



EU Posted Worker Directive

A new EU Posted Worker Directive came into effect on **30th July 2020**. All EU countries had until that date to transpose this directive in their national law. Here is a brief overview of the Posted Workers Notification in Romania.

Important points to remember :

1. Targeted situations while posting workers
2. Formalities specific to the posting
3. Applicable rules
4. Administrative and enforcement measures applicable to undertakings that post workers to the territory of Romania

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Targeted situations while posting workers

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.

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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.

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.

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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;

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- 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 nondiscrimination.

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;
- 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.

NB: 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.

Source:

<https://www.inspectiamuncii.ro/documents/66402/1518590Detasarea+transnationala+pe+teritoriul+Romaniei-en.pdf/2912c46e-9468-48db-94b8-0d8040aa046e>

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