



## I. POSTING OF WORKERS OF UNDERTAKINGS ESTABLISHED IN A EU/EEA MEMBER STATE OR THE SWISS CONFEDERATION TO THE TERRITORY OF ROMANIA

### I.1 Which are the targeted situations?

The transnational posting of workers concerns the situations where an employer established in the territory of a Member State other than Romania or in the territory of the Swiss Confederation entrusts, according to the applicable law, a specific mission to its workers to be performed in Romania, being stipulated that once the mission has been fulfilled, the workers resume their activity in the undertaking with which they have concluded an individual employment contract.

This concerns the following situations:

- the posting of a worker to the territory of Romania, on account of and under the direction of the undertaking, under a contract concluded between the undertaking making the posting and the beneficiary of the provision of services that operates in the territory of Romania, provided there is an employment relationship, during the period of posting, between the worker and the undertaking making the posting;
- the posting of a worker to an establishment or an undertaking belonging to the group of undertakings located in the territory of Romania, provided there is an employment relationship, during the period of posting, between the worker and the undertaking making the posting;
- assigning a worker by a temporary work agency to a user undertaking established or operating in the territory of Romania, provided there is an employment relationship, during the period of posting, between that worker and the above-mentioned temporary work agency.

The employer established outside Romania must carry out a significant activity in its country of origin in order to send its workers as posted workers to Romania.

### I.2 Formalities specific to the posting

Undertakings established in the territory of a Member State other than Romania or in the territory of the Swiss Confederation which post workers to undertakings in the territory of Romania are required to submit a **notification** on the transnational posting of workers, in Romanian language, to the territorial labour inspectorate under whose jurisdiction they are going to operate within at least one working day before starting work.

- [See model of notification](#)
- [See the list of labour inspectorates](#)

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Failure to submit the notification to the territorial labour inspectorate prior to the posting is a contravention and shall be sanctioned by a fine from 5,000 lei to 9,000 lei according to the provisions of GD no. 337/2017 on the posting of workers in the framework of the transnational provision of services to the territory of Romania.

## I.3 Applicable rules

**Employers who post their workers to undertakings established in the territory of Romania are subject, during their posting, to the rules provided by Romanian law.**

Workers posted to the Romanian territory in the framework of the transnational provision of services shall benefit, irrespective of the law applicable to the employment relationship, from the working conditions provided by the Romanian legislation and / or from the collective labour agreement concluded at sectoral level (<http://dialogsocial.gov.ro/sector-de-activitate/>), regarding:

- maximum length of working time and minimum period of regular rest time;
- minimum period of paid annual holidays;
- the minimum wage applicable in Romania for the worker posted to the territory of Romania is the one stipulated by the Romanian legislation and/or the collective labour agreement concluded at sectoral level, extended to the entire sector of activity, according to the legal provisions, including compensation or payment for overtime;
- conditions of assignment of workers by temporary work agencies;
- health and safety at work:
- protective measures with regard to the conditions of employment applicable for pregnant women or those who have recently given birth, as well as for children and young people;
- equality of treatment between men and women and other provisions on non-discrimination.

## I.4 Administrative and enforcement measures applicable to undertakings that post workers to the territory of Romania

The Labour Inspection is the competent national authority to enforce, through its territorial labour inspectorates, compliance with the terms and conditions of employment by undertakings that post workers to the territory of Romania.

The Labour Inspection imposes administrative requirements and enforcement measures, in accordance with the European Union law, which include the following obligations:

- obligation of the undertaking to submit the territorial labour inspectorate in whose jurisdiction is to operate a notification, in Romanian, on the posting of its workers;
- obligation of the undertaking to hold and make available to labour inspectors, on their request, during the transnational posting, copies of the following documents:
  - employment contract or equivalent;
  - wages and proof of payment;
  - length of their working time and attendance book/register;
- obligation of the undertaking to provide, on the request of the Labour Inspection or the territorial labour inspectorates, the aforementioned documents for a period of 3 years after the end of the transnational posting period, within 20 working days from receipt of the request;

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- obligation to provide a translation into Romanian of the abovementioned documents;
- obligation to appoint a person to liaise with the national competent authorities and to send and receive documents and/or notices, if necessary.

## **NOTA BENE!**

Failure by undertakings posting workers to the territory of Romania to comply with the obligations stipulated above constitutes a contravention and is sanctioned by a fine from 5,000 lei to 9,000 lei, according to the provisions of GD no. 337/2017 on the posting of workers in the provision of transnational services to the territory of Romania.

## **I.5 Procedures for the submission of complaints**

Workers posted to the territory of Romania who consider that their rights have been violated with regard to the conditions of employment or that they have suffered losses or damages as a result of non-compliance with the provisions of this law may refer to the Labour Inspection and/or to the competent Romanian courts or to courts of judges from another State, under the existing international conventions in matters of judicial jurisdiction, and may lodge a complaint against their employer directly.

→ [See contact data of the Labour Inspection](#)

The aforementioned provisions are also applicable after the termination of the period of transnational posting to the territory of Romania, in compliance with the provisions of the Romanian legislation regarding the prescription periods or the deadlines for introducing legal actions / complaints / appeals lodged by Romanian workers.

Trade unions, associations, organizations and other legal entities which, according to the criteria laid down in the national law, have legitimate interests in observing the rights of transnational workers may initiate, on account of or in support of posted workers or of their employer and with their written consent, judicial or administrative proceedings, for the purpose of implementing this law.

## **I.6 The Labour Inspection - Liaison Office**

The Labour Inspection is the competent authority with liaison office responsibilities which ensures its obligation of administrative cooperation with the competent authorities of the Member States or the Swiss Confederation.

Information on legislation applicable to undertakings established in a Member State of the European Union or the European Economic Area, which within the framework of the transnational provision of services, post to the territory of Romania workers with whom they have established employment relationships may be obtained by contacting the persons assigned to the liaison office:

- Mrs. Daniela Mircea - labour inspector; e-mail: [daniela.mircea@inspectiamuncii.ro](mailto:daniela.mircea@inspectiamuncii.ro)
- Mrs. Mihaela Ilie - labour inspector; e-mail: [mihaela.ilie@inspectiamuncii.ro](mailto:mihaela.ilie@inspectiamuncii.ro)
- Mrs. Adina Fenichiu - labour inspector; e-mail: [adina.fenichiu@inspectiamuncii.ro](mailto:adina.fenichiu@inspectiamuncii.ro)

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