Applicable contraventions and sanctions on Romanian soil in the case of infringements to the posting of workers legislation.

Law provision related to:	Legislation	Legal requirements	Contraventions and sanctions
a. The maximum duration of working time and the minimum daily rest			
I. Working time	1. Law no. 53/2003 – Labour Code, republished with subsequent amendments	1. Length of the working time ART. 111 The working time is any period during which the employer performs the work, is available to the employer and fulfils his/her tasks, according to the provisions of the individual employment contract, the applicable collective labour agreement and/or the legislation in force. ART. 112 (1) The normal length of the working time for the full-time employees is of eight hours per day and 40 hours per week. (2) In the case of young people under the age of eighteen years, the length of the working time is six hours per day and 30 hours per week. ART. 113 (1) The distribution of the working time within the week shall, usually, be uniform, of eight hours per day for five days, with 2 days of rest. (2) According to the specific features of the organization or activity performed, an unequal distribution of the working time may be chosen, while observing the normal length of the working time of 40 hours per week. ART. 114 (1) The maximum legal length of the working time may not exceed 48 hours per week, including the overtime. (2) By way of exception, the length of the working time, including the overtime, may be extended beyond 48 hours per week, provided that the average working hours, calculated over a reference period of four calendar months, do not exceed 48 hours per week. (3) For certain activities or professions listed in the national collective	

		labour agreement, reference periods above four months, but not exceeding six months, may be negotiated in the applicable branch collective labour agreement. (4) Subject to a proper compliance to the health and safety legislation regarding work conditions, collective labour agreements can include derogations from the length of the reference period mentioned in paragraph (3), but for reference periods that do not exceed twelve months. (5) When setting the reference periods provided for in paragraphs (2)-(4), the length of the annual leave and the individual employment contract suspensions shall not be taken into account. (6) The provisions of paragraphs (1-4) shall not apply to young people under the age of eighteen. ART. 115 (1) For certain economic sectors, organizations or professions, the collective or individual negotiations or the specific legal provisions may specify a daily length of the working time below or above eight hours. (2) A 12 hour daily length of the working time shall be followed by a rest period of 24 hours. ART. 116 (1) The actual organization of the unequal work schedule within the working week of 40 hours, and within the compressed work week, shall be negotiated in the collective labour agreement at the level of the employer or, in its absence, shall be provided in the rules of procedure. (2) The unequal work schedule may only operate if it is expressly specified in the individual employment contract. ART. 117 The work schedule and its distribution among days shall be notified to the employees and shall be posted in employer's headquarters. ART. 118 (1) An employer may establish individualized work schedules, with the agreement or at the request of the concerned employee. (2) The individualized work schedules shall involve a flexible organization of the working time. (3) The daily length of the working time shall be divided into two	

		periods: a fixed period where the entire personnel is simultaneously present at the workplace and a variable, mobile period where the employee chooses the time of arrival and departure, in compliance with the daily working time. (4) The individualized work schedule may only operate in compliance with the provisions of Articles 112 and 114. ART. 119 (1) The employer shall keep a record the working hours of each employee, at the place of work as defined in Art. 16^1, highlighting the starting and the ending time of work, and subject the records to the control of the labour inspectorate, whenever this is requested. (2) For mobile employees and for those who work from home, the employer shall keep the record of daily hours worked by each employee within the provisions the parties have agreed upon in writing; in accordance with the specific activity they are undertaking. **2. Overtime** ART. 120 (1) The work performed in addition to the normal length of the weekly working time, as provided for in Article 112, shall be considered overtime. (2) The overtime work may not be performed without the agreement of the employee, except for acts of God or urgent works intended to prevent or to eliminate the consequences of an accident. ART. 121 (1) At the request of the employer, the employees may perform overtime work, in compliance with the provisions of Articles 111 or 112, as the case may be. (2) The performance of overtime work beyond the limit lay down according to the provisions of Articles 111 or 112, as the case may be, shall be prohibited, except for cases of acts of God or other urgent works intended to prevent or to eliminate the consequences of an accident. ART. 122 (1) The overtime shall be compensated by hours off paid in the next 60 days after its performance.	Law no. 53/2003 – Labour Code, republished with subsequent amendments ART. 260 (1) The following shall constitute contravention and shall be subject to the following penalties: m) Infringement by the employer of the provisions of Article Art. 119, with a fine ranging from 1.500 lei to 3.000 lei Law no. 53/2003 – Labour Code, republished with subsequent amendments ART. 260 (1) The following shall constitute contravention and shall be subject to the following penalties: i) infringement of the provisions regarding overtime, with a fine raging from Lei 1.500 to Lei 3.000

		(2) Under the circumstances, the employee shall enjoy the wage corresponding to the hours performed above the normal work schedule. (3) in periods of reduced activity the employer can give out paid hour off which shall be compensated with overtime within the fallowing 12 months. ART. 123 (1) If the compensation by paid hours off is not possible within the deadline provided for in Article 122 (1) in the next month, the overtime shall be paid the employee by adding an extra pay according to its duration. (2) The extra pay for overtime, as provided under the conditions provided for in paragraph (1), shall be established by negotiation, within the collective labour agreement or, as the case may be, within the individual employment contract, and shall not be lower than 75% of the basic pay. ART. 124 Young people under the age of eighteen years may not perform overtime work. **3. Night work** ART. 125 (1) The work performed between 22:00 and 06:00 hours shall be considered night work. (2) A night employee is, as the case may be: a) an employee performing night work at least three hours of his/her daily working time; b) An employee performing night work amounting to at least 30% of his/her monthly working time. (3) The normal length of the working time, for the night employee, shall not exceed an average of 8 hours a day, calculated over a reference period of maximum three calendar months, in compliance with the legal provisions on the weekly rest period. (4) The normal length of the working time, for the night employees whose activity takes place in special or distinct working conditions, shall not exceed eight hours within any 24 hour period unless this is specifically laid down in the applicable collective agreement and only if it is not an	Law no. 53/2003 – Labour Code, republished with subsequent amendments ART. 260 (1) The following shall constitute contravention and shall be subject to the following penalties: l) infringement of the provisions regarding overtime, with a fine ranging from 1.500 Lei to 3.000 Lei

		infraction from provisions laid down by a collective agreement concluded at a higher level. (5) The employer who find himself in the situation defined at paragraph(4), is obligated to give rest periods or pay as a form of compensation for night time worker above the 8 hour limit. (6) An employer frequently using night work shall notify the territorial labour inspectorate thereof. ART. 126 The night employees shall benefit: a) either from a work schedule shorter with an hour than the normal length of the working day, for the days when they perform at least three hours of night work, without any decrease of the basic pay; b) Or from an extra pay of at least 25% of the basic pay for each hour of night work performed, if the total night work is at least 3 hours of the normal working time. ART. 127 (1) The employees performing night work under the conditions of Article 125 (2) shall be subject to a free medical examination before starting the activity and regularly thereafter. (2) The conditions to perform the medical examinations and their frequency shall be established by a regulation approved by Joint Order of the Minister of Labour and Social Justice and the Minister of Health. (3) The employees performing night work and having problems acknowledged to be connected to it shall be transferred to a day work they are suitable for. ART. 128 (1) The young people under the age of eighteen years may not perform night work. (2) Pregnant and post-natal women and breastfeeding mothers may not be required to perform night work.	
	2. GD no. 38/2008 on the organization of the working time of persons performing mobile	ART. 4 (1) During a week, the total working time of a person performing mobile transport activities is 48 hours. This can be extended to a maximum of 60 hours, provided that the average working hours, calculated over a reference period of four calendar months, do not exceed 48 hours per week.	2. G.D. no. 38/2008 on the organization of the working time of persons performing mobile road transport activities, with subsequent amendments ART. 12 Constitutes a contravention:

	road transport activities, with subsequent amendments	(2) In the case of mobile workers employed by multiple employers, the work time is the sum of the hours worked by that person for all the employers. The employer will demand that the mobile worker in question has a written document attesting the time worked for another/other employer(s) ART. 5 Persons who perform mobile road transport activities can work for a maximum of 6 consecutive hours without break. The total work time shall be interrupted by breaks of at least 30 minutes if the total work time is between 6 and 9 hours, and respectively at least 45 minutes if the work time exceeds 9 hours. Breaks can be divided in periods of minimum 15 minutes each. ART. 6 In the case of students and interns the applicable legislation when it comes to breaks and rest periods is the EC Regulation no. 561/2006 or of the AETR Acord, depending on the case. ART. 7 The daily working time shall not exceed 10 hours within 24 hours if the mobile worker/the independent driver works during the night. Night work shall be compensated in accordance with the legal provisions or negotiated with social partner where as not to endanger the public safety.	a) not abiding the provisions of Art. 4, 5, 6 and 7 organization of the working time of persons performing mobile road transport activities ART. 13(1) the contravention stipulated in Art. 12 lit. a is sanctioned with a fine ranging from 1.500 to 2.000, which is applicable to the company/transport operator
II. Daily rest	Law no. 53/2003 – Labour Code, republished with subsequent amendments	**Daily rest** ART. 135 (1) The employees shall have the right, between two working days, to a rest period that may not be shorter than 12 consecutive hours. (2) By way of exception, in the case of shift work, that rest period between the shifts may not be shorter than eight hours. ART. 136 (1) Shift work is any method to organize the work schedule, according to which the employees follow each other at the same workplace, according to a schedule, including a rotating schedule, of continuous or discontinuous type, requiring the employee to perform an activity within different time ranges in relation to a daily or weekly period, as established in the individual employment contract. (2) A shift employee is any employee whose work schedule is of the shift work schedule type	

		Weekly rest ART. 137 (1) The weekly rest period is 48 consecutive hours, usually Saturday and Sunday. (2) Should the rest during Saturday and Sunday be detrimental to the public interest or the normal course of the activity, the weekly rest period may also be taken in other days laid down in the applicable collective labour agreement or in the rules of procedure. (3) In the case provided for in paragraph (2), the employees shall enjoy an extra pay, as laid down in the collective labour agreement or, as the case may be, in the individual employment contract. (4) In exceptional cases, the weekly rest period days may be taken on a cumulative basis, after a continuous activity that may not exceed 14 calendar days, with the authorization of the territorial labour inspectorate and with the agreement of the trade union or, as the case may be, the representatives of the employees. (5) The employees taking their weekly rest period under the conditions of paragraph (4) shall have the right to twice the compensations provided for under Art.123 (2). ART. 138 (1) In case of urgent works, whose immediate performance is necessary for the organization of rescue measures for persons or goods of the employer, with a view to avoiding imminent accidents or to eliminating the effects of these accidents on the materials, installations or buildings of the organization, the weekly rest period may be suspended for the personnel necessary to perform these works. (2) The employees whose weekly rest period has been suspended under the conditions of paragraph (1) shall have the right to twice the compensations provided for under Article 123 (2). ART. 123 (2) The extra pay for overtime, as provided under the conditions provided for in paragraph (1), shall be established by negotiation, within the collective labour agreement or, as the case may be, within the individual employment contract, and shall not be lower than 75% of the basic pay.	Law no. 53/2003 – Labour Code, republished with subsequent amendments ART. 260 (1) The following shall constitute contravention and shall be subject to the following penalties: j) infringement of the legal provisions regarding the weekly rest period, with a fine from ranging from 1.500 Lei to 3.000

b. The minimum duration of paid annual leave			
Annual leave	Law no. 53/2003 – Labour Code, republished with subsequent amendments	ART. 144 **(1)** The right to paid annual leave shall be guaranteed to every employee. **(2)** The right to annual leave may not be subject to any assignment, waiving or abridgement. ART. 145 (1) The annual leave shall have a minimum length of 20 working days. (2) The actual length of the annual leave shall be laid down in the individual employment contract in respect with the legislation and in the applicable collective labour agreement. (3) The public holidays and the paid days off laid down in the applicable collective labour agreement shall not be included in the length of the annual leave. (4) In establishing the duration of the annual leave, periods of temporary incapacity of work, maternal risk leave and caring for a sick child leave are considered periods of work. (5) in case the temporary incapacity of work maternal risk leave and caring for a sick child leave begun during the normal annual leave, the latter is suspended and the employee shall benefit from the rest of annual leave days after the end of the temporary incapacity of work maternal risk leave and caring for a sick child leave, and if that is not a possibility the remaining unspent annual leave days shall be reprogramed. (6) The employee has the right to annual leave even if the temporary incapacity of work is maintained, according to the law, during an entire year, and the employer has to give the annual leave within an 18 month period after to the one in which the employee was in medical leave. ART. 146 (1) The leave shall be taken each year. (2) In the case where the employee, for justified reasons, cannot take all or part of the annual leave he was entitled to during the year, in accord with the person the employer is obliged to give the annual leave within an 18 month period starting with the next year after he was entitled to.	

		(3) The compensation in money of the leave not taken shall only be allowed at the cessation of the individual employment contract. ART. 147 (1) The employees working in difficult, dangerous or unhealthy conditions, the visually impaired persons, and other disabled persons and the young people under the age of eighteen years shall enjoy a supplementary leave of at least three working days. (2) The number of supplementary days of annual leaves for the employees mentioned in paragraph. (1) is determined by the applicable collective labour contract and is shall not be less than 3 days. ART. 148 (1) A leave shall be taken on the basis of a collective or individual schedule laid down by the employer after consulting the trade union or, as the case may be, the representatives of the employees, as far as the collective schedule is concerned, or after consulting the employee, as far as the individual schedule is concerned. The schedule for the next year shall be prepared until the end of the current calendar year. (2) The collective schedule may establish leave periods not shorter than three months, by categories of personnel or workplaces. (3) The individual schedule may set the date the leave is taken or, as the case may be, the period within which the employee has the right to take the leave, period which may not exceed three months. (4) Within the periods of leave laid down according to paragraphs (2) and (3), the employee may request the leave at least 60 days before actually taking it. (5) Should the leave be divided, the employer shall set the schedule in such way that every employee takes at least 10 working days of uninterrupted leave in one calendar year. ART. 149 An employee shall take the leave in kind within the period it was scheduled, except for the cases expressly provided for in the law or when, for objective reasons, the leave may not be taken. ART. 151 (1) The leave may be interrupted, at the request of the employee, for objective reasons. (2) An employer may call back the employee from leave in case of an act	

		of God or urgent matters that require the presence of the employee at the workplace. In such case, the employer shall bear all expenses of the employee and his/her family necessary to return to the workplace and the potential damages suffered by him/her following the interruption of the leave.	
c. Minimum wage			
Minimum wage	1. Law no. 53/2003 – Labour Code, republished with subsequent amendments	ART. 164 (1) The national minimum gross basic guaranteed payment, corresponding to the normal work schedule, shall be established by Government Decision, after consulting the trade unions and employers organizations. If the normal work schedule is, according to the law, lower than eight hours a day, the minimum gross hourly basic pay shall be computed by dividing the national minimum gross basic pay to the average number of monthly hours under the approved legal work schedule. (2) An employer may not negotiate and establish basic pays under the individual employment contract lower than the national minimum gross hourly basic pay. (3) An employer shall guarantee the payment of a monthly gross wage at least equal to the national minimum gross basic pay. These provisions shall also apply when the employee is at work, within the schedule, but cannot perform his/her activity for reasons not related to him/her, except for strikes. (4) The national minimum gross basic pay with guaranteed payment shall be notified to the employees through the good offices of the employer. ART. 165 For the employees to whom the employer, according to the collective labour agreement or individual employment contract, provides food, accommodation or other facilities, the amount in money due for the activity performed may not be lower than the national minimum gross wage provided for in the law.	Law no. 53/2003 – Labour Code, republished with subsequent amendments ART. 260 (1) The following shall constitute contravention and shall be subject to the following penalties: a) breach of the provisions regarding the guaranteed payment of the national minimum gross product, with a fine from Lei 300 to Lei 2.000
	2. GD no. 846 of the 29th of November 2017 For the setting up	Art. 1 Starting January 1st 2018, the gross minimum wage, guaranteed in payment, sum of money that does not include additional pay, is 1.900 lei a month, for a full working program of average 166,666 hours a month in 2018, equivalent to 11,40 lei/hour.	

	of the minim wage		
d. Condition of assignment by temporary work agencies			
The conditions under which a temporary work agency can assign	1. Law no. 53/2003 – Labour Code, republished with subsequent amendments	ART. 90 (1) A temporary work assignment shall be established for a period that may not exceed 24 months. (2) The duration of the temporary work assignment may be extended only once for a period that, added to the original duration of the mission, may not exceed 36 months. (3) The conditions under which a temporary employment mission may be extended shall be provided for in the temporary employment contract or may be subject to an addendum to that contract. ART. 91 (1) A temporary employment agency provides the user undertaking an employee under a temporary employment contract, on the basis of an assignment contract concluded in writing. (2) An assignment contract shall include: a) the reason for the use of a temporary employee; b) the end date of the mission and, where appropriate, the possibility to change it; c) the characteristics of the position, in particular the necessary skills, the location of the mission and the work schedule; d) the actual working conditions; e) the work and personal protection equipment that the temporary employee is required to use; f) any other services and facilities benefiting the temporary employee; g) the value of the contract concluded with the temporary employment agency, and the remuneration the employee is entitled to. (3) Any clause prohibiting the user undertaking to hire the temporary employee after the fulfilment of the mission shall be null and void. ART. 92 (1) The temporary employees shall have access to all services and facilities granted by the user undertaking, under the same conditions as the other employees. (2) The user undertaking shall provide the temporary employee with	

		work and personal protection equipment, except for the case when the assignment contract provides that this is the responsibility of the temporary employment agency. (3) the salary the temporary worker receives for each assignment cannot be less that that received by an employee of the user undertaking who performs the same or similar work as the temporary worker. (4) To the extent to which the user undertaking does not have such an employee, the salary owed to the temporary worker shall be established taking into consideration the salary of a hired person who does the same or similar work, as established in the collective agreement applicable at the user undertaking level. ART. 93 A user undertaking may not enjoy the services of the temporary employee if it intends in this way to replace one of its employees whose employment contract has been suspended as a result of the participation to strike. ART. 94 (1) A temporary employment contract is an employment contract concluded in writing between the temporary employment agency and the temporary employee, usually covering the length of a mission. (2) A temporary employment contract shall contain, besides the elements provided for in Articles 17 and 18 (1), the conditions of the mission, the length of the mission, the identity and headquarters of the user undertaking and the way the temporary employee is to be remunerated. ART. 95 (1) A temporary employment contract may also be concluded for several missions, subject to the duration provided for in Article 89 (2). (2) Between two missions, the temporary employee shall be at the disposal of the temporary employment agency and shall enjoy a wage paid by the agency, which may not be lower than the national minimum gross wage. (3) For each new mission, the parties shall conclude an addendum to the temporary employment contract, which shall detail all elements provided for in Article 93 (2). (4) A temporary employment contract shall cease at the end of the last	

		mission for which it was concluded. ART. 96 (1) During the entire mission, the temporary employee shall enjoy the wage paid by the temporary employment agency. (2) The wage received by the temporary employee for each mission may not be lower than the wage received by the employee of the user undertaking performing the same activity or an activity similar to the activity of the temporary employee. (3) Insofar as the user undertaking does not have such employees, the wage received by the temporary employee shall be set taking into account the wage of a person employed under an individual employment contract that performs the same or a similar activity, such as it is established in the collective labour agreement applicable to the user undertaking. (4) The temporary employment agency shall retain and transfer all contributions and taxes owed by the temporary employee to the state budgets and pay for him/her all contributions owed under the terms of the law. (5) Should the temporary employment agency fail to comply with the obligations regarding the payment of the wage and the contributions and taxes within 15 calendar days from the date when they became outstanding and due, they shall be paid by the user undertaking, at the request of the temporary employee. (6) The user undertaking having paid the amounts owed according to paragraph (5) shall, for the amounts paid, subrogate into the rights of the temporary employee against the temporary employment agency. ART. 97 A probationary period for the accomplishment of the mission may be established in the temporary employment contract, whose duration is set according to the demand of the user undertaking, but which may not exceed: a) two working days, when the temporary employment contract has been concluded for a period shorter or equal to one month; b) three working days, when the temporary employment contract has been concluded for a period between one and two months; b) Five working days, when the temporary employment contract has	

		been concluded for a period exceeding two months. ART. 98 (1) During the mission, the user undertaking shall be responsible to ensure the working conditions of the temporary employee, according to the legislation in force. (2) The user undertaking shall forthwith notify the temporary employment agency of any accidents at work or occupational diseases it took knowledge of and whose victim was a temporary employee supplied by the temporary employment agency. ART. 99 (1) At the end of the mission, the temporary employee may conclude an individual employment contract with the user undertaking. (2) Should the employer hire a temporary employee after a mission, the length of the mission performed shall be taken into account when assessing the pecuniary rights and other rights provided for in the labour legislation. (3) If the user undertaking continues to enjoy the work of the temporary employee without concluding with him/her an individual employment contract or without extending the assignment contract, it shall be deemed that an individual employment contract of unlimited duration has intervened between that temporary employee and the user undertaking. ART. 100 A temporary employment agency dismissing the temporary employee before the term provided for in the temporary employment contract, for other reasons than disciplinary, shall observe the legal regulations regarding the cessation of the individual employment contracts for reasons not related to the person of the employee. ART. 101 Except for contrary special provisions, as provided for in this chapter, the legal provisions and the provisions included in the collective labour agreements applicable to the employees working for the user undertaking under an individual employment contract of unlimited duration shall equally apply to the temporary employees during the mission to the user undertaking. ART. 102 Temporary work agencies do no charge the temporary employees in exchange for undertaking efforts for their recruitment by the user or for drafting a temporary work contract.	Law no. 53/2003 – Labour Code, republished with subsequent amendments ART. 260

			(1) The following shall constitute contravention and shall be subject to the following penalties: o) breaching of the TWA of the obligation laid down in Art. 102, sanctioned with a fine rageing from 5.000 lei to 10.000 lei, for each identified person whitout exeding 100.000 lei
		ART. 11 (1) The temporary work agencies assign a temporary worker to a user undertaking on the basses of a written assignment contract. (2) The assignment contract must have all the elements stipulated in Art. 91 paragraphs (2) of Law no. 53/2003, republished. (3) The basic working and employment conditions, related to working time, overtime, daily rest, weekly rest, night work, annual leave, national holidays and salary of temporary agency workers shall be, for the duration of their assignment at a user undertaking, at least those that would apply if they had been recruited directly by that undertaking to occupy the same job. All working and employment conditions laid down in legislation, procedure, applicable collective agreements as well as any other specific provisions that may apply directly to the temporary workers while on a temporary assignment. (4) If the work done during a temporary assignment may endanger the life and wellbeing of the temporary worker, h/she is entitled to refuse said assignment. (5) The employee's refusal is done in written form and cannot constitute a reason for disciplinary actions or termination of contract. ART. 12 Temporary work agencies are obliged to keep a record and record the temporary work contracts in the general employee's ledger, according to Art. 34 of Law no. 53/2003, republished.	
e. Protection measures applicable to the working conditions of pregnant women or who have recently given birth as well as for children and young people.			

I. Protection measures applicable to the working conditions of pregnant women or who have recently given birth as well as for children and young people.	GEO no. 96/2003 on the maternity protection at work, as amended and supplemented	ART. 4 Employers have an obligation to take the necessary steps in order to: a) prevent pregnant women, who have recently given birth and who are breastfeeding exposure to risks that might affect their health and safety; b) Pregnant women, who have recently given birth and who are breastfeeding may not be forced to do a job that is detrimental to their health, to their pregnancy or to the unborn child, accordingly. ART. 5 (1) For all the activities that might present risks of exposure to agents, process or working condition the employer must evaluate the nature, degree and the duration of exposure of pregnant women, who have recently given birth and who are breastfeeding the undertaking and or in specific workplace, and, later on, whenever there is a modification in working condition be it direct or through the protection and prevention services mentioned in Art. 8 and 9 of Law no. 319/2006, subsequently modified, with the purpose of: a) evaluating any risk to the health and safety of female workers and any possible effect over the pregnancy and breastfeeding. b) decide what action must be taken. (2) The evaluation mentioned at. (1) is done by the employer with the mandatory participation of the occupational physician, and their result alongside measure that must be taken relevant to health and safety are enshrined in written reports. ART. 6 (1) With no interference to Art. 16 and 17 of Law no. 319/2006, subsequently modified, employers are obliged within 5 working days form the drafting of the reports mentioned in Art. 5(2), to hand out a copy of them to the employees representatives in charge of OSH. (2) The employer shall inform in writing the female workers on the results of the evaluation of the risk they are expose to in their place of work and of the measures that must be taken in relation to OSH as well as their rights that derive form said GEO. ART. 7 (1) Within 10 working days form the date at which the employer has notified in writing by a female employee who finds herself in one of the	

		situations described in Art. 2 let. c)-e), is obliged to inform the occupational physician, as well as the territorial labour inspectorate. ART. 8 The employer has the obligation to keep the pregnancy confidential and shall not inform other employers unless it has the written consent of the female worker and only in order to assure an optimal working condition, when the pregnancy is not visible. ART. 9 (1) With no interference to articles 6 and 7 from law no. 319/2006, along with its subsequent changes, if the results of the evaluation mentioned in articles 5 and 6 suggests a risk for the health and safety of the pregnant worker, workers that have a new-born child and breastfeeding workers, the employer must take the necessary measures and adapt the worker's schedule for ensuring the respective worker is not exposed to those risks, according to the recommendation of the doctor, whilst keeping the same level of payment. (2) If the employer is unable to alter the work conditions or initial schedule, he needs to take the necessary measures to allocate the worker to another role that is not exposed to health and safety risk, according to the recommendation of the personal doctor, whilst keeping the same level of payment. ART. 10 (1) In the special case where the employer, citing clear, justifiable reasons, cannot comply with the obligation mentioned in article 9, paragraph (2), pregnant worker, workers that have a new-born child and breastfeeding workers have the right to maternal leave, as following: a) before the date of the solicitation for maternity leave, in accordance with GEO nr.158/2005 regarding leave and health allowances, approved with modifications by Law no. 399/2006, with its further changes, the pregnant workers. b) after the date of returning from the mandatory maternity leave, workers who have recently given birth and who are breastfeeding, in the special case where they do not solicit child requiring leave and allowance until the child reaches 2 years of age, or, in the case of children with disabilities, 3 years of age.	

		ART. 12 (1) For pregnant workers or workers with new-born children that engage in their specific activities only in the orthostatic position or sitting down, the employers have the obligation to alter their specific working spot, ensuring regular breaks. (2) The occupational doctor sets the time intervals in which the work position must be changed, the activity periods, as well as the periods for rest. (3) If the planning of work conditions or work programme is not technically possible or cannot be requested for clear reasons, the employer will take the necessary measures to change the working spot of the specific worker. ART. 13 Through the recommendation of the personal doctor, the pregnant worker which cannot fulfil the normal working periods due to health reasons, hers or her children's, the worker has the right to reduce working time by a quarter of the normal time, keeping the same payment level, supported by the wage budget of the employer, according to laws and regulations. ART. 14 Besides general laws regarding the health and safety of workers, especially ones regarding limit values of professional exposure, the employer must take the following into account: a) Pregnant workers cannot be obliged to undertake activities for which the evaluation identified the risk of exposure to agents or work conditions mentioned at letter A from Annex no. 2. b) Breastfeeding workers cannot be obliged to undertake activities for which the evaluation identified the risk of exposure to agents or work conditions mentioned at letter A from Annex no. 2. c) If a worker that undertakes an activity forbidden by paragraph a) or b) becomes pregnant or is breastfeeding and notifies its employer regarding this fact, the articles 9 and 10 are applied. ART. 15 Employers have the obligation to offer temporary leave to pregnant workers for a maximum of 16 hours per month, in the conditions mentioned in article. 2, paragraph f), in the case in which investigations can be undertaken only in the normal working time, without a reduction in wages	

		ART. 17 (1) Employers are required to offer two one-hour breaks to breastfeeding workers until the children reach the age of one. Those breaks include time necessary for travelling to the place where the child is located. (2) At the request of the mother, the breaks designed for breastfeeding can be replaced by the reduction of the normal working time by two hours daily. (3) The breaks and the reduction of the normal length of working time, offered for breastfeeding, are included in the working time and do not include a reduction in wages, this being supported fully from the wage budget of the employer. (4) If the employer offers special locations for breastfeeding, those will need to fulfil appropriate hygiene conditions according to sanitary laws. ART. 18 For ensuring the health and safety of pregnant workers or mothers – with new-born children or breastfeeding, the internal regulations of the units must include mentions regarding hygiene, health and security conditions in the working place, according to the present emergency ordinance and the other normative laws applicable. ART. 19 (1) Pregnant workers, workers with new-born children and breastfeeding workers cannot be obliged to undertake night shifts. (2) In the case where the health of workers mentioned at paragraph (1) is affected by night shifts, the employer is obliged, according to the written request of the worker, to enable the transfer to a day shift, maintaining the same payment level. (3) The written request of the worker must be accompanied by a medical document that mentions the period in which her health is susceptible to be affected by undertaking the respective work. (4) In the special case in which, for reasons clearly justified, the transfer is not possible, the worker will benefit from paid maternity risk leave, according to article 10, and from maternity allowance, according to the Emergency Ordinance no. 158/2005, approved through modifications by law no. 399/2006. ART. 20	

		(1) Pregnant workers or mothers – with new-born children or breastfeeding cannot undertake their activities in unsanitary environments with unsafe conditions. (2) In the special case in which a worker that undertakes work in unsanitary environments, this is included in Art. 2, letter c)-e), the employer has the obligation, through the written request of the worker, to enable a transfer to other working spot, whilst maintaining the payment level. (3) The list of activities considered unsanitary is established through the norms specified by this specific Emergency Ordinance. (4) Paragraphs (3) and (4) of article 19 are applied accordingly. ART. 21 (1) It is forbidden for the worker to end working relations and contracts in the case of a : a) pregnant worker or mother – with new-born children or breastfeeding, for reasons directly related to its health; b) worker in risk maternal leave; c) worker in maternal leave; d) worker with children requiring leave up until the child reaches 2 years of age, or, in the case of disability, 3 years of age. e) the worker in maternity leave for the treatment of an ill child up to the age of 7 or, in the case of disabled children with intercurrent symptoms up until the age of 18. (2) The interdiction mentioned at paragraph (1), letter b) can be extended, for one time only, to up to 6 months after the worker returns back to work; (3) The dispositions mentioned in paragraph (1) are not applied in the case of the worker being fired for reasons such as judicial reorganization, dissolution or the bankruptcy of the employer, according to existing law; ART. 26 (1) The employers have the obligation to permanently inform workers regarding their rights in relation to the current Emergency Ordinance, including visually, for a period of 6 months, in every location they manage, starting from the enactment of the laws that mention the respective rights;	

II. Protection measures applicable to children and young people	Law no. 53/2003 – Labour Code, republished with subsequent amendments	ART. 112 (2) In the case of workers up to 18 years old, working time is constituted of 6 hours per day and 30 hours per week. ART. 114 (1) The maximum legal work time cannot exceed 48 hours per week, including extra hours. (2) As an exception, work time, including extra hours, can be extended over 48 hours per week, as long as the work hours mean calculated over 4 months not exceed 48 hours per week. (3) For some activities or professions agreed through the suitable collective work contract, they can be negotiated, through that specific collective work contract, reference periods larger than 4 months, but not exceeding 6 months. (4) Subject to the proper compliance to the laws regarding the protection of health and security for workers, with plausible, technical or regarding to the organization of work, collective work contracts can include exceptions from the normal length of the reference period mentioned at paragraph (3), but only for reference periods that do not exceed 12 months. (5) In determining the appropriate reference periods presented at paragraphs (2)-(4), the length of the annual leave and specific adjournment situations regarding the individual work contract are not taken into account. (6) The mentions of paragraph (1)-(4) are not applied to workers that did not reach the age of 18. ART. 124 Workers up until the age of 18 cannot carry out extra work. ART. 128 (1) Workers up until the age of 18 cannot carry out night shifts at the workplace. ART. 134 (2) In the specific case where the length of the work day exceeds 4 hours and 30 minutes, workers up until the age of 18 benefit from a lunch break for a minimum of 30 minutes. ART. 147	Law no. 53/2003 – Labour Code, republished with subsequent amendments ART. 265 (1) Registering a worker under the age of 18 years old and not complying with the legal age requirement or using the worker for activities that do not comply with legal requirements regarding work conditions for underage workers represents an offence sanctioned with a fine or with jail from up to 3 months to two years.

		(1) Workers up until the age of 18 benefit from additional annual leave for up to a least of 3 working days.	
f. Equality of treatment between men and women			
Equality of treatment between men and women	Law no. 202/2002 - on the equal opportunity between women and men, republished, subsequently modified	ART. 7 (1) The equality of treatment between men and women in work relations refers to undiscriminatory access to: a) the free choice and carrying out of any profession or activity; b) hiring in any vacant position and in all the levels of the professional hierarchy; c) equal pay for work of similar value; d) informing and adequate professional counselling, initiation programs, training programs, specialising programs and requalification programs, including apprenticeships; e) promotion to any level of the professional hierarchy; f) conditions of enrolment to work and conditions that respect the health and safety regulations in work, according to current law, including the firing prerequisites; g) benefits other than those relating to wages, as well as benefits related to public systems and private security systems; h) chief organisations, syndicates and professional organisations, as well as to the benefits offered by those; i) social services, offered according to the present legislation; (2) In accordance with the provisions laid down in paragraph 1, all employees, including self-employed as well as the partner of the self-employed person or associate in a undertaking, are entitled to equality of treatment between man and women, if they, whiten the confines of the legislation, regularly participate in the activity of the self-employed person and carry out the either the same tasks or complementary tasks. ART. 8 To prevent and eliminate any behaviour defined as sexual discrimination the employer has the following obligations: a) to ensure equality of chances and treatment between employees, man and women, under any working relations, including by introducing dispositions banning gender based discrimination in the organisation internal regulation of undertakings;	Law no. 202/2002 - on the equal opportunity between women and men, republished, subsequently modified ART. 37(1) – (3) Constitute contravention and it is sanctioned with a fine ranging from 3.000 lei up to 100.000 lei, by the Romanian labour Inspection, through its labour inspectors from the territorial labour inspectorates for breaches from Art. 7(2), Art. 8, Art. 9(1), Art. 10(1)-(4), (6), (8) and (9), Art. 11-13, as well as Art. 29

		b) to lay down disciplinary sanctions in the internal regulation of the undertaking, whiten the conditions laid down by the legislation, for employees who violates human dignity of other employees through creating of demining, intimidating, hostility, humiliation and offensive environment through discrimination actions, such as they are defined in Art. 4 lit. a)-e) and Art. 11; c) to regularly notify the employees on the rights they have when it comes to upholding the equal opportunity and equality of treatment between man and women, including by posting in visible places; d) to inform after immediately the public authorities in charge with equal opportunity and treatment between man and women have been notified. ART. 9 (1) Discrimination through the use of the employer of practices that disadvantages persons of a specific gender in relations to working relations is forbidden when it comes to: a) announce, organize exams and candidate section for vacancies in the public or private sector; b) to conclude, suspend, modify and or terminate the legal work or employment agreement; c) to set up or modify the job description; d) establish the salary; e) benefits, other than salary, as well as social security; f) vocational information or counselling, initiation, qualification, improvement, specialization and professional requalification; g) evaluate individual professional performances; h) promotion; i) Appling disciplinary measures; j) the right to join a union and access to its facilities; k) any other working conditions, according to the legislation. ART. 10 (1) Motherhood cannot constitute a discrimination reason. (2) Any treatment that is less favourable applied to women in relation to a pregnancy or to maternity leave constitutes discrimination in accordance to said legislation. (3) Any treatment les favourable applied to a woman or a man, in	

		relation to child rearing leave or paternal leave, constitutes discrimination in accordance to said legislation. (4) It is forbidden to ask a job seeker, to present a pregnancy test or to sign a commitment stating that she shall not get pregnant or give birth while the labour contract is valid. (6) The termination of the contract cannot take place if: a) the employee is pregnant or is in maternity leave; b) the employee, man or woman, is in the child rearing leave up until the age of 2 years, respectively 3 years in the case of a child with a disability; c) the employee is in paternal leave. (8) A the termination date of the maternity leave, the child rearing leave up until the age of 2 years, respectively 3 years in the case of a child with a disability or paternal leave, the employee has the right to return to work or to an equivalent position, with equivalent working condition, and to also benefit from any improvement in the working conditions to which he/she would have been entitled during the absence. (9) When returning to work whiten the conditions laid down at paragraph (8), the employee has the right to a professional reintegration program, who's length is laid down in the internal regulation and cannot be smaller than 5 working days. ART. 11 Any unwanted behaviour defined as harassment or sexual harassment with the aim to create the following constitutes gender based discrimination: a) to create in the workplace an atmosphere of intimidation, hostility and discouragement for the person in question; b) to influence the situation of the employed person in a negative way when it comes to promotion, salary and any other form of income, access to training, if refusing to accept an unwanted behaviour, related to sex. ART. 12 (1) It constitutes discrimination and is therefore forbidden for the employer to unilaterally modify the labour relation or the working conditions, including firing the employed person who has submitted a petition or a complaint to management or a complaint to the competent	

		court of law in accordance with Art. 30(2), in order to impose the application of this law and after the final court decision with the exception of valid reasons and without any connection with the case. (2) paragraph. (1) applies accordingly to union members, labour representatives and to any other employee who has the competence or who can help address the work related situation in accordance with Art. 30(1). ART. 13 To prevent gender based discrimination in the workplace, during the negotiation of the collective agreement at sector, group of unites and at unit level, the parties shall introduce clauses forbidding acts of discrimination and, respectively clauses on which petitions/complaints formulated by injured persons are to be resolved. ART. 29 (1) Union Confederations nominate, within the unit's trade, representatives with powers to ensure equal opportunity and treatment between man and women in the workplace. (2) Union nominated reps receive petitions/complains from persons who consider themselves to be discriminated based on gender, apply procedures in order to resolve the demands, in accordance with Art 30(1). (3) In units where there is no union one of the elected employees reps has powers to ensure to ensure equal opportunity and treatment between man and women in the workplace (4) The opinion of the union reps in units with powers to ensure equal opportunity and treatment between man and women in the workplace is mandatory mentioned in the control report on the compliance with the provisions of the law	
g. Administrative and control measure applicable to undertakings who post workers on Romanian soil			
I. The obligation to submit a notice regarding the posting of workers on Romanian soil	Law no. 16/2017 regarding posting of workers in the framework of the provision of services GD no. 337/2017-	ART. 24(2) The minimum administrative and control measure include obligations for the undertakings mentioned in Art. 3 a): a) the obligation to submit to the territorial labour inspectorate under who's territory the work will take place a statement drafted in Romanian regarding the posting of workers, at the very latest one working day prior to the beginning of work, which shall contain relevant information necessary to facilitate inspections at the workplace;	Art.15 GD no. 337/2017- Methodological norms regarding the posting of workers on Romanian soil in the framework of the provision of services (1) Constitutes contravention and is sanction with a fine ranging from 5.000 lei up to 9.000 lei:

	Methodological norms regarding the posting of workers on Romanian soil in the framework of the provision of services		a) not submitting the statement mentioned in Art. 24(2)(a) to the competent territorial labour inspectorate; Art.15(2) Constitutes contravention and is sanctioned with a fine ranging from 3.000 lei up to 5.000 lei sending incomplete or false data the statement mentioned in Art. 24(2) (a) to the competent territorial labour inspectorate.
II. The obligation to produce documents	Law no. 16/2017 regarding the posting of workers in the framework of the provision of services	ART. 24(2) The minimum administrative and control measure include obligations for the undertakings mentioned in Art. 3 a): b) an obligation to keep or make available as well as to keep in an accessible and clearly identifiable place on Ro soil, while the posting is occurring, electronic or paper copies of documents related to: (i) the employment contract or an equivalent document, additional information related to the duration of employment, the currency the salary is paid in, benefits in kind or in cash received during posting, conditions that regulate repatriation of the employee; (ii) salary and proof of payment; (iii) duration of working time and attendance register; c) an obligation to deliver the documents referred to under point (b), after the period of posting, at the request of the Romanian Labour Inspection or of the Territorial Labour Inspectorates, within 20 working days from the receipt of the request. d) an obligation to provide a translation of the documents referred to under point b); e) obligation to designate a person to liaise with the competent authorities and receive documents and/or notices, if need be. (3) Undertaking mentioned in Art. 3a) are obliged to respect au paragraph. (2) c) for 3 years after the posting has ended.	ART.15 GD no. 337/2017- Methodological norms regarding the posting of workers on Romanian soil in the framework of the provision of services (1) Constitutes contravention and is sanctioned with a fine ranging from 5.000 lei up to 9.000 lei: b) not fulfilling the obligation mentioned in Art. 24(2) letter b); c) not fulfilling the obligation mentioned in Art. 24(2) letter c); d) not fulfilling the obligation mentioned in Art. 24(2) letter d); e) not fulfilling the obligation mentioned in Art. 24(2) letter e); f) not fulfilling the obligation mentioned in Art. 24(3); g) not fulfilling the obligation mentioned in. Art.10;

III. Administrative measure and requirements for posting in the terms set up by Art.1 (3), let. a), b), c) of Directive 96/71/EC	GD no. 337/2017- Methodological norms regarding the posting of workers on Romanian soil in the framework of the provision of services	ART. 10 (1) For inspection purposes the labour inspectors can demand the undertakings mentioned in Art.3(a) to present the A1 form, the provision of services contract signed by the posting undertaking and the beneficiary and if need be other relevant documents. (2) Documents mentioned at paragraph (1) can be demanded by the labour inspector during inspection visits to the undertaking mentioned in Art. 3 (b).	ART.15 GD no. 337/2017- Methodological norms regarding the posting of workers on Romanian soil the framework of the provision of services (1) Constitutes contravention and is sanction with a fine ranging from 5.000 lei up to 9.000 lei: h) the refusal of the user undertaking to present to the labour inspector, at his/her request the assignment contract signed with the TWA or the placement agency; i) the refusal of the beneficiary of the provisions of service to present the provisions of service contract signed with the undertaking set up in a MS or in Switzerland; j) the refusal of a legal representative in Romania of the undertaking mentioned in Art. 3 letter a) or the refusal of the designate a person to liaise with the competent authorities, to submit at their request the documentation need for inspection in regards to the working conditions laid down in Art. 6.
IV. Protection of rights, chain responsibility in subcontracting chains, access to information	Law no. 16/2017 regarding the posting of workers in the framework of the provision of services	ART.26 (7) For the purposes of the provisions of paragraph (6), it is forbidden for the employer to unilaterally modify the working relation or conditions, including firing of the posted worker who has started an administrative action or who has started legal process in order the impose the application of this law and after the final court decision with the exception of well augmented reasons and without any connection with the administrative action or to the complaint of the employee.	ART. 48 This is considered a contravention sanctioned with a fine ranging from 3.000 lei up to 100.000 lei breaching the provisions of Art.26(7).

Observation Note:

Labour inspector, wearing the badge and ID that proves their position have the following rights to give orders requiring measures to be taken where the employer does not observe the legal obligations (art. 19 (i) - Law no. 108/1999 on the set-up and organization of the Labour Inspection, republished with subsequent amendments.)

Law no. 108/1999
ART. 23(1) These constitute contraventions and are sanctioned with a fine raging form 5.000 lei up to 10.000 lei:
b) failing to comply, or only partially comply with the measures imposed by the labour inspector, within the deadline.