

Working time and its recording

by Laura Dobrin, Accounting & Taxation Services

All employers in Romania are required to keep records of the hours worked by their employees and to submit these records to labor authorities for inspection when necessary.

The form in which working time is recorded is not prescribed by law, hence it is generally at the discretion of the employer. Attendance books, collective attendance lists, manual or electronic time sheets, the traditional time clock, etc. are common. In any case, it is mandatory to record the times at which working hours begin and end, and the time recording must be kept at the workplace and presented during inspections.

In this context, there are some specifics - mainly depending on the type of work agreed in the individual employment contract.

➤ **Telework and home office**

With respect to home-based work, the Labor Code provides for a written agreement on working time: "In the case of mobile workers and workers performing home-based work, the employer shall keep records of the hours worked per day by each worker under the conditions agreed with the workers in writing, depending on the specific activity performed."

Pursuant to Art. 108 of the Labor Code, employees working from home generally determine their own working hours, and the employer is entitled to control their work under the conditions specified in the employment contract.

In the case of telework, regulated by Law No. 81/2018, it is mandatory to specify in the employment contract how the time recording will be carried out: "In the case of telework, the individual employment contract (...) must include: (...) e) the procedure for recording the hours worked by the teleworker".

As, due to the very broad definition of telework, any form of home-based work that is performed using information/ communication technology is also considered telework, in practice, employees with home offices usually have telework contracts that contain clear regulations regarding working hours and their recording.

It is worth mentioning that teleworkers or home workers can also work overtime – like their traditional colleagues, however, only with their consent. As with other forms of work, it is mandatory to record these hours and compensate them with appropriate paid time off or a supplement.

➤ **Mobile employees**

In the case of employees without a fixed workplace, time recording is a particular issue, as the records are usually difficult to control and logically cannot be kept at the workplace.

As in the case of home office, according to the Labor Code, the method of time recording is subject to an agreement between the employer and the employee.

It is worth mentioning the special case of professional drivers in freight or passenger transport, whose working hours are subject to special provisions of EU law (especially the Driving Time Regulation (EC) 561/2006) and national law (Government Decision No. 38/ 2008).

➤ **Day Laborers**

The work of day laborers must be recorded in a special day laborer register, the content of which has been subject to instructions since July 2020. According to these, the register must contain, among other things, the date of the start of work and the number of hours worked daily by each day laborer.

As is the case for traditional employees, day laborers are subject to a maximum working time of 12 daily hours. In addition, there are limits on the length of employment with the same employer as well as on the total duration of work per year as a day laborer.

Legal Consequences of Omitted or Insufficient Recording of Working Time

On the one hand, employers face fines for failing to meet their obligations to record working hours.

However, criminal liability is also conceivable, for example in the case of falsification of time records or in certain cases of unjustified refusal to hand over justifying documents after two requests. This liability may, under certain circumstances, affect the persons responsible for time recording.

Conclusion

The correct recording of working time is not only the basis for the correct preparation of the salary statements, but also for the correct determination of the employee's remuneration entitlements and the related obligations regarding income tax and social security contributions. It is also used by the control authorities to verify the payment of these contributions and the compliance with the legislation on working hours and rest periods.

Accuracy and correctness are therefore required.

Contact and further information:



STALFORT Legal. Tax. Audit.

Bucharest – Bistrița – Sibiu

Office Bucharest:

T.: +40 – 21 – 301 03 53

F: +40 – 21 – 315 78 36

M: bukarest@stalfort.ro

www.stalfort.ro