



# "MONITORUL OFICIAL" THE OFFICIAL GAZETTE OF ROMANIA

Year XIV - No. 103

**P A R T I - LAWS, DECREES, DECISIONS AND OTHER DOCUMENTS**

Wednesday, February 6<sup>th</sup>, 2002

## **LAW**

**on the unemployment insurance system and employment stimulation**

### **CHAPTER I**

#### **GENERAL PROVISIONS**

- Art.1** In Romania, the right to freely choose an occupation and a job, as well as the right to unemployment insurance are guaranteed to each and every person.
- Art.2** The provisions of this law regulate the measures for implementing the strategies and policies worked-out with a view to protecting the individuals against the risk of unemployment, ensuring a high level of employment and adapting the labour force to the requirements of the labour market.
- Art.3** The measures provided for in this law have the purpose to accomplish the following objectives on the labour market:
- a) to prevent unemployment and to fight against its social effects;
  - b) to integrate or re-integrate the jobseekers into the labour market;
  - c) to support the employment of persons belonging to categories disadvantaged on the labour market;
  - d) to ensure equal opportunities on the labour market;
  - e) to stimulate the unemployed to take-up employment;
  - f) to stimulate the employers to hire jobseekers;
  - g) to improve the structure of employment by economic branches and geographical areas;
  - h) to increase the labour force mobility in view of the structural changes the national economy is undergoing;
  - i) to provide protection within the framework of the unemployment insurance system.
- Art.4 (1)** The provisions of this law shall be implemented without any discrimination based on age, gender, race, nationality, language, ethnic origin, social category, beliefs, and political or religious affiliation.
- (2)** The special measures and entitlements granted by this law to persons belonging to disadvantaged categories do not represent discrimination in

the sense of the provisions of par.(1).

## CHAPTER II LABOUR MARKET CONCEPTS

### SECTION 1

#### *Terms and concepts used*

#### **Art.5**

For the purpose of this law, the terms and concepts below have the following meaning:

- I. *employer* - the legal or natural person with the registered office, respectively the residence, in Romania, or the branch office, subsidiary, agency or appointed representative in Romania of a foreign legal person with the office registered abroad, authorised according to the law, that hires legally labour force;
- II. *job* - the framework for performing an activity that generates an income and in which the legal working or public service relations are materialised;
- III. *jobseeker* – the person registered with the National Agency for Employment or with another employment service provider, authorised according to the law, in order to receive support in taking-up employment;
- IV. *unemployed* - the person who cumulatively meets the following requirements:
  - a) is in search of a job since the age of at least 16 years old until he/she meets the requirements for retirement;
  - b) is in good health and bodily and mentally able to take-up employment;
  - c) does not have a job, does not earn any income or the income generated from activities authorised according to the law is lower than the unemployment benefit to which he/she would be entitled according to this law;
  - d) is ready to start working as soon as a job is to be found;
  - e) is registered with the National Agency for Employment or with another employment service provider that operates according to the law.
- V. *contribution period* – the period of time during which the contribution for unemployment insurance has been paid both by the insured and by the employer or, as the case may be, only by the insured person;
- VI. *insured person* – the natural person who earns an income, according to the law, and is insured against the risk of losing the job by way of paying the contribution for unemployment insurance;
- VII. *unemployment benefit* – a partial compensation of the income of the insured person following job-loss, or of the income of graduates of educational institutions or of military personnel who completed their compulsory military service and were not able to take-up employment;
- VIII. *employment stimulation measures* – measures intended to provide support for jobseekers and, in particular, for the unemployed to acquire the status of employed person.

## SECTION 2

### Labour market statistical indicators

- Art.6 (1)** The labour market evolutions are monitored, at national and territorial level, mainly by using a system of statistical indicators for:
- a) the labour force resources;
  - b) the active population;
  - c) the employed population;
  - d) the unemployed;
  - e) the vacancies;
  - f) the unemployment benefit;
  - g) the population leaving the unemployed by taking-up employment, as well as by leaving the labour market;
  - h) the unemployment rate.
- (2)** The system of statistical indicators and the methodology for their calculation are established by the National Institute for Statistics, in co-operation with the Ministry of Labour and Social Solidarity.
- Art.7 (1)** Based upon the unemployed primary registration documents, on the notifications from the authorised employment service providers and from the employers, concerning the available vacancies, the National Agency for Employment calculates the statistical indicators provided for in art.6 par.(1), d)-h), as well as other labour market specific indicators.
- (2)** The National Agency for Employment works-out, as needed, analyses, studies and special statistical researches on the situation and evolution of the unemployment and employment, at national and territorial level, by fields of activity.
- Art.8 (1)** In order to carry-out its attributions provided for in art.7, the National Agency for Employment will ensure the appropriate material, organisational and management conditions, work out and manage the primary documents' system, set up and run its own database.
- (2)** In order to carry-out the analyses, studies and special statistical researches provided for in art.7 par.(2), the National Agency for Employment may also contract specialised service providers.
- (3)** The methodology for carrying-out special statistical researches shall be endorsed, according to the law, by the National Institute for Statistics.
- Art.9 (1)** The National Agency for Employment has the obligation to make public the labour market statistical indicators according to a timeframe to be established at the time of establishing the system of indicators provided for in art.6 par.(1).
- (2)** The National Agency for Employment shall provide the Ministry of Labour and Social Solidarity with the statistical indicators, the results of the special statistical researches, analyses and statistical studies.
- Art.10 (1)** The employers have the obligation to notify the county and Bucharest agencies for employment, called hereinafter *employment agencies*, within the area of which their registered office or their residence, respectively is located, all the available vacancies within 5 working days since the moment they become a vacancy.
- (2)** The accredited employment service providers have the obligation to provide the employment agencies within the area of which their registered office is located monthly data on the number of unemployed who benefited from job-

matching services and who have taken-up employment.

**Art.11** With a view to working-out strategies and policies, as well as to adopting labour market measures, at national level, by fields of activity, economic branches, sectors or areas, the Ministry of Labour and Social Solidarity will initiate regulations on the employers' obligation to submit the necessary information on the labour force.

**Art.12** For the purpose of this law, the National Institute for Statistics has the following attributions:

- a) calculates the statistical indicators provided for in art.6 par.(1), a)-c);
- b) provides the National Agency for Employment with the labour force data resulting from its own statistical researches;
- c) works-out, in co-operation with the Ministry of Labour and Social Solidarity, the system of labour market statistical indicators, as well as the methodology for their calculation;
- d) gives its opinion on the special statistical surveys conducted by the National Agency for Employment or by the Ministry of Labour and Social Solidarity.

### SECTION 3

#### *Classification of the occupations*

**Art.13** The *Classification of the occupations in Romania* is the identification, structuring and coding system for the occupations in the economy, worked-out by the Ministry of Labour and Social Solidarity in co-operation with the National Institute for Statistics, with other relevant ministries and public institutions, and is approved by way of Decision of the Government.

**Art.14 (1)** The modification of the contents of the *Classification of the occupations in Romania* is approved by way of Decision of the Government, following a proposal of the Ministry of Labour and Social Solidarity, and with the opinion of the National Institute for Statistics.

**(2)** The introduction of new occupations in the *Classification of the occupations in Romania* is approved, upon request from those interested or based on special regulations, by way of Order of the Minister of Labour and Social Solidarity, published in the Official Gazette of Romania, Part I.

**Art.15** The use of the *Classification of the occupations in Romania* is compulsory when filling official documents.

### SECTION 4

#### *Categories of beneficiaries*

**Art.16** Beneficiaries of this law are the jobseekers who are in one of the following situations:

- a) have become unemployed according to the provisions in art.5, IV, c);
- b) were not able to take-up employment after graduating from an educational institution or after completing the compulsory military service;
- c) have a job but, due to various reasons, would like to change it;
- d) have obtained a refugee status or other form of international protection, according to the law;

- e) foreigners who have been employed or have earned an income in Romania, according to the law;
- f) have not been able to take-up employment following repatriation or release from prison.

**Art.17 (1)**

The unemployed provided for in art.16, a), are individuals who may be in one of the following situations:

- a) their individual labour contract has been terminated for reasons they cannot be made responsible for;
- b) their public service relations have been terminated for reasons they cannot be made responsible for;
- c) the mandate for which they have been either appointed or elected has ended, if they were not previously employed or if it is no longer possible to resume their activity due to the fact that the employer closed down his business;
- d) military staff hired with a contract which has been terminated before completing the period for which it had been concluded;
- e) their working relations as a cooperative member have been terminated for reasons they cannot be made responsible for;
- f) they have concluded an unemployment insurance contract and do not earn any income or the income they earn from activities authorised according to the law is lower than the unemployment benefit they would have been entitled to according to the law;
- g) have stopped their activity as a consequence of retirement for disability reasons and, in case of recovery of their working capacity, may no longer take-up employment because the employer closed down his business or due to the lack of a vacancy having the same nature as the position they previously had;
- h) upon end of the paid leave for child care until he/she reaches 2, respectively 3 years old in the case of a disabled child, according to the law, it was not possible to resume activity because the employer closed down his business;
- i) were unable to reintegrate on the labour market after the end of the active military service, due to the final termination of their employer's activity;
- j) their reinsertion into work, as ordered by a final legal decision, is no longer possible within the undertakings where they have been previously employed because their activity was closed down or within the undertakings that have taken-over their patrimony;
- k) their activity, performed exclusively based upon a civil convention, has been terminated.

**(2)** The persons who find themselves in the situations mentioned under art.16, b), are considered unemployed if they meet the following conditions:

- a) are graduates of educational institutions, having at least 18 years old, and within 60 days from graduation could not find a job according to their vocational training;
- b) are graduates of special schools for disabled people or of educational institutions, having 16 years old and, and for justified reasons, have no legal tutor or their legal tutors turned out not to be able to fulfil the legal obligation for providing support to minor children;

- c) people who, before completing the compulsory military service, had no job and within 30 days from their discharge were not able to take-up employment.

## **CHAPTER III UNEMPLOYMENT INSURANCE SYSTEM**

### *SECTION 1 Categories of insured people*

- Art.18 (1)** Under the unemployment insurance system, are insured, according to this law, natural persons, called hereinafter insured persons.
- (2)** The insured persons may be:
- a) Romanian citizens who are employed or earn incomes in Romania, according to the law;
  - b) Romanian citizens working abroad, according to the law;
  - c) foreigners who, during a period of time when they have their domicile or residence in Romania, are employed or earn an income, according to the law.
- (3)** The insured persons have the obligation to pay their unemployment insurance contribution and are entitled to unemployment benefit, according to this law.
- Art.19** The following persons are compulsory covered by the unemployment insurance system as a consequence of the law:
- a) persons who perform activities based upon an individual labour contract or persons who perform activities based exclusively upon a civil convention for service providing and earn a gross income during a calendar year equivalent to 9 minimum economy-wide gross wages;
  - b) civil servants and other persons who perform activities based upon an appointment document;
  - c) people who perform activities in elected positions or are appointed within the executive, legislative or judicial authority, during their mandate;
  - d) military staff employed with a contract;
  - e) people who have working relations as co-operative members;
  - f) other persons who earn an income from activities performed according to the law and who do not find themselves under any of the situations mentioned under a)-e).
- Art.20** The following persons can be insured against unemployment, according to this law:
- a) sole associate, associates;
  - b) administrators who have concluded contracts according to the law;
  - c) persons authorised to perform independent activities as self-employed;
  - d) members of family associations;
  - e) Romanian citizens working abroad, according to the law;
  - f) other persons who earn an income from activities performed according to the law and who do not find themselves into any of the situations mentioned under a)-e).
- Art.21** The employers where the persons provided for in art.19 perform their activity

have the obligation to submit to the employment agency within the area of which their registered office or residence is located, within 20 calendar days after the end of the month for which contributions are due, the monthly declaration concerning the payment obligations to the unemployment insurance fund and the proof of the related payment.

- Art.22 (1)** The persons provided for in art.20 who are at least 18 years old and can conclude an unemployment insurance contract with the employment agency within the area of which their domicile or, where appropriate, residence is located.
- (2) The monthly income for which the persons mentioned in art. 20 are insured cannot be lower than the minimum economy-wide gross wage.

## SECTION 2

### *Unemployment Insurance Fund Budget*

- Art.23 (1)** The budget of the Unemployment Insurance Fund includes the revenues and expenditures of the unemployment insurance system.
- (2) The Ministry of Labour and Social Solidarity works-out the annual draft budget for the Unemployment Insurance Fund based upon the proposals of the National Agency for Employment.
- (3) The budget of the Unemployment Insurance Fund is approved by the Law on the State Social Insurance Budget.
- Art.24 (1)** The revenues of the Unemployment Insurance Fund budget consist of:
- contributions by the employers and legal persons assimilated to employers, according to this law, where the insured persons mentioned in art. 19 b)-e) perform their activity;
  - individual contributions by the persons mentioned in art. 19;
  - contributions due by the persons who conclude unemployment insurance contracts;
  - revenues from other sources, including foreign funding.
- (2) If the sources mentioned in par. (1) do not cover the expenditures the budget deficit will be covered by subsidies from the State budget.
- Art.25 (1)** The resources of the Unemployment Insurance Fund budget are collected and spent through the State Treasury.
- (2) The remaining amounts available at the end of the year in the Unemployment Insurance Fund will be carried over to the next year and used for the same purpose.
- Art.26 (1)** The employers have the obligation to pay a monthly contribution to the Unemployment Insurance Fund representing 5% of the monthly gross wage bill for the insured people provided for in art.19.
- (2) The employers who conclude civil conventions for service delivering with natural persons in order to perform certain activities have no obligation to contribute to the Unemployment Insurance Fund in relation to the cash entitlements paid to them from the wage fund if they have also concluded an individual labour contract.
- Art.27** The employers have the obligation to keep and transfer every month the individual contribution to the Unemployment Insurance Fund representing a 1% share of the basic monthly gross wage for the insured people provided

for in art. 19 a)-d) or, in the case of the insured persons provided for in art. 19 e), of the monthly earned gross income.

**Art.28** The persons insured based upon the unemployment insurance contract provided for in art. 20 have the obligation to pay a monthly contribution to the Unemployment Insurance Fund representing a 6% share of the monthly income declared in the unemployment insurance contract.

**Art.29** Depending on the resources needed in order to cover the expenditures of the Unemployment Insurance Fund budget, the level of the contributions provided for in art. 26-28 can be modified by the Law on the State Social Insurance Budget.

**Art.30** The revenues from other sources of the Unemployment Insurance Fund mainly consist of interests, penalties for delayed payment of contributions, loans paid back according to the law, taxes charged by the National Agency for Employment for vocational training activities and for accrediting the employment services providers, penalties, fines and any other amounts collected to the Unemployment Insurance Fund according to the law.

**Art.31 (1)** The deadline for the payment of the contributions to the Unemployment Insurance Fund is, as the case may be, maximum 5 days from:

- a) the date established for the payment of wage entitlements of the co-operative members for the current month in the case of employers who pay these entitlements once a month;
- b) the date established for the second instalment wage in the case of employers who pay the wages in instalments;
- c) the date established under the unemployment insurance contract.

**(2)** Delay penalties are charged for the contributions, which are not paid before the deadlines mentioned in par. (1) in accordance with the legal regulations on the execution of budgetary debts.

**Art.32 (1)** If the contributions to the Unemployment Insurance Fund or the penalties for delayed payments and other penalties are not paid, the National Agency for Employment will start implementing forced execution measures provided for by the law.

**(2)** The recovery of the arrears from contributions and penalties can also be made by way of compensations in assets belonging to the patrimony of the debtors, evaluated by institutions authorised according to the law, provided they are needed for the functioning of the National Agency for Employment and are included in its investment programme.

**Art.33 (1)** The following expenditures are mainly covered from the financial resources collected under the Unemployment Insurance Fund budget:

- a) unemployment benefits;
- b) the State social insurance contributions and the health social insurance contributions for people receiving unemployment benefits, according to the law;
- c) severance payments granted according to the law;
- d) taxes, commissions and other expenditures generated by the payments mentioned under a)-c);
- e) financing measures for employment stimulation and measures for fighting unemployment;
- f) financing vocational training services for the jobseekers provided for in art. 16 a), b), d) and f);
- g) financing the labour market surveys, reports and analyses ordered by the



- National Committee for Employment Promotion and the National Agency for Employment to specialised institutions;
- h) the organisation and functioning of the National Agency for Employment, including the execution of investment objectives, endowments and other expenditures with a capital expenditure nature, within the limits established by the law;
  - i) participation in the activity of international organisations, including payment of membership fees;
  - j) implementation of measures with a view to recovering arrears;
  - k) co-financing of certain projects for modernising the employment and vocational training services based upon international agreements;
  - l) co-financing of certain programmes for employment stimulation;
  - m) reimbursement of loans contracted according to the law, as well as related interests and commissions;
  - n) other expenditures provided for in the legislation in force.
- (2)** The expenditure level of the Unemployment Insurance Fund budget is established by the Ministry of Labour and Social Solidarity, following the proposal of the National Agency for Employment, depending on the social indicators established on the basis of analyses, surveys and forecasts concerning the labour market evolutions.

### *SECTION 3*

#### *Unemployment benefits*

- Art.34 (1)** The unemployed provided for in art. 17 par. (1) shall receive unemployment benefit if they meet simultaneously the following conditions:
- a) have completed a contribution period of minimum 12 months during the last 24 months prior to the registration of their application;
  - b) do not earn any income or earn from legally authorised activities incomes which are lower than the unemployment benefit;
  - c) do not meet the requirements for retirement, according to the law;
  - d) are registered with the employment agencies within the area of which they domicile or residence, respectively is located, if they had their last job or they earned incomes in that locality.
- (2)** The period of time when the employer did not pay the contribution to the Unemployment Insurance Fund and is under forced execution, judicial re-organisation, bankruptcy, operational closure, dissolution, liquidation procedure or did not pay the contribution for force majeure reasons will be also considered a contribution period.
- (3)** The unemployed mentioned in art. 17 par. (2) are entitled to unemployment benefit if they meet simultaneously the following conditions:
- a) are registered with the employment agencies within the area of which their domicile or residence is located;
  - b) do not earn any income or earn from legally authorised activities incomes which are lower than the unemployment benefit;
  - c) do not meet the requirements for retirement, according to the law.
- Art.35** For the persons mentioned in art. 17 par. (1) g)-j) the 12-month minimum contribution period is calculated, where appropriate, as follows:
- a) by cumulating the insurance period prior to the disability retirement date with the insurance period completed after resuming the activity if the

disability period does not exceed 12 months and if they took-up employment or concluded an unemployment insurance contract within 60 days from the end of the reason they had retired for;

- b) by cumulating the insurance period prior to the date of taking the child care leave until the child reaches the age of 2 or 3 years old in the case of children with disabilities, respectively if they took-up employment or concluded an unemployment insurance contract within 60 days from the end of the leave;
- c) by cumulating the insurance period prior to the date of enrolment with the insurance period completed after resuming the activity, if they took-up employment or concluded an unemployment insurance contract within 60 days from the date of ending the military service;
- d) by cumulating the insurance period prior to the cease of activity with the insurance period completed after resuming the activity established by a legal decision if the suspension period of activity does not exceed 12 months and if they took-up employment or concluded an unemployment insurance contract within 60 days from the date when the legal decision becomes final.

**Art.36 (1)** The length in service recognised for the establishment of the unemployment entitlements stipulated by the Law no. 1/1991 on the social protection of the unemployed and their professional reintegration, republished, with subsequent amendments, until the date of entering into force of this law is assimilated with the contribution period.

- (2) The proof of the length in service as stipulated in par. (1) is made with the workbook or any other documents according to the law.
- (3) The contribution period completed prior to the entering into force of this law is certified by the employment agencies.

**Art.37 (1)** The contribution period is the period during which the employees or, where appropriate, the employers have paid unemployment contributions under the unemployment insurance system in Romania, as well as in other countries, under the conditions regulated by international agreements and conventions which Romania is a party to.

- (2) The entitlements due under the unemployment insurance system in Romania can be transferred into the countries where the insured persons establish their domicile or residence, under the conditions regulated by international agreements and conventions, which Romania is a party to.
- (3) The unemployment benefits related to the entitlements stipulated in par. (2) can be transferred to other countries under the conditions regulated by international agreements and conventions which Romania is a party to, in the currency of the respective countries or in another currency agreed upon.

**Art.38 (1)** The unemployment benefit is granted upon request to the persons provided for in art. 17, where appropriate, from the date of:

- a) termination of the individual labour contract;
- b) termination of the public service relations;
- c) end of the mandate for which they have been appointed or elected;
- d) termination of the contract of military staff hired with a contract;
- e) termination of co-operative member status;
- f) termination of the unemployment insurance contract;
- g) end of the reason for which they were retired;
- h) end of the child care leave granted until the child reaches the age of 2 or

3 years old, respectively;

- i) end of the compulsory military service;
  - j) the legal decision becoming final;
  - k) cease of the activity performed exclusively upon a civil convention basis;
  - l) expiration of the 60-day period stipulated in art. 17, par. (2) a);
  - m) graduation, for the cases stipulated in art. 17, par. (2), b);
  - n) expiration of the 30-day period stipulated in art. 17, par. (2) c);
- (2) The unemployment benefit is granted from the date stipulated in par. (1) if the application is registered with the employment agency within 30 days from that date.
- (3) If the application is registered after the 30-day period expired but not later than 12 months from the date stipulated in par. (1), the unemployment benefit is granted starting from the date of registering the application.
- (4) The maximum 12-month period stipulated in par. (3) is the deadline for losing the rights.

**Art.39 (1)** The unemployment benefit is granted to the unemployed people stipulated in art. 17 par. (1) for periods of time established differently according to their contribution period, as follows:

- a) 6 months for a contribution period up to 5 years but not lower than 1 year;
  - b) 9 months for a contribution period from 5 to 10 years;
  - c) 12 months for a contribution period higher than 10 years.
- (2) The amount of the unemployment benefit stipulated in par. (1) is a tax-free monthly fixed amount equal to 75% of the minimum economy-wide basic gross wage in force at the date of its determination.

**Art.40 (1)** The unemployment benefit is granted to the unemployed persons stipulated in art. 17 par. (2) for a 6-month period and is a tax-free monthly fixed amount equal to 50% of the minimum economy-wide basic gross wage in force at the date of its determination.

- (2) The unemployment benefit stipulated in par. (1) is granted to the unemployed people provided for in art. 17 par. (2) a) and b) only once for each type of education graduated.

**Art.41 (1)** The persons who receive unemployment benefits have the following obligations:

- a) to come monthly, according to a schedule or anytime they are requested, to the employment agency where they are registered in order to receive support for taking-up employment;
  - b) to communicate within 3 days to the employment agency where they are registered any modification of the conditions which have led to granting the benefit;
  - c) to participate in the services for employment stimulation and vocational training offered by the employment agency where they are registered;
  - d) to seek actively a job.
- (2) The employers who have hired according to the law persons belonging to the beneficiaries of the unemployment benefits have the obligation to notify within 3 days the employment agency where the unemployed were registered.
- (3) The obligation mentioned in par. (2) also applies to the territorial pension houses, which have established and started paying pensions to beneficiaries of unemployment benefits.

- Art.42 (1)** The persons who, at the date of requesting the right, refuse a job appropriate to their training or educational background situated with no more than 50 km away from their domicile or refuse to participate in the services for employment stimulation and vocational training offered by the employment agencies will not receive unemployment benefit.
- (2) The graduates who, at the date of requesting the right, are attending a type of education do not receive unemployment benefit.
- Art.43 (1)** The unemployment benefit is paid monthly in the amount stipulated in art. 39 par. (2), or art. 40 par.(1), respectively.
- (2) For fractions of month the unemployment benefit is calculated proportionally to the number of calendar days in the respective month.
- Art.44** The payment of the unemployment benefit granted to the beneficiaries is terminated as follows:
- a) at the date of taking-up employment, according to the law, for a period longer than 12 months;
  - b) at the date when they earn from legally authorised activities a monthly income higher than the unemployment benefit;
  - c) within 90 days from issuing the functioning authorisation for self-employment activities or the registration certificate, according to the law, if they earn a monthly income higher than the unemployment benefit;
  - d) at the date of the unjustified refusal to take-up employment according to their training or educational background in a workplace located with not more than 50 km from their domicile;
  - e) at the date of the unjustified refusal to participate in the services for employment stimulation and vocational training or at the date of dropping-out these services for reasons they can be made responsible for;
  - f) if the retirement period for disability reasons exceeds 12 months;
  - g) at the date of meeting the conditions for old age retirement, from the date of the request for the early retirement or from the date when the disability pension becomes final;
  - h) at the date when the beneficiary leaves the country for more than 3 months;
  - i) at the date of beginning a prison sentence for a period longer than 12 months;
  - j) in case of the beneficiary's decease;
  - k) upon expiration of the terms stipulated in art. 45 par. (2) and (3);
  - l) upon expiration of the terms stipulated in art. 39 par. (1) and art. 40 par. (1), respectively;
  - m) at the date of enrolling in a type of education.
- Art.45 (1)** The payment of the unemployment benefits granted to the beneficiaries is suspended as follows:
- a) at the date when they did not observe the obligation stipulated in art. 41 par. (1) a);
  - b) during the compulsory military service;
  - c) at the date of employment, according to the law, with an individual labour contract for a fixed-term period shorter than 12 months;
  - d) at the date of leaving the country for a period shorter than 3 months, upon request;
  - e) during the period of time he/she is under preventive arrest under a prison sentence no longer than 12 months;

- f) at the date of retirement for disability reasons;
  - g) during the period of receiving the allowance for a temporary loss of the working capacity, the allowance for maternal leave and the allowance for child care leave until the child reaches the age of 2 or 3 years old in the case of the disabled child, respectively;
  - h) during the period of a temporary loss of working capacity longer than 3 days following injuries occurred during the training, retraining and upgrading courses or other types of vocational training, during and as a result of the on-the-job training;
  - i) during the period of receiving severance payments, according to the law.
- (2) The payment is resumed, after its suspension under the conditions provided for in par. (1) a), from the date of the application by the beneficiary, but not later than 60 calendar days since the suspension date.
  - (3) The payment is resumed, after its suspension under the conditions provided for in par. (1) b)-i), from the date of the application by the beneficiary, but not later than 30 calendar days since the end of the situation which has led to the suspension.
  - (4) The suspension period provided for in par. (1) a) is part of the period for granting the unemployment benefit.

**Art.46** The cash entitlements provided for in art. 43 are subject to forced execution for debts resulting from their undue payment, as well as for the cases stipulated in the Civil Procedure Code or in other special legal provisions.

- Art.47 (1)** The amounts paid without a legal ground as unemployment benefits as well as the related debts resulted according to this law will be recovered from the persons who received them unduly, based upon the decisions issued by the employment agencies which are writs of execution.
- (2) The amounts unduly received as unemployment benefits will be recovered from the beneficiaries within the general legal prescription period.
  - (3) The amounts remaining not recovered from the deceased beneficiaries are not followed anymore.

- Art.48 (1)** The beneficiaries of unemployment benefit are insured under the State social insurance system and the health social insurance system and benefit from all the rights stipulated by law for the people insured under these systems.
- (2) The contribution to the State social insurance and the health social insurance is covered from the Unemployment Insurance Fund budget and is transferred to the respective insurance houses by the employment agencies.
  - (3) The State social insurance entitlements of the persons receiving unemployment benefits are covered from the State social insurance budget.

## **CHAPTER IV**

### **MEASURES FOR PREVENTING UNEMPLOYMENT**

- Art.49** In the case of activity restructuring, which may lead to substantial changes in the number and professional structure of the personnel, the employers have the obligation to notify the employment agencies with a view to adopting measures for fighting unemployment and preventing the unfavourable social effects of this restructuring.
- Art.50 (1)** In the situations provided for in art. 49 the employers are obliged to provide a notice period, according to the Labour Code or the collective labour agreement, to their employees who are to be made redundant.
- (2)** During the notice period stipulated in par. (1) the employees will participate in pre-layoff services delivered by the employment agencies or other employment services providers from the public or private sector, selected and accredited by the agencies according to the law.
- (3)** In order to give the opportunity to provide pre-layoff services, the employers mentioned in art. 49 are obliged to notify the employment agencies 30 days prior to the notice period regulated by the law.
- Art.51** For the purpose of this law, the following activities are mainly considered pre-layoff services:
- a) information on the legal provisions regarding the protection of the unemployed and offering employment and vocational training services;
  - b) placement on the existing vacancies at local level and training on job seeking techniques;
  - c) vocational re-orientation within the undertaking or by way of short-term training courses;
  - d) investigation of employees' opinion and their counselling on the measures for fighting unemployment.
- Art.52 (1)** The pre-layoff services stipulated in art. 51 may also be granted, upon request, to other people at risk to become unemployed.
- (2)** The procedures regarding the access to the measures for preventing unemployment, the funding modalities and their implementation instructions will be worked-out by the National Agency for Employment, endorsed by the Ministry of Labour and Social Solidarity and approved by way of a Decision of the Government.

## **CHAPTER V**

### **MEASURES FOR EMPLOYMENT STIMULATION**

#### *SECTION 1*

##### *Specialised services*

- Art.53** The measures for employment stimulation are designed to:
- a) increase the employment opportunities of the jobseekers;
  - b) stimulate the employers to hire unemployed people and create new jobs.
- Art.54** The measures for employment stimulation cover both the jobseekers and the employers and are implemented by way of specialised services delivered by the employment agencies or other service providers from the public or private sector.
- Art.55 (1)** The providers of specialised services for employment stimulation may deliver services financed from the Unemployment Insurance Fund, based upon contracts concluded with the employment agencies, only if they are

accredited.

- (2) The National Agency for Employment makes the accreditation of the service providers mentioned in par. (1).
- (3) For the accreditation, the National Agency for Employment will charge a fee whose amount is established yearly by the Ministry of Labour and Social Solidarity, following its proposal, for each type of service delivered.
- (4) The amounts collected from the accreditation fees represent revenue to the Unemployment Insurance Fund budget.

**Art.56** The providers of specialised services for employment stimulation who finance these activities from funds, other than the Unemployment Insurance Fund budget, are accredited by the National Agency for Employment.

## *SECTION 2*

### *Increasing the employment opportunities of the jobseekers*

**Art.57** The employment opportunities of the jobseekers are mainly increased by:

- a) professional information and counselling;
- b) labour exchange;
- c) vocational training;
- d) counselling and assistance to start an activity as self-employed or to start-up a business;
- e) completing the wage income of the employees;
- f) stimulating the labour mobility.

#### **1. Professional information and counselling**

**Art.58 (1)** Professional information and counselling represents a set of services delivered free of charge to the jobseekers having the following purposes:

- a) to provide information on the labour market and the evolution of the occupations;
- b) to evaluate and self-evaluate people for their professional guidance;
- c) to develop the ability and self-confidence of the jobseekers in order to enable them to make decisions on their own career;
- d) to train on job-searching methods and techniques.

- (2) The professional information and counselling is carried-out in specialised centres, organised within the employment agencies, as well as in other centres and by other accredited service providers from the public or private sector who conclude contracts with the employment agencies, according to the law.
- (3) The information on the labour market, the establishment of the career path, the evaluation and self-evaluation are carried-out by self-information, by individual or group counselling services delivered, upon request, to the jobseekers or in the job clubs organised by the employment agencies.
- (4) The professional counselling and training on job-searching methods and techniques and on the participation in an interview are conducted by career counsellors, within the career information and counselling centres or, upon request, within other organised types of training.

#### **2. Labour exchange**

**Art.59 (1)** Labour exchange is an activity through which the employers are connected

to the jobseekers in order to establish working or civil service relations.

- (2) The employment agencies have the obligation to identify the vacancies with the employers and to make them available to the jobseekers.
- (3) The labour exchange services for the jobseekers are provided free of charge by the employment agencies and they consist of:
  - a) information on the vacancies and the conditions for their employment by way of publishing, posting, organising job fairs;
  - b) electronic exchange having the purpose to automatically match the supply and demand for jobs with the support of IT;
  - c) preliminary selection of the candidates according to the requirements of the available jobs and taking into account their training, aptitudes, experience and interests.

**Art.60 (1)** In order to implement employment stimulation measures, the employment agencies have the obligation to work-out an individual job-matching plan for every jobseeker.

- (2) The elaboration procedure, the contents and monitoring of the individual job-matching plan will be established by way of Order of the President of the National Agency for Employment.

**Art.61 (1)** The participation in the labour exchange services following the request of the employment agencies is mandatory for the unemployed people who receive unemployment benefits according to this law.

- (2) The unemployed people who do not receive unemployment benefits have to submit an application to the employment agencies in order to be registered for labour exchange services and, if they are not employed, to renew the application every 6 months.
- (3) The persons mentioned in art. 16 c), d) and f) also benefit, upon request, by free of charge labour exchange services.

**Art.62** The labour exchange can also be provided for a fee by the providers of specialised services from the public or private sector accredited by the National Agency for Employment.

### **3. Vocational training**

**Art.63 (1)** The jobseekers can participate in vocational training programmes meant to increase and diversify their skills with a view to ensuring their mobility and reintegration into the labour market.

- (2) The vocational training programmes will ensure, according to the law, the initiation, training, retraining, upgrading and specialisation of the jobseekers.
- (3) The vocational training of the jobseekers is made according to the current and future needs of the labour market and in accordance with the individual options and aptitudes of the persons concerned.
- (4) The types of vocational training for the jobseekers are the following: courses, practical and specialised stages as well as other types, according to the law.

**Art.64 (1)** The access to the vocational training programmes is provided as a result of the professional information, counselling or labour exchange activity.

- (2) The vocational training programmes of the jobseekers are organised on different levels of skills and specialisation as well as for categories and groups of persons.

**Art.65 (1)** The vocational training of the jobseekers is made according to the National Plan for Vocational Training worked-out by the National Agency for Employment every year.



- (2) The National Plan for Vocational Training is approved by the Ministry of Labour and Social Solidarity.
  - (3) The vocational training activity is funded from the Unemployment Insurance Fund, based upon the indicators established by the approved National Plan for Vocational Training.
- Art.66 (1)** The vocational training services are provided free of charge for the persons mentioned in art. 16 a), b), d) and f).
- (2) Vocational training services mean all the rights the persons mentioned in par. (1) benefit from during their participation in a type of vocational training.
  - (3) The persons who receive unemployment benefit are obliged to participate in the vocational training programmes offered and organised by the employment agencies.
  - (4) The persons mentioned in par. (1) can benefit free of charge from vocational training services only once for each period of time during which they are seeking a job.
- Art.67 (1)** The vocational training activity of the jobseekers is co-ordinated at national level by the National Agency for Employment.
- (2) The vocational training of the jobseekers is carried-out by the employment agencies through their subordinated vocational training centres as well as by other vocational training service providers from the public or private sector authorised according to the law.
- Art.68 (1)** The training, retraining, upgrading and specialisation courses are organised for the occupations, trades and professions defined and included in the Classification of the Occupations in Romania.
- (2) The National Agency for Employment and the authorised vocational training service providers may also organise training, retraining, upgrading and specialisation courses for occupations or trades not included yet in the Classification of the Occupations in Romania only after they receive the agreement of the Ministry of Labour and Social Solidarity.
- Art.69 (1)** The types through which the vocational training of the jobseekers is carried-out are based upon the occupational standards recognised at national level, approved according to the law.
- (2) If for certain occupation and trades there are no occupational standards recognised at national level, the National Agency for Employment can ask for draft occupational standards to certain specialised units, to be approved according to the law.
- Art.70** The Ministry of Labour and Social Solidarity will control the achievement of the National Plan for Vocational Training.

#### **4. Counselling and assistance to start an activity as self-employed or to start-up a business**

- Art.71 (1)** Counselling and assistance to start an activity as self-employed or to start-up a business is provided, upon request, to the jobseekers as legal, marketing, financial services, efficient management methods and techniques and other consulting services.
- (2) The services mentioned in par. (1) can be delivered by the employment agencies or, where appropriate, by private companies, professional organisations, foundations and associations specialised in this field with which the agencies conclude contracts according to the law.
  - (3) The services mentioned in par. (1) are provided free of charge only once during each period of time when the persons receive unemployment benefits

according to this law.

## **5. Completing the wage income of the employees**

- Art.72** The persons who receive the unemployment benefit during the period of time stipulated by the law and take a full-time job according to the law benefit, since the time of employment until the end of the period for which they would have been entitled to receive the unemployment benefit, from a monthly tax-free amount from the Unemployment Insurance Fund equal to 30% of the unemployment benefit received in the month prior to employment.
- Art.73 (1)** The persons mentioned in art. 72 also benefit from this amount even if during the period of time for which they are entitled to the unemployment benefit the working or civil service relation with the first employer is terminated and they are hired by another employer.
- (2)** The amount paid from the Unemployment Insurance Fund as established in art. 72 is granted for the situation described in par. (1) until the end of the period for which the person was entitled to receive the unemployment benefit.

## **6. Stimulating the labour mobility**

- Art.74** The persons who, during the period when they receive the unemployment benefit, take-up employment according to the law in a locality located with more than 50 km away from the locality where they have their stable domicile, benefit from a tax-free employment bonus covered from the Unemployment Insurance Fund budget equal to two minimum economy-wide gross wages in force at the date of granting.
- Art.75** The persons who, during the period when they receive the unemployment benefit, take-up employment according to the law in another locality and subsequently change their domicile will receive an employment bonus equal to 7 minimum economy-wide gross wages in force at the date of granting.
- Art.76 (1)** The termination of the working or civil service relations following the initiative or for reasons the employee can be made responsible for, during a period shorter than 12 months since the date of employment, generates for the employee the obligation to pay back the full amount received as bonus according to art. 74 and 75.
- (2)** If the provisions of par. (1) are not observed the amounts regulated in art. 74 and 75 will be recovered based upon the decisions issued by the employment agencies as writs of execution.

### *SECTION 3*

#### *Incentives for employers in order to hire unemployed people*

- Art.77** The incentives provided for employers in order to hire unemployed people consist of:
- a) job subsidies;
  - b) providing loans in favourable conditions in order to create new jobs;
  - c) providing other incentives.

#### **1. Job subsidies**

- Art.78 (1)** Out of the Unemployment Insurance Fund and from other sources allotted according to the legal provisions can be subsidised labour expenses spent

under the implementation of certain programs having as purpose a temporary employment of persons belonging to the unemployed in order to perform works or activities for local communities interests.

**(2)** The following types of services can be mainly subsidised from the sources provided for in par (1):

- a) public services for recovering or maintaining infrastructures, environmental activities, public works, organised by local public authorities, by private companies or NGOs with the agreement of the local public administration;
- b) social services including health care activities at home for children, sick persons, old people, disabled, organised by local public authorities, NGOs or other bodies according to the law.

- Art.79 (1)** The subsidies provided for in par. (1) are granted to employers for a maximum 12-month period, following the request of local public authorities, for each person hired with an individual labour contract belonging to the unemployed, for the services having the same nature with those mentioned in art.78 par. (2).
- (2) The amount of the subsidy is 70% of the minimum economy-wide gross wage for each person hired with an individual labour contract belonging to the unemployed.
- Art.80 (1)** The employers who hire with an open-ended contract graduates of certain educational institutions will receive, for a 12-month period, for each graduate, a monthly amount equal to the minimum economy-wide gross wage.
- (2) The employers who hire with an open-ended contract graduates belonging to disabled people will receive, for a 18-month period, for each graduate, a monthly amount equal to the 1.5 minimum economy-wide gross wage.
- Art.81** The incentives mentioned in art.80 are not granted during the suspension of working or civil service relations.
- Art.82** For the purpose of this law, a graduate of an educational institution means the person who received a diploma or a study certificate, according to the law, from one of the institutions from primary, professional, special, secondary, post-secondary or university public or private education, authorised or accredited according to the law.
- Art.83 (1)** The employers who hire graduates according to the provisions of art.80 must keep their working or civil service relation for at least 3 years since the date of concluding the contract.
- (2) The employers who terminate, from their initiative, the working or civil service relation with the graduate must pay back to the employment agencies the full amount received for each graduate plus the related interest calculated at the same rate as the one used by the State Treasury for the Unemployment Insurance Fund budget.
- (3) The provisions of par.(2) do not apply when the termination of the working or civil service relation follows the initiative of the employee or is the result of an action he/she can be made responsible for.
- (4) The graduates can be hired under the conditions of art.80 only once for each type of education within 12 months after graduation.
- Art.84 (1)** Within the 3-year period mentioned in art.83 par.(1) the graduates may attend vocational training, organised by the employer according to the law.
- (2) The expenses related to the vocational training provided for in par. (1) will be covered, at the request of employers, from the Unemployment Insurance Fund.
- Art.85 (1)** The employers who hire with an open-ended contract unemployed aged over 45 years old or unemployed who are single providers of family income will receive, for a 12-month period, for each person employed belonging to these categories, an amount equal to the minimum economy-wide gross wage, with the obligation to keep the working or civil service relations for at least two years.
- (2) The employers having less than 100 employees also benefit from the same incentives if they hire with an open-ended contract disabled people, with the obligation to keep the working or civil service relations for at least two years.
- (3) The employers who terminate, from their initiative, the working or civil service relation with the persons provided for in par. (1) and (2), prior to the end of 2-year period, must pay back to the employment agencies the full amount

received for each person plus the related interest rates calculated at the same level as the one used by the State Treasury for the Unemployment Insurance Fund budget.

- (4) The provisions of par.(3) do not apply when the termination of the working or civil service relation follows the initiative of the employee or is the result of an action he/she can be made responsible for.

## **2. Providing loans in favourable conditions**

**Art.86 (1)** Loans can be granted in favourable conditions from the Unemployment Insurance Fund in order to create new jobs by way of setting up and developing small and medium sized enterprises, cooperative units, family associations as well as for developing independent activities performed by authorised natural persons.

- (2) Loans are granted based upon certain feasibility studies proportionally to the number of jobs to be created, for a maximum 3-year period for investments, including a maximum 6-month grace period and 1-year for ensuring the production, respectively with an interest rate equal to 50% of the official rate established by the National Bank.

- (3) The beneficiaries of loans granted according to the provisions stipulated in par. (2) must fulfil the following conditions:

- a) to have maximum 250 employees and/or cooperative members with working or civil service relations;
- b) to perform their main activity in production, services or tourism;
- c) to hire, for at least 50% of the newly-created jobs, staff belonging to the unemployed registered with employment agencies;
- d) to keep the staff hired according to letter c) for at least three years;
- e) the jobs considered when receiving loans according to par. (2) will be not vacancies as a result of lay-offs occurred during the last 12 months prior to the conclusion of the loan agreement.

- (4) The unemployed who commit themselves to set up SMEs, cooperative units, family associations as well as to become authorised natural persons shall be treated with priority for loan granting, observing the provisions of par. (2) and (3).

**Art.87** The total amount that can be used for loan granting and the maximum amount of the loan that can be granted shall be established by the Law on the State Social Insurance Budget.

**Art.88 (1)** If the persons hired from amongst the unemployed are dismissed before completing the 3-year period since the date of employment, the employer must hire also unemployed on that vacancies within 30 calendar days since the date of dismissal.

- (2) The obligation stipulated in par. (1) also applies to employers if the persons employed on the newly created jobs do not belong to the unemployed.

- (3) During the period of loan contract implementation the employer is not allowed to diminish the number of jobs existing in the enterprise at the date when the loan is granted.

**Art.89 (1)** If the employer fails to observe the condition stipulated in art.88 par. (3) c) he will be charged a penalty equal to the amount of the loan granted for each newly-created job that has not been occupied.

- (2) If the employer fails to observe the condition stipulated in art.88 par. (1) and (2), he will be charged a penalty equal to the amount of the loan granted for

each newly-created job proportionally to the number of months it has not been occupied.

- (3) If the obligation stipulated in art.88 par.(3) is not observed the loan contract will be terminated and the undertaking will be charged a penalty equal to the loan granted plus the related interest, being not eligible for other loans granted according to this law for a next 3-year period.

**Art.90** The employer may ask for a new loan if he has paid back the previous loan, including the related interests.

**Art.91 (1)** The amounts allotted from the Unemployment Insurance Fund for granting loans in favourable conditions are administered by banks or other agencies authorised according to the law, based upon contracts concluded with the National Agency for Employment, according to the law.

- (2) The bank or the loan agency that administers loan funds bears the responsibility for the reimbursement of the amounts to the Unemployment Insurance Fund.

**Art.92** The conditions for loan granting and reimbursement, the way of establishing guarantees, the organisation of tenders in order to select banks and agencies authorised to grant loans from the Unemployment Insurance Fund will be established by way of Methodological Norms issued jointly by the Ministry of Labour and Social Solidarity and the National Bank of Romania.

### **3. Incentives for employers**

**Art.93 (1)** The employers who hire persons belonging to the unemployed and keep them employed for a minimum 6-month period since the date of employment benefit from a deduction of the amount representing the 5% contribution to the Unemployment Insurance Fund.

- (2) The deduction applies starting with the next fiscal year, for a 6-month period, and represents a diminution of the amount due every month with 0.5% for each percentage in the weight of newly-employed staff according to the provisions of par. (1) in the average number of recorded staff employed with an individual labour contract during the respective year.

**Art.94** The employers who receive loans from the Unemployment Insurance Fund, according to the provisions of art.86 par. (1), benefit from a deduction of contribution, according to art.93 par.(2), only for the unemployed hired over the 50% level of the newly-created jobs provided for in art.86 par.(3) c).

## *SECTION 4*

### *Final provisions*

- Art.95** The procedures regarding the access to employment stimulation measures, funding modalities and implementation instructions will be worked out by the National Agency for Employment, agreed by the Ministry of Labour and Social Solidarity and approved by way of a Decision of the Government.
- Art.96 (1)** The National Agency for Employment will work-out an employment balance at the end of each year, highlighting the effects of employment stimulation measures implemented during that period.
- (2) The framework-content of the employment balance will be approved by an Order of the President of National Agency for Employment.
- (3) Employment balances, at county and national level, will be published in the first half of the following year in the Official Gazette of Romania, Part III.

## CHAPTER VI

### INSTITUTIONS AND RESPONSIBILITIES FOR THE IMPLEMENTATION OF THIS LAW

#### SECTION 1

*Institutions and organisations involved in the enforcement of the provisions of this law*

- Art.97** In order to fulfil the objectives and implement the measures stipulated in this law, the Government will approve strategies, plans and other national programs, at territorial and branch level.
- Art.98** The institutions involved in the enforcement of the provisions of this law are:
- a) the Ministry of Labour and Social Solidarity;
  - b) the National Agency for Employment;
  - c) ministries and other specialised bodies of the central public administration;
  - d) trade union organisations and employers associations representative at national level;
  - e) prefectures (local governments) and local public administration authorities;
  - f) the National Commission for Employment Promotion.
- Art.99** The Ministry of Labour and Social Solidarity has the following attributions in the field of employment:
- a) analyses the trends on the labour market and works-out strategies, prognoses and national programs for employment, vocational training for unemployed and equal opportunities on the labour market;
  - b) works-out and agrees upon draft pieces of legislation in the field of employment, vocational training and promoting equal opportunities on the labour market;
  - c) works-out the draft of the Unemployment Insurance Fund;
  - d) delegates every year the attributions of credit chief-accountant for the budget of the Unemployment Insurance Fund, according to the law;
  - e) follows, based upon quarterly and annual reports, the execution of the Unemployment Insurance Fund budget and exercises the control over the implementation of the employment policies, strategies, plans and programs by the National Agency for Employment;
  - f) works-out and updates, together with other ministries and specialised bodies, the Classification of the Occupations in Romania, taking into

consideration the changes in the economic and social structure of the country and the need to comply with relevant international standards;

- g) promotes programs, proposes agreements and implements international cooperation projects in the field of employment, vocational training and equal opportunities on the labour market;
- h) establishes every year the performance indicators and their level needed in order to work out the yearly activity program of the National Agency for Employment.

**Art.100 (1)** The implementation of employment and vocational training policies, strategies, plans and programs is mainly done by the National Agency for Employment.

**(2)** With a view to implementing employment and training services, the National Agency for Employment will observe:

- a) a non-discriminatory access to the services delivered in the field of employment and training;
- b) the neutrality in potential conflicts of interests between employers and the labour force;
- c) the orientation of activities towards clients needs by working-out individual action plans and promoting quick-start and high-quality services;
- d) the competition nature of the activities on the labour market;
- e) the secret nature of the personal data of the clients;
- f) transparency of the activities performed and their results;
- g) the decentralisation of the services and of the decision-making process;
- h) the adaptability of the services according to the changes from the social and economic environment.

**Art.101** The National Agency for Employment will submit to the Ministry of Labour and Social Solidarity quarterly and yearly reports on the execution of the Unemployment Insurance Fund budget and on the accomplishment of the performance indicators set out in the protocol.

**Art.102 (1)** The ministries and other specialised bodies of the central public administration must ensure the increase of the employment rate through the strategies and policies they work-out in the fields they co-ordinate.

**(2)** With a view to achieving the objectives stipulated in par.(1), the ministries and other specialised bodies of the central public administration may propose employment and vocational training strategies, programs and draft pieces of legislation within the National Commission for Employment Promotion.

**Art.103 (1)** The trade union organisations and employers associations representative at national level participate in the elaboration and implementation of labour market programs and measures, according to the law.

**(2)** The trade union organisations and employers' associations representative at national level will be consulted when pieces of legislation on employment are worked-out.

**Art.104** The prefectures and local public administration authorities have the obligation to monitor the evolutions on the labour market at territorial level, to actively participate in working-out and implementing measures designed to improve the situation of the people without work and to support the activity of the employment agencies.



## SECTION 2

### *National Commission for Employment Promotion*

- Art.105** The National Commission for Employment Promotion is established, called hereinafter the National Employment Commission.
- Art.106** The National Employment Commission has the following main attributions:
- a) to submit to the attention of the Government strategies and policies meant to increase the level and the quality of employment, in relation to social and economic development programs;
  - b) to establish human resources development directions at national, territorial and branch level;
  - c) to ensure the harmonisation of human resources development programs financed from public funds or from other sources;
  - d) to make proposals for working-out pieces of legislation on employment and to improve the legislation in this field;
  - e) based upon the economic and social development trends and the labour market developments, to make proposals for initiating certain proactive measures to fight unemployment by way of tax policies, structural adjustments, and professional reconversion.
- Art.107 (1)** The National Employment Commission is composed by representatives of the ministries, agencies and departments subordinated to the Government or independent, at Secretary of State level, and the presidents of the trade union organisations and employers associations representative at national level.
- (2) The chairman of the National Employment Commission is the Minister of Labour and Social Solidarity.
  - (3) The composition of the National Employment Commission will be established within 60 days since the entry into force of this law by the Minister of Labour and Social Solidarity, following the consultation of the institutions mentioned in par.(1), and is approved by way of a Decision of the Prime Minister.
  - (4) The secretariat of the National Employment Commission is ensured by the Directorate General for Labour Force within the Ministry of Labour and Social Solidarity.
- Art.108** The National Employment Commission may ask specialised institutions to work-out labour market studies, reports and analysis to be financed from the Unemployment Insurance Fund.
- Art.109 (1)** The National Employment Commission is legally established on the day when the Prime Minister approves its composition.
- (2) The organisation and functioning regulation of the National Employment Commission will be worked-out by the Ministry of Labour and Social Solidarity, approved by the Commission and published in the Official Gazette of Romania, Part I.

## CHAPTER VII

### LEGAL RESPONSIBILITY

- Art.110** The infringement of the provisions of this law entails, where appropriate, disciplinary, material, civil, contraventional or criminal responsibility.
- Art.111** The infringement by the employer of the obligations stipulated in art.26 par.(1) and in art.27, namely the fail to pay the contributions to the Unemployment Insurance Fund is treated as offence and punished with imprisonment from 6 month to 1 year or with fine.
- Art.112** If the employer holds the contribution of employees to the Unemployment Insurance Fund, the fail to transfer the money into the accounts set out according to the legal regulations in force within 15 days will be treated as offence and punished with imprisonment from 3 to 6 months or with fine.
- Art.113** The following actions will be treated as contravention if they are not taken in such conditions to be treated as offence, according to the criminal law:
- a) the fail to monthly communicate the vacancies, stipulated in art.10;
  - b) the fail to use the Classification of the Occupations in Romania, stipulated in art.15;
  - c) the fail to monthly submit the declaration stipulated in art.21;
  - d) the fail to pay delay penalties stipulated in art.31 par.(2) within 60 days since they are established;
  - e) the fail to observe the provisions of art.41 par.(2);
  - f) the fail to observe the provisions of art. 50;
  - g) the fail to observe the provisions of art.100 par.(2) e);
  - h) the fail to communicate the data and information asked in writing by the National Agency for Employment in order to fulfil its tasks regulated by law.
- Art.114** The contraventions provided for in art.113 are sanctioned as follows:
- a) those from letters a), b), f) and h) with fine from 15,000,000 to 25,000,000 ROL;
  - b) those from letters c), d), e) and g) with fine from 25,000,000 to 50,000,000 ROL.
- Art.115** Contraventional fines can be also applied to natural persons.
- Art.116** The contraventions mentioned in art.113 are established and sanctioned by the control bodies of the Ministry of Labour and Social Solidarity, Labour Inspection, National Agency for Employment and by other bodies, which, according to the law, have the right to make controls.
- Art.117** The contraventional fines charged according to this law will become income to the Unemployment Insurance Fund budget.
- Art.118** The provisions of this law concerning the establishment and sanctioning of contraventions are completed by the provisions of the Government Ordinance no.2/2001 on the legal regime of contraventions.
- Art.119 (1)** The disputes arising from the implementation of this law will be solved by competent courts, according to the law.
- (2)** The disputes concerning the establishment and payment of the unemployment benefit will be solved as emergencies, according to the procedural norms regulating the conflict of rights, even if otherwise stipulated in special laws.

## **CHAPTER VIII**

### **TRANSITORY AND FINAL PROVISIONS**

- Art.120 (1)** The persons asking for unemployment benefit, vocational integration aid or support allowance before this law enters into force benefit from the respective entitlement having the amount, duration and other conditions stipulated in the Law no.1/1991 republished, with subsequent amendments.
- (2)** The persons mentioned in par. (1) will benefit under the same conditions from the entitlements that have been suspended before the date of entry into force of this law and are paid again after that date.
- Art.121** The payment of unemployment benefits granted according to the Law no.1/1991 republished, with subsequent amendments and of the amounts granted according to the provisions of the Emergency Ordinance of the Government no.35/1997 on measures designed to stimulate legal or natural persons to hire graduates of educational institutions, approved with amendments by the Law no.162/1997, which are underway on the date of entry into force of this law, will be covered from the Unemployment Insurance Fund.
- Art.122 (1)** The persons who have been established the unemployment benefit which, according to the law, was suspended during the period of severance payments and the resuming of this entitlement occurred before the entering into force of this law will receive the established unemployment benefit.
- (2)** The persons who have been established the unemployment benefit which, according to the law, was suspended during the period of severance payments and the date of resuming the payment is subsequent to the date of entering into force of this law will receive the unemployment benefit established according to this law.
- Art.123** The natural or legal persons who, by the date of entering into force of this law, have hired graduates under the conditions stipulated in EOG no. 35/1997, approved with amendments by the Law 162/1997 benefit from these measures under the conditions established by this Emergency Ordinance.
- Art.124** The persons made redundant under the conditions stipulated in the EOG no. 98/1999 on the social protection of the persons whose individual labour contract will be terminated as a consequence of lay-offs, with subsequent amendments and completions, after the date of entering into force of this law, within stages provided in the approved restructuring programmes or in selling-buying contracts concluded prior to the entering into force of this law, are entitled to the unemployment benefit under the conditions stipulated by this law.
- Art.125** The unemployment benefit is paid to the titular or his/her representative established through a special proxy.
- Art.126** The applications for unemployment benefit as well as all the procedure documents related to the determination of this right are exempted of any stamp duty.
- Art.127** The unemployment benefit and the other entitlements established by this law are calculated again every time the minimum economy-wide gross wage is modified.
- Art.128** This law enters into force on March 1st, 2002.
- Art.129** Within 30 days from the publication of this law in the Official Gazette of Romania, Part I, the Ministry of Labour and Social Solidarity, based upon the proposals of the National Agency for Employment, will work-out the Methodological Norms for its implementation, as well as the accreditation

criteria for the service providers mentioned in art. 55 and 56 to be approved by way of Decisions of the Government.

**Art.130**

On the date of entering into force of this law the following are abrogated:

- a) the Law no.1/1991 on the social protection of unemployed and their professional reintegration, republished in the Official Gazette, Part I, no. 257 from 14 September 1994, with subsequent amendments and completions;
- b) the EOG no. 35/1997 on measures for stimulating the natural and legal persons to hire graduates of the educational institutions, published in the Official Gazette of Romania, Part I, no.151 from 11 July 1997, approved with amendments by the Law no.162/1997, published in the Official Gazette of Romania, Part I, no. 288 from 24 October 1997;
- c) the Decision of the Government no. 456/1997 approving the Norms for the implementation of the provisions of EOG no. 35/1997 on measures for stimulating the natural and legal persons to hire graduates of the educational institutions, published in the Official Gazette of Romania, Part I, no. 209 from 27 August 1997;
- d) the Order of the Minister of Labour and Social Protection no. 307/1994 approving the Instructions concerning the procedure of receiving and solving the applications for unemployment benefits, professional integration aid and support allowance, published in the Official Gazette of Romania, Part I, no. 324 from 23 November 1994;
- e) the Decision of the Government no. 288/1991 on training, retraining and upgrading of the unemployed, republished in the Official Gazette of Romania, Part I, no 36 from 20 February 1996;
- f) the Order of the Minister of Labour and Social Protection no. 435/1995 approving the Methodological Norms concerning the organisation, delivering and graduating of the training, retraining, upgrading courses and other types of vocational training for the unemployed and the Norms for setting-up, organisation and functioning of the training, retraining and upgrading centres for the unemployed, published in the Official Gazette of Romania, Part I, no. 54 from 15 March 1996;
- g) any other provisions contrary to this law.