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Labour Code
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It must be specified that the only text which shall produce legal effects is the text in the Romanian language.

The text was updated by the legislative software LEX EXPERT on the basis of the modifying normative acts, published in the Official Gazette of Romania, Part I, until 16 December 2019.

Basic act
#B: the Law No 53/2003, republished in the Official Gazette of Romania, Part I, No 345 of 18 May 2011

Modifying normative acts
#M41: the Law No 153/2019
#M40: the Law No 148/2019**
#M39: the Government Emergency Ordinance No 43/2019**
#M38: the Law No 93/2019
#M37: the Government Emergency Ordinance No 26/2019
#M36: the Law No 45/2019**
#M35: the Government Emergency Ordinance No 114/2018**
#M34: the Law No 256/2018**
#M33: the Government Emergency Ordinance No 96/2018
#M32: the Law No 211/2018**
#M31: the Decision of the Constitutional Court No 387/2018
#M30: the Law No 176/2018**
#M29: the Law No 127/2018
#M28: the Law No 99/2018**
#M27: the Law No 88/2018
#M26: the Law No 64/2018
#M25: the Decision of the Constitutional Court No 759/2017
#M24: the Government Emergency Ordinance No 53/2017

#M23: the Government Emergency Ordinance No 38/2017**
#M22: the Law No 220/2016
#M21: the Law No 176/2016
#M20: the Government Emergency Ordinance No 48/2016**
#M19: the Decision of the Constitutional Court No 261/2016
#M18: the Law No 57/2016
#M17: the Decision of the Constitutional Court No 814/2015
#M16: the Decision of the Constitutional Court No 279/2015
#M15: the Law No 97/2015
#M14: the Law No 12/2015
#M13: the Law No 140/2014**
#M12: the Government Emergency Ordinance No 49/2014**
#M11: the Law No 77/2014
#M10: the Government Emergency Ordinance No 23/2014**
#M9: the Law No 18/2014**
#M8: the Law No 255/2013
#M7: the Law No 2/2013
#M6: the Government Emergency Ordinance No 4/2013
#M5: the Government Emergency Ordinance No 68/2012**
#M4: the Law No 187/2012
#M3: the Government Emergency Ordinance No 44/2012
#M2: the Law No 147/2012
#M1: the Law No 76/2012

The normative acts marked with two asterisks (**) refer to derogations from the Law No 53/2003, republished, or contain amendments brought on these derogations.

The amendments and additions brought by the above-mentioned normative acts are written in Italics. The normative act that makes the amendment or the addition is indicated before each amendment and addition, as #M1, #M2 etc.

#B

TITLE I

General provisions

CHAPTER I

Scope

ART. 1

(1) This Code regulates the field of labour relations, the manner in which the control of the implementation of the regulations in the field of labour relations takes place, as well as the labour jurisdiction.

(2) This Code shall also apply to the labour relations regulated by special laws, only in so far as they do not contain derogatory specific provisions.

ART. 2

The provisions contained in this Code shall apply to:

a) Romanian citizens who are employed based on an individual labour contract and who work in Romania;

b) Romanian citizens employed based on individual labour contract and who carry out their activity abroad, based on contracts concluded with a Romanian employer, except when the legislation of the state on the territory of which the individual labour contract is being performed is more favourable;

c) foreign or stateless citizens employed under an individual labour contract, who work for a Romanian employer on the territory of Romania;

d) persons who have acquired the refugee status and are employed on an individual labour contract on the territory of Romania, according to the law;

e) apprentices who work based on an on-the-job apprenticeship contract;

f) employers who are natural or legal persons;

g) trade unions or employers' organisations.

CHAPTER II
Fundamental principles

ART. 3

(1) The freedom to work is guaranteed by the Constitution. The right to work may not be restricted.

(2) Any person shall be free to choose their work place and profession, trade, or activity to carry out.

(3) No one may be forced to work or not to work in a certain work place or profession, whatever that might be.

(4) Any labour contract concluded in violation of the provisions of paragraphs (1) - (3) shall be null and void by right.

ART. 4

(1) Forcible work shall be prohibited.

(2) The phrase *forcible work* designates any work or service imposed to a person under threat or for which the person has not given his free consent.

(3) The following work or activity imposed by the public authorities shall not be seen as forcible work:

a) based on the law concerning the mandatory military service**);

b) when meeting the civic obligations set up by the law;

c) based on a judgment of conviction, which remained final, according to the law;

d) in a force majeure, i.e. in the event of a war, catastrophe or risk of catastrophe such as: fires, floods, earthquakes, violent human or animal epidemics, invasions of animals or insects, and, in general, under all circumstances jeopardising our life or the normal living conditions of most of the population or of part of it.

**) See the Law No 395/2005 on the suspension of the mandatory military service during peacetime and passing to the military service on a voluntary basis, published in the Official Gazette of Romania, Part I, No 1.155 of 20 December 2005, as amended.

ART. 5

(1) Within the labour relations, the principle of the equal treatment for all employees and employers shall apply.

(2) Any direct or indirect discrimination towards an employee, based on criteria such as sex, sexual orientation, genetic characteristics, age, national origin, race, colour of the skin, ethnic origin, religion, political options, social origin, disability, family conditions or responsibilities, union membership or activity, shall be prohibited.

(3) A direct discrimination shall be represented by actions and facts of exclusion, differentiation, restriction, or preference, based on one or several of the criteria provided in paragraph (2), the purpose or effect of which is the failure to grant, the restriction or rejection of the recognition, use, or exercise of the rights provided in the labour legislation.

(4) An indirect discrimination shall be represented by actions and facts apparently based on criteria other than those provided in paragraph (2), but which produce the effects of a direct discrimination.

ART. 6

(1) Any employee who performs work shall benefit from adequate work conditions for the activity carried on, social protection, labour safety and health, as well as the observance of his dignity and conscience, with no discrimination.

(2) All employees who perform work shall have their right to collective negotiations, their right to personal data protection, as well as their right to protection from unlawful dismissals, recognised.

(3) For equal work or work of equal value it shall be forbidden any discrimination for criteria such as sex with regard to all remuneration elements and conditions.

ART. 7

Employees and employers may associate freely for the defence of their rights and the promotion of their vocational, economic, and social interests.

ART. 8

(1) Labour relations are based on the principle of consensus and good faith.

(2) For a proper conduct of the labour relations, the participants in labour relations shall inform and consult each other, in compliance with the law and with the collective labour contracts.

ART. 9

The Romanian citizens are free to be employed in member states of the European Union, as well as in any other state, in compliance with the norms of international labour law and with the bilateral treaties Romania is a party.

TITLE II
Individual labour contract

CHAPTER I
Conclusion of the individual labour contract

ART. 10

An individual labour contract is a contract based on which a natural person, called *employee*, undertakes to perform work for and under the authority of an employer, who is a natural or legal person, in return for a remuneration referred to as *wages*.

ART. 11

The clauses of the individual labour contract cannot contain contrary provisions or rights below the minimum level set up by normative acts or by collective labour contracts.

ART. 12

(1) An individual labour contract shall be concluded for an indefinite period.

(2) As an exception, an individual labour contract may also be concluded for a definite period, under the express terms provided by the law.

ART. 13

(1) A natural person shall acquire capacity to work after having turned 16 years of age.

(2) A natural person may also conclude a labour contract, as an employee, after turning 15 years of age, based on his parents' consent or on the consent of the lawful guardians, for activities suitable for his physical development, aptitudes and knowledge, unless this places his health, development, and vocational formation under risk.

(3) Employment of persons under the age of 15 shall be prohibited.

(4) Employment of persons placed under court interdiction shall be prohibited.

(5) Employment in difficult, harmful, or dangerous work places shall only take place after the person has turned 18 years of age; such work places shall be established by Government decision.

ART. 14

(1) For the purposes of this Code, *employer* means a natural or legal person that may employ, according to the law, labour force based on an individual labour contract.

(2) The legal person may conclude individual labour contracts, as an employer, after having acquired that legal status.

(3) The natural person shall acquire the capacity to conclude individual labour contracts, as an employer, after having acquired full capacity of exercise.

ART. 15

It is prohibited, under the sanction of absolute nullity, to conclude an individual labour contract for the purpose of performing an illicit or immoral work or activity.

ART. 15^1

For the purposes of this Law, undeclared work means:

#M27

a) to accept a person to work without the prior conclusion of the individual labour contract in writing, no later than one day before the beginning of the activity;

b) to accept a person to work without transmitting the elements of the individual labour contract to the General Register of employees no later than the day before the beginning of the activity;

#M24

c) to accept an employee to work during the period in which his individual labour contract is suspended;

d) to accept an employee to work outside the working hours established under the part-time individual labour contracts.

#M27

ART. 16*)

(1) The individual labour contract shall be concluded on the basis of the written consent of the parties, in Romanian, no later than the day before the beginning of the activity by the employee. The obligation to conclude the individual labour contract in writing devolves on the employer.

(2) Prior to the beginning the activity, the individual labour contract shall be registered in the general register of employees, which shall be sent to the territorial labour inspectorate no later than the day before the beginning of the activity.

#M24

(3) The employer shall be obliged, before beginning the activity, to hand over to the employee a copy of the individual labour contract.

(4) The employer shall be obliged to keep at the work place a copy of the individual labour contract for the employees who pursue activity in that place.

(5) The work performed under an individual employment contract constitutes length of service.

(6) Unmotivated absences and unpaid leaves shall be deducted from the length of service.

(7) Exceptions to the provisions of paragraph (6) shall be the unpaid leaves for vocational training, granted under the terms of Articles 155 and 156.

#CIN

*) 1. By the Decision of the High Court of Cassation and Justice No 37/2016 it has been admitted the referral for the settlement of some matters of law and, in the interpretation and application of the provisions of Article 16 (1) and Article 57 (5) and (6) of the Labour Code, combined with Article 211 b) of the Law No 62/2011, Article 35 of the Civil Procedure Code and Article 6 of the European Convention for the Protection of Human Rights, it has been established that, in the event of the party's failure to fulfil the obligation to conclude an individual labour contract in writing, the natural person who has worked for and under the authority of the other party has at his disposal the action for establishing the labour relation and the effects thereof also in case that the labour relation ceased before the referral to the court.

We specify that, following the publication of the Decision of the High Court of Cassation and Justice No 37/2016, Article 16 (1) was modified by Article I point 2 of the Government Emergency Ordinance No 53/2017 (#M24), as amended.

2. Derogations from the provisions of Article 16 have been allowed by:

- Article 5 (6) of the Law No 176/2018 on internship (#M30).

We specify that the above-mentioned derogatory provisions are reproduced in point 9 of CIN note at the end of the updated text.

#M27

ART. 16^1

(1) For the purposes of Article 16 (4), the work place is the place where the employee pursues his activity, located within the perimeter ensured by the employer, a natural or legal person, at the head office or at branches, representative offices, agencies or work stations belonging to him.

(2) The copy of the individual labour contract shall be kept at the workplace defined according to paragraph (1) on paper or in electronic form, by the person designated by the employer for that purpose, in compliance with the provisions on the confidentiality of personal data.

#B

ART. 17

(1) Prior to the conclusion or amendment of an individual labour contract, the employer shall be under the obligation to inform the person selected for employment, or the employee, as applicable, about the essential clauses he intends to include in the contract or to change.

(2) The obligation to inform the person selected for employment or the employee shall be deemed as being fulfilled by the employer at the time of signing the individual labour contract or the additional deed, as applicable.

(3) The person selected for employment or, as applicable, the employee, shall be informed about the following elements at least:

a) the identity of the parties;

b) the work place or, in the absence of a stable work place, the possibility that the employee may work at various places;

c) the employer's head office or domicile, as applicable;

d) the position/occupation according to the specification in the Classification of occupations in Romania or to other regulatory acts, as well as the job description, with the specification of the job duties;

e) the evaluation criteria of the employee's professional activity applicable at the level of the employer;

f) the risks specific to the job;

g) the date from which the contract is going to take effect;

h) in the event of a labour contract for a definite period or a temporary labour contract, the duration of such contracts;

i) the duration of the rest leave the employee is entitled to;

j) the conditions under which the contracting parties can give their notice and the duration of the latter;

k) the basic wages, other constitutive elements of the wage revenues, as well as the payment periodicity of the wages the employee is entitled to;

l) the normal length of work, expressed in hours/day and hours/week;

m) the indication of the collective labour contract regulating the work conditions for the employee;

n) the length of the trial period.

(4) The elements in the information provided in paragraph (3) must be found also in the contents of the individual labour contract.

#M24

(5) Any change of one of the elements provided in paragraph (3) during the performance of the individual labour contract shall require the conclusion of an additional deed to the contract, before the amendment is operated, except for the

circumstances where such a change is expressly provided by law or in the applicable collective labour contract.
#B
(6) Upon the negotiation of, conclusion of, or amendment to an individual labour contract, any one of the parties may be assisted by third parties, according to their own choice, in compliance with the provisions of paragraph (7).
(7) As regards the information provided to the employee, prior to the conclusion of the individual labour contract, a confidentiality contract between the parties may be concluded.
ART. 18
(1) In case that the person selected for employment or the employee, as applicable, is to carry out his activity abroad, the employer shall be under the obligation to provide him, in due time, before his departure, with the information provided in Article 17 (3), as well as information referring to:
a) the duration of the work period to be performed abroad;
b) the currency in which his wages will be paid, as well as the payment methods;
c) the benefits in cash and/or in kind related to the activity carried out abroad;
d) the climate conditions;
e) the main regulations in the labour legislation of that country;
f) the local customs the non-observance of which might put the employee's life, freedom, or personal safety at risk;
g) the repatriation conditions for the worker, as applicable.
(2) The information provided in paragraph (1) a), b) and c) shall have to be listed also in the content of the individual labour contract.
(3) The provisions of paragraph (1) shall be supplemented by special laws regulating the typical work conditions abroad.
ART. 19
If the employer does not comply with his obligation to inform as provided in Articles 17 and 18, the person selected for employment or the employee, he shall be entitled to notify the competent court of law, within 30 days from the date of such obligation not being met, and ask for compensation corresponding to the prejudice caused to him as a result of the non-compliance by the employer with his obligation to inform the employee.
ART. 20
(1) Apart from the essential clauses provided in Article 17, the parties may also negotiate and include other specific clauses in the individual labour contract.
(2) The following are deemed as specific clauses, without limiting them to this listing:
a) the clause on vocational formation;
b) the non-competition clause;

c) the mobility clause;

d) the confidentiality clause.

ART. 21

(1) Upon the conclusion of the individual labour contract or throughout its performance, the parties may negotiate and include in the contract a non-competition clause under which the employee shall be under the obligation, after the cessation of the contract, not to perform, for his own interest or that of a third party, an activity which is competing with the one performed for his employer, in exchange for a monthly non-competition emolument which the employer undertakes to pay for the entire non-competition time period.

(2) The non-competition clause shall only take effect if the individual labour contract clearly provides the activities the employee is prohibited from performing from the date of cessation of the contract, the amount of the monthly non-competition emolument, the time period for which the non-competition clause causes its effect, the third parties on behalf of whom the performance of the activity is being prohibited, as well as the geographic area where the employee might be in actual competition with his former employer.

(3) The monthly non-competition emolument due to the employee shall not represent wages, shall be negotiated and shall be at least 50% of the average gross wages in the last 6 months prior to the date of cessation of the individual labour contract or, if the duration of the individual labour contract was less than 6 months long, of the average gross monthly wages due to him for the contract period.

(4) The non-competition emolument shall represent an expense made by the employer, shall be deductible upon the calculation of the taxable profit, and the tax shall be charged from the beneficiary natural person, according to the law.

ART. 22

(1) The non-competition clause may cause effects for a period not exceeding 2 years as from date of cessation of the individual labour contract.

(2) The provisions of paragraph (1) shall not be applicable in the cases when the cessation of the individual labour contract has taken place by right, except for the cases provided in Article 56 (1) c), e), f), g) and i), or when it has been based on the employer's initiative for reasons which not pertain to the employee's person.

ART. 23

(1) The non-competition clause may not have as effect the absolute prohibition of the employee from exercising his profession or specialisation.

(2) Based on a notification from the employee or from the territorial labour inspectorate, the competent court of law may diminish the effects of the non-competition clause.

ART. 24

In the event of the employee having violated, in ill will, the non-competition clause, he may be obliged to return the emolument and, as applicable, pay damages corresponding to the prejudice caused by him to the employer.

ART. 25

(1) Through the mobility clause the parties in the individual labour contract shall agree that, considering the particular nature of work, the performance of the job duties by the employee shall not take place in a stable work place. In this case, the employee shall benefit from additional pay in cash or in kind.

(2) The quantum of the additional pay in cash or the modalities of the additional pay in kind shall be specified in the individual labour contract.

ART. 26

(1) Under the confidentiality clause, the parties shall agree that, throughout the duration of the performance of the individual labour contract and after the cessation thereof, they will not transmit data or information they have become acquainted with during the contract performance, under the conditions established in the internal regulations, in the collective labour contracts or in the individual labour contracts.

(2) The failure by either of the parties to comply with this clause shall entail the obligation of the party at fault to pay damages.

ART. 27*)

(1) A person may only be employed based on a medical certificate, which finds that the person in question is fit to perform that work.

(2) The failure to comply with the provisions of paragraph (1) shall bring about the nullity of the individual labour contract.

(3) The competence for and the procedure of issuing the medical certificate, as well as the sanctions applicable to the employer for employing or changing the place or kind of work without a medical certificate, shall be set forth by special laws.

(4) It is prohibited to require pregnancy tests on employment of a person.

(5) When employing a person in the fields of health, public catering, education, and other fields set forth by regulatory acts, typical medical tests may also be required.

#CIN

*) Derogations from the provisions of Article 27 have been allowed by:

- Article V (3) of the Government Emergency Ordinance No 68/2012 amending and supplementing some normative acts and regulating some financial-fiscal measures (#M5).

We specify that the above-mentioned derogatory provisions are reproduced in note 1 at the end of the updated text.

#B

ART. 28

A medical certificate shall also be mandatory under the following circumstances:

a) when restarting work after an interruption exceeding 6 months, for jobs with exposure to occupational harmful factors, and one year, in the other cases;

b) in the event of a temporary or permanent transfer to another job or activity, if work conditions change;

c) when beginning work, as far as employees hired under a temporary labour contract are concerned;

d) as far as apprentices, probationers, and school or college students, if they are to be trained per trades and professions, as well as when changing trade during the instruction period are concerned;

e) periodically, as far as persons are concerned who work under conditions of exposure to occupational harmful factors, according to the regulations of the Ministry of Health;

f) periodically, in case of persons who perform activities showing a risk of transmitting diseases and who work in the food and animal-breeding sectors, in drinking water supply units, in children's communities, or in medical institutions, according to the regulations of the Ministry of Health;

g) periodically, in case of persons who work in institutions without risk factors, by means of medical examinations differentiated per age, gender, and health condition, according to the regulations provided in the collective labour contracts.

ART. 29

(1) The individual labour contract shall be concluded after a preliminary check of the vocational and personal skills of the person who applies for the job.

(2) The modalities in which the check provided in paragraph (1) is to take place shall be set up in the applicable collective labour contract, in the statute of personnel - vocational or disciplinary - and in the internal regulations, unless the law provides otherwise.

(3) The purpose of the information requested, under any form, by the employer from the person who applies for a job on the occasion of the preliminary check of abilities may only be that of assessing his capacity to fill that position, as well as his professional skills.

(4) The employer may request information about the person applying for a job from his former employers, but only as regards the activities carried out and the length of that employment and provided the person in question has been received prior notice.

ART. 30*)

(1) In public institutions and authorities, and other budgetary institutions, the employment of personnel may only take place based on a contest or examination, as the case may be.

(2) The vacant offices appearing on the list of positions shall be put out for contest, depending on the needs of each institution provided in paragraph (1).

(3) If, for the contest organised for filling a vacancy, several candidates have not entered the contest, the employment shall be decided by an examination.

(4) The terms for organising a contest/examination and the manner in which it takes place shall be set by the regulations approved in a Government decision.

#CIN

*) Derogations from the provisions of Article 30 have been allowed by:

- Article 22^1 (1) of the Government Emergency Ordinance No 144/2008 on the exercise of the profession of general care nurses, of the profession of midwife and of the profession of nurse, as well as the organization and functioning of the Order of the General Care Nurses, Midwives and Nurses from Romania, as amended;
- Article 67^1 (1^3) of the Law on physical training and sports No 69/2000, as amended;
- Article 2^1 (4) of the Government Emergency Ordinance No 77/2017 on the setting up of the National Centre for Financial Information, as amended;
- Article 295 (6) of the Law No 95/2006 on the health reform, republished, as amended;
- Article 102^2 (4) of the Law No 208/2015 on the election of the Senate and of the Chamber of Deputies, as well as for the organisation and functioning of the Permanent Electoral Authority, as amended.

We specify that the above-mentioned derogatory provisions are reproduced in point 3, point 7, point 8, point 13 and point 14 of CIN note at the end of the updated text.

#B

ART. 31

(1) In order to check the skills of the employee, on the conclusion of the individual labour contract, a trial period of 90 calendar days at the most may be established for executive positions, and 120 calendar days at the most for management positions.

(2) The check of the professional skills on employment of disabled persons shall be based only on a trial period of 30 calendar days at the most.

(3) Throughout the trial period or at the end of it, the individual labour contract may cease exclusively by a written notification, without notice, following the initiative of either party, without being necessary to provide reasons.

(4) During the trial period, the employee shall benefit from all the rights and shall have all the obligations provided in the labour legislation, in the applicable collective labour contract, in the internal regulations, as well as in the individual labour contract.

(5) For graduates of higher educational institutions, the first 6 months after their debut in profession shall be considered probation period. Those professions in which the probation is regulated by special laws shall be exceptions. At the end of the probation, the employer shall mandatorily issue a certificate, which shall be endorsed by the territorial labour inspectorate within the territorial jurisdiction of its headquarters.

(6) The modality of completing the probation provided in paragraph (5) shall be regulated by special law*).

#CIN

*) See the Law No 335/2013 on the completion of the probation period for the higher education graduates.

#B

ART. 32

(1) During the performance of an individual labour contract, there may only be one trial period.

(2) As an exception, an employee may be subject to a new trial period if he starts up in a new position or profession with the same employer, or is going to perform his activity in a work place under difficult, harmful, or dangerous conditions.

(3) The trial period shall represent length of service.

ART. 33

The period when successive trial hiring of more persons for the same position may be made shall be of maximum 12 months.

ART. 34

(1) Each employer shall be under the obligation to establish a general register of employees.

(2) The general register of employees shall be first registered with the competent public authority, according to the law, which has jurisdiction over the employer's domicile or head office, respectively, and after this date it shall become an official document.

(3) The general register of employees shall be filled out and transmitted to the territorial labour inspectorate in the sequence of hiring and shall comprise the identification elements of all employees, their hiring dates, positions/occupations according to the specification in the Classification of occupations in Romania or to other normative acts, the type of individual labour contract, the wages, the supplementary allowance and their quantum, the period and the causes of

suspension of the individual labour contract, the posting period and the date of cessation of the individual labour contract.

(4) The general register of employees shall be kept at the employer's domicile or head office, respectively, and it shall be placed at the disposal of the labour inspector or any other authority requesting it, under the law.

(5) At the request of an employee or a former employee, the employer shall be under the obligation to issue a document attesting for the activity carried on by him, duration of activity, wages, and length of service, of trade and of specialisation.

(6) In the event of the cessation of the employer's activity, the general book of the employees shall be deposited with the competent public authority, under the law, which has territorial jurisdiction over the employer's domicile or head office, respectively, as applicable.

(7) The methodology for preparing the general book of the employees, the recordings made, as well as any other elements related to their preparation shall be established by a Government decision*).

#CIN

*) See the Government Decision No 905/2017 on the general register of employees.

#B

ART. 35

(1) Any employee shall be entitled to work at different employers or at the same employer, based on individual labour contracts, with the adequate wages for each of them.

(2) Exceptions to the provisions of paragraph (1) shall be the situations when the law provides incompatibilities for plurality of positions.

ART. 36

Foreign and stateless citizens may be employed on an individual labour contract on the basis of the work licence or of the stay permit for employment purposes, issued according to the law.

CHAPTER II
Performance of the individual labour contract

ART. 37

The rights and obligations concerning the labour relations between an employer and an employee shall be established according to the law, by negotiation, under the collective labour contracts and individual labour contracts.

ART. 38*)

Employees may not waive the rights acknowledged to them by the law. Any transaction which aims to waive the rights recognised to the employees by the law or to limit such rights shall be null.

#CIN

*) By the Decision of the High Court of Cassation and Justice No 19/2019 it has been admitted the referral on the settlement of some matters of law and, for the interpretation and application of the provisions of Article 10, Article 38, Article 57, Article 134 (1) and Article 254 (3) and (4) of the Labour Code, republished, it has been established that the stipulation of the criminal clause in the individual labour contract or in an additional paper thereof, whereby it is assessed the damage produced to the employer by the employee from his fault and in relation to his work, shall be forbidden and shall be sanctioned with the nullity of the clause thus negotiated.

#B

ART. 39

(1) The employee shall have, mainly, the following rights:

a) the right to receive wages for the work performed;

b) the right to a daily and weekly rest;

c) the right to an annual rest leave;

d) the right to equal chances and treatment;

e) the right to dignity in his work;

f) the right to labour safety and health;

g) the right of access to vocational training;

h) the right to information and consulting;

i) the right to take part in the determination and improvement of the work conditions and work environment;

j) the right to protection in case of dismissal;

k) the right to collective and individual negotiation;

l) the right to participate in collective actions;

m) the right to establish or join a trade union;

n) other rights provided by law or by applicable collective labour contracts.

(2) The employee shall have the following main obligations:

a) the obligation to accomplish his workload or, as applicable, to meet his duties according to the job description;

b) the obligation to observe work discipline;

c) the obligation to comply with the provisions included in the internal regulations, in the applicable collective labour contract, as well as in the individual labour contract;

d) the obligation of loyalty to the employer in performing his job duties;

e) the obligation to comply with the steps of labour safety and health in the unit;

f) the obligation to respect the job secret;

g) other obligations provided by law or by applicable collective labour contracts.

ART. 40

(1) The employer shall have the following main rights:

a) to establish the organisation and operation of the unit;

b) to establish the attributions corresponding to each employee, under the law;

c) to issue mandatory orders to the employee, under the reserve of their legality;

d) to exercise the control over the way in which the job duties are fulfilled;

e) to find whether disciplinary misconducts have taken place and to apply adequate sanctions, according to the law, to the applicable collective labour contract and to the internal regulations;

f) to establish the individual performance objectives, as well as the evaluation criteria for their achievement.

(2) The employer shall have the following main obligations:

a) to inform the employees on the work conditions and elements regarding the progress of labour relations;

b) to permanently ensure the technical and organisational conditions envisaged when the labour norms were drawn up, and the adequate work conditions;

c) to grant the employees all the rights deriving from the law, from the applicable collective labour contract and from the individual labour contracts;

d) to inform the employees, on a periodical basis, about the unit's economic and financial position, except for sensitive or secret information, which, once disclosed, would be likely to prejudice the activity of the unit. The periodicity of communications shall be set forth by negotiation under the applicable collective labour contract;

e) to consult the trade union or, as the case may be, the representatives of employees on the decisions likely to substantially affect their rights and interests;

f) to pay all the contributions and taxes which represent his duty, as well as to withhold and transfer the contributions and taxes due by the employees, under the law;

g) to establish the general register of employees and to operate the recordings provided in the law;

h) to issue, on request, all the documents attesting to the applicant's employee status;

i) to make sure that the employees' personal data are confidential.

CHAPTER III

Amendment of the individual labour contract

ART. 41

(1) The individual labour contract may only be amended based on the parties' consent.

(2) As an exception, a unilateral amendment to the individual labour contract shall only be possible in the cases and under the conditions provided in this Code.

(3) Amendments to the individual labour contract may refer to any one of the following elements:

a) contract duration;

b) work place;

c) kind of work;

d) work conditions;

e) wages;

f) work time and rest time.

ART. 42

(1) The work place may be modified unilaterally by the employer by delegating or temporarily posting the employee to a work place other than the one provided in the individual labour contract.

(2) During the delegation or posting period, respectively, the employee shall preserve his position and all the other rights provided in the individual labour contract.

ART. 43

The delegation is the temporary exercise by the employee, on the employer's order, of works or assignments corresponding to the job duties, outside his work place.

ART. 44

(1) The delegation may be ordered for a period of 60 calendar days at the most within 12 months and may be extended for successive periods of maximum 60 calendar days, only with the employee's consent. The employee's refusal to extend the delegation may not constitute a motive for his disciplinary sanction.

(2) The delegated employee shall be entitled to the payment of the transport and accommodation expenses, as well as a delegation emolument, under the terms of the law or of the applicable collective labour contract.

ART. 45

The posting shall be the action ordering a temporary change in the work place, based on the employer's order, with another employer, for the purpose of performing some works in the latter's interest. Exceptionally, a posting may also change the kind of work, but only based on the employee's written consent.

ART. 46*)

(1) A posting may be ordered for a period not to exceed one year.

(2) Exceptionally, the posting period may be extended for objective reasons requiring the employee's presence with the employer with whom the posting was ordered, based on both parties' consent, every six months.

(3) An employee may only be free to decline the posting ordered by his employer exceptionally, and for good personal grounds.

(4) A posted employee shall be entitled to the payment of transport and accommodation expenses, as well as a transfer emolument, under the terms of the law or the applicable collective labour contract.

#CIN

*) Derogations from the provisions of Article 46 have been allowed by:

- the Single Article (2) of the Law No 211/2018 for posting the personnel provided in Article 24^1 (1) and (2) of the Government Emergency Ordinance No 84/2001 on the setting up, organisation and functioning of the community public service register office of persons from the Ministry of Internal Affairs at the community public service register office of persons (#M32).

We specify that the above-mentioned derogatory provisions are reproduced at point 10 of CIN note at the end of the updated text.

#B

ART. 47

(1) The rights due to the posted employee shall be granted by the employer with whom the posting has been ordered.

(2) For the posting period the employee shall enjoy the more favourable rights, either those granted by the employer that has ordered the posting, or those granted by the employer to whom the employee was posting.

(3) The employer that orders the posting shall have the obligation to that all steps are taken so that the employer to whom the posting has been ordered fully and timely complies with all the obligations towards the posted employee.

(4) In case that the employer to whom the posting has been ordered fully and timely complies with all the obligations towards the transferred employee, such obligations shall be met by the employer having ordered the transfer.

(5) In case that there is disagreement between the two employers or if none of them meets his obligations under the provisions of paragraphs (1) and (2), the posted employee shall be entitled to return to his work place with the employer that has transferred him, to take action against any one of the two employers, and to ask for the enforcement of the obligations not met.

ART. 48

An employer may temporarily change the place and the type of work, without the employee's consent, also in case of force majeure situations, as a disciplinary

sanction, or as a measure aimed at protecting the employee, in the cases and under the terms provided by this Code.

CHAPTER IV
Suspension of the individual labour contract

ART. 49

(1) The suspension of the individual labour contract may only take place by right, based on the parties' consent or by the unilateral act of one of parties.

(2) The suspension of the individual labour contract shall have as an effect the suspension of the performance of work by the employee and of the payment of the wages by the employer.

(3) Throughout the suspension, rights and obligations of the parties other than those provided in paragraph (2) may still be preserved, on condition they are provided by special laws, the applicable collective labour contract, the individual labour contracts, or the internal regulations.

(4) In the event of the individual labour contract being suspended because of an action imputable to the employee, throughout the suspension period the latter shall not enjoy any of the rights deriving from his quality of employee.

(5) Each time when during the contract suspension period a cause of rightful cessation of the individual labour contract comes up, the cause of rightful cessation shall prevail.

(6) In case of suspension of the individual labour contract, all the terms related to the conclusion, amendment, performance or cessation of the individual labour contract shall be suspended, except for the situations when the individual labour contract ceases by right.

ART. 50

An individual labour contract shall be suspended by right under the following circumstances:

a) maternity leave;

b) leave for temporary incapacity to work;

c) quarantine;

d) exercise of a position within an executive, legislative, or court authority, throughout the length of the mandate, unless the law provides otherwise;

e) holding a paid management position in a trade union;

f) force majeure;

g) in case the employee has been placed in custody, based on terms of the Criminal procedure code;

h) from date of expiration of the period for which were issued the approvals, the authorisations or the certifications necessary for exercising the profession. If within

6 months the employee has not renewed the approvals, the authorisations or the certifications necessary for exercising the profession, the individual labour contract shall cease by right;

i) in other cases expressly provided by the law.

ART. 51

(1) The individual labour contract may be suspended on the employee's initiative, under the following instances:

a) leave for raising a child up to the age of 2, or, in case of a disabled child, up to the age of 3;

b) leave for looking after a sick child up to the age of 7 or, in case of a disabled child, for inter-current illnesses, up to the age of 18;

c) paternal leave;

d) vocational formation leave;

e) exercise of elected positions within vocational bodies established at the central or local level, for the entire length of the mandate;

f) participation in a strike;

#M18

g) leave for adjustment.

#B

(2) The individual labour contract may be suspended in the situation of unexcused absences of an employee, under the terms provided by the applicable collective labour contract, the individual labour contract, as well as by the internal regulations.

ART. 52

(1) The individual labour contract may be suspended on the employer's initiative under the following situations:

a) *) during a preliminary disciplinary investigation, under the law;

b) **) if the employer has filed a criminal complaint against his employee or the latter has been sent to trial for criminal actions incompatible with the position held, until the judgment is final;

c) in the event of a temporary discontinuance or reduction of activity, without the cessation of the labour relation, for economic, technological, structural or similar reasons;

#M8

c^1) in case that against the employee it has been taken, under the conditions of the Criminal Procedure Code, the measure of the judicial control or of the judicial control on bail, if obligations that prevent the performance of the labour contract have been established as his duty, as well as in case the employee is under house arrest, and the content of the measure prevents the performance of the labour contract;

#B

d) for the duration of the posting period;

e) during the period of suspension by the competent authorities of approvals, authorisations or certifications necessary for performing the professions.

(2) In the cases provided in paragraph (1) a) and b), if it is established the innocence of the person in question, that employee shall resume his previous activity and, based on the standards and principles of the civil contract liability, a compensation shall be paid to him equal to the wages and the other rights he was deprived of during the contract suspension.

(3) In case of the temporary reduction of activity, for economic, technological, structural or similar reasons, for periods that exceed 30 working days, the employer shall have the possibility to reduce the working schedule from 5 days to 4 days per week, with the appropriate reduction of wages, until the remedy of the situation that caused the reduction of the schedule, after prior consultation of the representative trade union at the level of unit or of the representatives of the employees, as applicable.

#CIN

*) The Constitutional Court, by the Decision No 261/2016 (#M19), has established that the provisions of Article 52 (1) a) of the Law No 53/2003 are unconstitutional.

**) 1. The Constitutional Court, by the Decision No 279/2015 (#M16), has established that the provisions of the first sentence of Article 52 (1) b) of the Law No 53/2003 are unconstitutional.

2. By the Decision of the High Court of Cassation and Justice No 19/2016, it has been admitted the referral on the settlement of some matters of law and it has been established that the provisions of Article 52 (1) b) the first sentence of the Labour Code do no longer produce effects, as a consequence of the Decision of the Constitutional Court No 279/2015 (#M16), and give rise to a claim right consisting of a compensation equivalent to the remuneration due to the employees, for the duration of the suspension, in the cases unsettled by a final judgment on 17 June 2015 [the date of publication of the Decision of the Constitutional Court No 279/2015 (#M16)].

#B

ART. 53

(1) For the duration of the temporary reduction and/or discontinuance of activity, the employees involved in the reduced or interrupted activity, which do not carry on activity anymore, shall benefit from an emolument, paid from the wage fund, which may not be less than 75% of the basic wages corresponding to that job, except for the situations provided in Article 52 (3).

(2) For the duration of the temporary reduction and/or discontinuance provided in paragraph (1), the employees shall be at the disposal of the employer, who can order the activity be resumed at any time.

ART. 54

An individual labour contract may be suspended, based on the parties' consent, in case of unpaid leaves for studies or for personal interests.

CHAPTER V
Termination of the individual labour contract

ART. 55

The individual labour contract can cease as follows:

a) by right;

b) based on the parties' consent, on the date agreed upon by them;

c) as a result of one of the unilateral will of the parties, in the cases and under the terms limitatively provided by the law.

SECTION 1
Rightful cessation of the individual labour contract

ART. 56*)

The existing individual labour contract shall cease by right:

a) on the death date of employee or of employer who is a natural person, as well as in case of dissolution of employer who is a legal person, from the date when the employer ceased to exist according to the law;

b) on the date when the judgment declaring the death or the placing under interdiction of the employee or of the employer who is a natural person becomes irrevocable;

#M38

c) on the date of cumulative fulfilment of the standard age conditions and of the minimum contribution period for retirement or, exceptionally, for the female employee who opts in writing for the carrying on of the performance of the individual labour contract, within 30 calendar days prior to the fulfilment of the standard age conditions and of the minimum contribution stage for retirement, at the age of 65; on the date of communicating the retirement decision in case of 3rd degree disability pension, of partial early retirement pension, of early retirement pension, of old-age pension with the reduction of the standard age for retirement; on the date of communication of the medical decision on the capacity of work in case of 1st or 2nd degree of invalidity;

#B

d) as a result of establishing the absolute nullity of individual labour contract, from the date of establishing the nullity by the parties' agreement or by final judgment;

e) as a result of the admittance of the application for reinstating a person dismissed on unlawful or unfounded grounds to the position occupied by the employee, from the date the reinstating judgment is final;

f) as a result of a conviction to the execute a custodial sentence, from the date when such judgment becomes final;

g) from the date of withdrawal, by the competent authorities or bodies, of the approvals, authorisations, or certifications necessary for exercising the profession;

h) as a result of prohibiting someone from exercising a profession or a position, as a safety measure or complementary punishment, from the date when the judgment that ordered the interdiction becomes final;

i) on the date of expiry of the time limit of the individual labour contract concluded for a definite period;

j) the withdrawal of the consent of the parents or legal representatives, as far as the employees aged between 15 and 16 years are concerned.

(2) For the situations provided in paragraph (1) c) - j), the establishment of the case of rightful cessation of the individual labour contract shall be made within 5 working days since this occurred, in writing, by decision of the employer, and shall be communicated to the persons that find themselves in those situations within 5 working days.

#M33

(3) The employer may not restrict or limit the right of the female employee to carry on the activity under the terms provided in the first sentence of paragraph (1) c).

#M38

(4) On the basis of an application formulated 30 days before the cumulative fulfilment of the standard age conditions and of the minimum period of contribution for retirement and with the approval of the employer, the employee may be maintained in the same office maximum 3 years after reaching the standard retirement age, with the possibility of extending the individual labour contract every year.

#CIN

*) 1. The Constitutional Court, by the Decision No 759/2017 (#M25), has established that the provisions of Article 56 (1) c) the second sentence, first hypothesis of the Law No 53/2003 are unconstitutional.

2. By the Decision of the High Court of Cassation and Justice 15/2017 it has been admitted the referral on the settlement of some matters of law and it has been established that the provisions of Article 56 (1) f) of the Law No 53/2003,

republished, are interpreted as being applicable only in the situation in which the convicted person actually executes the sentence in the penitentiary, being physically unable to go to work.

3. Derogations from the provisions of Article 56 have been allowed by:

- Article 22 (5^2) of the Government Emergency Ordinance No 144/2008 on the exercise of the profession of general care nurses, of the profession of midwife and of the profession of nurse, as well as the organization and functioning of the Order of the General Care Nurses, Midwives and Nurses from Romania, as amended;
- Article 284 (2^1) of the Law on national education No 1/2011, as amended.

We specify that, subsequently to the publication of the above-indicated normative acts, the provisions of Article 56 (1) c) have been amended by Article IV point 1 of the Government Emergency Ordinance No 96/2018 (#M33), as amended.

We specify that the above-mentioned derogatory provisions are reproduced in point 2 and point 4 of note CIN at the end of the updated text.

#B

ART. 57*)

(1) The failure to comply with any of the necessary lawful conditions for the valid conclusion of the individual labour contract shall bring about its nullity.

(2) The finding of the individual labour contract nullity shall produce effects for the future.

(3) The nullity of the individual labour contract may be covered by the subsequent compliance with the conditions imposed by the law.

(4) In case a clause should be affected by nullity, since it establishes rights or obligations for the employees, which are contrary to some imperative legal norms or to the applicable collective labour contracts, it shall be replaced by right by the applicable legal or conventional provisions, the employee being entitled to compensations.

(5) The person who has performed work based on a null individual labour contract shall be entitled to be remunerated for this work, depending on manner in which it has accomplished his job duties.

(6) The nullity shall be found and its effects shall be established, according to the law, by the parties' agreement.

(7) If the parties do not come to an agreement, the nullity shall be pronounced by the court of law.

#CIN

*) 1. See also the note at Article 16.

2. By the Decision of the High Court of Cassation and Justice No 19/2019 it has been admitted the referral on the settlement of some matters of law and, for the

interpretation and application of the provisions of Article 10, Article 38, Article 57, Article 134 (1) and Article 254 (3) and (4) of the Labour Code, republished, it has been established that the stipulation of the criminal clause in the individual labour contract or in an additional paper thereof, whereby it is assessed the damage produced to the employer by the employee from his fault and in relation to his work, shall be forbidden and shall be sanctioned with the nullity of the clause thus negotiated.

#B

SECTION 2

Dismissal

ART. 58

(1) The dismissal represents the cessation of the individual labour contract on the employer's initiative.

(2) The dismissal may be ordered for reasons pertaining to the employee's person or for reasons that do not pertain to the employee's person.

ART. 59

It shall be prohibited the dismissal of the employees:

a) based on criteria such as gender, sexual orientation, genetic characteristics, age, national origin, race, colour of the skin, ethnic origin, religion, political option, social origin, disability, family status or responsibility, trade union membership or activity;

b) for the exercise, under the terms of the law, of their right to strike and trade union rights.

ART. 60

(1) The dismissal of the employees may not be ordered:

a) for the duration of one's temporary incapacity to work, as established in a medical certificate according to the law;

b) for the duration of the suspension of the activity as a result of establishing the quarantine;

c) for period when a woman employee is pregnant, in so far as the employer became acquainted with this fact before the issuance of such dismissal decision;

d) for the duration of the maternity leave;

e) for the duration of the leave for raising a child up to the age of 2, or, in case of a disabled child, up to the age of 3;

f) for the duration of the leave for looking after a sick child up aged up 7 or, in case of a disabled child, for inter-current diseases, until he turns 18 years of age;

g) *) for the duration of the exercise of an eligible position in a trade union body, except when the dismissal is ordered for a serious disciplinary deviation or for repeated disciplinary deviations, committed by that employee;

h) for the duration the rest leave.

(2) The provisions of paragraph (1) shall not apply in case of dismissal for reasons due to the employer's judicial reorganisation, bankruptcy or dissolution, under the law.

#CIN

*) The Constitutional Court, by the Decision No 814/2015 (#M17), has established that the provisions of Article 60 (1) g) of the Law No 53/2003 are unconstitutional.

#B

SECTION 3

Dismissal for reasons related to the employee's person

ART. 61

The employer may order the dismissal for reasons pertaining to an employee's person under the following circumstances:

a) if that employee has committed a serious deviation or repeated deviations from the work discipline regulations or from those established by the individual labour contract, the applicable collective labour contract, or the internal regulations, as a disciplinary sanction;

#M8

b) in case the employee has been placed under preventive detention or under house arrest for a period exceeding 30 days, under the terms of the Criminal Procedure Code;

#B

c) if, following a decision of the competent medical examination bodies*), physical and/or mental incapacity of that employee has been established, which prevents the latter from accomplishing the duties related to his current work place;

d) if the employee is not professionally fit for the position in which he is employed.

#CIN

*) By the Decision of the High Court of Cassation and Justice No 7/2016 it has been admitted the referral on the settlement of some matters of law and, for the interpretation of the provisions of Article 61 c) of the Law No 53/2003, it has been established that *decision of the competent medical examination bodies* (which establishes the physical and/or mental disability of the employee) means the result of the evaluation of the specialised labour medicine doctor on the work skills,

consisting in the skills sheet, uncontested or which became final after contestation, by a decision issued by the entity with legal attributions in this regard.

#B

ART. 62

(1) In case the dismissal takes place for one of the reasons provided in Article 61 b) - d), the employer shall be under the obligation to issue the dismissal decision within 30 calendar days from the date of establishing the cause of dismissal.

(2) In case the dismissal should be ordered for the reason provided in Article 61 a), the employer may only issue the dismissal decision in compliance with the provisions of Articles 247 - 252.

(3) Such decision shall be issued in writing and, under sanction of absolute nullity, it must be motivated de facto and de jure and comprise details concerning the time limit within which it may be appealed against and the court where the appeal is filed.

ART. 63

(1) A dismissal for a serious deviation or repeated deviations from the work discipline regulations may only be ordered after the employer has completed a preliminary disciplinary investigation and within the time limits established by this Code.

(2) The dismissal of the employee for the reason provided in Article 61 d) may only be ordered after his preliminary evaluation, according to the evaluation procedure established by the applicable collective labour contract or, in its absence, by the internal regulations.

ART. 64

(1) In case a dismissal is ordered for the reasons provided in Article 61 c) and d), as well as when an individual labour contract has ceased by right pursuant to Article 56 (1) e), the employer shall be under the obligation to suggest to the employee other vacant positions in the unit, compatible with his professional training or, as the case may be, his capacity for work established by a labour medicine doctor.

(2) In the situation that the employer has no vacant positions according to paragraph (1), he shall be under the obligation to ask the territorial employment agency for support in the reassigning the employee, according to his professional training and/or, as applicable, to his capacity for work assessed by the labour medicine doctor.

(3) Such employee shall have at his disposal a time limit of 3 working days from the employer's communication, according to the provisions of paragraph (1), to expressly state his consent concerning the new job offered.

(4) In case that employee does not state his consent within the time limit provided in paragraph (3), as well as after the case has been notified to the territorial employment agency according to paragraph (2), the employer may order the employee's dismissal.

(5) In the event of a dismissal for the reason provided in Article 61 c), the employee shall benefit from compensation, under the conditions set forth in the applicable collective labour contract or in the individual labour contract, as applicable.

SECTION 4

Dismissal for reasons not pertaining to the employee's person

ART. 65

(1) The dismissal for reasons not pertaining to the employee's person represents the cessation of the individual labour contract, caused by the suppression of the position filled by the employee, for one or several reasons unrelated to the employee.

(2) The suppression of a position must be effective and have a real and serious cause.

ART. 66

The dismissal for reasons not pertaining to the employee's person may be individual or collective.

ART. 67

The employees dismissed for reasons which are not pertaining to their persons shall benefit from active measures for fighting against unemployment and may benefit from compensations under the terms provided by the law and the applicable collective labour contract.

SECTION 5

Collective dismissal. Information, consultation of employees and the procedure of collective dismissals

ART. 68

(1) Collective dismissal means the dismissal, within 30 calendar days, for one or more reasons unrelated to the employee, of a number of:

a) at least 10 employees, if the employer who is dismissing them has more than 20 employees and less than 100 employees;

b) at least 10% of the employees, if the employer who is dismissing them has at least 100 employees but less than 300 employees;

c) at least 30 employees, if the employer who is dismissing them has at least 300 employees.

(2) Upon the determination of the actual number of collectively dismissed employees, according to paragraph (1), there shall be taken into account those employees with individual labour contracts that ceased at the employer's initiative, for one or several reasons, unrelated to the employee, provided that there are at least 5 dismissals.

ART. 69

(1) In case the employee intends to make collective dismissals, it shall be obliged to initiate, in due time and with a view to reaching an agreement, under the terms of the law, consultations with the trade union or, as applicable, with the representatives of employees, referring at least to:

a) the methods and means for avoiding collective dismissals or for reducing the number of employees to be dismissed;

b) mitigating the consequences of dismissals by resorting to social measures concerning, inter alia, support for the professional requalification or reconversion of the dismissed employees.

(2) During the period of consultations, according to paragraph (1), in order to allow the trade union or the representatives of employees to formulate proposals in due time, the employer shall be bound to supply them with all relevant information and to notify in writing the following:

a) the total number and categories of employees;

b) the reasons that determine the forecast dismissal;

c) the number and categories of employees that will be affected by the dismissal;

d) the criteria had in view, according to the law and/or to the collective labour contracts, in determining the priority order for dismissal;

e) the measures had in view for limiting the number of dismissals;

f) the measures for mitigating the consequences of the dismissals and the compensations to be granted to the dismissed employees, according to the legal provisions and/or to the applicable collective labour contract;

g) the date on which or the period during which the dismissals are bound to take place;

h) the time limit within which the trade union or, as the case may be, the representatives of the employees can make proposals to avoid or reduce the number of dismissed employees.

(3) The criteria provided in paragraph (2) d) shall be applied in order to categorize the employees after the evaluation of the achievement of the performance objectives.

(4) The obligations provided in paragraphs (1) and (2) shall be maintained whether the decision that determines the collective dismissals is made by the employer or by an undertaking that controls the employer.

(5) In case the decision that determines the collective dismissals is made by an undertaking that has control over the employer, the employer may not take advantage, in the non-compliance with the obligations provided in paragraphs (1) and (2), of the fact that the undertaking did not supply the necessary information.

ART. 70

The employer shall be under the obligation to send a copy of the notification mentioned in Article 69 (2) to the territorial labour inspectorate and to the territorial employment agency on the same date when the notification was sent to the trade union or, as the case may be, to the representatives of employees.

ART. 71

(1) The trade union or, as applicable, the representatives of employees may propose to the employer steps for avoiding the dismissals or diminishing the number of dismissed employees, within 10 calendar days of the date of receipt of the notification.

(2) The employer shall be under the obligation to reply, in writing and stating good reasons, to the proposals forwarded under the provisions of paragraph (1), within 5 calendar days as of their receipt.

ART. 72

(1) In case that, subsequently to the consultations with the trade union or the representatives of employees, according to the provisions of Articles 69 and 71, the employer shall decide to apply the measure of collective dismissal, it shall be obliged to notify in writing the territorial labour inspectorate and the territorial employment agency, at least 30 calendar days before issuing the dismissal decisions.

(2) The notification provided in paragraph (1) must include all relevant information with regard to the intention of collective dismissal, provided in Article 69 (2), as well as the results of consultations with the trade union or with the employees' representative, provided in Articles 69 (1) and 71, particularly the reasons for dismissals, the total number of employees, the number of employees affected by the dismissal and the date or the period since such dismissals begin to take place.

(3) The employer shall be under the obligation to send a copy of the notification mentioned in paragraph (1) to the trade union or to the representatives of employees, on the same date when the notification was sent to the territorial labour inspectorate and to the territorial employment agency.

(4) The trade union or the representatives of employees may forward their possible viewpoints to the territorial labour inspectorate.

(5) Upon the reasoned request of either party, the territorial labour inspectorate, with the opinion of the territorial employment agency, may order the reduction of the period provided in paragraph (1), notwithstanding the individual rights with regard to the notice period.

(6) The territorial labour inspectorate shall be under the obligation to inform within 3 working days the employer and the trade union or the representatives of employees, as applicable, on the reduction or the extension of the period provided in paragraph (1), as well as on the reasons underlying this decision.

#M29

(7) In case that the forecast collective dismissal concerns the members of the crew of a sea vessel, the notification provided in paragraph (1) shall be communicated also to the competent authority of the state under whose flag the vessel sails, in compliance with the provisions of paragraph (2) and within the time limit provided in paragraph (1).

#B

ART. 73

(1) Within the period provided in Article 72 (1), the territorial employment agency must seek solutions for the problems raised by the forecast collective dismissals and to communicate them in due time to the employer and to the trade union or, as the case may be, to the representatives of employees.

(2) Upon the motivated request of either party, the territorial labour inspectorate, after consultation with the territorial employment agency, may order the postponement of the time of issuing of the dismissal decisions by 10 calendar days, in case the issues related to the collective dismissal had in view may not be solved by the date established in the collective dismissal notification provided in Article 72 (1) as being the date of issuing of the dismissal decisions.

(3) The territorial labour inspectorate shall be obliged to inform in writing the employer and the trade union or the representatives of the employee, as applicable, about the postponement of the time of issue of the dismissal decisions, as well as about the reasons underlying this decision, before the initial period provided in Article 72 (1) expires.

ART. 74

(1) Within 45 calendar days from the date of dismissal, the employee dismissed by collective dismissal shall have the right to be re-employed with priority on the position re-established in the same activity, without examination, contest or trial period.

(2) If during the period provided in paragraph (1) the same activities are resumed, the employer shall send to the employees that have been dismissed from the offices where the activity is resumed under the same conditions of professional

competence a written communication, by which they are informed about the resumption of the activity.

(3) The employees shall have at their disposal a term of maximum 5 calendar days from the date of the employer's communication, provided in paragraph (2), in order to give their written consent regarding the job offered to them.

(4) In case that the employees who are entitled to be re-employed according to paragraph (2) do not give their written consent within the term provided in paragraph (3) or they refuse the job offered, the employer may rehire for the vacant jobs.

(5) The provisions of Articles 68 - 73 shall not be applied to the employees from public institutions and public authorities.

(6) The provisions of Articles 68 - 73 shall not be applied in case of the individual labour contracts concluded for a definite period, except for the cases when these dismissals take place prior to the expiry date of these contracts.

SECTION 6

Right to notice

ART. 75

(1) The persons dismissed pursuant to Article 61 c) and d), and Articles 65 and 66 shall benefit from the right to a notice which may not be less than 20 working days.

(2) An exception to the provisions of paragraph (1) shall be represented by the persons dismissed pursuant to Article 61 d), who are on a trial period.

(3) In case that during the notice period the individual labour contract is suspended, the notice time limit shall be suspended accordingly, except for the case provided in Article 51 (2).

ART. 76

(1) The dismissal decision shall be communicated to the employee in writing and shall contain necessarily:

a) the reasons for the dismissal;

b) the duration of the notice*);

c) the criteria for establishing the priority order, according to Article 69 (2) d), only as far as collective dismissals are concerned;

d) the list of all available positions in the unit and the time limit within which the employees are to opt in order to fill a vacant position, under the terms of Article 64.

#CIN

*) By the Decision of the High Court of Cassation and Justice No 8/2014 it has been admitted the appeal in the interest of law and, for the interpretation and

application of the provisions of Article 76 b) of the Labour Code, with reference to the provisions of Article 78 of the same of Code, it has been established that the lack of the mention concerning the duration of the notice granted to the employee from dismissal decision shall not be sanctioned with the nullity of the decision and of the measure of dismissal when the employer makes the proof that it has granted to the employee the notice with the minimum duration provided in Article 75 (1) of the Labour Code or with the duration provided in the collective or individual labour contracts, assuming that this is more favourable to the employee.

#B

ART. 77*)

The dismissal decision shall produce effects from the date of being communicated to the employee.

#CIN

*) 1. By the Decision of the High Court of Cassation and Justice No 18/2016 it has been admitted the referral on the settlement of some matters of law and, for the interpretation of the provisions of Article 55 c) and of Article 77 of the Labour Code, it has been established that the dismissal decision may be revoked by the date of being communicated to the employee, the act of revocation being subject to the communication requirements corresponding to the act which it revokes (the dismissal decision).

2. By the Decision of the High Court of Cassation and Justice No 34/2016 it has been admitted the referral on the settlement of some matters of law and, for the interpretation of the provisions of Article 77 of the Labour Code, with reference to the provisions of Article 278 (1) of the Labour Code and to the provisions of Article 1.326 of the Civil Code, it has been established that the individual dismissal decision issued according to the provisions of Article 76 of the Labour Code may be communicated by electronic mail, this being a modality of communication suitable from the point of view of proceedings to set off the running of the period of jurisdictional contestation of the decision, according to the provisions of Article 211 a) of the Law No 62/2011 in relation to the provisions of Article 216 of the same normative act, with reference to the provisions of Article 184 (1) of the Civil Procedure Code, provided that the employee has sent to the employer these contact data and it is customary to use this form of communication between parties.

Likewise, it has been established that the decision thus communicated by electronic mail, in electronically accessible PDF format, must comply only with the formal requirements imposed by the provisions of Article 76 of the Labour Code, but not those imposed by the Law No 455/2001, referring to the electronic document.

#B

SECTION 7

Control and sanctions for unlawful dismissals

ART. 78*)

The dismissal ordered in non-compliance with the procedure provided by law is struck by absolute nullity.

#CIN

*) By the Decision of the High Court of Cassation and Justice No 8/2014 it has been admitted the appeal in the interest of law and it has been established that:

For the interpretation and application of the provisions of Article 78 of the Labour Code with reference to the provisions of Article 75 (1) of the same Code, the failure to grant the notice with the minimum duration provided in Article 75 (1) of the Labour Code, respectively with the duration provided in the collective or individual labour contracts, if this is more favourable to the employee, shall bring about the nullity of the measure of dismissal and of the dismissal decision.

For the interpretation and application of the provisions of Article 76 b) of the Labour Code, with reference to the provisions of Article 78 of the same Code, the lack of the mention concerning the duration of the notice granted to the employee the from dismissal decision shall not be sanctioned with the nullity of the decision and of the measure of dismissal when the employer makes the proof that it has granted to the employee the notice with the minimum duration provided in Article 75 (1) of the Labour Code or with the duration provided in the collective or individual labour contracts, assuming that this is more favourable to the employee.

#B

ART. 79

In the event of a labour conflict an employer may not resort, before a court of law, to other de facto or de jure reasons than the ones stated in the dismissal decision.

ART. 80

(1) In case that the dismissal has not been well-grounded or has been unlawful, the court shall order its cancellation and shall force the employer to pay compensation equal to the indexed, increased and updated wages and to the other rights the employee would have otherwise benefited from.

(2) At the employee's request, the court that has ordered the cancellation of the dismissal shall reinstate the parties to the status existing prior to the issuance of the dismissal document.

(3) In case the employee does not request the reinstatement in the situation prior to the issuance of the dismissal document, the individual labour contract shall cease by right at the date when the judgment remains final and irrevocable.

SECTION 8
Resignation

ART. 81
(1) By *resignation* one understands the unilateral act of will of the employee who, by means of a written notification, informs his employer about the cessation of the individual labour contract, after a notice time limit has elapsed.
(2) The employer shall be under the obligation to record the employee's resignation. The employer's refusal to record the resignation shall give the employee the right to make proof thereof by any means of evidence.
(3) An employee shall be entitled not to motivate his resignation.
(4) The notice time limit shall be the one agreed upon by the parties in the individual labour contract or, as applicable, the one provided in the applicable collective labour contracts, and may not exceed 20 working days for employees in executive positions, respectively 45 working days for the employees in management positions.
(5) Throughout the notice the individual labour contract shall continue to take full effects.
(6) If during the notice period the individual labour contract is suspended, the notice time limit shall be suspended accordingly.
(7) An individual labour contract shall cease on the date of expiry of the notice time limit or on the date the employer waives that time limit entirely or partially.
(8) An employee may resign without notice if the employer has not met the obligations assumed by the individual labour contract.

CHAPTER VI
Individual labour contract for a definite period

ART. 82*)
(1) As an exception to the rule provided in Article 12 (1), the employers may be permitted to employ personnel, for the purpose and under the terms of this Code, based on individual labour contracts for a definite period.
(2) An individual labour contract for a definite period may only be concluded in a written form, expressly stating the duration for which it is being concluded.
(3) The individual labour contract for a definite period may be extended, under the conditions provided in Article 83, even after the expiry of the initial time limit,

based on the parties' written consent, for the period of carrying out a project, schedule or work.

(4) No more than 3 successive individual labour contracts for a definite period may be concluded between the same parties.

(5) The individual labour contracts for a definite period concluded within 3 months from the cessation of a labour contract for a definite period shall be considered successive contracts and may not have a duration exceeding 12 months each.

#CIN

*) Derogations from the provisions of Article 82 have been allowed by:

- Article 13 (4) of the Government Ordinance No 21/2007 on the institutions and companies organizing shows and concerts, as well as the conduct of the artist managerial activity, as amended;
- Article 67^1 (1^2) of the Law on physical training and sports No 69/2000, as amended;
- Article 2^1 (1) of the Government Emergency Ordinance No 77/2017 establishing the National Centre for Financial Information, as amended;
- Article 295 (6) of the Law No 95/2006 on the health reform, republished, as amended;
- Article 102^2 (4) of the Law No 208/2015 on the election of the Senate and of the Chamber of Deputies, as well as for the organisation and functioning of the Permanent Electoral Authority, as amended.

We specify that the above-mentioned derogatory provisions are reproduced in points 6 - 8, point 13 and point 14 of CIN note at the end of the updated text.

#B

ART. 83

An individual labour contract may only be concluded for a definite period in the following instances:

a) the replacement of an employee in the event his labour contract is suspended, except when that employee participates in a strike;

b) the temporary increase and/or change of the employer's activity structure;

c) the conduct of some seasonal activities;

d) in case it is concluded based on some lawful provisions issued with a view to temporarily favouring certain categories of unemployed persons;

e) the employment of a person who, within 5 years from the date of employment, meets the terms of retirement for age limit;

f) filling an eligible position within the trade union, employers' organisations or non-government organisations, for the mandate period;

g) the employment of the retired persons who, under the law, may cumulate the pension and the wages;

h) in other cases expressly provided by special laws or for the carrying out of some works, projects or programmes.

ART. 84*)

(1) The individual labour contract for a definite period may not be concluded for a period exceeding 36 months.

(2) If an individual labour contract for a definite period is concluded with a view to replacing an employee whose individual labour contract has been suspended, the contract duration shall expire when the reasons having caused the suspension of the individual labour contract of the full employee ceased to exist.

#CIN

*) Derogations from the provisions of Article 84 have been allowed by:

- Article 13 (4) of the Government Ordinance No 21/2007 on the institutions and companies organizing shows and concerts, as well as the conduct of the artist managerial activity, as amended;
- Article 67^1 (1^2) of the Law on physical training and sports No 69/2000, as amended;
- Article 2^1 (1) of the Government Emergency Ordinance No 77/2017 establishing the National Centre for Financial Information, as amended;
- Article 295 (6) of the Law No 95/2006 on the health reform, republished, as amended;
- Article 102^2 (4) of the Law No 208/2015 on the election of the Senate and of the Chamber of Deputies, as well as for the organisation and functioning of the Permanent Electoral Authority, as amended.

We specify that the above-mentioned derogatory provisions are reproduced in points 6 - 8, point 13 and point 14 of CIN note at the end of the updated text.

#B

ART. 85

An employee employed on the basis of an individual labour contract for a definite period may be subject to a trial period, which shall not exceed:

a) 5 working days, for a duration of the individual labour contract shorter than 3 months;

b) 15 working days, for a duration of the individual labour contract ranging between 3 and 6 months;

c) 30 working days, for a duration of the individual labour contract longer than 6 months;

d) 45 working days, in the case of employees holding management positions, for a duration of the individual labour contract longer than 6 months.

ART. 86

(1) The employers shall be under the obligation to inform the employees hired based on individual labour contracts for a definite period about the vacant positions or those that will become vacant, corresponding to their vocational training, and shall grant them access to such positions under equal terms as the employees employed on the basis of individual labour contracts for an indefinite period. Such information shall be made public in a notice posted at the employer's head office.

(2) A copy of the notice provided in paragraph (1) shall be sent at once to the trade union or to the representatives of employees.

ART. 87

(1) As regards the employment and labour conditions, the employees with individual labour contract for a definite period shall not be treated less favourable than the comparable permanent employees, with no other reason than the duration of the individual labour contract, except for the cases when the different treatment is justified by objective reasons.

(2) For the purpose of paragraph (1), *comparable permanent employee* is the employee with an individual labour contract concluded for an indefinite period and that is carrying out the same activity or a similar activity, in the same unit, having in view the professional qualification/aptitudes.

(3) When there is no comparable employee with an individual labour contract for an indefinite period in the same unit, the provisions of the applicable collective labour contract or, in absence thereof, the legal regulations in field shall be taken into account.

CHAPTER VII
Work through a temporary labour agent

ART. 88

(1) The work through a temporary labour agent is the work performed by a temporary employee who has concluded a temporary labour contract with a temporary labour agent and who is placed at the user's disposal in order to work temporarily under the supervision and management of the latter.

(2) The *temporary employee* is the person who has concluded a temporary labour contract with a temporary labour agent, in order to be placed at a user's disposal to work temporarily under the supervision and management of the latter.

(3) The *temporary labour agent* is the legal person, authorised by the Ministry of Labour, Family and Social Protection, which concludes temporary labour contracts with temporary employees, in order to place them at the user's disposal, to work for the period established by the contract for placing at his disposal under the supervision and management of the latter. The conditions for the functioning of

the temporary labour agent's, as well as the authorising procedure shall be established by Government decision.

(4) The *user* is the natural or legal person for whom or under whose supervision and management a temporary employee placed at disposal by the temporary labour agent works temporarily.

(5) The *temporary work assignment* means that period in which the temporary employee is placed at the user's disposal to work temporarily under its supervision and management, in order to carry out a precise and temporary assignment.

ART. 89

A user may call upon temporary labour agents for carrying out a precise and temporary assignment, except for the case provided in Article 93.

ART. 90

(1) The temporary work assignment shall be established for a period which may not exceed 24 months.

(2) The duration of the temporary work assignment may be extended for successive periods which, added to the initial duration of the work assignment, may not exceed 36 months.

(3) The conditions under which the duration of a temporary work assignment may be extended shall be provided in the temporary labour contract or may be the object of an additional deed to that contract.

ART. 91

(1) The temporary labour agent shall place at the user's disposal an employee hired under a temporary labour contract, on the basis of a contract for placing at one's disposal concluded in writing.

(2) The contract for placing at one's disposal shall comprise:

a) the duration of the assignment;

b) the typical characteristics of the position, especially the necessary skills, the place of completing the assignment and the work schedule;

c) the actual work conditions;

d) the individual protective and work outfit the temporary employee must use;

e) any other services and facilities for the benefit of the temporary employee;

f) the value of the commission by which the temporary labour agent benefits, as well as the remuneration to which the employee is entitled;

g) the conditions under which the user may refuse a temporary employee placed at disposal by a temporary labour agent.

(3) Any clause prohibiting the user from hiring the temporary employee after the assignment has been completed shall be null and void.

ART. 92

(1) The temporary employees shall have access to all the services and facilities provided by the user, under the same conditions as the other employees of the latter.

(2) The user shall provide the temporary employee with individual protective and work outfit except when, based on the contract for placing at disposal, this is the responsibility of the temporary labour agent.

#M14

(3) The wages received by the temporary employee for each assignment can not be less than that received by the employee of the user, who performs the same work or one similar to that of the temporary employee.

(4) To the extent that the user has not hired such an employee, the wages received by the temporary employee shall be determined by taking into account the wages of a person employed under an individual labour contract and who performs the same work or similar work, as established by the collective labour contract applicable at the level of the user.

#B

ART. 93

The user may not benefit from the services of a temporary employee, if his aim is to replace thus one of his employees whose labour contract has been suspended as a result of his participating in a strike.

ART. 94

(1) The temporary labour contract is an individual labour contract which shall be concluded in writing between the temporary labour agent and the temporary employee, for the duration of an assignment.

(2) The temporary labour contract shall state, apart from the elements provided in Article 17 and Article 18 (1), the conditions under which the assignment is going to take place, the duration of the assignment, the user identity and head office, as well as the quantum and the modalities for remunerating the temporary employee.

ART. 95

(1) A temporary labour contract may also be concluded for several assignments, provided that the time limit provided in Article 90 (2) is observed.

(2) The temporary labour agent may conclude with the temporary employee a labour contract for indefinite period, in which situation in the period between two assignments the temporary employee shall be at the disposal of the temporary labour agent.

(3) For each new assignment, the parties shall conclude a temporary labour contract, stating all the elements provided in Article 94 (2).

(4) The temporary labour contract shall cease at the end of the assignment for which it has been concluded or if the user gives up to his services before the end of the assignment, under the conditions of the contract for placing at disposal.

ART. 96

(1) Throughout the duration of the assignment the temporary employee shall benefit from the wages paid by the temporary labour agent.

(2) The wages received by the temporary employee for each assignment shall be established by direct negotiation with the temporary labour agent and shall not be lower than the gross minimum wages on the country guaranteed for payment.

(3) The temporary labour agent shall be the one who withholds and transfers all contributions and taxes owed by the temporary employee to state budgets and for this he pays all the contributions owed according to the terms of law.

(4) If, within 15 calendar days from the date when the obligations concerning the payment of the wages and those concerning contributions and taxes have become due and exigible, and the temporary labour agent does not meet these obligations, they shall be paid by the user, based on the request by the temporary employee.

(5) The user who has paid the amounts due according to paragraph (4) shall subrogate, for the amounts paid, the rights of the temporary employee against the temporary labour agent.

ART. 97

The temporary labour contract may set up a trial period for the completion of the assignment, the duration of which shall not exceed:

a) two working days, in case the temporary labour contract is concluded for a period shorter than or equal to one month;

b) 5 working days, in case the temporary labour contract is concluded for a period between one and 3 months;

c) 15 working days, in case the temporary labour contract is concluded for a period between 3 and 6 months;

d) 20 working days, in case the temporary labour contract is concluded for a period exceeding 6 months;

e) 30 working days in case of the employees in management positions, for a period of the temporary labour contract exceeding 6 months.

ART. 98

(1) Throughout the assignment, the user shall be responsible for ensuring the work conditions for the temporary employee, in compliance with the legislation in force.

(2) The user shall notify at once the temporary labour agent about any labour accident or occupational disease he has learnt about and whose victim has been a temporary employee placed at his disposal by the temporary labour agent.

ART. 99

(1) At the end of the assignment, the temporary employee can conclude an individual labour contract with the user.

(2) If the user hires, after an assignment, a temporary employee, the duration of the assignment shall be taken into consideration when calculating his wage rights, as well as the other rights provided by the labour legislation.

ART. 100

The temporary labour agent who dismisses the temporary employee before the time limit provided in the temporary labour contract, for reasons other than disciplinary ones, shall have the obligation to comply with the legal regulations on the cessation of the individual labour contract for reasons unrelated to the employee's person.

ART. 101

Except for the contrary special dispositions provided in this Chapter, the legal dispositions, the provisions of the internal regulations, as well as those of the collective labour contracts applicable to employees hired under individual labour contracts for indefinite period at the user shall equally apply to temporary employees for the duration of their assignment there.

ART. 102

The temporary labour agents shall not charge any tax to the temporary employees in exchange for the measures for their recruitment by the user or for the conclusion of a temporary labour contract.

CHAPTER VIII

Part-time individual labour contract

ART. 103

Employee with a rate fraction is the employee with a number of normal working hours, calculated weekly or as a monthly fraction, that is lower to the number of normal working hours of a comparable full-time employee.

ART. 104

(1) An employer may hire employees with a rate fraction by means of individual labour contracts for an indefinite period or for a definite period, called part-time individual labour contracts.

(2) A part-time individual labour contract shall only be concluded in writing.

(3) *Comparable employee* is a full-time employee of the same unit within the same individual labour contract, who performs the same activity or one similar to that of the employee hired on a part-time individual labour contract, also having in view other grounds, such as length of service and qualification/professional skills.

(4) When there is no comparable employee in the same unit, the provisions of the applicable collective labour contract or, in its absence, the legal regulations in field shall be taken into account.

ART. 105

(1) A part-time individual labour contract shall comprise, apart from the elements provided in Article 17 (3), the following:

a) the work period and distribution of work schedule;

b) the terms under which the work schedule may be modified;

c) the interdiction to work overtime hours, except for a force majeure or other urgent works meant to prevent accidents or to remove their consequences.

(2) In case that, in a part-time individual labour contract, the elements provided in paragraph (1) are not stated, the contract shall be deemed to be full-time.

ART. 106

(1) An employee hired on a part-time labour contract shall enjoy all the rights of full-time employees, under the terms provided by the law and the applicable collective labour contracts.

(2) The wage rights shall be granted proportionally to the time actually worked, in relation to the rights established for a normal work schedule.

ART. 107

(1) As far as possible, the employer shall take into consideration the employees' requests to be transferred either from a full-time position to a part-time position, or from a part-time position to a full-time position, or to have an increased work schedule, should this opportunity occur.

(2) The employer shall notify his employees in due time regarding the vacancy of part-time or full-time positions, in order to facilitate transfers from full-time to part-time positions and vice versa. This notification shall be done by means of a notice posted at the employer's head office.

(3) A copy of the notice provided in paragraph (2) shall be sent at once to the trade union or the employees' representative.

(4) As far as possible, the employer shall provide access to jobs with fractions of norm at all levels.

CHAPTER IX
Home-based work

ART. 108

(1) Those employees who carry out, at their home, the attributions typical of their positions shall be deemed home-based employees.

(2) With a view to fulfilling their job duties, the home-based employees shall set up their own work schedule.

(3) The employer shall be entitled to check the activity of home-based employee, under the terms established in the individual labour contract.

ART. 109

An individual labour contract for home-based work shall only be concluded in a written form and shall comprise, apart from the elements provided in Article 17 (3), the following:

a) the express mention that the employee shall work at home;

b) the schedule during which the employer shall be entitled to check the activity of his employee, and the actual manner of conducting such a control;

c) the employer's obligation to ensure transport to and from the employee's domicile, as applicable, of the raw materials and materials, which such employee uses in his activity, as well as the finished products made by him.

ART. 110

(1) The home-based employee shall enjoy all the rights provided by the law and the collective labour contracts applicable to employees whose work place is at the employer's head office.

(2) By the collective labour contracts and/or by individual labour contracts may also be established other typical conditions for home-based work, in accordance with the legislation in force.

TITLE III
Work time and rest time

CHAPTER I*)
Work time

#CIN

*) Derogations from the provisions of Chapter I have been allowed by:

- Article 17 of the Law No 256/2018 on some measures necessary for the implementation of the petroleum operations by the holders of petroleum agreements referring to offshore petroleum perimeters (#M34).

We specify that the above-mentioned derogatory provisions are reproduced in point 11 of note CIN at the end of the updated text.

#B

SECTION 1
Duration of work time

ART. 111

The work time is any period during which the employee performs work, is at the disposal of the employer and carries out his duties and attributions, according to the provisions of the individual labour contract, the applicable collective labour contract and/or the legislation in force.

ART. 112

(1) For full-time employees the normal length of the work time shall be of 8 hours per day and 40 hours per week.

(2) As far as young people up to 18 years old are concerned, the duration of the work time shall be of 6 hours per day and 30 hours per week.

ART. 113

(1) The distribution of the work time throughout the week shall, as a rule, be equal, with 8 hours per day for 5 days, and with two rest days.

(2) Depending on the typical features of the unit or of the work performed, one can also opt for an unequal distribution of the work time, in compliance with the normal duration of the work time is of 40 hours per week.

ART. 114

(1) The maximum legal length of the work time shall not exceed 48 hours per week, including overtime hours.

(2) As an exception, the length of the work time, including the overtime hours, may be extended over 48 hours per week, provided that the average number of work hours, as calculated for a reference period of 4 calendar months, does not exceed 48 hours per week.

(3) For certain activities or professions established by the applicable collective labour contract there may be negotiated, by that collective labour contract, reference periods more than 4 months, but not exceeding 6 months.

(4) Subject to the observance of regulations concerning health and safety protection at work of the employees, for objective, technical reasons or reasons regarding the work organisation, the collective labour contracts may provide derogations from the reference period duration established in paragraph (3), but for reference periods that in no case shall exceed 12 months.

(5) When establishing the reference periods provided in paragraphs (2) - (4), the length of the annual rest leave and the situations when the individual labour contract is being suspended shall not be taken into account.

(6) The provisions of paragraphs (1) - (4) shall not apply to young people who have not turned 18 years of age.

ART. 115

(1) For certain sectors of activity, units or professions one may establish, following collective or individual negotiations, or by means of specific laws, the daily duration of the work time lower or higher than 8 hours.

(2) A daily duration of the work time of 12 hours shall be followed by a rest period of 24 hours.

ART. 116

(1) The actual manner for establishing an uneven work time within the 40-hour work week, as well as during the compressed work week, shall be negotiated by means of the collective labour contract at the level of the employer, or, in its absence, it shall be provided in the internal regulations.

(2) An uneven work schedule shall operate only if expressly stated in the individual labour contract.

ART. 117

The work schedule and its distribution per days shall be notified to the employees and posted at the employer's head office.

ART. 118

(1) The employer may establish individualised work schedules, with the consent or at the request of the employee in question.

(2) Individualised work schedules shall suppose a flexible organisation of the work time.

(3) The daily duration of the work time shall be divided into two periods: a fixed period during which the all the employees are at their work places, and a variable, mobile period in which the employee selects his arrival and departure times, provided the daily work time is observed.

(4) An individualised work schedule may only operate in compliance with the provisions of Articles 112 and 114.

#M27

ART. 119

(1) The employer shall be under the obligation to keep at the work place defined according Article 16^1 the records of the number of work hours performed by each employee on a daily basis, by recording the starting and ending hours of the work schedule, and to subject these records to the control conducted by the labour inspectors, whenever required.

(2) For the mobile workers and employees working at home, the employer shall keep the records of the hours worked by each employee on a daily basis under the conditions established with the employees by written agreement, depending on the specific activity performed by them.

#B

SECTION 2

Overtime work

ART. 120

(1) The work performed outside the normal duration of the weekly work time, as provided in Article 112, shall be considered overtime work.

(2) The overtime work may not be performed without the employee's consent, except for a force majeure or urgent works meant to prevent accidents or to remove the consequences of an accident.

ART. 121

(1) At the employer's request, the employees may perform overtime work in compliance with the provisions of Articles 114 or 115, as applicable.

(2) The performance of overtime work above the limit set according to the provisions of Articles 114 or 115, as applicable, shall be prohibited, except for a case of force majeure or for other urgent works meant to prevent accidents or to remove the consequences of an accident.

ART. 122

(1) Overtime work shall be compensated with paid hours off during the next 60 calendar days after the work has been performed.

(2) Under these conditions the employee shall benefit from the adequate wages for the hours performed beyond the normal work schedule.

(3) In the periods of reduction of the activity, the employer shall have the possibility to grant paid days off from which the overtime hours that are going to be carried out during the following 12 months may be compensated.

ART. 123

(1) If the compensation with paid time off is not possible within the time limit provided in Article 122 (1) during the next month, the overtime work shall be paid to the employee by adding a benefit to the wages corresponding to its duration.

(2) The benefit for overtime work, granted under the terms provided by paragraph (1), shall be established by negotiation, within the collective labour contract or, as applicable, the individual labour contract, and may not be lower than 75% of the basic wages.

ART. 124

Young people under 18 years of age may not perform overtime work.

SECTION 3

Night work

ART. 125

(1) The work performed between 10 p.m. and 6 a.m. shall be deemed night work.

(2) *Night worker* is, as applicable:

a) the employee that performs night work at least 3 hours of his daily working time;

b) the employee that performs night work in proportion of at least 30% of his monthly working time.

(3) The normal duration of work time, for the night worker, shall not exceed an average 8 hours a day, calculated for a reference period of maximum 3 calendar months, in compliance with the legal provisions with regard to the weekly rest.

(4) The normal duration of work time for the night workers whose activity is carried out under special or outstanding working conditions shall not exceed 8 hours during any 24-hour period unless the prolongation of this duration is provided in the applicable collective labour contract and only in the situation in which such a provision does not infringe some express provisions established in the collective labour contract concluded at an upper level.

(5) In the situation provided in paragraph (4), the employer shall be under the obligation to grant equivalent compensatory rest periods or cash compensation of the night hours worked over the 8-hour duration.

(6) The employer who frequently uses night work shall have to notify this to the territorial labour inspectorate.

ART. 126

The night workers shall benefit:

a) either from a work schedule an hour shorter than the normal duration of the work day, for the days when they perform at least 3 hours of night work, without this leading to a decrease in the basic wages;

b) or from a benefit of 25% from the basic wages for the work performed during the night, if the time thus worked represents at least 3 night hours from the normal working time.

ART. 127

(1) The employees who are to perform night work under the terms of Article 125 (2) shall be subject to a free medical examination before starting activity and afterwards, periodically.

(2) The terms of the medical examination and its periodicity shall be set forth by the regulations approved by joint order of the minister of labour, family and social protection and of the minister of health.

(3) The employees who perform night work and have health problems recognized as being connected with this kind of work shall be transferred to a day work they are fit for.

ART. 128

(1) Young people who have not turned 18 years of age shall not perform night work.

(2) Pregnant, lately confined, or nursing women may not be obliged to perform night work.

SECTION 4
Workload

ART. 129
A workload expresses the amount of work needed for operations or works being performed by an adequately skilled person, who works at a normal pace, under the conditions of determined operating and work processes. The workload shall comprise the productive time, the time for interruptions caused by the progression of the technological process, and the time for legal breaks during the work schedule.
ART. 130
The workload shall be expressed, depending on the characteristics of the production process or other rated activities, as time rates, production rates, personnel rates, scope of attributions, or other forms corresponding to the features of each activity.
ART. 131
Work rating shall apply to all categories of employees.
ART. 132
Work rates shall be drawn up by the employer, under the regulations in force, or, if such regulations do not exist, the workloads shall be drawn up by the employer after consultation with the representative trade union or, according to the case, with the representatives of employees.

CHAPTER II*)
Periodical rests

#CIN
*) Derogations from the provisions of Chapter II have been allowed by:
- Article 17 of the Law No 256/2018 on some measures necessary for the implementation of the petroleum operations by the holders of petroleum agreements referring to offshore petroleum perimeters (#M34).
We specify that the above-mentioned derogatory provisions are reproduced in point 11 of note CIN at the end of the updated text.

#B
ART. 133
Rest period is any period that is not working time.

SECTION 1
Lunch break and daily rest

ART. 134

(1) In case the daily duration of the work time exceeds 6 hours, the employees shall be entitled to a lunch break and to other breaks, under the terms set forth by the applicable collective labour contract or the internal regulations.

(2) Young people under 18 years of age shall benefit from a lunch break of at least 30 minutes, if the daily duration of the work time exceeds 4 and a half hours.

(3) Unless otherwise provided in the applicable collective labour contract and in the internal regulations, the breaks shall not be included in the normal duration of the work time.

ART. 135

(1) The employees shall be entitled, in between two working days, to a rest, which may not be less than 12 consecutive hours.

(2) As an exception, as far as work in shifts is concerned, this rest cannot be less than 8 hours between shifts.

ART. 136

(1) *Work by shifts* is any manner of organising the work schedule, according to which the employees succeed one another in the same job position, according to a certain schedule, including a schedule by turns, and that may be continuous or discontinuous, and that involves for the employee the need to carry out the activity in different hourly intervals in ratio to a daily or weekly period, established in the individual labour contract.

(2) *Employee by shifts* is any employee with a work schedule that is a part of the work schedule by shifts.

SECTION 2

Weekly rest

#M15

ART. 137

(1) The weekly rest shall be of 48 consecutive hours, usually on Saturdays and Sundays.

#B

(2) If the rest on Saturdays and Sundays would cause prejudice to the public interest or the normal conduct of the activity, the weekly rest may also be granted on other days set forth in the applicable collective labour contract or the internal regulations.

(3) Under the circumstance provided in paragraph (2), the employees shall benefit from a wage benefit set in the collective labour contract or, as applicable, the individual labour contract.

(4) Under exceptional circumstances the days of weekly rest shall be granted on a cumulative basis, after a period of continuous activity which may not exceed 14 calendar days, based on the authorisation of the territorial labour inspectorate and the consent of the trade union or, as applicable, of the representatives of employees.

(5) The employees whose weekly rest is granted under the terms of paragraph (4) shall be entitled to twice the compensations according under Article 123 (2).

ART. 138

(1) In the event of urgent works, the immediate performance of which is necessary for the organisation of rescue measures for persons or goods of the employer, for preventing imminent accidents or for removing the effects that such accidents may have had on the unit's materials, equipment or buildings, the weekly rest can be suspended for the necessary personnel to perform such works.

(2) The employees whose weekly rest has been suspended under the terms of paragraph (1) shall be entitled to twice the compensation due according to Article 123 (2).

SECTION 3

Lawful holidays

#M21

ART. 139

(1) The lawful holidays on which no work is performed shall be:

- the 1st and 2nd of January;
- the 24th of January - the Day of Unification of the Romanian Principalities;

#M26

- the Good Friday, the last Friday before Easter;

#M21

- the first and second day of Easter;
- the 1st of May;

#M22

- the 1st of June;

#M21

- the first and second day of Pentecost;
- the Assumption of the Virgin;
- the 30th of November - the Apostle Saint Andrew, the First-called, the Patron of Romania;
- the 1st of December;
- the first and second day of Christmas;

- two days for each of the 3 annual religious holidays, declared as such by the legal religious cults, other than Christian ones, for the persons affiliated thereto.
#B
(2) The days off shall be granted by the employer.
#M27
(3) The days off established according to paragraph (1) for the persons affiliated to the legal religious cults, other than Christian ones, shall be granted by the employer on other days than the legal holidays established according to the law or on other days than the days of annual leave.
#M41
(4) By 15 January every year, there shall be established by Government decision, for the personnel pertaining to the budgetary system, the working days for which there are granted days off, the non-working days preceding and/or succeeding the legal holidays, provided in paragraph (1), as well as the days when the work hours not worked must be recuperated.
#B
ART. 140
A Government decision shall set up the adequate work schedules for sanitary and public-catering institutions, with a view to ensuring sanitary care and people's supply with strictly necessary food products, respectively, whose implementation shall be mandatory.
ART. 141*)
The provisions of Article 139 shall not apply at work places where the activity may not be interrupted due to the characteristics of the production process or to the specificity of the activity.
#CIN
*) By the Decision of the High Court of Cassation and Justice No 22/2015 it has been admitted the appeal in the interest of law and, for the interpretation and application of the provisions the provisions of Article 141 of the Law No 53/2003, republished, with reference to the provisions of Article 8 of the Government Ordinance No 99/2000, republished, it has been established that the deed of the employer to carry on retail sale activities for the non-food products in the work points from the trade centres, in the legal holidays provided in Article 139 (1) of the Law No 53/2003, republished, does not meet the constitutive elements of the contravention provided in Article 260 (1) g) of this Law, when the employer has met the obligations provided in Article 142 of the same normative act.

#B
ART. 142

(1) The employees who work in the units provided in Article 140, as well as at the work places provided in Article 141 shall be compensated with adequate time off during the next 30 days.

(2) In case that, for justified reasons, no days off are granted, the employees shall benefit, for the work performed on legal holidays, from a benefit added to their basic wages which may not be less than 100% of the basic wages corresponding to the work performed during the normal work schedule.

ART. 143

The applicable collective labour contract may also set forth other days off.

CHAPTER III
Leaves

SECTION 1
Annual rest leave and other leaves of the employee

ART. 144

(1) The right to annual paid rest leave shall be guaranteed to all employees.

(2) The right to annual rest leave shall not make the object of any transfer, waiver, or limitation.

ART. 145

(1) The minimum duration of the annual rest leave is of 20 working days.
#M14

(2) The actual duration of the annual rest leave shall be established in the individual labour contract, in compliance with the law and with the applicable collective contracts.
#B

(3) The holidays on which no work is performed, as well as the paid days off set forth in the applicable collective labour contract shall not be included in the duration of the annual rest leave.
#M14

(4) In determining the duration of the annual rest leave, the periods of the temporary incapacity to work and those related to the maternity leave, to the maternal risk leave and to the leave for looking after a sick child shall be considered as periods of activity performed.

(5) In case the temporary incapacity to work or the maternity leave, the maternal risk leave or the leave for looking after a sick child has occurred during the annual rest leave, the latter shall be interrupted, following that the employee takes the remaining days of leave after the situation of temporary incapacity to work or the

maternity leave, the maternal risk leave or the leave for looking after a sick child has ceased, and when this is not possible that the days not taken be rescheduled.

(6) An employee shall be entitled to the annual leave also in case the temporary incapacity to work is maintained, under the terms of the law, for the entire period of a calendar year, the employer being obliged to pay annual rest leave during a period of 18 months starting from the year following that in which he was on sick leave.

#M14

ART. 146

(1) The rest leave shall be taken each year.

(2) In case the employee, for justified reasons, can not perform all or part of the annual rest leave to which he was entitled during that calendar year, with the consent of the person in question, the employer shall be obliged to grant the rest leave not taken within a period of 18 months starting with the year following the year when the right to the annual rest leave arose.

(3) The cash compensation of the rest leave not taken shall only be permitted in case of cessation of the individual labour contract.

#B

ART. 147

(1) The employees who work under difficult, dangerous, or harmful conditions, blind persons, other disabled people, and young persons up to 18 years old shall benefit from an additional rest leave of at least 3 working days.

(2) The number of working days related to the supplementary rest leave for the categories of employees provided in paragraph (1) shall be established by the applicable collective labour contract and it shall be of at least 3 working days.

#M37

ART. 147^1

(1) The female employees who undergo an "in vitro" fertilisation procedure shall benefit every year, by a paid additional rest leave of three days granted as follows:

a) 1 day at the date of the ovarian puncture;

b) 2 days starting from the date of the embryo transfer.

(2) The application on granting the additional paid leave provided in paragraph (1) shall be accompanied by the medical referral letter issued by specialised physician, under the law.

#B

ART. 148

(1) Taking one's rest leave shall be based on a collective or individual scheduling drawn up by the employer after having consulted the trade union, or, as applicable, the representatives of employees, as far as collective scheduling is

concerned, or the employee, as far as individual scheduling is concerned. The scheduling shall be done by the end of the calendar year for the coming year.

(2) The collective scheduling may establish leave periods which shall not be less than 3 months per categories of personnel or work places.

(3) The individual scheduling may establish the date of the leave commencement or, as applicable, the period during which the employee has the right to take the leave, period which shall not exceed 3 months.

(4) Within the leave periods established according to paragraphs (2) and (3) the employee may apply for taking the leave at least 60 days before actually taking it.

(5) If the leave scheduling is divided into fractions, the employer shall be under the obligation to establish the scheduling so that each employee benefits, in one calendar year, from at least 10 working days of uninterrupted leave.

ART. 149

The employee shall be under the obligation to take, in kind, the rest leave during the period for which he was scheduled, except for the situations expressly provided by the law or when the leave may not be taken for objective reasons.

ART. 150

(1) For the rest leave period, an employee shall benefit from a leave emolument, which may not be lower than the basic wages, the emoluments and permanent additions due for that period, as provided in the individual labour contract.

(2) The rest leave emolument shall represent the daily average of the wages provided in paragraph (1) in the last 3 months prior to the one when the leave is taken, multiplied by the number of leave days.

(3) The rest leave emolument shall be paid by the employer at least 5 working days before the date of taking the leave.

ART. 151

(1) The rest leave may be discontinued, at the employee's request, for objective reasons.

(2) The employer may call back the employee from his rest leave in the event of force majeure or for urgent interests making the employee's presence necessary at his work place. In this case, the employer shall cover all expenses incurred by the employee and his family, necessary for his return to the work place, as well as all possible prejudice caused to him as a result of the interruption of the rest leave.

ART. 152

(1) In case of occurrence of special family events, the employees shall be entitled to paid the days off, which shall not be included in the duration of the rest leave.

(2) The special family events and the number of paid days off shall be set forth by the law, the applicable collective labour contract, or the internal regulations.

ART. 153

(1) The employees shall be entitled to unpaid leaves for solving certain personal circumstances.

(2) The applicable collective labour contract or the internal regulations shall set forth the duration of the unpaid leave.

SECTION 2

Vocational training leaves

ART. 154

(1) The employees shall be entitled to benefit, on request, from vocational training leaves.

(2) The vocational training leaves may be either paid or unpaid.

ART. 155

(1) The unpaid vocational training leaves shall be granted at the employee's request, for the duration of the vocational training the employee is attending on his initiative.

(2) The employer may reject the employee's request only if the employee's absence would cause serious prejudice to carrying on its activity.

ART. 156

(1) The application for vocational training unpaid leave shall be submitted to the employer at least one month before taking it and it shall state the date of commencement of the vocational training period, the scope and its duration, as well as the denomination of the vocational qualification institution.

(2) The taking vocational training unpaid leave may also be taken in fractions in the course of one calendar year, with a view to taking the examinations for graduating some education institutions or taking examinations for passing to the next year within the higher education institutions, in compliance with the terms provided in paragraph (1).

ART. 157

(1) If the employer has not met his obligation to ensure, at his own expense, the participation of an employee in the vocational training under the terms of the law, that employee shall be entitled to a vocational training leave, paid by the employer, of up to 10 working days or up to 80 hours.

(2) In the situation provided in paragraph (1), the leave emolument shall be established according to Article 150.

(3) The period during which an employee benefits from the paid leave provided in paragraph (1) shall be mutually agreed upon with the employer. The application for vocational training paid leave shall be submitted to the employer under the terms provided in Article 156 (1).

ART. 158

The duration of the vocational training leave shall not be deducted from the duration of the annual rest leave and shall be deemed similar to an actual work period as regards the rights due to the employee, other than the wages.

TITLE IV
Wage plan

CHAPTER I
General provisions

ART. 159

(1) The wages represents the consideration for the work performed by an employee based on the individual labour contract.

(2) For the work performed based on the individual labour contract, each employee shall be entitled to the wages expressed in cash.

(3) When establishing and granting the wages, all discrimination shall be prohibited for criteria such as gender, sexual orientation, genetic characteristics, age, national origin, race, colour of skin, ethnic origin, religion, political options, social origin, disability, family situation or responsibility, trade union membership or activity.

ART. 160

The wages shall comprise the basic wages, allowances, benefits, as well as other additions.

ART. 161

The wages shall be paid before any other payment obligations of the employers.

ART. 162

(1) The minimum wage levels shall be established by the applicable collective labour contracts.

(2) The individual wages shall be established by individual negotiations between employer and employee.

(3) The wage plan for the personnel of the public authorities and the public institutions financed entirely or mostly by the state budget, the state social insurance budget, the local budgets and the special funds budgets shall be established by law, after the consultation with the representative trade union organisations.

ART. 163

(1) The wages shall be confidential, and the employer shall have the obligation to take the necessary steps to keep the confidentiality.

(2) With a view to promoting the employees' interests and defending their rights, the confidentiality of the wages may not be opposed to trade unions or, as the case

may be, to the representatives of employees, in strict connection with their interests and in their direct relation with the employer.

CHAPTER II

Minimum gross basic wages on the country guaranteed for payment

ART. 164*)

(1) The minimum gross basic wages on the country guaranteed for payment, corresponding to the normal work schedule, shall be established by Government decision**), after consultation with the trade unions and employers' organisations. In case the normal work schedule is, under the law, less than 8 hours per day, the hourly gross minimum basic wages shall be calculated by reference with the gross minimum basic wages on the country to the monthly average number of hours according to the legal work schedule approved.

#M33

(1^1) By Government decision**) it may be established an increase of the gross minimum wages on the country guaranteed for payment provided in paragraph (1), differentiated per criteria of the level of study and of the length of service.

(1^2) All of the rights and obligations established by reference to the gross minimum wages on the country guaranteed for payment shall be determined by using the level of the gross minimum wages on the country guaranteed for payment provided in paragraph (1).

#B

(2) The employer may not negotiate or establish basic wages under the individual labour contract below the hourly gross minimum basic wages on the country.

(3) The employer shall be under the obligation to guarantee the payment of monthly gross wages at least equal to the minimum gross basic wages on the country. These provisions shall also apply in case the employee is present for work, according to the schedule, but he cannot carry out his activity due to reasons beyond his control, except for strikes.

(4) The employer shall see that the national minimum gross basic wages guaranteed for payment is notified to the employees.

#CIN

*) Derogations from the provisions of Article 164 have been granted by:

- Article 71 (1) of the Government Emergency Ordinance No 114/2018 establishing some measures in the field of public investments and some fiscal-budgetary measures, the amendment and supplementation of some normative acts and the prorogation of some time limits (#M35), as amended.

We specify that the above-mentioned derogatory provisions are reproduced in point 12 of CIN note at the end of the updated text.

**) See the Government Decision No 935/2019 establishing the minimum gross basic wages on the country guaranteed for payment.

#B

ART. 165

For the employees to whom the employer, in compliance with the collective or individual labour contract, provides food, housing or other facilities, the amount of money due for the work performed shall not be lower than the national minimum gross wages provided by the law.

CHAPTER III
Payment of wages

ART. 166

(1) The wages shall be paid in cash at least once a month, on the date provided in the individual labour contract, in the applicable collective labour contract, or in the internal regulations, as applicable.

(2) The payment of the wages may be made by transfer to a bank account.

(3) The payment in kind of part of the wages, according to the terms provided in Article 165, shall only be possible if expressly provided in the applicable collective labour contract or the individual labour contract.

(4) An unjustified delay in the payment of the wages or the failure to pay them may cause the employer to be obliged to pay damages to cover the prejudice caused to the employee.

ART. 167

(1) The wages shall be paid directly to the holder or to his agent.

(2) In the event of death of the employee, the wages due up to the date of his death shall be paid, in sequence, to the surviving spouse, the major children of the deceased employee or of his parents. If none of these categories of persons exist, the wages shall be paid to other heirs, in compliance with the common law.

ART. 168

(1) The payment of the wages shall be proved by the signature of the pay lists, as well as by any other documentary evidence proving that the payment has been made to the entitled employee.

(2) The pay lists, as well as the other documentary evidence, shall be kept and archived by the employer under the same conditions and for the same time limits as the accounting documents, according to the law.

ART. 169

(1) No amount may be withheld from the wages, except for the cases and under the circumstances provided by the law.

(2) No amounts may be withheld as damages caused to the employer unless the employee's debt is due, liquid and exigible, and has been found as such by a judgment which is final and irrevocable.

(3) In case of several creditors of the employee exist, the following order shall be observed:

a) child support, according to the Family Code*);

b) contributions and taxes due to the state;

c) damages caused to public property by means of illicit actions;

d) covering other debts.

(4) The cumulated amounts withheld from the wages may not exceed half of the net wages every month.

#CIN

*) The Family Code has been repealed. See the Law No 287/2009 on the Civil Code, republished.

#B

ART. 170

The acceptance without reservation of part of the wages or the signature of the documents of payment under such circumstances shall not be construed as the employee waiving the rights to the wages due to him in their entirety, under the provisions of the law or of the contract.

ART. 171

(1) The right to take action as regards the wage rights, as well as regarding the damages resulting from the failure to entirely or partially fulfil the obligations concerning wage payment shall be prescribed within 3 years from the date on which such rights became due.

(2) The prescription time limit provided in paragraph (1) shall be discontinued if the debtor admits the wage rights or deriving from the payment of the wages.

CHAPTER IV
Guarantee fund for the payment of wage debts

ART. 172

The establishment and use of the guarantee fund for the payment of wage debts shall be regulated by a special law.

CHAPTER V

Protection of employees' rights in the event of a transfer of the company, of the unit, or of parts thereof

ART. 173

(1) The employees shall benefit from the protection of their rights if a transfer of the company, unit, or parts thereof takes place to another employer, under the law.

(2) The transferor's rights and obligations, which derive from a labour contract or from a relation existing on the date of the transfer, shall be fully transferred to the transferee.

(3) The transfer of the company, unit, or of parts thereof shall not constitute the grounds for the individual or collective dismissal of the employees by the transferor or the transferee.

ART. 174

Prior to the transfer, the transferor and the transferee shall be under the obligation inform and consult the trade union or, as applicable, the representatives of employees as regards the legal, economic, and social consequences deriving from the transfer of the property right on the employees.

TITLE V

Labour health and safety

CHAPTER I

General rules

ART. 175

(1) The employer shall be under the obligation to ensure the employees' safety and health in all work-related aspects.

(2) If an employer resorts to outside persons or services, this shall not exonerate him from liability in this domain.

(3) The employees' obligations as regards labour safety and health may not affect the employer's liability.

(4) The steps concerning labour safety and health shall, by no means, cause financial obligations to the employees.

ART. 176

(1) The provisions of this Title shall be supplemented by the provisions of the special law, the applicable collective labour contracts, as well as by the labour protection norms and standards.

(2) The labour protection norms and standards may establish:

a) the general labour safety measures for preventing labour accidents and occupational diseases, applicable to all employers;

b) the labour safety steps typical of certain professions or activities;

c) the typical safety steps applicable to certain categories of personnel;

d) the provisions concerning the organisation and operation of special bodies ensuring labour safety and health.

ART. 177

(1) Within his own responsibilities the employer shall take all the necessary steps with a view to protecting the safety and health of employees, including the activities of occupational risks prevention, of information and training, as well as for implementing the organisation of labour safety and the necessary means for this.

(2) In adopting and implementing the steps provided in paragraph (1), the following general prevention principles shall be taken into consideration:

a) avoiding risks;

b) assessing risks which cannot be avoided;

c) control of risks at source;

d) adjusting work to each person, especially as regards the design of work places and the choice of work and production equipment and methods, with special emphasis on the reduction, with priority, of the monotonous work and repetitive work, as well as the reduction of their effects on health;

e) taking into consideration technical evolution;

f) replacing dangerous items with safe or less dangerous ones;

g) planning the prevention;

h) adopting collective safety measures having priority over the individual safety steps;

i) informing the employees about the adequate instructions.

ART. 178

(1) The employer shall be responsible for the organisation of the labour health and safety activity.

(2) The internal regulations shall provide in a mandatory manner rules for labour safety and health.

(3) In drawing up the labour safety and health measures, the employer shall consult the trade union or, as the case may be, the representatives of employees, as well as the labour safety and health committee.

ART. 179

The employer shall provide all the employees with insurances for risks of labour accidents and occupational diseases, under the law.

ART. 180

(1) The employer shall organise the instruction of his employees in the field of labour safety and health.

(2) The instruction shall be periodical, using specific means mutually agreed upon by the employer together with the labour safety and health committee and with the trade union or, as the case may be, the representatives of employees.

(3) The instruction provided in paragraph (2) shall be mandatory in the case of new employees, of those who change jobs or the kind of work and of those who resume activity after an interruption exceeding 6 months. In all these cases the instruction shall be carried out before the actual commencement of work.

(4) The instruction shall also be mandatory if amendments to the legislation in the field occur.

ART. 181

(1) The work places shall be organised so as to guarantee employees' safety and health.

(2) The employer shall organise a permanent control of the condition of materials, equipment and substances used in the work process, with a view to protecting the employees' health and safety.

(3) The employer shall be liable for ensuring the conditions for providing the first aid in the event of labour accidents, for creating fire prevention conditions, as well as for evacuating the employees under special conditions and in the event of an imminent danger.

ART. 182

(1) In order to ensure labour safety and health the institution authorised by the law may order the limitation or prohibition of manufacturing, selling, importing, or using under any title substances and preparations which are hazardous to the employees.

(2) Based on the approval by the labour medicine doctor, the labour inspector may impose to the employer to request the competent bodies to perform, for a consideration, tests and examinations of certain products, substances, or preparations which are deemed to be hazardous, in order to know their composition and the effects they could have on human body.

CHAPTER II
Labour safety and health committee

ART. 183

(1) At the level of each employer a labour safety and health committee shall be established for the purpose of making sure that the employees are involved in the drawing up and implementation of the labour protection decisions.

(2) The labour safety and health committee shall be established amongst the legal persons in the public, private, and co-operative sector, including those having foreign capital, which carry out activities on the Romanian territory.

ART. 184

(1) The labour safety and health committee shall be established by employers who are legal persons and have at least 50 employees.

(2) In case the work conditions are difficult, harmful or dangerous, a labour inspector may request such committees to be established even for employers who have less than 50 employees.

(3) In case the activity takes place in units spread out in the territory, several labour safety and health committees may be established. Their number shall be decided in the applicable collective labour contract.

(4) The labour safety and health committee shall also coordinate the labour safety and health measures as far as activities which take place on a temporary basis are concerned, for a duration exceeding 3 months.

(5) In case the establishment of a labour safety and health committee does not prove to be necessary, the person in charge of labour protection appointed by the employer shall carry out its typical attributions of such committee.

ART. 185

The composition, specific responsibilities and functioning of the labour safety and health committee shall be regulated by Government decision.

CHAPTER III

Employees' protection by means of medical services

ART. 186

The employers shall ensure the employees' access to the medical service of labour medicine.

ART. 187

(1) The medical service of labour medicine may be an autonomous service organised by the employer or a service provided by an employers' organisation.

(2) The length of the work performed by a labour medicine doctor shall be calculated depending on the number of employees of that employer, according to the law.

ART. 188

(1) The labour medicine doctor shall be an employee, certified in his profession under the law, holder of a labour contract concluded with an employer or with an employers' organisation.

(2) The labour medicine doctor shall be independent in exercising his profession.

ART. 189

(1) The main duties of the labour medicine doctor shall consist of:

a) preventing work accidents and occupational diseases;

b) actually monitoring labour hygiene and health standards;

c) ensuring the employees' medical check both upon employment and throughout the performance of the individual labour contracts.

(2) With a view to accomplishing his duties, a labour medicine doctor may suggest the employer to change the work place or the kind of work for certain employees, determined their health condition.

(3) The labour medicine doctor shall be a rightful member of the labour safety and health committee.

ART. 190

(1) The labour medicine doctor shall set up, every year, an activity schedule aimed at improving the work environment as far as labour health is concerned for each employer.

(2) The elements of such a schedule shall be typical of each employer and subject to the approval by the labour safety and health committee.

ART. 191

A special law shall regulate the specific powers, how the activity is organised, control bodies, as well as the specific professional status of labour medicine doctors.

TITLE VI
Vocational training

CHAPTER I
General provisions

ART. 192

(1) The main objectives of the employees' vocational training shall be as follows:

a) the employee's adjustment to the requirements his position or of the work place;

b) obtaining vocational skills;

c) updating the knowledge and skills typical of one's position and work place and improving one's vocational training for the basic occupation;

d) the vocational re-conversion caused by social-economic restructuring;

e) acquiring advanced knowledge, modern methods and procedures, needed for carrying out one's vocational activities;

f) preventing the risk of unemployment;

g) one's promotion at work and development of a vocational career.

(2) The vocational training and knowledge assessment shall take place based on occupational standards.

ART. 193

The employees' vocational training shall be achieved through the following forms:

a) participation in courses organised by the employer or by the providers of vocational training services in Romania or abroad;

b) period of vocational adjustment to the requirements of one's position or work place;

c) periods of practice and specialisation in Romania and abroad;

d) on-the-job apprenticeship;

e) individualised training;

f) other training forms agreed upon between the employer and the employee.

ART. 194

(1) The employers shall be under the obligation to ensure the participation of all employees in vocational training programmes, as follows:

a) at least once every 2 years, if they have at least 21 employees;

b) at least once every 3 years, if they have less than 21 employees.

(2) The expenses incurred for employee participation in the vocational training programmes, ensured under the terms of paragraph (1), shall be covered by the employers.

ART. 195

(1) The employer who is a legal person with more than 20 employees shall elaborate, on an annual basis, and implement vocational training plans, after consulting the trade union or, as the case may be, the representatives of employees.

(2) A vocational training plan drawn up under the provisions of paragraph (1) shall become an annex to the collective labour contract concluded at unit level.

(3) The employees shall have the right to be informed about the contents of the vocational training plan.

ART. 196

(1) An employee's participation in the vocational training may take place on the employer's or the employee's initiative.

(2) The actual manner of vocational training, the parties' rights and obligations, the length of the vocational training, as well as any other aspects related to vocational training, including employee's obligations towards the employer that has covered the expenses for such vocational training, shall be set forth based on the parties' agreement and shall make the object of additional deeds to the individual labour contracts.

ART. 197

(1) In case the participation in vocational training classes or terms is initiated by the employer, all the expenses occasioned by this participation shall be covered by this.

(2) During the period of participation in vocational training classes or terms, according to paragraph (1), the employee shall benefit, for the entire duration of the vocational training, of all his wage rights.

(3) During the period of participation in vocational training classes or terms, according to paragraph (1), the employee shall benefit from the length of service in that job, this period being considered a period of contribution to the state social insurance system.

ART. 198

(1) The employees who have benefited from a vocational training classes or terms, under the conditions of Article 197 (1), may not have the initiative to cease the individual labour contract for a period established by an additional deed.

(2) The duration of the employee's obligation to work for the employer who covered the expenses incurred for his vocational training, as well as any other aspects related to the employee's obligations, subsequent to the vocational training, shall be set forth in an additional deed to the individual labour contract.

(3) The failure by the employee to comply with the provision provided in paragraph (1) shall bring about to be forced to cover all the expenses incurred for his vocational training, in proportion to the period not worked from the period established according under the additional deed to the individual labour contract.

(4) The obligation provided in paragraph (3) shall also devolve on the employees who were dismissed during the period established in the additional deed, for disciplinary reasons, or whose individual labour contract has ceased due to them being taken into police custody for a period exceeding 60 days, under a judgment which was final, for an offence related to their job, as well as if the criminal court has placed on him a temporary or permanent interdiction to exercise his profession.

ART. 199

(1) If an employee is the one who has the initiative of participating in an off-the-job vocational training programme, the employer shall review the employee's request in consultation with the trade union or, as applicable, the representatives of employees.

(2) The employer shall make a decision on the request filed by the employee under paragraph (1) within 15 days from the receipt of the request. At the same time, the employer shall decide on the terms under which he will allow the employee to participate in the vocational training form, including whether he will cover entirely or partially the cost occasioned by this.

ART. 200

The employees who have concluded an additional deed to the individual labour contract in connection with vocational training may receive, apart from the wages corresponding to their job, other advantages in kind for vocational training.

CHAPTER II

Special contracts for vocational training organised by the employer

ART. 201

The special contracts for vocational training shall be comprised of the vocational qualification contract and the vocational adjustment contract.

ART. 202

(1) A vocational qualification contract is a contract based on which an employee undertakes to attend the training classes organised by the employer with a view to acquiring professional skills.

(2) Vocational qualification contracts can be concluded by employees over the age of 16 years, who have not acquired a qualification or have acquired a qualification which does not allow them to keep their job with that employer.

(3) A vocational qualification contract shall be concluded for a period of 6 months to 2 years.

ART. 203

(1) Vocational qualification contracts may only be concluded by employers authorised by the Ministry of Labour, Family and Social Protection and by the Ministry of Education, Research, Youth and Sports to that effect.

(2) The authorising procedure, as well as the manner of certification of the vocational qualification shall be provided in a special law.

ART. 204

(1) A vocational adjustment contract shall be concluded in view of adjustment of the beginner employees to a new position, a new work place, or a new team.

(2) A vocational adjustment contract shall be concluded at the same time as the individual labour contract or, as applicable, when the employee commences work in the new position, the new work place, or the new team, under the law.

ART. 205

(1) A vocational adjustment contract shall be a contract concluded for a definite period, which may not exceed one year.

(2) Upon expiry of the time limit of the vocational adjustment contract, the employee may be subject to an evaluation with a view to assessing how he can cope with the new position, new work place, or new team where he is to work.

ART. 206

(1) A trainer shall carry out the vocational training at the employer's level by means of special contracts.

(2) The trainer shall be appointed by the employer from amongst the skilled employees, with a vocational experience of at least 2 years in the field in which the vocational training is to take place.

(3) A trainer may provide training to no more than 3 employees at the same time.

(4) The exercise of the vocational training activity shall be included in the trainer's normal work schedule.

ART. 207

(1) The trainer shall be under the obligation to receive, help, inform, and guide an employee throughout the duration of the special vocational training contract, and to supervise the compliance with the job duties corresponding to the position of the employee under training.

(2) The trainer shall facilitate the co-operation with other training bodies and shall participate in the evaluation of the employee having benefited from vocational training.

CHAPTER III
On-the-job apprenticeship contract

ART. 208

(1) The on-the-job apprenticeship shall be organised based on an apprenticeship contract.

(2) An on-the-job apprenticeship contract shall be a particular type of individual labour contract, based on which:

a) an employer, as a legal or natural person, shall undertake to provide the apprentice with vocational training in a certain trade according to its field of activity, apart from the payment of the wages;

b) an apprentice shall undertake to attend the vocational training classes and to work under that employer.

(3) The on-the-job apprenticeship contract shall be concluded for a definite period.

ART. 209

(1) A person employed based on an apprenticeship contract shall be deemed an apprentice.

(2) An apprentice shall benefit from the provisions applicable to the other employees as long as they are not contrary to the ones typical of his status.

ART. 210

The organisation, conduct and control of the apprenticeship activity shall be regulated by a special law.

TITLE VII
Social dialogue

CHAPTER I

General provisions

ART. 211

In order to ensure the climate of stability and social peace, the law shall regulate the manner in which consultations and permanent dialogue between the social partners take place.

ART. 212

(1) The Economic and Social Council is a tripartite, autonomous public institution of national interest, established for the purpose of achieving the tripartite nation-wide dialogue.

(2) The organisation and functioning of the Economic and Social Council shall be established by special law.

ART. 213

Within ministries and prefects offices there shall function, under the law, social dialogue committees between the public administration, trade unions, and employers' organisations.

CHAPTER II

Trade unions

ART. 214

(1) The trade unions, the trade union federations and confederations, hereinafter called *trade union organisations*, shall be constituted by employees based on the free association right, for the purpose of promotion of their professional, economic and social interests, as well as of defending their individual and collective rights provided in the collective and individual labour contracts or in the collective labour agreements and the labour relations, as well as in the national legislation, in the international pacts, treaties and conventions of which Romania is a party.

(2) The establishment, organisation and functioning of trade unions shall be regulated by law.

ART. 215

Trade unions shall participate, through their own representatives, under the law, in negotiations and the conclusion of collective labour contracts, in talks or agreements with the public authorities and with the employers' organisations, as well as in the structures typical of the social dialogue.

ART. 216

The trade unions may become associated, based on their free consent, under the law, in federations, confederations, or territorial unions.

ART. 217

The employee's exercise of their trade union rights shall be acknowledged by all employers, their rights and freedoms guaranteed in the Constitution being observed, in compliance with the provisions of this Code and of the special laws.

ART. 218

(1) All intervention by the public authorities liable to limit the trade union rights or to prevent their lawful exercise shall be prohibited.

(2) Also, all interference by the employers or employers' organisations, either directly or by means of their representatives or members, in the establishment of trade unions or in the exercise of their rights shall be prohibited.

ART. 219

At the request of their members, trade unions may represent them in labour conflicts, under the law.

ART. 220

(1) The representatives elected in the management bodies of trade unions shall be protected by the law against all forms of conditioning, constraint or limitation of the exercise of their positions.

(2) For the entire duration of their mandate, the representatives elected in the trade union management bodies may not be dismissed for reasons relating to the carrying out of the mandate received from the employees in the unit.

(3) Other steps for protecting the persons elected in trade union management bodies are provided in special laws and in the applicable collective labour contract.

CHAPTER III
Employees' representatives

ART. 221

(1) At employers who have more than 20 employees and in which there are not constituted representative trade union organisations according to the law, the employees' interests may be promoted and defended by their representatives, specially elected and authorised for this purpose.

(2) Employees' representatives shall be elected in the employees' general meeting, based on the vote by at least half of the total number of employees.

(3) Employees' representatives may not carry out activities which, under the law, may only be carried out by trade unions.

ART. 222

(1) Employees who have full capacity of exercise may be elected as representatives of employees.

(2) The number of elected representatives of employees shall be mutually agreed upon with the employer, depending on the number of employees thereof.

(3) The duration of the mandate of the representatives of employees shall not exceed 2 years.

ART. 223

The representatives of the employees shall have the following main responsibilities:

a) to monitor the compliance with the rights of employees, in accordance with the legislation in force, with the applicable collective labour contract, the individual labour contracts, and the internal regulations;

b) to participate in the drawing up of the internal regulations;

c) to promote the employees' interests concerning the wages, work conditions, work time and rest time, labour stability, as well as any other professional, economic and social interests related to labour relations;

d) to notify the labour inspectorate about the non-compliance of the provisions of the law and the applicable collective labour contract.

e) to negotiate the collective labour contract, under the law.

ART. 224

The attributions of the employees' representative, the way these are met, as well as the duration and limits of their mandate shall be established in the employees' general meetings, under the law.

ART. 225

The number of hours within the normal work schedule for the representatives of employees intended for achieving the mandate they received shall be established by the applicable collective labour contract or, in its absence, by direct negotiation with the management of the unit.

ART. 226

For the entire duration of their mandate, the representatives of employees may not be dismissed for reasons relating to carrying out the mandate received from the employees.

CHAPTER IV
Employers' organisations

ART. 227

(1) The owners, also referred to as *organisations of employers*, constituted under the law, are organisations of employers, autonomous, with no political character, set up as legal persons of private law, without patrimonial purpose.

(2) The employers may associate in federations and/or confederations or other associative structures, according to the law.

ART. 228

The setting up, organisation and functioning of owners, as well as the exercise of their rights and obligations shall be regulated by special law.

TITLE VIII
Collective labour contracts

ART. 229

(1) The collective labour contract shall be the agreement concluded in a written form between the employer or the employers' organisation, on the one hand, and the employees, represented by their trade unions or in any other manner provided by the law, on the other hand, in which clauses are set up concerning the work conditions, the wages, as well as other rights and liabilities deriving from the labour relations.

(2) Collective negotiation at unit level shall be mandatory, except when the employer has less than 21 employees.

(3) When negotiating the clauses and concluding the collective labour contracts, the parties shall be equal and free.

(4) The collective labour contracts, concluded in compliance with the provisions of the law, shall constitute the law of the parties.

ART. 230

The parties, their representation, as well as the procedure for negotiating and concluding the collective labour contracts shall be established according to the law.

TITLE IX
Labour conflicts

CHAPTER I
General provisions

ART. 231

Labour conflicts means the conflicts between employees and employers regarding the economic, professional or social interests or the rights resulted from carrying on the labour relations.

ART. 232

The procedure for resolving labour conflicts shall be established by a special law.

CHAPTER II
Strike

ART. 233

Employees shall be entitled to be on strike with a view to defending their professional, economic, and social interests.

ART. 234

(1) *Strike* means the voluntary and collective cessation of work by the employees.

(2) The employees' participation in the strike shall be free. No employee shall be constrained to participate or not in a strike.

(3) The limitation or prohibition of the right to strike may only take place in the cases and for the employee categories expressly provided by the law.

ART. 235

The participation in a strike, as well as its organisation under the law shall not mean a violation of the employees' obligations and may not result in disciplinary sanctions against the employees on strike or against the organisers of the strike.

ART. 236

The manner in which the right to strike is exercised, the organisation, the start and the development of the strike, the procedures prior to the onset of the strike, the suspension and cessation of the strike, as well as other aspects related to the strike shall be regulated by a special law.

TITLE X
Labour Inspection

ART. 237

The implementation of the general and special regulations in the field of labour relations, labour safety and health shall be subject to the control by the Labour Inspection, which is a specialised body of the central public administration, having a legal status, under the Ministry of Labour, Family and Social Protection.

ART. 238

Territorial labour inspectorates, organised in each county and in Bucharest municipality, shall be subordinated to the Labour Inspection.

ART. 239

The establishment and organisation of the Labour Inspection shall be regulated by a special law.

ART. 240

By way of derogation from the provisions of Article 3 (2) of the Law No 252/2003 on the single audit register, in case of controls which have as objective to trace labour performed without legal forms, the labour inspectors shall fill in the single audit register after conducting the control.

TITLE XI
Legal liability

CHAPTER I
Internal regulations

ART. 241
The employer shall draw up the internal regulations, after the consultation with the trade union or the representatives of employees, as applicable.
ART. 242
The internal regulations shall comprise at least the following categories of provisions:
a) the rules on labour protection, hygiene and safety inside the unit;
b) the rules on the compliance with the principle of non-discrimination and removal of any form of infringement of dignity;
c) the rights and obligations of the employer and employees;
d) the procedure for solving the employees' individual requests or complaints;
e) the concrete rules on labour discipline within the unit;
f) the disciplinary deviations and applicable sanctions;
g) the rules concerning the disciplinary procedure;
h) the modalities to implement other specific provisions of the law or contract;
i) the criteria and procedures of professional evaluation of the employees.
ART. 243
(1) The internal regulations shall be brought to knowledge of the employees through the good offices of the employer and shall produce its effects on the employees starting from the time of such notification.
(2) The employer shall have the obligation to inform the employees about the contents of the internal regulations.
(3) The actual manner in which each employee is informed about the contents of the internal regulations shall be established in the applicable collective labour contract or, as applicable, in the contents of the internal regulations.
(4) The internal regulations shall be posted at the employer's head office.
ART. 244
Any amendment in the contents of the internal regulations shall be subject to the notification procedures provided in Article 243.
ART. 245
(1) Any interested employee may notify the employer about the provisions of the internal regulations, in so far as the employee makes the proof of the violation of one of his rights.

(2) The check of the legality of the provisions of the internal regulations shall belong to the jurisdiction of the courts of law, which may be seized within 30 days from the date of the employer's answer with regard to the solution to the seizing filed according to paragraph (1).

ART. 246

(1) The drawing up of the internal regulations at the level of each employer shall be done within 60 days from the date of entry into force of this Code.

(2) In the case of employers established after the entry into force of this Code, the 60-day period provided in paragraph (1) shall start to run on the day when they acquire legal personality.

CHAPTER II
Disciplinary liability

ART. 247

(1) The employer shall have a disciplinary prerogative, being entitled to apply, under the law, disciplinary sanctions onto his employees whenever he should find they have had disciplinary misconducts.

(2) A disciplinary misconduct shall be a work-related action which consists of an action or non-action performed by an employee with intent, thus violating the provisions of the law, the internal regulations, the individual labour contract or the applicable collective labour contract or the orders or legal dispositions coming from his superiors.

ART. 248

(1) The disciplinary sanctions that the employer may apply if an employee should commit a disciplinary misconduct shall be:

a) a written warning;

b) the demotion, with wages corresponding to the position to which the demotion has taken place, for a duration which may not exceed 60 days;

c) a 5 - 10% reduction in the basic wages for a duration of 1 - 3 months;

d) a 5 - 10% reduction in the basic wages and/or, as applicable, in the management allowance for a period of 1 - 3 months;

e) the cessation of the individual labour contract for disciplinary reasons.

(2) If, by means of professional statutes approved by a special law, another sanction regime is established, the latter shall apply.

(3) The disciplinary sanction shall be struck off by right within 12 months from the application, if a new disciplinary sanction is not applied to the employee within this term. The striking off of the disciplinary sanctions shall be established by written decision of the employer.

ART. 249

(1) Disciplinary fines shall be prohibited.

(2) Only one sanction may be applied for the same disciplinary misconduct.

ART. 250

The employer shall establish the applicable disciplinary sanction in relation to the seriousness of the disciplinary misconduct committed by an employee, taking the following into consideration:

a) the circumstances under which the action took place;

b) the employee's degree of guilt;

c) the consequences of the disciplinary misconduct;

d) the employee's general behaviour at work;

e) the possible disciplinary sanctions previously undergone by him.

ART. 251

(1) Under the sanction of absolute nullity, no measure, except for the one provided in Article 248 (1) a), may be ordered before conducting a preliminary disciplinary investigation.

(2) In view of conducting the preliminary disciplinary investigation, the person authorised by the employer to make the investigation shall summon the employee in writing, stating the reason, date, time, and place of the meeting.

(3) An employee's failure to be present in response to the summoning under the terms of paragraph (2) without an objective reason shall entitle the employer to order sanctions, without the preliminary disciplinary investigation.

(4) During the preliminary disciplinary investigation, an employee shall have the right to submit and defend all evidence in his defence, and to offer the person in charge with the investigation all the evidence and motivations he deems necessary, as well as the right to be assisted, at his request, by a representative of the trade union whose member he is.

#M11

(5) During the preliminary disciplinary investigation the employee shall have the right to formulate and to present all the defence arguments in his favour and to provide the person empowered to carry out the investigation with all evidence and the motivations which such employee deems necessary, as well as the right to be assisted, at his request, by a lawyer or by a union representative whose member he is.

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ART. 252

(1) The employer shall order the implementation of a disciplinary sanction by means of a written order, within 30 calendar days from the date of acknowledging the disciplinary misconduct, but no later than 6 months from the date the action was committed.

(2) Under the sanction of absolute nullity, the decision shall comprise, in a mandatory manner:

a) the description of the action representing a disciplinary misconduct;

b) the mention of the provisions of the statute of personnel, the internal regulations, the individual labour contract or the applicable collective labour contract which have been infringed by the employee;

c) the reasons for which the defending arguments submitted by the employee during the preliminary disciplinary investigation have been rejected, or the reasons for which, under the terms of Article 251 (3), no such investigation has been carried out;

d) the lawful grounds of the disciplinary sanction being applied;

e) the time within which the sanction may be contested;

f) the competent court of law where the sanction may be challenged.

(3) The sanctioning decision shall be communicated to such employee no later than 5 calendar days from the date of its issuance and shall cause effects from the date of notification.

(4) The communication shall be handed over to the employee himself, against signature of receipt, or, in case he refuses to accept it, by registered mail, sent to the domicile or residence communicated thereby.

(5) The employee may contest the sanctioning decision before the competent courts of law within 30 calendar days from the date of communication*).

#CIN

*) By the Decision of the High Court of Cassation and Justice No 11/2013 it has been admitted the appeal in the interest of law and, for the interpretation and application of the provisions of Article 252 (5) with reference to the provisions of Article 250 of the same of Code, it has been found that the court having jurisdiction to settle the contestation of the employee against the disciplinary sanction applied by the employer, establishing that the latter is wrongfully individualized, may replace it with another disciplinary sanction.

#B

CHAPTER III

Patrimony liability

ART. 253

(1) The employer shall, pursuant to the norms and principles of contractual civil liability, indemnify the employee in case the latter has undergone material or moral damage because of the employer's fault during the performance of his job duties or while performing a job-related activity.

(2) In case the employer refuses to indemnify the employee, the latter shall be entitled to file a complaint with the competent court of law.

(3) An employer who has paid the compensation shall recover the respective amount from the employee who was responsible for the damage, under the terms of Article 254 and the subsequent ones.

ART. 254*)

(1) The employees shall be liable in terms of patrimony, according to the norms and principles of contracting civil liability, for the material damages caused to the employer because of their fault and in relation to their work.

(2) Employees shall not be liable for damages caused by a force majeure or other unpredictable causes which could not have been prevented, or damages included in the normal risk of the job.

(3) In case the employer establishes that its employee has caused a damage by his fault and in connection to his work, it may request to the employee, by a finding and evaluation note of the damage, the recovery of its equivalent value, by the parties' agreement, within a term which may not be less than 30 days from the communication date.

(4) The equivalent value of the damage recovered by the parties' agreement, according to paragraph (3), may not exceed the equivalent of 5 minimum gross wages on the economy.

#CIN

*) By the Decision of the High Court of Cassation and Justice No 19/2019 it has been admitted the referral on the settlement of some matters of law and, for the interpretation and application of the provisions of Article 10, Article 38, Article 57, Article 134 (1) and Article 254 (3) and (4) of the Labour Code, republished, it has been established that the stipulation of the criminal clause in the individual labour contract or in an additional paper thereof, whereby it is assessed the damage produced to the employer by the employee from his fault and in relation to his work, shall be forbidden and shall be sanctioned with the nullity of the clause thus negotiated.

#B

ART. 255

(1) When the damage has been caused by several employees, the amount of liability for each one shall be established in relation to the extent to which they have contributed to the damage.

(2) If the extent to which they have contributed to the damage cannot be established, the liability of each one shall be in proportion to his net wages on the date of finding the damage and, when applicable, also depending on the time of work actually completed since its last inventory.

ART. 256

(1) An employee who has cashed in an amount not due to him from the employer shall have to return it.

(2) If an employee has received goods which were not due to him and which can no longer be returned in kind or if services to which he was not entitled have been provided to him, he shall have to cover their value. The value of the goods or services in question shall be established based on their value on the date of payment.

ART. 257

(1) The amount established for covering the damage shall be withheld, in monthly instalments, from the wages due to the person in question by his employer.

(2) The instalments shall not exceed one third of the net monthly wages, and shall not exceed, along with the other possible amounts withheld from the person in question, one half of those wages.

ART. 258

(1) In case the individual labour contract ceases before the employee has indemnified the employer and he becomes employed by another employer or becomes a civil servant, the withholdings from the wages shall be carried out by the new employer or by the new institution or public authority, as applicable, based on an enforceable title transmitted to this effect by the employer having suffered the damage.

(2) If the person in question has not been hired by another employer, based on an individual labour contract or as a civil servant, the damage shall be covered foreclosure of his assets, under the Civil Procedure Code.

ART. 259

If the damage may not be covered by means of monthly withholdings from the wages within a time limit of no more than 3 years from the date the first withheld instalment was made, the employer shall be entitled to call on a court executor under the Civil Procedure Code.

CHAPTER IV
Contraventional liability

ART. 260

(1) The following deeds shall be seen as contravention and sanctioned as follows:

a) the non-compliance with the provisions concerning the payment guarantee of the national gross minimum wages, with a fine from ROL 300 to ROL 2 000;

b) the violation by an employer of the provisions of Article 34 (5), with a fine from ROL 300 to ROL 1 000;

c) the preventing an employee or group of employees from participating in a strike or to work during a strike, or forcing them to do this, by means of threats or violence, with a fine from ROL 1 500 to ROL 3 000;

d) the stipulation in the individual labour contract of clauses contrary to the provisions of the law, with a fine from ROL 2 000 to ROL 5 000;

#M27

e) the acceptance of one or several persons to work without the prior conclusion of the individual labour contract*), according to Article 16 (1), with a fine of ROL 20 000 for each person thus identified, without exceeding the cumulated value of ROL 200 000;

e^1) the acceptance of one or several persons to work without transmitting the elements of the individual labour contract to the General Register of employees no later than the day before beginning the activity, with a fine of ROL 20 000 for each person thus identified, without exceeding the cumulated value of ROL 200 000;

e^2) the acceptance of one or several persons to work in the period in which his/her/their individual labour contract is suspended, with a fine of ROL 20 000 for each person thus identified, without exceeding the cumulated value of ROL 200 000;

e^3) the acceptance of one or several persons to work outside the working hours established under the part-time individual labour contracts, with a fine from ROL 10 000 for each person thus identified, without exceeding the cumulated value of ROL 200 000;

#B

f) the performing of work by a person without the conclusion of an individual labour contract, with a fine from ROL 500 to ROL 1 000;

g) the violation by the employer of the provisions of Articles 139 and 142**), with a fine from ROL 5 000 to ROL 10 000;

h) the violation of the obligation provided in Article 140, with a fine from ROL 5 000 to ROL 20 000;

i) the non-compliance with the provisions on overtime work, a fine from ROL 1 500 to ROL 3 000;

j) the non-compliance with the provisions of the law on granting the weekly rest, with a fine from ROL 1 500 to ROL 3 000;

k) the failure to grant the emolument provided in Article 53 (1), in case the employer should interrupt his activity temporarily but still maintaining labour relations, with a fine from ROL 1 500 to ROL 5 000;

l) the violation of the provisions of the law concerning night work, with a fine from ROL 1 500 to ROL 3 000;

m) the violation by the employer of the obligation provided in Articles 27 and 119, with a fine from ROL 1 500 to ROL 3 000;

n) the non-compliance with the legal provisions concerning the registration by the employer of the resignation, with a fine from ROL 1 500 to ROL 3 000;

o) the violation by the temporary labour agent of the obligation provided in Article 102, with a fine from ROL 5 000 to ROL 10 000, for each person thus identified, without exceeding the cumulated value of ROL 100 000;

p) the violation of the provisions of Article 16 (3), with a fine from ROL 1 500 to ROL 2 000;

#M24

q) the violation of the provisions of Article 16 (4), with a fine of ROL 10 000.

#M27

(1^1) By way of derogation from the provisions of Article 28 (1) of the Government Ordinance No 2/2001 on the legal regime of contraventions, approved with amendments and supplements by the Law No 180/2002, as amended and supplemented, the offender may pay, within 48 hours from the date of conclusion of the official report or, as the case may be, from the date of its communication, half of the fine applied according to paragraph (1) e) - e^3), the labour inspector making mention of this possibility in the official report.

#B

(2) Labour inspectors shall be those in charge of finding contraventions and applying sanctions.

(3) The provisions of the laws in force shall apply to the contraventions provided in paragraph (1).

#M27

(4) In the event of finding that one of the deeds provided in paragraph (1) e) - e^2) has been committed, the labour inspector shall order the measure of cessation of the activity of the organized work place, subject to the control, under the conditions laid down in the cessation procedure elaborated by the Labour Inspection and approved by order of the minister of labour and social justice, published in the Official Gazette of Romania, Part I, after prior consultation of the trade union confederations and the employers' confederations representative at national level.

(5) The employer may resume the activity only after the payment of the contraventional fine, according to the law, and only after having remedied the deficiencies which have lead to the cessation of the activity by concluding the individual labour contract, the transmission of the elements of the individual labour contract to the general register of employees or, as the case may be, the cessation of the suspension of the individual labour contract and the submission of documents proving the payment of the social contributions and income tax related

to the wage incomes due to the worker for the period in which he performed the undeclared work.

(6) The resumption of activity in violation of the provisions of paragraph (5) constitutes an offence and shall be punished by imprisonment from 6 months to 2 years or by a fine.

#CIN

*) By the Decision of the High Court of Cassation and Justice No 20/2016 it has been admitted the referral regarding the settlement of some matters of law and it has been established that in the phrase "without the conclusion of an individual labour contract" provided by the provisions of Article 260 (1) e) of the Labour Code includes also the situation of the suspended individual labour contract.

**) By the Decision of the High Court of Cassation and Justice No 22/2015 it has been admitted the appeal in the interest of law and, for the interpretation and application of the provisions of Article 141 of the Law No 53/2003, republished, with reference to the provisions of Article 8 of the Government Ordinance No 99/2000, republished, it has been established that the deed of the employer to carry on retail sale activities for the non-food products in the work points from the trade centres, in the legal holidays provided in Article 139 (1) of the Law No 53/2003, republished, does not meet the constitutive elements of the contravention provided in Article 260 (1) g) of this Law, when the employer has met the obligations provided in Article 142 of the same normative act.

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CHAPTER V

Criminal liability

#M4

ART. 261 *** Repealed

ART. 262 *** Repealed

ART. 263 *** Repealed

#M4

ART. 264

(1) The deed of the person who, repeatedly, establishes for the employees hired based on the individual labour contract wages under the level of the basic minimum gross wages on the country guaranteed for payment, provided by law, shall constitute an offence and shall be punished with imprisonment from one month to one year or with criminal fine.

(2) The offence which consists in the unjustified refusal of a person to present to the competent bodies the legal documents, for the purpose of preventing checks concerning the application of the general and special regulations in the field of

labour relations, labour safety and health, within 15 day from the receipt of a second request, shall also be sanctioned with the punishment provided in paragraph (1).

(3) The offence which consists in preventing by whatever means the competent bodies to enter, under the terms provided by law, any head offices, premises, spaces, land or means of transport used by the employer while pursuing its professional activity, for the purpose of conducting checks concerning the application of the general and special regulations in the field of labour relations, labour safety and health, shall also be sanctioned with the punishment provided in paragraph (1).

#M24

(4) *** Repealed

#M4

ART. 265

(1) Employing a minor failing to comply with the legal conditions concerning age or using such persons to perform certain activities in violation of the provisions of the law on the labour status of minors shall constitute an offence and shall be punishable by prison from 3 months to 2 years or a fine.

#M24

(2) Accepting to work a person who is in situation of illegal staying in Romania, knowing that he is victim of the human trafficking, shall be deemed as an offence and shall be sanctioned with imprisonment from 3 months to 2 years or with fine.

#B

(3) If the work performed by the person provided in paragraph (2) and in Article 264 (4) is likely to put in danger his life, integrity or health, the punishment shall be imprisonment from 6 months to 3 years.

(4) In case of committing one of the offences provided in paragraphs (2) and (3) and in Article 264 (4), the court of law may also dispose the applying of one of the following complementary punishments:

a) the total or partial loss of the employer's right to benefit of public services, aids or subsidies, including European Union funds managed by the Romanian authorities, for a period of up to 5 years;

b) the prohibition of the employer's right to participate in the assignment of a public procurement contract for a period of up to 5 years;

c) the total or partial recovery of the public benefits, aids or subsidies, including European Union funds managed by the Romanian authorities, assigned to the employer for a period of up to 12 months before the commission of the offence;

d) the temporary or definitive closing of the work point or points in which the offence has been committed or the temporary or definitive withdrawal of a licence

for the pursuit of the professional activity in question, if that is justified by the gravity of the violation.

(5) In case of committing one of the offences provided in paragraphs (2) and (3) and in Article 264 (4), the employer shall be under the obligation to pay the amounts representing:

a) any outstanding remuneration owed to the illegally hired persons. The quantum of the remuneration is supposed to be equal to the gross average wages on the economy, except for the case in which either the employer or the employee can prove the contrary;

b) the quantum of all taxes, duties and social insurance contributions which the employer would have paid if the person had been legally hired, including the corresponding delay penalties and administrative fines;

c) the expenses determined by the transfer of the outstanding payments in the country in which the illegally hired person has returned voluntarily or has been sent back under the law.

(6) In case of committing one of the offences provided in paragraphs (2) and (3) and in Article 264 (4) by a subcontractor, the main contractor, as well as any intermediate subcontractor, if they knew that the employer subcontractor had hired foreigners found in a situation of illegal stay, may be obliged by the court, jointly with the employer or in place of the employer subcontractor or of the contractor whose direct subcontractor is the employer, at the payment of the amounts of money provided in paragraph (5) a) and c).

#B

TITLE XII

Labour jurisdiction

CHAPTER I

General provisions

ART. 266

The object of the labour jurisdiction is to solve labour conflicts concerning the conclusion, performance, amendment, suspension, and cessation of individual or, as applicable, collective labour contracts provided in this Code, as well as the requests concerning the legal relations between social partners, set forth under this Code.

ART. 267

The following may constitute parties in a labour conflict:

a) the employees, as well as any other person having a right or an obligation pursuant to this Code, to other laws or to the collective labour contracts;

b) the employers - natural and/or legal persons -, the temporary labour agents, users, as well as any other person benefiting from work carried out under this Code;

c) the trade unions and the employers' organisations;

d) other legal or natural persons involved in this field based on special laws or on the Civil Procedure Code.

ART. 268*)

(1) The applications for finding a solution of a labour contract may be filed:

a) within 30 calendar days from the date the employer's unilateral decision concerning the conclusion, performance, amendment, suspension, or cessation of an individual labour contract was notified;

b) within 30 calendar days from the date the decision of disciplinary sanction has been notified;

c) within 3 years from the date when the right to take action arose, in case the object of the individual labour conflict consists of the payment of not some wages not granted or damages towards the employee, as well as in the event of the employees' patrimony liability to the employer;

d) throughout the existence of the contract, if the request is made to establish the nullity of an individual or collective labour contract or its clauses;

e) within 6 months from the date the right to take action arose, in the event of the non-performance of the collective labour contract or of some clauses thereof.

(2) In all circumstances, other than the ones provided in paragraph (1), the time limit shall be 3 years from the date when such right arose.

#CIN

*) 1. By the Decision of the High Court of Cassation and Justice No 13/2016 there have been admitted the referrals regarding the settlement of some matters of law and, in the interpretation and application of the provisions of Article 35 of the Civil Procedure Code, Article 111 of the Civil Procedure Code of 1865, Article 2.502 of the Civil Code, respectively Article 268 (2) of the Labour Code, it has been established that the actions establishing the right to classification into work groups according to the provisions of the Order No 50/1990 fall into the category of actions establishing common law and are indefeasible.

2. By the Decision of the High Court of Cassation and Justice No 19/2019 it has been admitted the appeal in the interest of law and, for the unitary interpretation and application of Article 268 (1) c) of the Law No 53/2003 on the Labour Code, republished, in relation to Article 8 and Article 12 of the Decree No 167/1958, republished, and of the provisions of Article 211 c) of the Law No 62/2011, republished, respectively of Article 2.526 of the Civil Code, it has been established that the control act performed by the Court of Audit or by another body with control attributions, whereby it has been established as the duty of the employer

the obligation to act in order to recover a prejudice caused by the employee or resulting from the payment by the employee of an undue sum of money, does not mark the beginning of the extinctive prescription period of the action for engaging the patrimonial liability of the employee.

#B

CHAPTER II

Material and territorial competence

#M7

ART. 269

(1) The competence for judging labour conflicts shall pertain to the courts, established according to the law.

#B

(2) The applications concerning the causes provided in paragraph (1) shall be addressed to the competent court having jurisdiction over the applicant's domicile or residence, as applicable, or head office.

#M1

(3) If the conditions provided by the Civil Procedure Code for the co-participation as regards the active legal standing to institute proceedings are met, the application may be filed with the competent court for any of the applicants.

#B

CHAPTER III

Special procedure rules

ART. 270

The causes provided in Article 266 shall be exempt from the legal fee and the legal stamp.

ART. 271

(1) The applications concerning the solution to labour conflicts shall be judged as emergencies.

(2) Trial time limits shall not exceed 15 days.

(3) The procedure for summoning the parties shall be deemed as lawfully accomplished if it is accomplished at least 24 hours before the trial time limit.

ART. 272

The employer shall have the burden of proof in labour conflicts, being obliged to submit evidence in his defence by the first day of trial.

ART. 273

Evidence shall be produced in compliance with the emergency regime, and the court shall be entitled to deny the benefit of the admissible evidence to the party that delays the production thereof without good grounds.

ART. 274

The judgments on the merit rendered by the court shall be final and enforceable by right.

ART. 275

The provisions of this Title shall be supplemented by the provisions of the Civil Procedure Code.

TITLE XIII
Transitory and final provisions

ART. 276

According to the international obligations assumed by Romania, the labour legislation shall be kept in permanent harmonisation with the European Union standards, with the agreements and recommendations of the International Labour Organisation, with the standards of the international labour law.

ART. 277

(1) For the purposes of this Code, the management positions are the ones defined by law or by internal regulations of the employer.

#M29

(2) This Law transposes the provisions of Article 4 of Directive (EU) 2015/1794/EU of the European Parliament and of the Council of 6 October 2015 amending Directives 2008/94/EC, 2009/38/EC and 2002/14/EC of the European Parliament and of the Council, and Council Directives 98/59/EC and 2001/23/EC, as regards seafarers, published in the Official Journal of the European Union (OJEU), L 263 of 8 October 2015, Article 16 b), as well as of Articles 18 and 19 of Directive 2003/88/CE of the European Parliament and of the Council of 4 November 2003 concerning certain aspects of the organisation of working, published in the Official Journal of the European Union, L 299 of 18 November 2003, and Articles 3, 4 and 10 of Directive 2008/104/CE of the European Parliament and of the Council of 19 November 2008 on temporary agency work, published in the Official Journal of the European Union, L 327 of 5 December 2008.

#B

ART. 278*)

(1) The provisions of this Code shall be supplemented by the other provisions included in the labour legislation and, unless they are inconsistent with the typical labour relations provided in this Code, by the provisions of the civil legislation.

(2) The provisions of this Code shall also apply as common law to those legal labour relations not based on an individual labour contract, unless the special regulations are complete, and their implementation is inconsistent with such typical labour relations.

#CIN

*) 1. By the Decision of the High Court of Cassation and Justice No 18/2016 it has been admitted the referral regarding the settlement of some matters of law and, in the interpretation and application of the provisions of Article 278 (1) of the Law No 53/2003, republished, it has been established that the provisions of Articles 1.324, 1.325 and 1.326 of the Civil Code may be applied in order to complete the provisions of the Labour Code, being compatible with the specific nature of the labour relations.

2. By the Decision of the High Court of Cassation and Justice No 34/2016 it has been admitted the referral on the settlement of some matters of law and, for the interpretation of the provisions of Article 77 of the Labour Code, with reference to the provisions of Article 278 (1) of the Labour Code and to the provisions of Article 1.326 of the Civil Code, it has been established that the individual dismissal decision issued according to the provisions of Article 76 of the Labour Code may be communicated by electronic mail, this being a modality of communication appropriate in terms of proceedings to set off the running of the period of jurisdictional contestation of the decision, according to the provisions of Article 211 a) of the Law No 62/2011 in relation to the provisions of Article 216 of the same normative act, with reference to the provisions of Article 184 (1) of the Civil Procedure Code, provided that the employee has communicated to the employer these contact data and it is customary to use this form of communication between parties.

Likewise, it has been established that the decision thus communicated by electronic mail, in electronically accessible PDF format, must comply only with the formal requirements imposed by the provisions of Article 76 of the Labour Code, but not those imposed by the Law No 455/2001, referring to the electronic document.

#B

ART. 279

(1) The employment card shall prove the length of service by 31 December 2010.

(2) After the date when Decree No 92/1976 on the employment card, as amended, is repealed, the length of service established by 31 December 2010 shall be reconstituted, at the request of the person who has no record of employment card, by the court of law having the competence for solving labour conflicts, based

on writs or other evidence proving the existence of labour relations. Reconstitution applications filed prior to the date when Decree No 92/1976, as amended, is repealed shall be solved under the provisions of that normative act.

(3) Employers who keep records of employment card and have them filled out shall release them to their owners at intervals, by 30 June 2011, based on an individual handover-receipt written report.

(4) The territorial labour inspectorate that keep employment cards of the employees shall release them by the date provided in paragraph (3), under the terms set forth by order of the minister of labour, family and equal opportunities.

(5) The announcement regarding the loss of the employment cards issued pursuant to the Decree No 92/1976, as amended, shall be published in the Official Gazette of Romania, Part III.

ART. 280

On the date of entry into force of this Code the cases concerning labour conflicts that are on the list of cases of courts shall continue to be judged under the trial provisions applicable on the date the courts were notified.

ART. 281

(1) This Code shall enter into force on 1 March 2003.

(2) On the date of entry into force of this Code, the following documents shall be repealed:

- the Labour Code of the Socialist Republic of Romania, the Law No 10/1972, published in the Official Bulletin, Part I, No 140 of 1 December 1972, as amended and supplemented;
- the Law No 1/1970 - the Law of labour organisation and discipline in socialist units, published in the Official Bulletin, Part I, No 27 of 27 March 1970, as amended and supplemented;
- the Decree No 63/1981 on the recovery of damages caused to public wealth, published in the Official Bulletin, Part I, No 17 of 25 March 1981;
- the Law No 30/1990 on hiring employees based on their competence, published in the Official Gazette of Romania, Part I, No 125 of 16 November 1990;
- the Law No 2/1991 on the plurality of positions, published in the Official Gazette of Romania, Part I, No 1 of 8 January 1991;
- the Law of remuneration No 14/1991, published in the Official Gazette of Romania, Part I, No 32 of 9 February 1991, as amended and supplemented;
- the Law No 6/1992 on rest leave and other leaves of the employees, published in the Official Gazette of Romania, Part I, No 16 of 10 February 1992;
- Law No 68/1993 on the guaranteed payment of the minimum wages, published in the Official Gazette of Romania, Part I, No 246 of 15 October 1993;

- the Law No 75/1996 on establishing the non-working days that are lawful holidays, published in the Official Gazette of Romania, Part I, No 150 of 17 July 1996, as amended and supplemented;

- Articles 34 and 35 of the Law No 130/1996*) on the collective labour contract, republished in the Official Gazette of Romania, Part I, No 184 of 19 May 1998.

(3) On 1 January 2011, the provisions of the Decree No 92/1976 on the employment card, published in the Official Bulletin, Part I, No 37 of 26 April 1976, as amended, shall be repealed.

#CIN

*) The Law No 130/1996, republished, has been repealed by the Law No 62/2011.

#B

NOTE:

We reproduce below the provisions of Articles II, III and IV of the Law No 40/2011 amending and supplementing the Law No 53/2003 - Labour Code, which are not incorporated in the republished version of the Law No 53/2003 - Labour Code and which shall be applied further as own dispositions of the modifying act:

"ART. II

(1) The collective labour contracts and the additional deeds concluded during the period from the date of entry into force of this Law and up to 31 December 2011 may not provide a validity duration that exceeds 31 December 2011. After this date, the collective labour contracts and the additional deeds shall be concluded for durations established by the special law.

(2) The collective labour contracts implemented on the date of entry into force of this Law shall produce their effects until the date of expiry of the period for which they have been concluded.

ART. III

On the date of entry into force of this Law there shall be repealed:

- Article 23 (1) of the Law No 130/1996*) on the collective labour contract, republished in the Official Gazette of Romania, Part I, No 184 of 19 May 1998, as amended and supplemented;

- Article 72 of the Law No 168/1999 on the settlement of industrial conflicts, published in the Official Gazette of Romania, Part I, No 582 of 29 November 1999, as amended and supplemented.

#CIN

*) The Law No 130/1996, republished, was repealed by the Law No 62/2011.

#B

ART. IV

This Law shall enter into force within 30 days from the date of the publication in the Official Gazette of Romania, Part I."

#CIN

NOTE:

1. The dispositions which have allowed derogations from the Law No 53/2003, republished, are reproduced below.

- Article V (3) of the Government Emergency Ordinance No 68/2012 (#M5) amending and supplementing some normative acts and regulating some financial-fiscal measures (#M5). We reproduce below the provisions of Article V (1) - (3) of the Government Emergency Ordinance No 68/2012 (#M5).

#M5

"ART. V

(1) The trading companies set up according to the provisions of the Government Emergency Ordinance No 119/2011 on the taking over by the National Agency for Fiscal Administration of certain claims of the Authority for the State Assets Recovery and for regulating certain provisions relating to the setting up of a trading company, approved with amendments and supplements by the Law No 143/2012, shall take over, according to the law, the personnel necessary for the pursuit of their own activity from the trading company that has settled the tax obligations by the procedure of datio in solutum, within 30 days as of the date of registration of the company, with the consent of the general assembly of shareholders.

(2) The personnel taken over according to paragraph (1) shall preserve the rights and obligations arising from the individual labour contracts and from the collective labour contract applicable at the trading company that has settled the tax obligations by a procedure of datio in solutum, existing on the date of takeover, until it expires.

(3) By way of derogation from the provisions of Article 27 of the Law No 53/2003 - the Labour Code, republished, as amended and supplemented, the medical certificates, required for the employment of the personnel taken over by the new trading companies according to paragraph (1), existing at the trading company which has settled the tax obligations by the procedure of datio in solutum, shall maintain their validity until the expiry of the time limits provided by the law."

#CIN

2. Article 22 (5^2) of the Government Emergency Ordinance No 144/2008 on the exercise of the profession of general care nurse, of the profession of midwife and of the profession of nurse, as well as on the organization and functioning of the

Order of General Care Nurses, Midwives and Nurses from Romania, with the following amendments:
#M10
"(5^2) By way of derogation from the provisions of Article 56 (1) c) of the Law 53/2003 - the Labour Code, republished, as amended and supplemented, the labour contract of general nurses, midwives and nurses shall cease by right on the cumulative fulfilment of the conditions for reaching the age of 65 and of the minimum contribution period in the public pension system or at the date of the communication of the decision on the old-age pension, invalidity pension, partial early pension, early pension, old-age pension with the reduction of the standard retirement age, in the cases provided in paragraph (5)."

#CIN
3. Article 22^1 (1) of the Government Emergency Ordinance No 144/2008 on the exercise of the profession of general care nurse, of the profession of midwife and of the profession of nurse, as well as on the organization and functioning of the Order of General Care Nurses, Midwives and Nurses from Romania, as amended:
#M13
"ART. 22^1
(1) The general care nurses, midwives and nurses retired during the period 24 April - 15 May 2014 who file an application for conducting their activity in the public health system shall be exempt from the application of the provisions of Article 30 (1) of the Law No 53/2003 - Labour Code, republished, as amended."

#CIN
4. Article 284 (2^1) of the Law on national education No 1/2011, as amended:
#M12
"(2^1) By way of derogation from the provisions of Article 56 (1) c) of the Law No 53/2003 - Labour Code, republished, as amended and supplemented, in case of the teaching staff retiring under the terms of paragraph (2), the individual labour contract shall cease by right as of the date of communication of the decision for admission of the application for retirement."

#CIN
5. Article 2 of the Law No 52/2011 on the exercise of some occasional activities performed by day labourers, as amended:
#M9
"ART. 2
Notwithstanding the provisions of the Law No 53/2003 - Labour Code, republished, as amended and supplemented, this Law regulates how the day

labourers can pursue unskilled activities on an occasional basis, in the form of labour relations."

#CIN

6. Article 13 (4) of the Government Ordinance No 21/2007 on the institutions and companies organizing shows and concerts, as well as the conduct of the artist managerial activity, with the following amendments:

#M20

"(4) Due to the specific nature of the activity, the conclusion of individual labour contracts for a definite period may also be made by way of derogation from the provisions of Article 82 (3) - (5) and of Article 84 (1) of the Law No 53/2003 - Labour Code, republished, as amended and supplemented."

#CIN

7. Article 67^1 (1^2) and (1^3) of the Law on physical training and sports No 69/2000, as amended:

#M23

"(1^2) By way of derogation from the provisions of Article 82 (3) - (5) and Article 84 (1) of the Law 53/2003 - the Labour Code, republished, as amended and supplemented, the participants in the sporting activity provided in paragraph (1) may conclude the individual labour contracts.

(1^3) By way of derogation from the provisions of Article 30 (1) of the Law No 53/2003, republished, as amended and supplemented, in the case of individual labour contracts for a definite period, the employment can be done also directly, by agreement of the parties."

#CIN

8. Article 2^1 of the Government Emergency Ordinance No 77/2017 establishing National Centre for Financial Information, as amended:

#M28

"ART. 2^1

(1) In view of development of new projects and solutions for improvement and making the administered software systems and platforms more effective, the Minister of Public Finances may hire qualified personnel in the field of information technologies, the contractual personnel employed under an individual labour contract for a definite period, concluded by derogation from the provisions of Article 82 (3) - (5) and of Article 84 (1) of the Law No 53/2003 - the Labour Code, republished, as amended supplemented.

(2) The personnel provided in paragraph (1) shall pursue the activity in positions of specialists in technology of information and communications, positions that are

established within the own apparatus of the Ministry of Public Finance, in the structure of the National Centre for Financial Information.

(3) The number of offices related to the positions of specialists in technology of information and communications, the criteria and methodology of selection, as well as the conditions in which this category of personnel pursues activity shall be approved by order of the minister of public finance, at the proposal of the manager of the National Centre for Financial Information, falling within the maximum number of positions and in the budget approved with this destination for the own apparatus of the Ministry of Public Finance.

(4) By way of derogation from the provisions of Article 30 of the Law No 53/2003, republished, as amended and supplemented, and of Article 31 (1) of the Law No 153/2017 on the remuneration of the personnel paid out of public funds, as amended and supplemented, the employment of the qualified personnel provided in paragraph (1) shall be carried out according to the criteria and methodology elaborated according to paragraph (3).

(5) The wage rights related to the positions set up according to paragraph (2) shall be established, by derogation from the provisions of the Law No 153/2017, as amended and supplemented, in quantum up to 6 times the value of the gross average wage earning used for substantiating the budget of the state social insurance, by order of the minister of public finance, at the proposal of the head of the National Centre for Financial Information."

#CIN

9. Article 5 (6) of the Law No 176/2018 on internship (#M30):

#M30

"(6) By way of derogation from the provisions of Article 16 (5) of the Law No 53/2003 - the Labour Code, republished, as amended and supplemented, the period in which the intern has pursued activity on the basis of the internship contract shall be treated as length of service, and, as the case may be, length in the speciality, depending on the type of activity."

#CIN

10. The Single Article (2) of the Law No 211/2018 for posting the personnel provided in Article 24^1 (1) and (2) of the Government Emergency Ordinance No 84/2001 on the setting up, organisation and functioning of the community public service register office of persons from the Ministry of Internal Affairs at the community public service register office of persons (#M32):

#M32

"(2) By way of derogation from the provisions of Article 46 (1) and (2) of the Law No 53/2003 - the Labour Code, republished, as amended and supplemented,

the personnel within the Ministry of Internal Affairs provided in Article 24^1 (2) of the Government Ordinance No 84/2001, approved as amended and supplemented by the Law No 372/2002, as amended and supplemented, shall be posted for a period of 6 years at the community public services register office of persons."

#CIN

11. Article 17 of the Law No 256/2018 on some measures necessary for the implementation of the petroleum operations by the holders of petroleum agreements referring to offshore petroleum perimeters (#M34):

#M34

"ART. 17

By way of derogation from the provisions of Chapter I and of Chapter II of Title III of the Law No 53/2003 - the Labour Code, republished, as amended and supplemented, the specific work shall be organized taking into account the following:

a) the average normal length of the working time for offshore employees shall be 168 hours/month, calculated over a reference period of 12 months; the hours worked by offshore employees out of the work schedule established according to this letter, calculated over a 12-month reference period, shall be considered as overtime and shall be offset, in accordance with the provisions of letter b); the maximum length of the working time for offshore employees may not exceed the average of 48 hours/week, including the overtime hours, calculated over a 12-month reference period;

b) the overtime working hours shall be offset by an increase of at least 75% of the basic hourly wages for each additional hour worked and not recovered with the corresponding spare time during the 12-month reference period provided in letter a);

c) the working time in offshore activities shall be organized through the alternation between:

(i) periods of continuous activity, for a normal working time not exceeding 28 consecutive calendar days; and

(ii) rest periods which are granted cumulatively and are so established as to ensure the normal average length of working time, as provided in paragraph a);

d) the working time in the offshore activity can be organized in shifts and continuous-type shifts; the daily working time shall be of maximum 12 consecutive hours over a 24-hour period; between two consecutive 12-hour working periods the employees are entitled to a rest period which may not be shorter than 12 consecutive hours; exceptionally, in the case of work in shifts, this rest period may not be less than 8 hours between shifts;

e) the weekly rest, as well as the offset for the work performed on legal holidays shall be granted cumulatively on other working days, after the period of continuous activity which may not exceed 28 consecutive calendar days."

#CIN

12. Article 71 of the Government Emergency Ordinance No 114/2018 establishing some measures in the field of public investments and some fiscal-budgetary measures, the amendment and supplementation of some normative acts and the prorogation of some time limits (#M35), as amended:

#M39

"ART. 71

(1) By way of derogation from the provisions of Article 164 (1) of the Law No 53/2003 - the Labour Code, republished, as amended and supplemented, by the end of 2019, for the construction field, the minimum gross basic wage on the country guaranteed for payment shall be established in cash, without including allowances, increases and other additions, to the amount of ROL 3 000 per month, for a normal work schedule averaging to 167.333 hours per month, representing an average of 17.928 ROL/hour.

(2) In the period between 1 January 2020 - 31 December 2028, for the construction field, the minimum gross basic wage on the country guaranteed for payment shall be of minimum ROL 3 000 month, without including allowances, increases and other additions, for a normal work schedule averaging to 167.333 hours per month.

(3) The provisions of paragraphs (1) and (2) shall apply only to the fields of activity provided in Article 60 point 5 of the Law No 227/2015, as amended and supplemented.

(4) The failure to comply with the provisions of paragraphs (1) and (2) by the companies represents contravention and shall be sanctioned according to the provisions of Article 260 (1) a) of the Law No 53/2003, republished, as amended and supplemented, and brings about the cancellation of the tax facilities. The recalculation of the contributions and of the tax shall be made in accordance with the provisions of the Law No 227/2015, as amended and supplemented. For the differences of tax obligations resulted from the recalculation of the social contributions and of the income tax there shall be charged interest and late payment penalties according to the provisions of Article 173 of the Law No 207/2015 on the Fiscal Procedure Code, as amended and supplemented."

#CIN

13. Article 295 (3) and (6) of the Law No 95/2006 on the health reform, republished, as amended:

#M36

"(3) In view of development of new projects and solutions for improvement and rendering more efficient the software systems and platforms administered, NHIF may hire personnel qualified in the information technology field, contractual personnel employed under an individual labour contract for definite term, concluded by derogation from the provisions of Article 82 (3) - (5) and of Article 84 (1) of the Law No 53/2003 - the Labour Code, republished, as amended and supplemented.

[...]

(6) By derogation from the provisions of Article 30 of the Law No 53/2003, republished, as amended and supplemented, and of Article 31 (1) of the Framework-law No 153/2017 on the remuneration of the personnel paid from public funds, as amended and supplemented, the employment of the qualified personnel provided in paragraph (5) shall be carried out according to the criteria and methodology elaborated according to paragraph (5)."

#CIN

14. Article 102^2 (1) and (4) of the Law No 208/2015 on the election of the Senate and of the Chamber of Deputies, as well as for the organisation and functioning of the Permanent Electoral Authority, as amended:

#M40

"(1) For the elaboration, implementation and operationalisation of the computer systems and applications used in the electoral processes the Permanent Electoral Authority may hire personnel qualified in the information technology field, contractual personnel employed under an individual labour contract for definite term, concluded by derogation from the provisions of Article 82 (3) - (5) and of Article 84 (1) of the Law No 53/2003 - the Labour Code, republished, as amended and supplemented.

[...]

(4) By derogation from the provisions of Article 30 of the Law No 53/2003, republished, as amended and supplemented, and of Article 31 (1) of the Framework-law No 153/2017 on the remuneration of the personnel paid from public funds, as amended and supplemented, the employment of the qualified personnel provided in paragraph (1) shall be carried out according to the criteria and methodology elaborated according to paragraph (3)."

#B
