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Labour Law and Employment Romania | 2023 Guide



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EMPLOYMENT CHARACTERISTICS

Employment contract types

There are more types of employment agreements in Romania, no matter if the individuals are residents or non-residents, of which we mention:



**Employment agreement
for indefinite period**



**Employment agreement
for definite period**

As a rule, the employment contract has to be concluded for an **unlimited duration**. The unlimited duration is a measure of protection for the employee.



By way of exception for project-based work, the individual employment contract may also be concluded **for a limited duration, under the terms expressly provided by the law**. maximum number of defined employment agreement is 3 successive ones, and the maximum period is 36 months.

Employment of residents

According to Article 13 of the Romanian Labour Code, the minimum age required to be employed is 16 years. A 15-year-old individual can be hired for certain activities which will not affect his health or professional development and only with the prior consent of the parents or legal representatives.



The employment of an individual under the age of 15 is forbidden.

The future employee must present to the employer documents as:

-  the study diploma(s)
-  medical check
-  identity card
-  birth certificate
-  the afferent documentation regarding professional specialization (if the job profile implies such special authorization or qualification)

For some positions specified in the National Classification of Positions in Romania are required superior studies and it is not allowed to hire an individual without the necessary qualification.

Employment of non-residents (EU and non-EU)

The non-residents that come from countries out of the UE are usually employed with agreements concluded for indefinite period, because they need to prove stability and the fact that they will be able to support themselves during the term they will live in our country.

To employ this type of non-resident, the Romanian employer needs to go through an entire procedure. Firstly, he/she must obtain the approval of the Romanian Immigration Office, and after this stage, the employee may apply for the staying permit.

For UE citizens it is simpler to conclude an employment agreement in Romania. If the period of their staying in Romania exceeds 180 days in one year, they have to register at the Romanian Immigration Office.

After the conclusion of the employment agreement, all employees (residents, non-residents from UE or third countries) have the same rights and obligations in relation with the Romanian employer.

The employment agenda brings complex obligations. Take advantage of our:

- Labour law and employment support
- Preparation of A1 application
- Consultancy related to GDPR and personal data protection

Avoid the risk of non-compliance



EMPLOYMENT CONTRACT MINIMUMS

Labour contract and required documentation

The Labour Code requires that an individual employment contract must be terminated *in written form* and in *Romanian language*.

The minimum elements that an individual employment contract must contain are:

-  the identification details of the employer and employee;
-  contract duration;
-  salary, periodicity of payment and method of payment;
-  vacation days and other days off entitlement;
-  the duration and conditions of the probationary period, if any;
-  notice period.

The contract may also specify provisions such as confidentiality, copyrights (in IT area) etc.

The labour contract can be concluded with wet ink signature. The parties may choose to use the advanced electronic signature or the qualified electronic signature when concluding, amending, suspending or, as the case may be, terminating the individual employment contract. When concluding, amending, suspending or, as the case may be, terminating the labour contract, the parties must use the same type of signature, namely the wet ink signature or the electronic signature.

Minimum requirements

The medical check before concluding the employment contract is mandatory. **If this obligation is not met, the agreement will become null.**

The current minimum gross salary/month, valid starting with January 2023, is RON 3,000. The employers cannot pay the employees with the minimum salary more than 2 years. As an exemption, for the employees from construction field, the minimum gross salary is RON 4,000 and special provisions are applied based on the Romanian legislation in force.



The employee is entitled, according to the provisions of the Labour Code, to a minimum of **20 vacation days per year (working days, not calendar days).**

Trial/probationary period

The probation period depends on the employee's position and the duration of the individual employment contract. In the case of contracts concluded for an indefinite period, it can be no more than:



90 calendar days
for execution position



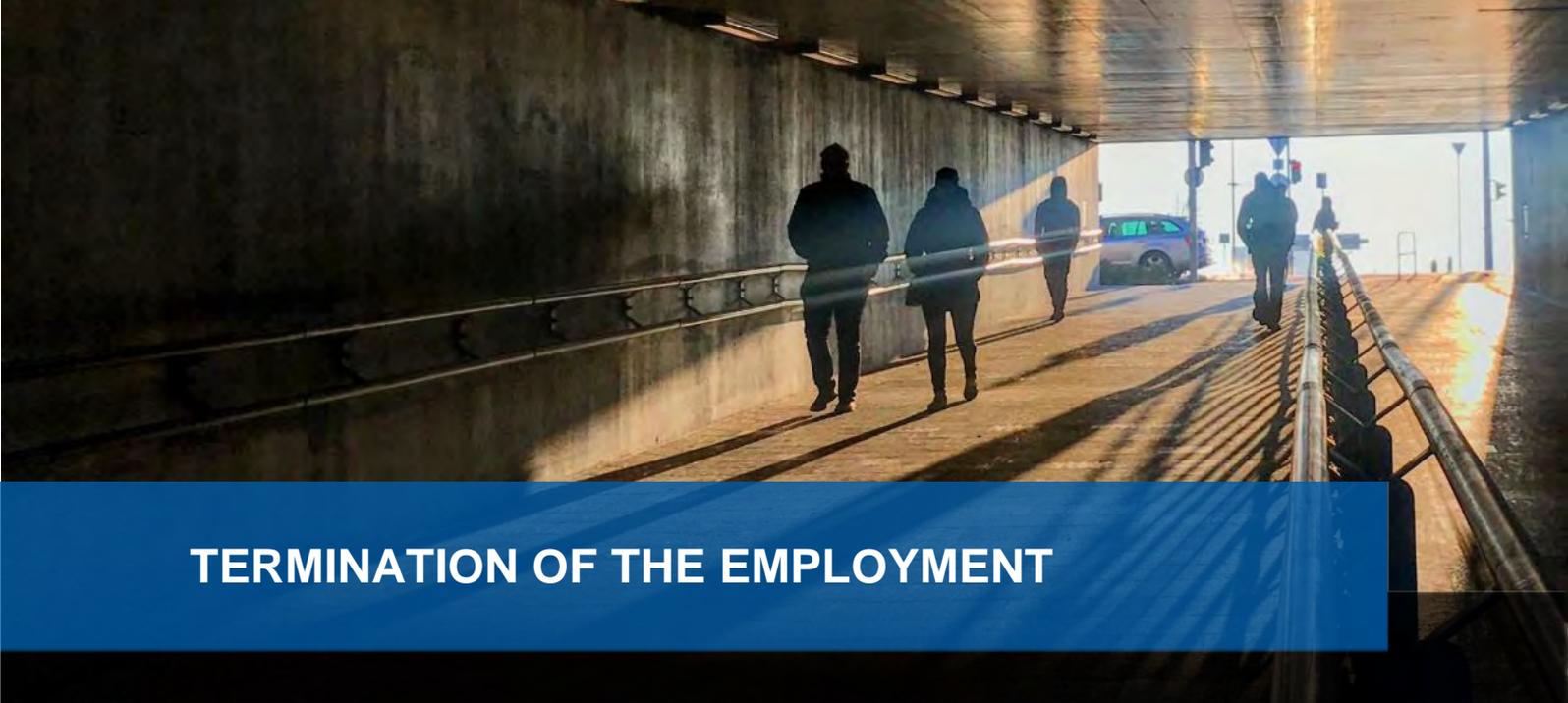
120 calendar days
for management position

Trial/probationary periods for short term contracts may be agreed upon as long as they do not surpass:

- 5 workdays for a contract with a duration shorter than 3 months;
- 15 workdays for a contract with a duration of 3-6 months;
- 30 workdays for a contract with a duration longer than 6 months;
- 45 workdays for a contract with a duration longer than 6 months for employees occupying a management position.



Employment contract preparation
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TERMINATION OF THE EMPLOYMENT

Cases

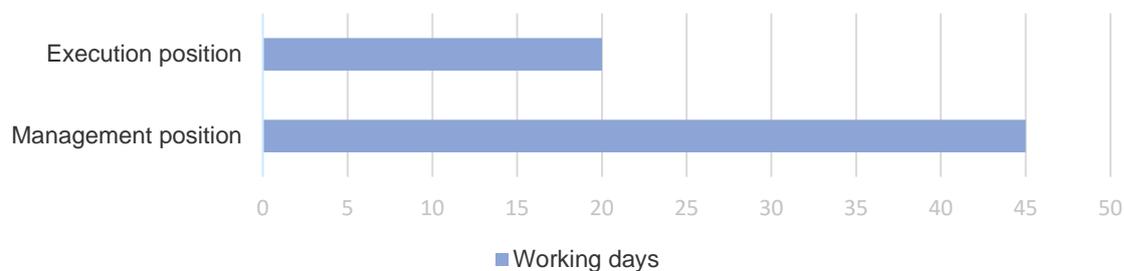
A Romanian employment contract is terminated when:

- The contract ends (for contracts with definite period);
- There is an agreement between the two parties;
- The employee chooses to terminate the contract;
- When the employer chooses to terminate the contract (dismissal) in the following cases:
 - reasons related to the worker's actions or non-actions (disciplinary dismissal);
 - reasons unrelated to worker's performance;
 - reasons related to the restructuring of the positions chart;
 - reasons related to the mental or physical health of the employee (this state must be decided through medical expertise).

Notice period

The employment contract can be terminated by notice given by each party. The termination notice period depends on the position – management or execution.

The notice period in case of termination upon employee's request is:



SOCIAL CONTRIBUTIONS AND INCOME TAX

The current minimum gross salary/month, valid starting with January 2023, is RON 3,000.

As an exemption, for the employees from construction field, the minimum gross salary is RON 4,000.*

The employer is obliged to pay monthly contributions and income tax for its employees. The company also has a set of monthly social contributions due on the 25th of the following month for which the payroll is processed.

The actual percentage of contributions and income tax are presented in the table below:

Contributions and income tax	Employee	Employer
Income tax	10%	N/A
Health insurance contribution	10%	N/A
Social (Pension) insurance contribution	25%	N/A
Work insurance contribution	N/A	2.25%
TOTAL	45 %	2.25 %

**For the construction field, starting with 2019, there are special provisions applied regarding due taxes and exemptions by case.*



Calculate the indicative net salary using our 2022 payroll calculator



WORKING TIME AND VACATION

40 hours/week

The working day has 8 working hours and the week 5 working days (40 hours per week). The rule is that the maximum working time for a week cannot surpass 48 hours per week, including overtime. For overtime work, the employee is entitled to additional paid time off, and if compensation through paid time off is not possible, the additional work will be paid to the employee by adding a bonus to the salary corresponding to its duration.

20 days

Employees are entitled, according to provisions of the Labour Code, to a minimum of **20 vacation days per year (working day, not calendar day)**.

For medical reasons, the employee is entitled to a **medical leave allowance in amount of 100% or 75%** of the average 6 months gross salary prior to illness period, depending on the cause of the incapacity.

The employer is obliged to pay the remuneration for the first 5 days of incapacity from the medical leave period. The rest of the period is paid by the Romanian state; however, the employer shall credit the state with the amount paid to the employee. In maximum 90 calendar days, the employer should file a compensation request for above amounts to Romanian Health Insurance House.

In cases of special family events, the employees have the right to paid days off. These days are stipulated by law, collective labour agreement or Internal Regulation of the company.

In order to solve special personal situations, the employees have also the right to ask for unpaid days off.



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MOST COMMON EMPLOYEE BENEFITS

The most common benefits for employees in Romania are:



meal tickets (meal vouchers)



laptop



private healthcare



travel expenses reimbursed



additional vacation days



gift tickets



mobile phone



gifts for children on several occasions
(June 1st, Christmas)



teambuilding programs

Rules for granting meal tickets (meal vouchers):

- Meal tickets are optional benefits in kind, thus the company decides if they will be granted or not;
- The nominal value of a meal ticket cannot exceed RON 30. The value is decided by the employer;
- Meal tickets are deductible from the calculation of the tax on profit and exempt from the social contributions by both employer and employee;
- Meal tickets are taxed by the quota of 10% corresponding to the tax on salary income, payable by the employee;
- Are accorded only for worked days – 1 meal ticket/day;
- Are not accorded for delegation days with per diem and absence days (vacation, sick leave, labour contract suspension etc.);
- Meal tickets can be given on paper or electronic support/card.

All the benefits are granted by the employer to the employees through provisions stipulated in the labour contract, the collective contract, Internal Regulation or through internal decision.



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TEMPORARY WORK

Temporary agencies

The employment by temporary employment agency is an activity performed by a temporary employee who, at the direction of the temporary employment agency, carries out an activity for the benefit of a user.

A temporary employee is a person working for an employer – temporary employment agency and made available to a user for the duration necessary to perform certain, precise and temporary tasks.

A temporary employment agency is a company authorized by the Ministry of Labour and Social Solidarity that temporarily provides the user with skilled and/or unskilled personnel employed and paid for this purpose.

24 months

A temporary position must not surpass an initial duration of 24 months and can be renewed such that the total duration does not surpass 36 months.

Delegation and posting within the labour contract

According to the Romanian Labour Code, the place of the work may be unilaterally modified by the employer by delegating or posting the employee to another workplace than the one provided in the individual employment contract. During the delegation or posting, the employee shall retain his position and every right set in the individual employment contract.

Employee delegation

The delegation is the temporary exercise by the employee, on employer's direction, of works or tasks similar to his usual tasks, outside his workplace. **A delegation may be directed for a period of maximum 60 days and may be extended, with the agreement of the employee, with maximum 60 days.**

A delegated employee shall have the right to payment of transport and accommodation expenses, and to a delegation benefit, under the terms provided for in the law or the applicable collective labour agreement.

Posting of employees

Posting is an act by which the employer directs the temporary change of the workplace to another employer, for the performance of certain works in its interest. By way of exception, the type of work may be changed during the posting, but only with the written agreement of the employee.

The posting may be directed for a period of maximum one year. By way of exception, the period of the posting may be extended every six months, with the agreement of both parties, for objective reasons that require the presence of the employee with the employer where the posting was directed. An employee may refuse the posting directed by his employer only by way of exception and for duly justified personal reasons.

The rights due to a posted employee shall be provided by the employer where the posting was directed. During the posting, an employee shall enjoy the rights more favourable to him/her – either the rights with the employer directing the posting, or the rights with the employer he/she is posted to.

The employer providing the posting must take all measures necessary so that the employer where the posting was directed fulfils completely and in good time all obligations towards the posted employee.

Cross-border posting

The cross-border posting is regulated by several European Directives, including the Directive 96/71/EC and was transposed in Romania by Law no. 16/2017.

An essential element of distinction between the two concepts is on the effects of posting towards labour contract. In the case of posting governed by the Labour Code, there is a suspension of the labour contract during posting (which implicitly assumes the suspension of payment of wages by employer).

In case of cross-border posting, the labour contract with employer that posts is actively maintained. In this case, the salary will remain in pay at the seconding employer.



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OVERVIEW OF APPLICABLE LEGISLATION

- Romanian Labour Code (Law 53/2003);
- Law no. 16/2017 regarding secondment of the employees;
- The Order of the Ministry of employment no. 2171/2022 for the approval of the framework model of the individual employment contract; Law no. 227/2015 regarding the Fiscal Code;
- Law no. 202/2002 regarding the equality of chances between women and men;
- GD no. 1447/2022 for the establishment of the minimum gross basic salary per country guaranteed in payment.

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Accace Romania was founded in Bucharest in 2007. Understanding the needs of our clients to have all internal processes managed under one umbrella, we have developed into a proactive consultancy and outsourcing partner who bridges the gap between needs and solutions, by combining smart and streamlined technology with a holistic approach. Today, we offer accounting, reporting, payroll, HR administration services, tax and corporate advisory and legal consultancy through an affiliated law firm. At international level, we are engaging over 800 specialists who have vast experience in handling small to large scale multi-country BPO projects for over 2,000 clients from various industries.

ABOUT ACCACE GROUP

Accace is a proactive consultancy and outsourcing partner who bridges the gap between needs and solutions. Combining smart and streamlined technology with a holistic approach, we provide an all-round care to clients and consider their matters as ours. With over 800 experts and more than 2,000 customers, we have vast experience with facilitating the smooth operation and growth of small to large-scale, global businesses.

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