

Recent employment developments in Romania: fines for moral harassment at the workplace and work time reduction caused by COVID-19

Moral harassment at the workplace is sanctioned

As of 10 August 2020, the Law 167/2020 amending Government Emergency Ordinance 137/2000 on preventing and sanctioning all forms of discrimination and amending art. 6 of Law 202/2002 on equal treatment and chances between men and women ("**Law 167/2020**") has entered into force.

Law 167/2020 introduces for the first time in the Romanian legislation the concept of *moral harassment at the workplace*. Moreover, Law 167/2020 enables the competent authorities to apply sanctions and fines up to RON 200,000 to employers who are responsible of moral harassment at the workplace.

The concept of moral harassment at the workplace

Law 167/2020 expressly provides that moral harassment at the workplace represents any behaviour that, by its systematic nature, can harm the dignity, physical or mental integrity of an employee or group of employees, endangering their

work or degrading the work environment. Under Law 167/2020, stress and physical exhaustion are considered moral harassment at the workplace.

New obligations and sanctions for employers

The employer has the obligation to take any necessary measures to prevent and combat acts of moral harassment at the workplace, including by **providing in the internal regulation of disciplinary sanctions for employees who commit acts of moral harassment at the workplace**.

Failure to observe this legal obligation is sanctioned with an administrative fine between RON 30,000 and RON 50,000.

Moreover, it is forbidden for the employer to establish, in any form, internal rules or measures that determine or urge employees to commit acts of moral harassment at the workplace.

Failure to observe this legal obligation is sanctioned with an administrative fine

between RON 50,000 and RON 200,000.

In accordance with Law 167/2020, whether the court finds that an act of moral harassment has taken place at the workplace, it can:

- order the employer to take all necessary measures to cease any acts of moral harassment at the workplace regarding the harassed employee;
- order the reintegration at work of the harassed employee;
- order the employer to pay to the harassed employee a compensation in an amount equal to the equivalent of the salary rights he was deprived of;
- order the employer to pay the harassed employee compensatory and moral damages;
- order the employer to pay the harassed employee the costs of counselling for psychological recovery;
- order the employer to modify the disciplinary records of the employee.

COVID-19 – Working time can now be reduced by up to half

Considering the positive experience of other EU countries which have implemented flexibility in working relations, the Romanian Government adopted a new Government Emergency Ordinance 132/2020 on support measures for employees and employers in the context of the spread of SARS-CoV-2, as well as for stimulating employment growth ("**GEO 132/2020**").

GEO 132/2020 provides the possibility for employers to reduce the working time stipulated in the individual employment agreements up to 50% in case the employer's activity is reduced (the "**Decision**") due to the establishment of a Government enacted state of emergency, alert or siege (the "**Emergency**").

As a consequence, the employees affected by the Emergency and by the Decision benefit from a compensation of 75% of the difference between the gross basic salary stipulated in the individual employment agreement and the gross basic salary related to the hours actually worked after

the working time reduction, in addition to due salary rights, calculated for the time actually worked (the "**Compensation**").

The Compensation is paid out by the employer, to the employee, at the due salary date and afterwards, the employer may be reimbursed, subject to certain conditions, by the competent authority.

Compliance

The working time is reduced by the employer's Decision, for at least five (5) successive working days and the Decision will also include the working program for the whole month.

Before communicating the Decision to an employee, it must have been previously discussed with the employees' union or employees' representatives.

Under GEO 132/2020, the Decision can be applied, and the Compensation can be settled if the following cumulative conditions are met:

- the Decision affects at least 10% of the employees of an entity;
- the reduction of the activity is justified by: (i) a decrease of the turnover from the month prior to the

application of the Decision or, (ii) by a decrease of turnover of two months prior to the Decision, by at least 10% compared to similar months of the previous year.

Special provisions

During the months when the Decision is applicable, the employer cannot initiate collective dismissal procedures.

Granting bonuses, as well as other additions to the basic salary for the employer's management structure are paid after the Decision's application.

COVID-19 – financial support in case of telework

If the employer is carrying out its activity through telework, the employer can benefit from a financial support of RON 2,500 for each teleworker, amounts granted for purchasing packages of technological assets and services necessary for the development of the telework activity.

Secondary legislation regarding the procedure of obtaining financial support is expected to be adopted by the Ministry of Labour and Social Protection in ten days as of publication of GEO 132/2020.

This article does not deal with every topic or cover every matter it deals with. It is not intended to provide and does not represent legal advice.

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