if lump sum expenses would exceed 40%).

The copyright assignment contract is registered with ANAF, **only once**, when such revenues are obtained.

The assignor has to pay social security contributions {CAS (pension fund)} in 25% and health insurance contributions {CASS (health insurance)} in percentage de 10%, Depending on the 3 well-established upper limits (6 gross minimum wages per country, 12 gross minimum wages per country or 24 gross minimum wages per country) art. 148 (1) and (2) Law nr. 227/2015.

The individual does NOT owe social contributions for copyright income if:

- earn income from pensions;
- earns income from wages;
- revenues are below the ceilings mentioned above.



BREACH OF CERTAIN RIGHTS UNDER THE EMPLOYMENT CONTRACT BY THE EMPLOYER

In case of notification of violation of rights or provisions of the employment contract, the employee may send a *written complaint* to the Territorial Labor Inspectorate (**ITM**). In each county there is such an Inspectorate.

The complaint must necessarily include the name and surname of the person concerned, identification data, as well as the address where he is to receive the answer.

The standard deadline for resolution is **30 days** from the date of registration of the complaint.

ITM BUCUREȘTI

Address: 22 – 26A, Radu Vodă Street, Bucharest 040275

Phone number: 021 331 7698

Email: itmbucuresti@itmbucuresti.ro

Online submission of the complaint:

<https://www.inspectiamuncii.ro/petitii-si-sesizari>



G. Workplace harassment

Workplace moral harassment

Regulatory acts	Government Ordinance No. 137/2000 on preventing and sanctioning all forms of discrimination <i>together with Law No. 167 of 2020 supplementing;</i> Law No 202/2002 <i>on equal opportunities and treatment between women and men.</i> Art. 5 of Law No. 53/2003 regarding the Labour Code.
What is it?	Any type of inappropriate behavior that a person has towards another person and that spoils employment relationships
Condition	The behavior must be systematic (a process that involves unfolding over time, through the existence of repeated actions)
The author of the act of harassment	<i>The aggressor:</i> any hierarchically superior employee, subordinate or considered at the same level
Effect	Violation of rights, dignity and even health (physical and/or mental).
Forms	a) hostile or unwanted conduct; b) verbal comments; c) actions or gestures.
Sanction	Disciplinary, contravention and/or criminal liability.

Workplace moral harassment

Evidence

The employee must prove the **facts** (evidence to show what happened), and the employer must prove that he complied with legal obligations and that the employee was NOT in a situation of moral harassment at work (the burden of proof lies with the employer) - art. 2 paragraph 57 OG 137/2000;



NB! The intention to harm does NOT need to be proven.

Remedies

- amicably, through an open discussion with the perpetrator of the act of harassment;
- discussion with the leader of the company / person hierarchically superior to the author of the act of harassment;



NB: the employer has the obligation to explicitly introduce in the *Internal Regulations* **provisions on harassment at work**, informing employees about equal opportunities and treatment in employment relationships and to apply measures to prevent harassment at work;

- formal complaint to:
 - ♦ the leader of the company;
 - ♦ National Council on Combating Discrimination (CNCD);
 - ♦ court.

The National Council for Combating Discrimination (CNCD) is the state authority active in the field of discrimination. Complaints against such behavior can be made on their website. This website can also be accessed in English:

<https://www.cncd.ro/depune-o-petitie/#>



Also, a referral template can be downloaded through this site.

If the court finds that the offence has been committed, it may:

- order the employer to take the necessary measures to stop the acts / acts of moral harassment at work against the employee concerned and / or
- order the employer to pay compensatory and non-pecuniary damages to the employee and/or
- order the employer to pay the amounts necessary for the psychological counseling needed by the employee, for a reasonable period of time, etc.

NO person can be held accountable or discriminated against on the grounds that they opposed this phenomenon or tried to solve it.

Sexual harassment

Regulatory acts

Law No. 202/2002 *on equal opportunities and treatment between women and men*;

Art. 223 of Law No. 286/2009 *on the Criminal Code*.

What is it?

Inappropriate behavior with sexual connotations, being a form of discrimination and violence.

Condition

Repeatability, i.e. behavior must be **systematic** (a process that involves unfolding over time, through the existence of repeated actions)

The author of the act of harassment

Law No. 202/2002 does not limit the framework, whereas the Criminal Code specifies that action takes place within the framework of employment relations.

Effect

Violating dignity by creating an intimidating, hostile, degrading, humiliating or offensive environment.

Forms

- Verbal (Comentarii indecente);
- Non-verbal (Exposure of sexual photos/videos);
- Physical (pinching, caressing, unwanted touching).

Sexual harassment

- amicably, through an open discussion with the perpetrator of the act of harassment;
- discussion with the leader of the company / person hierarchically superior to the author of the act of harassment;



NB: the employer has the obligation to explicitly introduce in the *Internal Regulations* **provisions on harassment at work**, informing employees about equal opportunities and treatment in employment relationships and to apply measures to prevent harassment at work;

Remedies

- formal complaint to:
 - ♦ the leader of the company;
 - ♦ National Council on Combating Discrimination (CNCD);
 - ♦ Labor Inspection;
 - ♦ court of law.



Iceland
Liechtenstein
Norway

**Active
citizens fund**



Guide for access to the labour market

FOR MIGRANTS AND BENEFICIARIES
OF TEMPORARY PROTECTION IN ROMANIA

Working together for a green, competitive and inclusive Europe

Project implemented by



Project supported by



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Coalition for Migrants and Refugee Rights (CDMiR)
Bucharest, October 2023