

New measures meant to ensure equality and non-discrimination at workplace

Given that there has been a great deal of controversy as far as regards labour relations, most of it caused by the violation of the principles of equality and non-discrimination that apply to every employer and employee, the Romanian legal framework is being adapted so as to ensure a higher level of protection. The most recent changes have been brought in by Law no. 151/2020 amending Law no. 53/2020 – the Romanian Labour Code (hereinafter referred to as ‘**Law no. 151/2020**’) which entered into force on 27 July 2020.

A first amendment is with respect to the criteria based on which acts of discrimination and harassment can occur. As a consequence, the new form of the Romanian Labour Code includes language, chronic non-contagious disease, HIV infections and belonging to a disfavoured category as grounds for discrimination. Moreover, Law no. 151/2020 not only changes existing definitions so as to accommodate them to a wider spectrum of situations, but it also provides definitions of terms that either had not been regulated or had been regulated by other normative acts.

Therefore, the definition for indirect discrimination has gone through modifications and the definitions for harassment, discrimination by association and victimization have just been included in the Romanian Labour Code, as follows:

- Indirect discrimination – Any provisions, actions, criteria or apparently neutral practices that result in disadvantaging a person to another, based on one of the criteria provided for in the Romanian Labour Code (race, citizenship, ethnicity, colour, language, religion, social origin, genetic characteristics, sex, sexual orientation, age, disability, chronic non-contagious disease and HIV infections, political option, family situation or responsibility, trade union affiliation or activity, belonging to a disfavoured category) with the exception of cases in which such actions are justified objectively, for a legitimate purpose and if the means of attaining that purpose are proportionate, adequate and necessary;
- Harassment – Any type of behaviour based on the aforementioned criteria that has as its purpose or effect the violation of the dignity of one person and that leads to creating an intimidating, hostile, degrading, humiliating, or offensive environment;
- Discrimination by association – Any act or deed of discrimination performed against any person which, though not falling under any of the aforementioned criteria, is associated or presumed to be associated with one or more persons falling under the criteria;
- Victimization – Any unfavourable treatment as a reaction to a complaint or legal action regarding the violation of the principle of equality and non-discrimination.

A novelty brought by Law no. 151/2020 is represented by the fact that any behaviour consisting of encouraging another person, either verbally or in writing, to use a form of discrimination based on the above-mentioned criteria, against another person is now considered discrimination.

Any behaviour that violates the principles of equality and non-discrimination (by any form of discrimination presented above, direct discrimination, harassment and/or victimization) will be sanctioned with a fine ranging from RON 1,000 (approximately 200 EUR) up to RON 20,000 (approximately 4,120 EUR).

For any further information and assistance with respect to the above, or on any other legal matters, please do not hesitate to contact us.