

**LAW No. 76 of 16 January 2002  
on the unemployment insurance system and employment stimulation**

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Text in force beginning with 1 January 2006

It must be specified that the only text which shall produce legal effects is the Romanian text.

The text was updated on the basis of the modifying statutory instruments, published in the Official Gazette of Romania, Part I, until 1 November 2005:

- the Government Emergency Ordinance No. 124/2002, approved with amendments by the Law No. 4/2003;
- the Government Emergency Ordinance No. 147/2002, approved by the Law No. 41/2003;
- the Law No. 4/2003;
- the Decision of the Constitutional Court No. 217/2003;
- the Law No. 519/2003;
- the Law No. 107/2004;
- the Law No. 580/2004;
- the Government Emergency Ordinance No. 144/2005.

The Law No. 76/2002 was also amended by:

- the Law No. 232/2003, amended by the Government Ordinance No. 86/2003.

**CHAPTER I**

**General provisions**

**ART. 1**

In Romania the right to choose freely the profession and job, as well as the right to unemployment insurance shall be guaranteed for each person.

**ART. 2**

The provisions of the present law shall govern the measures for carrying out the strategies and policies elaborated with a view to protecting the persons against the unemployment risk, ensuring a high level of employment and of the adjustment of the labour force to the requirements of the labour market.

**ART. 3**

The measures provided by the present law shall have as a purpose the carrying out of the following objectives on the labour market:

- a) to prevent the unemployment and to fight against its social effects;
- b) to employ or to re-employ the job-seekers;
- c) to support the employment of the persons belonging to certain disadvantaged categories of population;

- 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 the job-seekers;
- g) to improve the structure of employment per economic branches and geographical areas;
- h) to increase the mobility of the labour force under the conditions of the structure changes which the national economy is undergoing;
- i) to protect the persons within the unemployment insurance system.

#### ART. 4

(1) Any kind of discriminations for criteria such as politics, race, nationality, ethnic origin, language, religion, social category, beliefs, sex and age shall be excluded in the application of the present law.

(2) The measures and special rights granted by the present law to certain disadvantaged categories of persons shall not constitute discrimination within the meaning of the provisions of paragraph (1).

## CHAPTER II

### Concepts regarding the labour market

#### SECTION 1

##### Terms and phrases used

#### ART. 5

Within the meaning of the present law, the terms and phrases below shall have the following meaning:

I. employer - the legal person or the natural person having the head office, the domicile, respectively, in Romania, or the subsidiary, branch, agency, representative office from Romania of a foreign legal person with the head office abroad, authorised according to the law, which employs labour force under the conditions of the law;

II. job - the environment where it is carried on an activity generating income and in which the labour legal relations and the job legal relations are materialised;

III. job-seeker - the person that takes steps in order to find a job, by his own means or by registration with the employment agency in the jurisdiction of which he has his domicile or, as applicable, residence or with another provider of employment services, accredited according to the law;

IV. unemployed - the person that cumulatively satisfies the following conditions:

a) he is seeking for a job beginning with the age of 16 and until the fulfilment of the retirement conditions;

b) the health condition and the physical and psychic capacities make him apt to perform work;

c) he does not have a job, does not earn incomes or earns from authorised activities authorised according to the law incomes lower than the gross minimum basic wage on the country guaranteed for payment, in force;

d) he is available to begin work during the immediate next period if a job would be available for him.

IV<sup>1</sup>. registered unemployed - the person that meets all the conditions provided in point IV and is registered with the employment agency in the jurisdiction of which he has his domicile or, as applicable, residence or with another provider of employment services, that operates under the terms provided by the law, with a view to obtaining a job.

V. period of contribution - the period during which the contribution to the unemployment insurance was paid both by the insured and by the employer or, as the case may be, only by the insured;

VI. insured - the natural person who earns incomes, according to the law, and is insured for the risk of losing the job, by the payment of the contribution to the unemployment insurance;

VII. unemployment benefit - a partial compensation of the incomes of the insured following the loss of the job or of the incomes of the graduates of the education institutions and of the military who satisfied the military service and who could not be employed;

VIII. measures to stimulate the employment - those measures having as purpose the support of the job-seekers and, especially, of the unemployed in order to acquire the status of an occupied person.

## SECTION 2

### Statistical indicators regarding the labour market

#### ART. 6

(1) At national and territorial level the situations and developments on the labour market shall be monitored, mainly, with the assistance of a system of statistical indicators regarding:

- a) the labour resources;
- b) the active population;
- c) the occupied population;
- d) the unemployed;
- e) the vacancies;
- f) the unemployment benefit;
- g) the population which is no longer unemployed by filling a position, as well as by leaving the labour market;
- h) the unemployment rate.

(2) The system of statistical indicators and their calculation methodology shall be established by the National Statistics Institute in collaboration with the Ministry of Labour and Social Solidarity.

#### ART. 7

(1) The National Agency for Employment, on the basis of the primary documents for the registration of the unemployed, of the communications made by the accredited suppliers of employment services and by the employers regarding the vacancies, shall calculate the statistical indicators provided in Article 6 (1) d) - h) and other indicators specific to the labour market.

(2) The National Agency for Employment shall elaborate, based on the necessities, special statistical analyses, studies and research regarding the situation and progress of unemployment and employment, at national and territorial level, per fields of activity.

#### ART. 8

(1) In order to carry out the duties provided in Article 7 the National Agency for Employment shall ensure the appropriate material, organisational and management conditions, it shall elaborate and administer the system of primary documents, it shall constitute and exploit its own data base.

(2) In order to carry out certain statistical special analyses, studies and research such as those provided in Article 7 (2) National Agency for Employment may resort to the services of specialised providers.

(3) The methodology for carrying out the special statistical research shall be endorsed, according to the law, by the National Statistics Institute.

#### ART. 9

(1) The National Agency for Employment shall have the obligation to bring to the public knowledge the statistical indicators regarding the labour market, with a frequency which shall be established at the same time with the system of indicators provided in Article 6 (1).

(2) The National Agency for Employment shall put the statistical indicators, the results of the special statistical research, the statistical analyses and studies at the disposal of the Ministry of Labour and Social Solidarity.

#### ART. 10

(1) The employers shall be obliged to communicate all the vacancies, within 5 working days since they became vacant to the county employment agencies, of the employment agencies of Bucharest Municipality, respectively, hereinafter called employment agencies, in whose jurisdiction they have their head office, their domicile respectively.

(2) The accredited suppliers of employment services shall have the obligation to communicate monthly to the employment agencies in whose jurisdiction they have their head office data regarding the number of the unemployed exchanged and hired.

#### ART. 11

With a view to elaborating the strategies and policies, as well as for the adoption of certain measures on the labour market, at national level, per fields of activity, branches, economic sectors or areas, the Ministry of Labour and Social Solidarity shall initiate regulations regarding the obligation of the employers to communicate the necessary information with regard to the labour force.

#### ART. 12

Within the meaning of the present law, the National Statistics Institute shall have the following duties:

- a) it shall calculate the statistical indicators provided in Article 6 (1) a) - c);
- b) it shall supply the National Agency for Employment with data regarding the labour force, resulted from the own statistical research;

c) it shall elaborate in collaboration with the Ministry of Labour and Social Solidarity the system of statistical indicators of the labour market and their calculation methodology;

d) it shall endorse the special statistical research carried out by the National Agency for Employment or by the Ministry of Labour and Social Solidarity.

### SECTION 3

#### The classification of occupations

##### ART. 13

The classification of occupations in Romania is the system for the identification, hierarchy, codification of the professions in the economy, which shall be elaborated by the Ministry of Labour and Social Solidarity in collaboration with the National Statistics Institute, with other ministries and public institutions concerned and shall be approved by Government decision.

##### ART. 14

(1) The changing of the contents of the Classification of occupations in Romania shall be approved by Government decision, at the proposal of the Ministry of Labour and Social Solidarity and with the opinion of the National Statistics Institute.

(2) The registration of new positions in the Classification of occupations in Romania shall be approved, at the request of the persons concerned or on the basis of certain special regulations, by order of the minister of labour and social solidarity, which shall be published in the Official Gazette of Romania, Part I.

##### ART. 15

The use of the Classification of occupations in Romania shall be compulsory in filling in the official documents.

### SECTION 4

#### Categories of beneficiaries

##### ART. 16

The beneficiaries of the provisions of the present law shall be the job-seekers, in one of the following situations:

- a) they became unemployed within the meaning of Article 5 point IV c);
- b) they could not fill a position after graduating an education institution or after satisfying the military service;
- c) they fill a position and, for various reasons, they intend to change it;
- d) they obtained the refugee status or other form of international protection, according to the law;
- e) the foreign or stateless citizens who were employed or who earned incomes in Romania, according to the law;
- f) they could not fill a position after having been repatriated or after being released from detention.

##### ART. 17

(1) With a view to establishing the right to unemployment benefit, the unemployed provided in Article 16 a) shall be the persons who find themselves in one of the following situations:

a) their individual labour contract or the temporary labour contract was terminated for reasons which cannot be imputed to them;

b) their job relations were terminated for reasons which cannot be imputed to them;

c) the mandate for which they were appointed or elected was terminated, unless they were previously employed or if the activity can no longer be resumed due to the final termination of the employer's activity;

d) the period for which the military have been employed on the basis of a contract expired or their contract was cancelled for reasons which cannot be imputed to them;

e) their labour relation as cooperative member was terminated, for reasons which cannot be imputed to them;

f) they have concluded an unemployment insurance contract and they do not earn incomes or they earn from activities authorised according to the law incomes lower than the gross minimum basic wage on the country guaranteed for payment to which they would be entitled according to the present law;

g) they terminated the activity as a result of retirement for invalidity and who, subsequently, regained their working capacity and they did not succeed in being employed;

h) their employment or job relations were terminated for reasons which cannot be imputed to them, during the period of their suspension, according to the law;

i) \*\*\* Repealed

j) the reemployment, ordered by final judgement, is no longer possible at the units where they were previously employed, due to the final termination of activity, or at the units which took over their patrimony;

k) the activity carried out exclusively on the basis of the civil agreement was terminated.

(2) There shall be assimilated to the unemployed the persons in the situations provided in Article 16 b), if they satisfy the following conditions:

a) they are graduates of the education institutions, at least 16 years old, who for a period of 60 days from the graduation did not succeed to become employed according to their vocational training;

b) they are graduates of the special schools for disabled persons, at least 16 years old, who did not succeed to become employed according to their professional training;

c) they are persons who, before satisfying the military service, were not employed and who, for a period of 30 days from the date when they were discharged, could not become employed.

## CHAPTER III

### The unemployment insurance system

#### SECTION 1

## Categories of insured

### ART. 18

(1) Within the unemployment insurance system the natural persons, hereinafter called insured, shall be insured, under the conditions of the present law.

(2) The following persons may be insured:

a) the Romanian citizens who are employed or who earn incomes in Romania, under the conditions of the law, except for the persons having the capacity of pensioners;

b) Romanian citizens working abroad, under the conditions of the law;

c) the foreign or stateless citizens who, for the period when they have their domicile or residence in Romania, are employed or earn incomes, according to the law.

(3) The insured shall have the obligation to pay the contributions to the unemployment insurance and shall have the right to benefit from an unemployment benefit, according to the present law.

### ART. 19

Within the unemployment insurance system the following persons shall be compulsorily insured, by the effect of the law:

a) the persons carrying on activities on the basis of an individual labour contract or on the basis of temporary labour contract, under the terms of the law, except for the persons having the capacity of pensioners;

b) the public servants and other persons carrying on activities based on the appointment document;

c) the persons carrying on their activity in elective positions or which are appointed within executive, legislative or judicial authorities, for the duration of the mandate;

d) the military employed based on a contract;

e) the persons having a labour relation as cooperative member;

f) other persons earning incomes from activities carried on according to the law and who are not in one of the situations provided in letters a) - e).

### ART. 20

The following persons may be insured within the unemployment insurance system, under the conditions of the present law:

a) sole associate, associates;

b) administrators who have concluded contracts according to the law;

c) persons authorised to carry on independent activities;

d) members of the family association;

e) Romanian citizens working abroad, according to the law;

f) other persons earning incomes from activities carried on according to the law and who are not in one of the situations provided in letters a) - e).

### ART. 21

The employers where the persons provided in Article 19 are carrying on their activity shall be obliged to submit, by the 25th inclusive of the month following the one for which the wage rights and/or similar incomes are owed, to the

employment agency in whose jurisdiction they have their head office or domicile, the monthly statement regarding the nominal records of the insured and the payment obligations to the unemployment insurance budget.

#### ART. 22

(1) The persons provided in Article 20 may conclude an unemployment insurance contract with the employment agency in the jurisdiction of which they have their domicile or, as the case may be, residence provided that they are at least 18 years old and are insured in the public pension scheme and the health social insurance system.

(2) The monthly income for which the persons provided in Article 20 are insured may not be lower than the gross minimum basic wage on the country guaranteed for payment.

### SECTION 2

#### Unemployment insurance budget

#### ART. 23

(1) The unemployment insurance budget shall include the incomes and expenditures of the unemployment insurance system.

(2) The Ministry of Labour and Social Solidarity shall substantiate yearly, on the basis of the proposals of the National Agency for Employment, the draft unemployment insurance budget.

(3) The unemployment insurance budget shall be approved by the law on the state social insurance budget.

#### ART. 24

(1) The incomes of the unemployment insurance budget shall consist of the following:

(a) the contributions of the employers and of the legal persons where the insured provided in Article 19 b) - e) are carrying on their activity, assimilated to the employer, according to the present law;

b) the individual contributions of the persons provided in Article 19;

c) the contributions owed by the persons who conclude an unemployment insurance contract;

d) incomes from other sources, including from foreign financing.

(1<sup>^</sup>1) With the amounts recovered from the debts resulted from incomes owed to the unemployment insurance budget, the incomes of this budget shall be completed, depending on the nature of the source where the debt has been created.

(2) In case the sources provided in paragraph (1) do not cover the financing of the expenditure, the budgetary deficit shall be covered by subsidies from the state budget.

#### ART. 25

(1) The setting up of the resources and the carrying out of the expenditure of the unemployment insurance budget shall be carried out through the state treasury.



(2) The liquid assets registered at the end of the year by the unemployment insurance budget shall be carried over and used during the next year.

(3) The liquid assets of the unemployment insurance budget shall bear interests.

#### ART. 26

The employers shall have the obligation to pay monthly a contribution to the unemployment insurance budget, in a 2,5% quota applied to the total fund of monthly gross wages earned by the persons compulsorily insured, by the effect of the law, provided in Article 19.

#### ART. 27

(1) The employers shall have the obligation to withhold and transfer monthly the individual contribution to the unemployment insurance budget, in a quota of 1%, applied on the gross monthly basic wage, for the insured provided in Article 19 a) - d) or, as the case may be, for the insured provided in Article 19 e), on the monthly gross incomes earned.

(2) The provisions of paragraph (1) shall not apply for the period when the labour relations or the job relations of the persons compulsorily insured, by the effect of the law, provided in Article 19, shall be suspended according to the law, except for the period of temporary industrial disablement, if this does not exceed 30 days.

#### ART. 28

The persons insured on the basis of the unemployment insurance contract, provided in Article 20, shall have the obligation to pay monthly a contribution to the unemployment insurance budget, in a 3,5% quota applied to the monthly income declared in the unemployment insurance contract.

#### ART. 29

Depending on the resources necessary to cover the expenditure of the unemployment insurance budget, the level of the quotas of the contributions provided in Article 26 - 28 may be modified by the law on the state social insurance budget.

#### ART. 30

The incomes from other sources of the unemployment insurance budget shall consist, mainly, of interests, increases for the non-payment on the due term of the contributions, returns of the loans granted pursuant to the law, fees cashed by the National Agency for Employment from the activity of professional training and those for the accreditation of the suppliers of employment services, penalties, fines and any other amounts cashed to the unemployment insurance budget according to the law.

#### ART. 31

(1) The time limit for submission of the monthly statement regarding the nominal records of the insured and of the payment obligations to the unemployment insurance budget shall also be a payment time limit.

(2) For the non-payment of the contributions owed to the unemployment insurance budget the legal regulations on the enforcement of budgetary debts shall be applied.

#### ART. 32

(1) In case the contributions for the setting up of the unemployment insurance budget, the delay increases and the penalty charges are not paid, the National Agency for Employment shall begin to apply the enforcement measures provided by the law.

(2) The recovery of the debts from the contributions and increases may also be carried out by the compensation with the fixed assets of the debtors' patrimony, assessed by institutions authorised according to the law, provided that they are necessary for the operation of the National Agency for Employment and are provided in the investment programme.

#### ART. 33

(1) From the financial sources set up within the unemployment insurance budget there shall be covered, mainly, the following expenditures regarding:

- a) the payment of the unemployment benefits;
- b) the payment of the contributions for the state social insurance and of the contributions for the health social insurance for the beneficiaries of the unemployment benefits, established according to the law;
- c) the compensatory payments granted according to the law;
- d) the fees, commissions and other expenditures occasioned by the carrying out of the payments provided in letter a) - c);
- e) the financing of the measures for the employment stimulation and of the measures for the prevention of unemployment;
- f) the financing of the vocational training services for the persons who, according to the law, benefit free of charge from these services;
- g) the financing of the studies, reports and analyses regarding the labour market, ordered to the specialised institutions by the National Commission for Employment and the National Agency for Employment;
- h) the organisation and functioning of the National Agency for Employment, including the carrying out of investment objectives, endowments and other expenses such as the capital expenses, within the limits provided by the law;
- i) the participation in the activity of certain international organisations, including the payment of contributions for the affiliation thereto;
- j) the application of the measures with a view to recovering the debts;
- k) the co-financing of certain projects regarding the modernisation of the employment and vocational training services on the basis of certain international agreements;
- l) the co-financing of certain programmes regarding the stimulation of employment;
- m) the reimbursement of the loans contracted under the conditions of law, as well as the payment of interests and commissions related to them;
- n) other expenses provided by the legislation in force.

(2) The level of the expenditure of the unemployment insurance budget shall be substantiated by the Ministry of Labour and Social Solidarity, at the proposal of the National Agency for Employment, depending on the social indicators established based on the analyses, studies and forecasts regarding the developments on the labour markets.

## SECTION 3 Unemployment benefit

### ART. 34

(1) The unemployed provided in Article 17 (1) shall benefit from the unemployment benefit if they satisfy cumulatively the following conditions:

a) they have a period of contribution of at least 12 months over the last 24 months prior to the date when the application was registered;

b) they do not earn incomes or they earn from activities authorised according to the law incomes lower than the gross minimum basic wage on the country guaranteed for payment;

c) they do not satisfy the retirement conditions, according to the law;

d) they are registered with the agencies for employment in the jurisdiction of which have their domicile or, as the case may be, residence, if they had their last job or they earned incomes in that locality.

(1<sup>^</sup>1) When the 24-month period provided in paragraph (1) a) is established, the following shall not be taken into account:

a) the period of suspension of the employment or job relations, except for the period of temporary industrial disablement, if it does not exceed 30 days;

b) the period for retirement for disablement, if it does not exceed 12 months, for the persons provided in Article 17 (1) g);

c) the period between the date when the employment or job relations were suspended and the date when the reason for their suspension does no longer exist, for the persons provided in Article 17 (1) h);

d) the period between the date when the employment or job relations were terminated and the date when the re-employment judgement remained final, if this period does not exceed 12 months, for the persons provided in Article 17 (1) j).

(1<sup>^</sup>2) For the persons employed with part time individual labour contract, the period of contribution provided in paragraph (1) a) shall be established proportionally with the time actually worked, by cumulating the periods carried out on the basis of part time individual labour contract.

(1<sup>^</sup>3) For the persons employed with temporary labour contract, the period of contribution provided in paragraph (1) a) shall be established depending on the duration of each mission, respectively on the length of the period when the persons are at the disposal of the temporary labour agent, between missions.

(2) The periods when the employer did not pay the contribution to the unemployment insurance budget and he is in a procedure involving enforcement, judicial reorganisation, bankruptcy, operational closing down, dissolution, liquidation, special administration or he did not pay his contributions due to certain force majeure situations shall also represent periods of contributions.

(3) The unemployed provided in Article 17 (2) shall benefit from unemployment benefits if they satisfy cumulatively the following conditions:

a) they are registered with the employment agencies in the jurisdiction of which have their domicile;

b) they do not earn incomes or they earn from activities authorised according to the law incomes lower than the gross minimum basic wage on the country guaranteed for payment;

c) they do not satisfy the retirement conditions, according to the law.

#### ART. 35

(1) For the persons who had their employment or job relations suspended, except for the suspension for temporary industrial disablement, if it does not exceed 30 days, the minimum period of contribution shall be carried out by cumulating the insurance period carried out before the suspension with the insurance period carried out after the activity is resumed.

(2) For the persons provided in Article 17 (1) g) and j), the minimum period of contribution shall be carried out by cumulating the insurance periods carried out before the termination of the employment or job relations.

(3) For the persons provided in Article 17 (1) h), the minimum period of contribution shall be carried out by cumulating the insurance periods carried out before the suspension of the employment or job relations.

#### ART. 36

(1) The length of service shall be recognised for the establishing of the unemployment rights provided by the Law No. 1/1991 on the social protection of unemployed and their reemployment, republished, with subsequent amendments, shall be assimilated with the period of contribution until the date when the present law comes into force.

(2) The proof of the length of service, provided in paragraph (1), shall be made with the employment record book or with other documents provided by the law.

(3) The certification of the period of contribution carried out before the coming into force of the present law shall be made by the employment agencies.

#### ART. 37

(1) The periods when the employees or, as the case may be, the employers paid contributions for unemployment insurance within the unemployment insurance system in Romania, as well as in other countries, under the conditions established by the international agreements and conventions to which Romania is a party shall also constitute period of contribution shall also represent periods of contribution.

(2) The rights due within the unemployment insurance system in Romania may be transferred to the countries where the insured establish their domicile or residence, under the conditions governed by the international agreements and conventions to which Romania is a party.

(3) The unemployment benefits related to the rights provided in paragraph (2) may be transferred to other countries under the conditions governed by the international agreements and conventions to which Romania is a party, in the currency of such countries or in another currency which was agreed upon.

#### ART. 38

(1) The unemployment benefit shall be granted to the persons provided in Article 17, on demand, as the case may be, beginning with the date:

a) when the individual labour contract or the temporary labour contract is terminated;

- b) when the job relations are terminated;
- c) when the mandate for which they have been appointed or elected ceases;
- d) when the period of the contract of the military employed on the basis of a contract expires or the contract is cancelled;
- e) when the capacity of cooperative member ceases;
- f) when the unemployment insurance contract is terminated;
- g) when the reason for which they retired ceased to exist;
- h) when the reason for which the employment or job relations ceases to exist;
- i) \*\*\* Repealed
- j) when the judgement remains final;
- k) when the activity carried out exclusively on the basis on the civil agreement ceases;
- l) when the 60-day period provided in Article 17 (2) a) expires;
- m) of graduation, for the cases provided in Article 17 (2) b);
- n) when the 30-day period provided in Article 17 (2) c) expires;

(2) The unemployment benefit shall be granted from the date provided in paragraph (1), if the application is registered at the employment agency, within 30 days from this date.

(3) If the request is registered after the expiry of the 30-day period, but no later than 12 month from the date provided in paragraph (1), the unemployment benefit shall be granted beginning with the date when the application is registered.

(4) The time limit of maximum 12 months provided in paragraph (3) shall be time limit of the loss of rights.

#### ART. 39

(1) The unemployment benefit shall be granted to the unemployed provided in Article 17 (1) for periods established separately, depending on the period of contribution, as follows:

- a) 6 months, for the persons with a period of contribution of at least one year;
- b) 9 months, for the persons with a period of contribution of at least 5;
- c) 12 months, for the persons with a period of contribution longer than 10 years.

(2) The quantum of the unemployment benefit provided in paragraph (1) shall be an amount granted on a monthly basis and separately, depending on the period of contribution, as follows:

a) 75% of the gross minimum basic wage on the country guaranteed for payment, in force on the date when it was established, for the persons with a period of contribution of at least one year;

b) the amount provided in letter a) to which it is added an amount calculated by applying a percentage quota differentiated depending on the period of contribution to the average gross minimum basic wage for the last 12 months of period of contribution.

(3) The percentage quotas differentiated depending on the period of contribution, provided in paragraph (2) b) shall be:

- a) 3% for the persons with a period of contribution of at least 3 years;
- b) 5% for the persons with a period of contribution of at least 5 years;

- c) 7% for the persons with a period of contribution of at least 10 years;
- d) 10% for the persons with a period of contribution of at least 20 years.

(4) For the persons previously insured under an unemployment insurance contract, when determining the amount calculated by applying a percentage quota differentiated depending on the period of contribution, provided in paragraph (2) b), the monthly income declared in the unemployment insurance contract shall be applied.

#### ART. 40

(1) The unemployment benefit shall be granted to the unemployed provided in Article 17 (2) for a period of 6 months and it shall be a fixed monthly amount, the quantum of which represents 50% of the gross minimum basic wage on the country guaranteed for payment, in force on the date when it was established.

(2) The unemployment benefit provided in paragraph (1) shall be granted to the unemployed provided in Article 17 (2) a) and b), only once, for each type of education graduated.

#### ART. 41

(1) The persons receiving the unemployment benefit shall have the following obligations:

a) to appear monthly, based on a schedule or whenever they are called, at the employment agency where they are registered, in order to receive support with a view to being employed;

b) to communicate within 3 days to the employment agency where they are registered any change in the conditions which lead to granting the rights;

c) to participate in the services for the stimulation of employment and vocational training offered by the employment agency where they are registered;

d) to seek actively for a job.

(2) The employers who hired, according to the law, persons among the beneficiaries of unemployment benefit shall have the obligation to inform within 3 days the employment agencies where they have been registered.

(3) The obligation provided in paragraph (2) shall also devolve on the territorial pension funds which have established and put up for payment the pensions due to the beneficiaries of unemployment benefits.

#### ART. 42

(1) The persons who, on the date when the right is claimed, reject a job adequate to their education or the level of the studies, which is located at 50 km at the most from the locality of residence, or who reject the participation in services for the stimulation of employment and vocational training offered by the employment agencies shall not benefit from unemployment benefit.

(2) The graduates who, on the date when the right is claimed, attend the classes of an education institution, shall not benefit from unemployment benefit.

#### ART. 43

(1) The unemployment benefit shall be paid monthly in the quantum provided in Article 39 (2), and in Article 40 (1), respectively.

(2) For fractions of month the unemployment benefit shall be calculated proportionally with the number of calendar days from the respective month.

#### ART. 44

The cessation of the payment of the unemployment benefits granted to the beneficiaries shall be carried out as follows:

a) on the date of employment, according to the law, for a period longer than 12 months;

b) on the date when they earn from activities authorised by law incomes higher than the gross minimum basic wage on the country guaranteed for payment;

c) within 90 days from the date when the operation authorisation to carry out independent activities or the registration certificate was issued, according to the law, if they earn monthly incomes higher than the gross minimum basic wage on the country guaranteed for payment;

d) on the date of the unjustified refusal to become employed according to the education or the level of studies for a job located at 50 km away from the locality of residence;

e) on the date of the unjustified refusal to participate in services for the stimulation of employment and vocational training or on the date of their interruption from reasons which can be imputable to such persons;

f) if the period of retirement for disablement exceeds 12 months;

g) on the date when the conditions of compulsory retirement are satisfied, from the date when the anticipated pension is requested or on the date when the disablement pension can no longer be reviewed;

h) on the date when the beneficiary leaves abroad for a period longer than 3 months;

i) on the date when the execution of a prison sentence begins for a period longer than 12 months;

j) in case of the beneficiary's death;

k) when the time limits provided in Article 45 (2) and (3) expire;

l) when the time limits provided in Article 39 (1), Article 40 (1), respectively, expire;

m) on the date of admission in an education institution, in case of the persons assimilated to the unemployed, provided in Article 17 (2) a) and b).\*)

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\*) Before the amendment made by the Law No. 107/2004, letter m) of Article 44 had the following contents:

"m) on the date of admission in an education institution."

The Constitutional Court, by the Decision No. 217/2003, has established that the provisions of Article m) of the Law No. 76/2002 on the unemployment insurance system and employment stimulation, in the above mentioned form, were unconstitutional.

#### ART. 45

(1) The payment of the unemployment benefits granted to the beneficiaries shall be suspended as follows:

a) on the date when they did not fulfil the obligation stipulated in Article 41 (1) a);

b) during the compulsory military service;

c) on the date of employment, according to the law, for a period of 12 months at the most;

d) on the date of leaving the country for a period shorter than 3 months, upon request of the respective person;

e) during the period of time he is under preventive arrest or under a prison sentence no longer than 12 months;

f) on the date of retirement for disability reasons;

g) during the period of receiving the allowance for temporary industrial disablement, the allowance for maternal leave and the allowance for child care until the child reaches the age of 2 years old, or 3 years old, respectively, in the case of the disabled child, respectively;

h) during the period of temporary industrial disablement longer than 3 days due to the accidents occurred during the qualification, requalification, improvement courses or, as the case may be, other types of vocational training, during and as a result of the professional practice;

i) for the period of granting the compensatory payments, according to the law.

(2) The payment shall be resumed, after the suspension under the conditions in paragraph (1) a), from the date when the application is submitted by the beneficiary, but not later than 60 calendar days since the suspension date.

(3) The payment shall be resumed, after the suspension under the conditions in paragraph (1) b) - i), from the date when the application is submitted by the beneficiary, but not later than 30 calendar days from the date when the situation which has led to the suspension ceases to exist.

(4) The suspension period provided in paragraph (1) a) shall be part of the period for granting the unemployment benefit.

#### ART. 46

The cash entitlements provided in Article 43 shall be subject to the debts enforcement resulting from their undue payment, as well as for the cases stipulated by the Civil Procedure Code or by other special legal provisions.

#### ART. 47

(1) The amounts paid without a legal ground as unemployment benefits, as well as the debts resulted according to this law shall be recovered from the persons who received them and who were not entitled to them, based on the decisions issued by the employment agencies, which are writs of execution.

(2) The amounts unduly received as unemployment benefits shall be recovered from the beneficiaries within the general legal prescription time limit.

(3) The amounts remained unrecovered from the deceased beneficiaries shall no longer be pursued.

#### ART. 48

(1) The beneficiaries of unemployment benefit shall be insured within the state social insurance system and the health social insurance system and shall benefit from all the rights provided by the law for the insured within these systems.

(2) The contribution to the state social insurance and the contribution for the health social insurance shall be covered from the unemployment insurance fund budget and shall be transferred to the respective insurance funds by the employment agencies.



(3) The state social insurance rights of the persons receiving unemployment benefits shall be covered from the state social insurance budget.

#### CHAPTER IV

##### Measures for preventing unemployment

###### ART. 48<sup>1</sup>

(1) For the purpose of preventing the unemployment and of consolidating the jobs through the increase and diversification of the professional skills of the employed persons, the employers who organise, based on the annual vocational training plan, training programmes for their own employees, carried on by the suppliers of vocational training services, authorised under the conditions of law, shall be granted, from the unemployment insurance budget, an amount representing 50% of the expenses made with the vocational training services organised for a number of maximum 20% of the employed personnel.

(2) The employers may benefit from the amount provided in paragraph (1) for the carrying on of only one vocational training programme within one year.

(3) The amount provided in paragraph (1) shall be granted from the unemployment insurance budget, from the chapter "Expenses for education", within the limits of at least 15%, to the employers selected annually by the employment agency.

(4) The employers shall be obliged to preserve the employment or job relations of the persons participating in the vocational training programme, for which the amount provided in paragraph (1) has been granted, at least 3 years from the date when the amount was granted.

(5) The employers who cease the employment or job relations of the persons provided in paragraph (4) before the 3-year time limit shall be obliged to return fully to the employment agencies the subsidy granted, plus the reference interest of the National Bank of Romania, in force on the date when the employment or job relations were terminated, if they were terminated for the reasons provided in Article 83 (2) and they may no longer benefit from the provisions of paragraph (1) for a period of 2 years from the date when the employment or job relations of such persons were terminated.

(6) The procedure and the way of granting the amount provided in paragraph (1) shall be established by the methodological norms of application of the present law.

###### ART. 49

In the case of collective dismissals, the employers shall have the obligation to notify the employment agencies with a view to adopting certain measures for fighting against unemployment and preventing the unfavourable social effects of such redundancies.

###### ART. 50

(1) In the situations provided for in Article 49 the employers shall be obliged to provide a notice period, according to the Labour Code or the collective labour contract, to their employees who are to be dismissed.

(2) During the notice period stipulated in paragraph (1) the employees shall participate in pre-layoff services delivered by the employment agencies or by other suppliers of employment services from the public or private sector, accredited, selected by the agencies, under the conditions of the law.

(3) In order to carry out pre-layoff services, the employers in the situations provided in Article 49 shall be obliged to notify the employment agencies 30 calendar days prior to the issuing of the lay-off decisions.

#### ART. 51

For the purpose of this law, the following activities shall be mainly considered pre-layoff services:

- a) information on the legal provisions referring to 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 unit or by short-term training courses;
- d) investigation of employees' opinion and their counselling on the measures for fighting against unemployment.

#### ART. 52

(1) The pre-layoff services stipulated in Article 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 financing modalities and their implementation instructions shall be elaborated by the National Agency for Employment, shall be endorsed by the Ministry of Labour and Social Solidarity and shall be approved by way of a Government decision.

### CHAPTER V

#### Measures for employment stimulation

#### SECTION 1

##### Specialised services

#### ART. 53

The measures for the employment stimulation shall aim to:

- a) increase the employment opportunities of the job-seekers;
- b) stimulate the employers to hire the unemployed and create new jobs.

#### ART. 54

The measures for employment stimulation shall be aimed both at the job-seekers and the employers and shall be carried out by way of specialised services, supplied by the employment agencies or other service suppliers from the public or private sector.

#### ART. 55

(1) The providers of specialised services for employment stimulation may supply services financed from the unemployment insurance fund, based on contracts concluded with the employment agencies, only if they are accredited.

(2) The National Agency for Employment shall make the accreditation of the service suppliers provided in paragraph (1).

(3) For the accreditation, the National Agency for Employment shall charge a fee the quantum of which shall be established yearly by the Ministry of Labour and Social Solidarity, following its proposal, for each type of service supplied.

(4) The amounts collected from the accreditation fees shall be income to the unemployment insurance budget.

#### ART. 56

The service suppliers may provide specialised services for employment stimulation, financed from funds other than the unemployment insurance budget, only if they are accredited by the National Agency for Employment.

#### ART. 56<sup>1</sup>\*

The suppliers of specialised services for employment stimulation in the Member States of the European Union and in the European Economic Area who have been subject to such a condition in the state of origin shall not be subject to the accreditation by the National Agency for Employment.

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\*) According Article 3 of the Law No. 107/2004, the provisions of Article 56<sup>1</sup> of the Law No. 76/2002 shall come into force on the date of accession of Romania to the European Union.

## SECTION 2

Increasing the employment opportunities of the job-seekers

#### ART. 57

(1) The increase of the employment opportunities of the job-seekers shall be mainly carried out by the National Agency of Employment, by means of:

- a) professional information and counselling;
- b) labour intermediation;
- c) vocational training;
- d) consulting and assistance to start an independent activity or to start-up a business;
- e) supplementing the wage incomes of the employees;
- f) stimulating the labour mobility.

(2) The increase of the employment opportunities of the job-seekers may be carried out by the National Agency of Employment and by the promotion of special programmes in partnership with other public or private law persons.

(3) The measures that envisage the increase of the employment opportunities of the job-seekers, provided in paragraph (1) a) - d), may also be carried out for a consideration by the service providers in the public or private sector accredited and/or authorised under the law.

#### 1. Professional information and counselling

#### ART. 58

(1) Professional information and counselling is a set of services delivered free of charge to the job-seekers and have the following purposes:

a) to provide information on the labour market and the evolution of the professions;

b) to evaluate and self-evaluate personality for their professional guidance;

c) to develop the ability and self-confidence of the job-seekers in order to enable them to make a decision on their own career;

d) to train on job-searching methods and techniques.

(2) The professional information and counselling shall be carried out in specialised centres, organised within the employment agencies, as well as in other centres and accredited service suppliers in the public or private sector, who conclude contracts with the employment agencies, according to the law.

(3) The information regarding the labour market, the establishment of the career path, the evaluation and self-evaluation shall be carried out by self-information, by individual or group counselling services supplied, upon request, to the job-seekers 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 interviews for employment shall be 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 the activity through which the employers are connected to the job-seekers in order to establish employment or job relations.

(2) The employment agencies have the obligation to identify the vacancies with the employers and to make them available to the job-seekers.

(3) The labour exchange services for the job-seekers shall be granted 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 in accordance with their training, aptitudes, experience and interests.

### ART. 60

(1) In order to implement employment stimulation measures, the employment agencies have the obligation to draw up an individual job-matching plan for every job-seeker.

(2) The elaboration procedure, the contents and monitoring of the individual job-matching plan shall be established by 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 where they are registered, shall be mandatory for the unemployed who receive unemployment benefits, under the conditions provided by the present law.

(2) The unemployed who do not receive unemployment benefits must 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 provided in Article 16 c) - f) shall also benefit, upon request, from free of charge labour exchange services.

#### ART. 62

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

### 3. Vocational training

#### ART. 63

(1) The job-seekers may participate in vocational training programmes meant to increase and diversify their professional skills with a view to ensuring their mobility and reintegration on the labour market.

(2) The vocational training programmes shall ensure, according to the law, the initiation, qualification, requalification, improvement and specialisation of the job-seekers.

(3) The vocational training of the job-seekers shall be 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 by which it is carried out the vocational training of the job-seekers shall be 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 shall be provided as a result of the information, professional counselling or labour exchange activity.

(2) The vocational training programmes of the job-seekers shall be organised on different levels of training and specialisation, as well as for categories and groups of persons.

#### ART. 65

(1) The vocational training of the job-seekers shall be made according to the National Plan for Vocational Training elaborated by the National Agency for Employment every year.

(2) The National Plan for Vocational Training shall be approved by the Ministry of Labour and Social Solidarity.

(3) The vocational training activity shall be financed from the unemployment insurance budget, based on the indicators established by the approved National Plan for Vocational Training.

#### ART. 66

(1) The persons provided in Article 16 a), b), d), e), and f), as well as the persons carrying on activities in the rural area and do not earn monthly incomes or they earn monthly incomes lower than the gross minimum basic wage on the country guaranteed for payment and who are registered with the employment agencies shall benefit free of charge by the vocational training services.

(2) The vocational training services shall be ensured free of charge at the request of the employed persons, with the agreement of the employer or, at the request of the employer, also for the persons in the following situations:

- a) they resumed the activity as a result of ending the leave for raising children up to the age of 2, respective 3 years, in case of disabled children;
- b) they resumed the activity after the satisfying the military service;
- c) they resumed the activity as a result of regaining the working capacity after the retirement for invalidity.

(3) The provisions of paragraph (2) shall apply in case the application is formulated within 12 months from the date when the persons resume their activities, once for each situation.

(4) The persons under detention who have maximum 9 months until the last day of the penalty execution may pursue a vocational training programme organised by the county employment agencies, the employment agencies of Bucharest Municipality, respectively, and the expenses necessary for the vocational training shall be born from the unemployment insurance budget.

#### ART. 66<sup>1</sup>

(1) Vocational training services means all rights of the persons provided in Article 66 (1) and (2) for the period when they participate in a vocational training course.

(2) The job-seekers benefiting free of charge from vocational training services shall have the following rights:

a) to benefit from theoretical and practical training for the entire duration of the course and to take, free of charge, not more than twice the graduation exam at the end of the course;

b) to benefit from school supplies and instruction materials and to receive school books for personal use;

c) to benefit, if necessary, from protection equipment during the practical training;

d) to benefit, for travelling on the route from the domicile to the training unit, from free subscription on the public means of transport or, as the case may be, by the discount of the travelling expenses, for maximum 4 trips during one month, if they cannot travel on a daily basis to the training unit, under the conditions provided in the regulations in force for the employees of the public institutions and autonomous regies with a particular profile for the period of delegation and secondment in other locality, as well as in case of travelling within the locality, for business purposes, as well as by free subscription on the public means of transport for travelling on the route from the accommodation unit to the instruction unit;

e) to benefit from medical consultations, medical analyses and tests necessary in order to attend the course.

(2<sup>1</sup>) For the routes provided in paragraph (2) d) for which subscriptions are not granted, the persons shall be entitled to benefit by the deduction of the travelling tickets on public means of transport.

(3) The persons provided in paragraph (2), who can not travel on a daily basis to the training unit or live at more than 50 km away from it, shall have the right,

for the period while they participate in the vocational training, to benefit from accommodation and an amount of money to cover the meal at the level provided by the regulations in force for the employees of the public institutions and autonomous regions with a particular profile for the period of delegation and secondment in other locality, as well as in case of travelling within the locality, for business purposes.

(3<sup>1</sup>) The persons that enjoy the rights provided in paragraph (3) may not benefit by free subscription on the public means of transport for travelling on the route from their domicile to the training unit.

(4) The procedures regarding the way of granting the rights to which the job-seekers are entitled for the duration while they participate in a vocational training course shall be elaborated by the National Agency for Employment and shall be approved by order of the minister of labour, social solidarity and family, which shall be published in the Official Gazette of Romania, Part I.

(5) The persons who receive the unemployment benefit shall be obliged to participate in the vocational training programmes offered and organised by the employment agencies.

(5<sup>1</sup>) The persons that benefit by unemployment benefit shall be obliged to participate in the vocational training programmes offered and organised by the employment agency, as well as in the graduation exam of such programmes.

(6) The persons provided in Article 66 (1) may benefit free of charge from vocational training services, only once, for each period when they are seeking for a job.

(7) The rights provided in paragraphs (2) and (3) shall be covered by the unemployment insurance budget.

#### ART. 67

(1) The vocational training activity of the job-seekers shall be co-ordinated at national level by the National Agency for Employment.

(2) The vocational training of the job-seekers shall be carried out by the employment agencies through their subordinated vocational training centres and by the regional centres for vocational training of adults of the National Agency for Employment, as well as by the suppliers of vocational training services, from the public or private sector, authorised according to the law.

(3) The manner of organisation and functioning of the regional centres for vocational training of adults shall be approved the decision of the managing board of the National Agency for Employment.

(4) The order of the president of the National Agency for Employment to apply the decision of the managing board shall be published in the Official Gazette of Romania, Part I.

#### ART. 68

(1) The qualification, requalification, improvement and specialisation courses shall be organised for the occupations, trades and professions defined and included in the Classification of occupations in Romania.

(2) The National Agency for Employment, as well as the authorised suppliers of vocational training services may also organise qualification, requalification, improvement and specialisation courses for occupations or trades not yet

included in the Classification of occupations in Romania, only after they received the opinion of the Ministry of Labour and Social Solidarity.

#### ART. 69

(1) The forms of vocational training of the job-seekers shall be based on the occupational standards recognised at national level or vocational training standards, approved according to the law.

(2) If for certain occupations and trades there are no occupational standards recognised at national level or vocational training standards, the National Agency for Employment may ask to legal persons of public or private law for draft occupational standards or draft vocational training standards, which shall be approved according to the law.

#### ART. 70

The Ministry of Labour and Social Solidarity shall exercise the control over the achievement of the National Plan for Vocational Training.

4. Counselling and assistance to start an independent activity or to start-up a business

#### ART. 71

(1) Counselling and assistance to start an independent activity or to start-up a business shall be provided, upon request, to the job-seekers as legal, marketing, financial services, efficient management methods and techniques and other consulting services.

(2) The services provided in paragraph (1) may be supplied by the employment agencies or, where appropriate, by private companies, professional organisations, foundations and associations specialised in this fields, with which the agencies conclude contracts according to the law.

(3) The services provided in paragraph (1) shall be granted free of charge:

a) to the persons provided in Article 16 only once for each period of time during which the person is seeking for a job;

b) to the persons that have the quality of insured within the unemployment insurance system only once for each period of time during which they have the quality of insured;

c) to the students requesting loans with favourable interests from the unemployment insurance budget under the conditions of the present law.

5. Completing the wage income of the employees

#### ART. 72

(1) The persons provided in Article 17 (1) and (2) c) for whom the right to unemployment benefit has been established according to the law and who are hired for a normal working schedule, according to the legal provisions in force, and, as a consequence of employment, they no longer receive the unemployment benefit, shall receive, from the moment when they are employed and by the end of the period for which they were entitled to receive the unemployment benefit, a monthly amount granted from the unemployment insurance budget, representing 30% of the quantum of the unemployment benefit, established and, as the case may be, updated according to the law.



(2) The persons hired by employers with whom they have had employment or job relations for the last 2 years, as well as the persons for which the payment of the unemployment benefit was suspended according to Article 45 (1) c), and subsequently, as a result of changing the length of the individual labour contract, the payment of the unemployment benefit is suspended according to Article 44 a), shall not benefit from the provisions of paragraph (1).

#### ART. 73

(1) The persons provided in Article 72 shall also benefit from this amount in case, during the period of time for which they are entitled to the unemployment benefit, the labour or job relation with the first employer is terminated and they are hired by another employer.

(2) The amount paid from the unemployment insurance budget, in the quantum established in Article 72, shall be granted for the situation provided in paragraph (1) until the end of the period during which the person was entitled to receive the unemployment benefit.

#### ART. 73<sup>1</sup>

(1) The graduates of the education institutions and the graduates of the special schools, at least 16 years old, registered with the employment agencies, in case they are hired for a regular working schedule, for a period longer than 12 months, shall benefit, from the unemployment insurance budget, by a premium equal to a gross minimum wage on the country guaranteed for payment, in force on the date of employment.

(2) The employees for whom the right for unemployment benefit was established and who become employed during the period when the benefit is granted, under the terms provided in paragraph (1), shall benefit, from the unemployment insurance budget, by an amount equal to the unemployment benefit to which he would have been entitled, under the law, by the expiry of the period for its granting, if he hadn't become employed.

(3) The rights provided in paragraph (2) shall be granted to the graduates that preserve their employment relations or job relations for a period of at least 12 months as of the employment date.

(4) The gross minimum wage on the country guaranteed for payment, had in view when calculating the unemployment benefit to which the persons provided in paragraph (2) would have been entitled, under the law, if he hadn't become employed, shall be the gross minimum wage on the country guaranteed for payment in force on the date of employment.

(5) The following shall not benefit by the provisions of paragraphs (1) and (2):

a) the graduates that on the date of graduation were involved in employment or job relations;

b) the graduates that become employed at employers with which they were previously involved in employment or job relations over the last 2 years;

c) the graduates that on the date of claiming their right are following a form of education;

d) the graduates of the education institutions towards which the employers have the obligation to hire them, according to the law;

e) the graduates for which the payment of the unemployment benefit was suspended according to Article 45 (1) c), and subsequently, as a result of changing the length of the individual labour contract, the payment of the unemployment benefit is suspended according to Article 44 a).

#### 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 at more than 50 km away from the locality where they have their stable domicile, shall benefit from an employment bonus, granted from the unemployment insurance budget, equal to two minimum gross wages on the economy 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, as a consequence, change their domicile shall receive an establishment bonus, granted from the unemployment insurance budget, equal to 7 minimum gross wages on the economy in force at the date of employment.

##### ART. 76

(1) The employees shall have the obligation to fully return the amounts received Articles 73<sup>1</sup>, 74 and 75, in case the employment or job relations are terminated, during a period shorter than 12 months since the date of employment, pursuant to the following provisions:

- a) Article 55 b), Article 56 g) and i), Article 61 a) and Article 79 of the Law No. 53/2003 - the Labour Code, with subsequent amendments and additions;
- b) Article 61 b) of the Law No. 53/2003, with subsequent amendments and additions, if they have been convicted by a final judgement;
- c) Article 84 (1) b) and e), (2) f) and g) and (5) of the Law No. 188/1999 on the Statute of the public servants, republished, with subsequent amendments.

(2) If the provisions of paragraph (1) are not observed the amounts provided in Article 73<sup>1</sup>, 74 and 75 shall be recovered based on the beneficiaries' commitments, which constitute writs of execution.

### SECTION 3

#### Incentives for employers in order to hire the unemployed

##### ART. 77

The incentives provided for employers in order to hire the unemployed shall consist of:

- a) subsidising of jobs;
- b) granting of loans under the best terms in order to create new jobs;
- c) granting of other facilities.

#### 1. Subsidising of jobs

##### ART. 78

Out of the unemployment insurance budget and from other sources allotted according to the legal provisions the labour expenses made within certain programmes having as purpose the temporary employment of persons belonging to the unemployed, for the development of the local communities, may be subsidised.

#### ART. 79

(1) The subsidies provided for in Article 78 shall be granted, following the request of local public authorities, to employers which were distributed contracts with the observance of the regulations in force regarding the public acquisitions, for a maximum 12-month period for each person hired, belonging to the unemployed, with an individual labour contract for a definite term of maximum 12 months.

(2) The monthly quantum of the subsidy granted for each person hired with individual labour contract, belonging to the unemployed, shall be:

a) during the period between 1 April - 31 October, 70% of the minimum gross basic wage on the economy;

b) during the period between 1 November - 31 March, a minimum gross basic wage on the economy, to which there are added the contributions to social insurance owed by the employers, related to the wage.

#### ART. 80

(1) The employers who hire for an indefinite term graduates of certain educational institutions shall be exempted, for a period of 12 months, from the payment of the contribution payable to the unemployment insurance budget, related to the graduates hired, and shall receive monthly, for this period, for each graduate:

a) one minimum gross basic wage on the economy, in force on the date of employment, for the graduates of the lower cycle of the high-school or of the art and trade schools;

b) 1,2 minimum gross basic wage on the economy, in force on the date of employment, for the graduates of the higher secondary education or of the post-secondary education;

c) 1,5 minimum gross basic wage on the economy, in force on the date of employment, for the graduates of the higher education.

(2) The employers who hire for an indefinite term graduates belonging to disabled people shall receive monthly, for a 18-month period, for each graduate, the amounts provided in paragraph (1).

(3) The employers who have the obligation, according to the law, to hire graduates of the education institutions shall not benefit from the provisions of paragraphs (1) and (2), for the graduates of this category.

#### ART. 81

The incentives measures provided in Article 80 shall not be granted for the periods when the employment or job relations are suspended.

#### ART. 82

For the purpose of this law, a graduate of an education institution means the person who received a diploma or a study certificate, according to the law, in one of the institutions from primary, vocational, special, secondary, post-secondary or

higher public or private education, authorised or accredited under the conditions of law.

#### ART. 83

(1) The employers who hire graduates according to the provisions of Article 80 must preserve their employment or job relations at least 3 years before the date of their termination.

(2) The employers who terminate the employment or job relations with the graduates, before the time limit provided in paragraph (1), must pay back to the employment agencies the full amounts received for each graduate, plus the reference interest of the National Bank of Romania in force on the date when the employment or job relations are terminated, if their termination occurred for the following reasons:

a) the termination of the labour relation pursuant to Article 55 b), Article 56 c), e) and f) and Article 65 of the Law No. 53/2003, with subsequent amendments and additions;

b) the termination of the labour relation pursuant to Article 84 (1) b), (2) e) and (4) c) of the Law No. 188/1999, republished with subsequent amendments.

(3) \*\*\* Repealed

(4) The graduates can be hired under the conditions of Article 80, only once for each type of education, within 12 months after graduation.

#### ART. 84

(1) Within the 3-year period, provided in Article 83 (1), the graduates may attend a vocational training course, organised by the employer, under the conditions of the law.

(2) The expenses necessary for the vocational training provided in paragraph (1) shall be covered, at the request of employers, from the unemployment insurance budget.

#### ART. 84<sup>1</sup>

(1) The employers that, after having satisfied the obligation provided in Article 83 (1), shall preserve the employment or job relations with the graduates hired under the terms of Article 80 shall receive, for each year of continuation of the employment or job relations, a financial aid equal to the amount related to the social contributions payable by the employers for such persons and transferred, according to the law.

(2) The financial aid provided in paragraph (1) may be granted for a period of maximum 2 years as of the date of meeting the obligation provided in Article 83 (1).

(3) Social contributions payable by the employers shall mean the social insurance contribution, the insurance contribution for accidents at work and occupational diseases, the contribution for health social insurance and the unemployment insurance contribution.

(4) The financial aid provided in paragraph (1) shall be transferred, upon request, from the unemployment insurance budget, to the employers that do not have debts for the failure to pay the social contributions, by the payment of this amount, within 90 days as of the approval of the request.

#### ART. 84<sup>2</sup>

The procedure for the application of the provisions of Article 84<sup>1</sup> shall be approved by order of the minister of labour, social solidarity and family.

#### ART. 85

(1) The employers who hire for an indefinite term the unemployed over 45 years old or the unemployed who are single providers of one-parent families shall be exempt, for a 12-month period, from the payment of the unemployment insurance budget, related to the persons hired that belong to such categories, and they shall receive, for this period, for each person employed that belong to such categories, an amount equal to the minimum gross basic wage on the economy in force, with the obligation to preserve the employment or job relations for at least 2 years.

(2) By the facilities provided in paragraph (1) shall also benefit the employers that, depending on the number of employees, are not under the obligation, according to the law, to hire disabled persons, if they hire disabled persons for an indefinite term and they preserve the employment or job relations for at least 2 years.

(3) The subsidising of the vacancies for employment, under the conditions of paragraph (2), of the disabled persons may not exceed 60% of the wage costs of the employer, for a period of one year from employment, related to the disabled persons employed.

(4) The employers who terminate the employment or job relations with the persons provided in paragraph (1) and (2), prior to the end of 2-year period, must pay back to the employment agencies the full amounts received for each person, plus the reference interest of the National Bank of Romania in force on the date when the employment or job relations were terminated, if their termination occurred due to the reasons provided in Article 83 (2).

(5) The employers hiring, according to the law, the unemployed who, within 3 years from the employment date, satisfy, according to the law, the conditions to request the anticipated partial pension or to receive the compulsory pension, if they do not satisfy the conditions to request the anticipated partial pension, shall benefit monthly, for the period of employment, until the date when such conditions are satisfied, from an amount equal to the minimum gross basic wage on the economy, in force, granted from the unemployment insurance budget.

(6) The employers who had, over the last 2 years, employment or job relations with the employed persons from the categories provided in these paragraphs shall not benefit from the facilities provided in paragraphs (1), (2) and (5).

#### ART. 85<sup>1</sup>

The employers benefiting from the subsidising of jobs under the conditions of Article 80 or of Article 85 (1) and (2) and who terminate the employment or job relations of the persons hired for these jobs, for the reasons provided in Article 83 (2), prior to the time limits provided by the law, may no longer benefit from a new subsidy from the unemployment insurance budget for a 2-year period from the date when the employment or job relations were terminated.

## 2. Granting of loans under the best terms

#### ART. 86

(1) Loans can be granted under the best terms from the unemployment insurance budget in order to create new jobs by way of setting up and developing small and medium-size enterprises, cooperative units, family associations, as well as independent activities carried on by authorised natural persons.

(2) The loans shall be granted based on certain feasibility studies proportionally with 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 period for ensuring the production, respectively, with an interest rate equal to 50% of the reference interest established by the National Bank of Romania.

(3) In the counties where the annual average unemployment rate was over the annual average unemployment rate on the country, communicated by the National Agency for Employment, the loans shall be granted during the next calendar year with an interest rate of 25% of the reference rate of the National Bank of Romania.

(4) The persons of up to 30 years old, who have the statute of student for the first time and attend the day classes in an public or private higher education institution, authorised or accredited, under the terms of the law, shall also benefit from loans, under the conditions of the law, with the interest provided in paragraph (3).

(5) The loans provided in paragraph (4) shall be granted to the students who set up or develop, individually or together with other students who satisfy the conditions provided in paragraph (4), small and medium-size enterprises, cooperative units, family associations, or who carry on independently an economic activity as authorised natural person.

(6) In case during the period for which the loan was granted the assignment or the partial or total alienation, by any means, of the shares or stocks held by the loan beneficiaries provided in paragraph (4) to other persons than the ones in the mentioned category occurs, they shall be obliged to pay an amount equal to the difference between the interest provided in paragraph (2) and the one provided in paragraph (3).

(7) The beneficiaries of loans granted under the conditions of paragraphs (2) - (4) must satisfy the following conditions:

a) to have maximum 249 employees and/or cooperative members with employment or job relations;

b) to perform their main activity in production, services or tourism;

c) to hire, for at least 60% of the number of newly-created jobs by the setting up or development of small and medium-size enterprises or cooperative units, staff belonging to the unemployed registered with employment agencies;

d) to keep in activity the staff hired according to letter c) for at least 3 years;

e) the jobs taken into account when granting loans according to paragraphs (2) - (4) should be not vacancies as a result of the termination of the labour relations of certain employees over the last 12 months prior to the conclusion of the loan contract.

(8) The unemployed who commit themselves to set up small and medium-size enterprises, cooperative units, family associations, or who carry on independently

an economic activity as authorised natural persons shall have priority for loan granting under the best terms.

#### ART. 86<sup>1</sup>

(1) In order to create new jobs for the unemployed, unredeemable funds may be granted from the unemployment insurance budget, from the chapter "Loans".

(2) The unredeemable funds shall be granted based on certain feasibility projects, proportionally with the number of jobs which are to be created.

(3) The funds provided in paragraph (1) shall be granted for the setting up or development of small and medium-size enterprises, cooperative units, family associations or independent activities carried on by authorised natural persons, who carry on their activity in localities facing poverty and social exclusion phenomena due to the high level of unemployment.

(4) The localities where the funds provided in paragraph (1) shall be granted, as well as the amounts to be distributed to each locality shall be established by Government decision, within the limits established by the law on state social insurance budget.

(5) The funds provided in paragraph (1) shall be granted to the small and medium-size enterprises and cooperative units provided that for all the newly-created jobs they employ for an indefinite term the unemployed whom they must preserve in activity at least 4 years, to the family associations set up by the unemployed, as well as to the unemployed who have acquired the capacity of natural persons authorised to carry out independently an economic activity.

#### ART. 86<sup>2</sup>

(1) In order to grant loans under the best terms or the unredeemable funds provided in Article 86<sup>1</sup>, the contribution of the beneficiary must be at least 25% of the value of the feasibility project submitted.

(2) The loans under the best terms and the unredeemable funds shall be granted from the unemployment insurance budget with the observance of the provisions of the Regulations on the regional state aid and the state aid for small and medium-size enterprises and of the Regulation on the state aid for employment.

(3) The beneficiaries of loans granted under the conditions of Article 86 or by unredeemable funds granted under the conditions of Article 86<sup>1</sup> shall have the obligation to preserve the newly-created jobs for a minimum period of 5 years.

#### ART. 87

(1) The total amounts that can be used for loan granting under the best terms, for unredeemable funds, respectively, as well as their maximum quantum, that can be granted to a beneficiary, shall be established by the law on the state social insurance budget.

(2) The family associations may receive credits under the best terms or unredeemable funds, proportionally with their number, and the authorised natural persons carrying on independently economic activities, in order to finance their own job.

(3) The family associations and the authorised natural persons carrying on independently economic activities may receive loans under the best terms if at least one of the members of the family association, the authorised person,

respectively, is insured within the unemployment insurance system and has carried out a period of contribution of at least 12 months over the last 24 months prior to the date when the loan was requested.

(4) The family associations and the authorised natural persons carrying on independently economic activities may receive unredeemable funds if at least one of the members of the family association, the authorised natural person, respectively, has carried out a total period of contribution within the unemployment insurance system of at least 24 months.

#### ART. 88

(1) If the labour relations of the persons hired from among the unemployed are terminated before the completion of the 3-year period, the 4-year period, respectively, since the employment, the employer must hire also unemployed on that vacancies within maximum 30 calendar days since the date when the labour relations were terminated.

(2) The obligation provided in paragraph (1) shall also devolve on the employers if the persons employed on the newly-created jobs do not belong to the unemployed, for the persons who benefit from loans under the best terms.

(3) During the period when the contract is in progress the employer may not be allowed to diminish the number of positions existing in the unit on the date when the loan or the unredeemable fund is granted.

(4) In case one of the positions existing on the date when the loan or the unredeemable fund is granted becomes vacant, the employer shall be obliged to hire other persons for the positions which became vacant, within maximum 30 calendar days from the date when the position becomes vacant.

#### ART. 89

(1) If the employer fails to observe the condition provided in Article 86 (7) c), he shall 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 obligation provided in Article 86<sup>2</sup> (3) and Article 88 (1) and (2), he shall be charged a penalty equal to the amount of the unredeemable fund, of the loan granted, respectively, for each newly-created job proportionally with the number of months when it has not been occupied.

(3) If the obligation provided in Article 88 (3) and (4) is not observed by the employer, he shall be charged a penalty equal to the amount of the loan, of unredeemable fund, respectively, which has been granted, according to the law, for a number of newly-created jobs, equal to the one of the jobs which have been cancelled or became vacant, proportionally with the weight of the period when this obligation has not been observed during the total period provided for the maintenance or filling of the jobs, to which, in case of credits, the related interest is added.

#### ART. 90

(1) The loan beneficiaries under the best terms may request again loans from the unemployment insurance budget if they have fully paid the loans under the best terms previously obtained, including the related interests.

(2) The beneficiaries of an unredeemable fund shall no longer have the right to receive a new unredeemable fund.



#### ART. 91

(1) The amounts allotted from the unemployment insurance budget for granting loans under the best terms shall be administered by banks or other agencies authorised according to the law, with which the National Agency for Employment concludes contracts, according to the law.

(2) The bank or the loan agency that administers funds for granting loans under the best conditions shall bear the responsibility for the redemption of the amounts to the unemployment insurance budget.

(3) The taxes and commissions owed by the National Agency for Employment to the bank or the credit agency for fund management for granting loans under favourable conditions shall be covered from the unemployment insurance budget.

#### ART. 92

(1) The procedure and criteria for granting unredeemable funds shall be established by Government decision.

(2) The conditions for granting and redemption of the loans, for granting unredeemable funds, the way of establishing guarantees, the organisation and carrying on of auctions in order to select banks and agencies authorised to grant loans, unredeemable funds, respectively, from the unemployment insurance budget shall be established by way of methodological norms issued jointly by the Ministry of Labour, Social Solidarity and Family and the National Bank of Romania.

### 3. Facilities granted to employers

#### ART. 93

(1) The employers who hire persons that belong to the unemployed and keep them employed for a minimum 6-month period since the date of employment shall benefit from a reduction of the amount representing the 2,5% contribution owed to the unemployment insurance budget.

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

#### ART. 94

(1) The employers who receive loans from the unemployment insurance budget, according to the provisions of Article 86, shall benefit from a deduction to the payment of contribution, according to Article 93 (2), only for the unemployed hired over the 50% level of the newly-created jobs provided in Article 86 (7) c).

(2) The employers who receive unredeemable funds from the unemployment insurance budget, under the conditions of Article 86<sup>1</sup>, shall benefit from a deduction to the payment of contribution, according to Article 93 (2), only for the unemployed hired for other jobs than the newly-created jobs as a result of granting the unredeemable funds.

## SECTION 4 Final provisions

### ART. 95

The procedures regarding the access to employment stimulation measures, financing modalities and implementation instructions shall be elaborated by the National Agency for Employment, shall be endorsed by the Ministry of Labour and Social Solidarity and shall be approved by Government decision.

### ART. 96

(1) The National Agency for Employment shall draw up 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 balances shall be approved by order of the president of National Agency for Employment.

(3) The employment balances, at county and national level, shall 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 application of the present law

#### SECTION 1

Institutions and organisations involved in the enforcement of the provisions of the present law

### ART. 97

In order to fulfil the objectives and apply the measures provided in the present law, the Government shall approve strategies, plans and national programmes, at branch and territorial level.

### ART. 98

The institutions involved in the application of the provisions of the present law shall be:

- a) the Ministry of Labour and Social Solidarity;
- b) the National Agency for Employment;
- c) the ministries and other specialised bodies of the central public administration;
- d) the trade union organisations and employers associations representative at national level;
- e) the prefectures and local public administration authorities;
- f) the National Commission for Employment Promotion.

### ART. 99

The Ministry of Labour and Social Solidarity shall have the following attributions in the field of employment:

- a) shall follow up the trends on the labour market and shall elaborate strategies, forecasts and national programmes for employment, vocational training for unemployed and equal opportunities on the labour market;

b) shall elaborate and endorse draft statutory instruments in the field of employment, vocational training and promoting equal opportunities on the labour market;

c) shall elaborate the draft unemployment insurance budget;

d) shall delegate every year the attributions of the main loan manager of the unemployment insurance budget, according to the law;

e) shall follow up, based on quarterly and annual reports, the execution of the unemployment insurance budget and shall exercise the control over the implementation of the employment policies, strategies, plans and programmes by the National Agency for Employment;

f) shall carry out and update, together with other ministries and specialised bodies, the Classification of 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) shall promote programmes, shall propose agreements and shall implement international collaboration projects in the fields of employment, vocational training and equal opportunities on the labour market;

h) shall establish every year the performance indicators and their level, on the basis of which the yearly activity programme of the National Agency for Employment is elaborated.

#### ART. 100

(1) The implementation of employment and vocational training policies, strategies, plans and programmes for the unemployed shall be carried out mainly through the National Agency for Employment.

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

a) a non-discriminatory access to the services supplied in the field of employment and vocational training;

b) the neutrality in potential conflicts of interests between employers and the labour force;

c) the orientation of activities towards clients needs by drawing up individual action plans and promoting quick 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) the transparency of the activities performed and the results obtained;

g) the decentralisation of the services and of the decision-making process;

h) the adaptability of the services to the changes in the social and economic environment.

#### ART. 101

The National Agency for Employment shall submit to the Ministry of Labour and Social Solidarity quarterly and yearly reports on the execution of the unemployment insurance 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 elaborate in the fields co-ordinated by them.

(2) With a view to achieving the objectives provided in paragraph (1), the ministries and other specialised bodies of the central public administration may propose employment and vocational training strategies, programmes and draft statutory instruments for the labour force within the National Commission for Employment Promotion.

#### ART. 103

(1) The trade union organisations and employers associations, which are representative at national level, shall participate, under the conditions provided by law, in the elaboration and implementation of labour market programmes and measures.

(2) The trade union organisations and employers' associations, which are representative at national level, shall be consulted when statutory instruments on employment are elaborated.

#### ART. 104

The prefectures and local public administration authorities shall have the obligation to monitor the evolutions on the labour market at territorial level, to actively participate in the elaboration and implementation of measures designed to improve the employment of the people without work and to support the activity of the employment agencies.

### SECTION 2

#### National Commission for Employment Promotion

#### ART. 105

A National Commission for Employment Promotion is established, hereinafter called the National Employment Commission.

#### ART. 106

The National Commission for Employment shall have, mainly, the following 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 programmes;

b) to establish human resources development directions at national, branch and territorial level;

c) to ensure the harmonisation of human resources development programmes financed from public funds or from other sources;

d) to make proposals to elaborate the statutory instruments on employment and to improve the legislation in this field;

e) based on the economic and social development trends and the labour market developments, to make proposals for initiating certain proactive measures to fight against unemployment by way of tax policies, structural adjustments, and professional reconversion.

#### ART. 107

(1) The National Commission for Employment shall be formed of representatives of the ministries, agencies and departments subordinated to the Government or autonomous, at Secretary of State level, and the presidents of the trade union organisations and employers associations, which are representative at national level.

(2) The chairman of the National Commission for Employment shall be the minister of labour and social solidarity.

(3) The composition of the National Commission for Employment shall be established within 60 days from the coming into force of the present law by the Minister of Labour and Social Solidarity, after the consultation of the institutions mentioned in paragraph (1), and shall be approved by decision of the Prime Minister.

(4) The secretariat of the National Commission for Employment shall be ensured by the General Directorate for Labour Force within the Ministry of Labour and Social Solidarity.

#### ART. 108

The National Commission for Employment may ask specialised institutions to elaborate labour market studies, reports and analyses, which shall be financed from the unemployment insurance budget.

#### ART. 109

(1) The National Commission for Employment shall be legally established on the day when the Prime Minister approves its composition.

(2) The organisation and functioning regulation of the National Commission for Employment shall be elaborated by the Ministry of Labour and Social Solidarity and shall be submitted for approval to the Commission within 90 days from the date when it was established and shall be published in the Official Gazette of Romania, Part I.

### CHAPTER VII

#### Legal responsibility

#### ART. 110

The infringement of the provisions of the present law shall bring about, as the case may be, disciplinary, material, civil, contraventional or criminal responsibility.

#### ART. 111

The infringement by the employer of the obligations stipulated in Article 26 (1) and in Article 27, namely the failure to comply with the obligation to pay the contributions to the unemployment insurance budget shall be considered an offence and punished with imprisonment from 6 month to 1 year or with fine.

#### ART. 112

If the employer withholds the contributions of employees owed to the unemployment insurance budget and fails to transfer them into the accounts set out according to the legal regulations in force, within 15 days, this shall be considered an offence and punished with imprisonment from 3 to 6 months or with fine.

#### ART. 113

The following actions shall be considered contraventions:

- a) the failure to monthly communicate the vacancies provided in Article 10;
- b) the failure to use the Classification of occupations in Romania provided in Article 15;
- c) the failure to monthly submit the statement provided in Article 21;
- d) \*\*\* Repealed
- e) the failure to observe the provisions of Article 41 (2);
- f) the failure to observe the provisions of Article 50;
- g) the failure to observe the provisions of Article 100 (2) e);
- h) the failure to communicate the data and information requested in writing by the National Agency for Employment in order to fulfil its tasks regulated by the law;
- i) the supply, without the accreditation provided by law, of the services for the employment stimulation.

#### ART. 114

The contraventions provided in Article 113 shall be sanctioned as follows:

- a) those from letters a), b), f) and h), with fine from ROL 15 000 000 to ROL 25 000 000;
- b) those from letters c), d), e), g) and i), with fine from ROL 25 000 000 to ROL 50 000 000.

#### ART. 115

Contraventional fines may be also applied to the legal persons.

#### ART. 116

(1) The contraventions provided in Article 113 shall be 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, shall have the right to make controls.

(2) The control bodies for active measures of the National Agency for Employment and of its territorial structures shall ascertain and shall sanction the contraventions provided in Article 113 a), c), e), h) and i), as well as the contravention provided in letter f), concerning the non-compliance with Article 50 (3).

#### ART. 116<sup>1</sup>

The control of the observance of the obligations regarding employment and preservation of the labour relations, assumed by the employers who benefited from subsidies, loans or unredeemable funds in the unemployment insurance budget, as well as from facilities pursuant to Article 93, shall be carried out by the active measures control bodies within the county employment agencies, of the employment agency of Bucharest Municipality, respectively, which shall ascertain and apply, as the case may be, the sanctions provided by the present law.

#### ART. 117

The contraventional fines charged according to the present law shall be income to the unemployment insurance budget.

#### ART. 118

The provisions of the present law, concerning the establishment and sanctioning of contraventions, shall be completed by the provisions of the Government Ordinance No. 2/2001 on the legal regime of contraventions.

ART. 119

(1) The litigations arising from the application of the present law shall be settled by the competent courts, according to the law.

(2) The litigations concerning the establishment and payment of the unemployment benefit shall be settled as emergencies, according to the procedural norms regulating the conflicts of rights, even if it is otherwise provided in special laws.

CHAPTER VIII

Transitory and final provisions

ART. 120

(1) The persons requesting the unemployment benefit, vocational integration aid or support allowance before the present law comes into force shall benefit from the respective right having the amount, duration and other conditions established in the Law No. 1/1991 republished, with subsequent amendments.

(2) The persons provided in paragraph (1) shall benefit under the same conditions from the rights that have been suspended before the date of coming into force of the present 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 Government Emergency Ordinance No. 35/1997 on measures designed to stimulate the 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 coming into force of the present law, shall be covered from the unemployment insurance budget.

ART. 122

(1) The persons for whom the unemployment benefit has been established, which was suspended during the period of compensatory payments, according to the law, and the resuming of this right occurred before the coming into force of the present law shall 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 compensatory payments and the date of resuming the payment is subsequent to the date of coming into force of the present law shall receive the unemployment benefit established according to the present law.

ART. 123

The natural or legal persons who, by the date of coming into force of the present law, have hired graduates under the conditions stipulated in Government Emergency Ordinance No. 35/1997, approved with amendments by the Law 162/1997, shall benefit from these measures under the conditions established by this emergency ordinance.

ART. 124

The persons laid off under the conditions stipulated in the Government Emergency Ordinance No. 98/1999 on the social protection of the persons whose individual labour contracts shall be terminated as a consequence of collective lay-offs, with subsequent amendments and additions, after the date of coming into force of the present law, within certain stages provided in the approved restructuring programmes or in selling-buying contracts concluded prior to the coming into force of the present law, shall be entitled to the unemployment benefit under the conditions provided by the present law.

ART. 125

The unemployment benefit shall be paid to the holder or his representative established through a special proxy.

ART. 126

The applications for granting of unemployment benefit, as well as all the procedure documents related to the determination of this right shall be exempted of any stamp duty.

ART. 127

The unemployment benefit and the other entitlements established by this law shall be updated whenever the minimum basic gross wage on the country guaranteed for payment is changed.

ART. 128

The present law shall come into force on 1 March 2002.

ART. 129

Within 30 days from the publication of the present law in the Official Gazette of Romania, Part I, the Ministry of Labour and Social Solidarity, based on the proposals of the National Agency for Employment, shall elaborate the Methodological norms of application, as well as the accreditation criteria for the service suppliers provided in Article 55 and 56 to be approved by Government decisions.

ART. 130

On the date of coming into force of the present law the following shall be repealed:

- a) the Law No. 1/1991 on the social protection of unemployed and their professional reintegration, republished in the Official Gazette of Romania, Part I, No. 257 of 14 September 1994, with subsequent amendments and additions;
- b) the Government Emergency Ordinance No. 35/1997 on the incentive measures for the natural and legal persons to hire graduates of the education institutions, published in the Official Gazette of Romania, Part I, No. 151 of 11 July 1997, approved with amendments by the Law No. 162/1997, published in the Official Gazette of Romania, Part I, No. 288 of 24 October 1997;
- c) the Government Decision No. 456/1997 on the approval of the Norms for the implementation of the provisions of Government Emergency Ordinance No. 35/1997 on incentive measures for the natural and legal persons to hire graduates of the education 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 for the approval of the Instructions concerning the procedure of receiving and solving the applications for the payment of 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 Government Decision No. 288/1991 on qualification, requalification and improvement of the vocational training 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 for the approval of the Methodological norms regarding the organisation, progress and graduation of the qualification, requalification, improvement courses and other types of vocational training for the unemployed and of the Norms for setting up, organisation and functioning of the training, retraining and improvement 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 the present law.

**NOTE:**

We reproduce below the provisions of Articles 3, 4 and 5 of the Government Emergency Ordinance No. 144/2005.

**"ART. 3**

(1) The persons claiming their right to unemployment benefit before the date of entry into force of this emergency ordinance shall benefit by this right in the quantum, for the duration and under the terms laid down by the legal provisions in force on the date when the rights were claimed.

(2) Under the same terms the persons provided in paragraph (1) shall benefit by the rights suspended before the date of entry into force of this emergency ordinance and that were reinstated for payment after this date.

**ART. 4**

The persons that claim to be granted the monthly entitlements provided in Article 72 of the law before the date of entry into force of this emergency ordinance shall benefit by such rights in the quantum, for the duration and under the terms laid down by the legal provisions in force on the date when the rights were claimed.

**ART. 5**

The provisions of this emergency ordinance shall not apply to the conventions and/or contracts concluded with the employment agencies by the date of its entry into force."

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