

LAW no 319 of 14 July 2006

on safety and health of workers at work

Issuing body: PARLIAMENT

PUBLISHED IN: ROMANIAN OFFICIAL GAZETTE no 646 / 26 July 2006

The Parliament of Romania adopts this law.

CHAPTER I

General Provisions

ARTICLE 1

(1) The object of this law is to establish measures to promote improvements in the safety and health of workers at work.

(2) This law establishes general principles concerning the prevention of occupational risks, the protection of health and safety of workers, the elimination of risk and accident factors, the informing, consultation, balanced participation in accordance with the legal provisions, training of workers and their representatives, as well as general guidelines for the implementation of the said principles.

ARTICLE 2

International conventions and bilateral agreements concluded by Romanian legal persons with foreign partners, with a view to carrying out working activities with Romanian personnel on the territory of other States, shall contain clauses concerning safety and health of workers at work.

CHAPTER II

Scope

ARTICLE 3

(1) This law shall apply to all sectors of activity, both public and private.

(2) The provisions of the present law shall be applied to employers, workers and representatives of the workers.

ARTICLE 4

(1) The provisions of Article 3 (1) shall not apply where characteristics peculiar to certain specific public service activities, such as the armed forces or the police, as well as the situations of calamities, floods and to achieve certain specific activities in the civil protection services conflict with it.

(2) In the cases provided at paragraph (1) the safety and health of workers must be ensured on account of the principles established by the present law.

ARTICLE 5

For the purpose of this law, the following terms and phrases shall have the following meanings:

a) worker – any person employed by an employer, according to the law, including students, pupils during their apprenticeship period, as well as apprentices and other participants in the working process, but excepting domestic servants;

b) employer – any natural or legal person who has an employment relationship with the worker and has responsibility for the undertaking and/or establishment;

c) other participants in the working process - persons that are in the undertaking and/or establishment, with the employer's permission, for the period of verification of professional skills before and with a view to being employed, persons carrying out activities for the community or volunteering, as well as unemployed during their participation to a form of vocational training and

persons who do not have an individual labour contract concluded in a written form and for which contractual provisions and services provided through any other means of evidence can be proved;

d) workers' representative with specific responsibility for the safety and health of workers – any person elected, chosen or designated by the workers, according to legal provisions, to represent them where problems arise relating to the safety and health protection of workers at work;

e) prevention – all the provisions established and measures taken or foreseen at all the stages of work, with a view to avoiding or reducing occupational risks;

f) event - accident having produced death or body injuries, occurred in the work or whilst in an occupational activity, a case of a person reported as missing or a transport and road traffic accident, as well as a case susceptible of an occupational disease or a work related disease;

g) accident at work – a violent injury of the organism, and also occupational acute intoxication, occurring during work or whilst engaged in an occupational activity and which leads to a temporary incapacity to work of at least three calendar days, invalidity or death;

h) occupational disease – illness occurring as a consequence of practicing a trade or an occupation, caused by physical, chemical or biological harmful agents, specific to a workplace, as well as by the over-stressing of different organs or body systems, in the work process;

i) work equipment – any machine, apparatus, tool or installation used at work;

j) personal protective equipment (PPE) – all equipment designed to be worn or held by the worker to protect him/her against one or more hazards likely to endanger his/her safety and health at work, and any addition or accessory designed to meet this objective;

k) workplace - the place intended to house workstations on the premises of the undertaking and/or establishment and any other place within the area of the undertaking and/or establishment to which the worker has access in the course of his employment;

l) serious and imminent danger of accident – a concrete, real and present situation for which only the initiating opportunity is missing to produce an accident at any moment;

m) vocational training – training of an applicative nature, specific to the trade or to the speciality which pupils, students, apprentices are being trained in, and also the unemployed during their occupational reconversion period;

n) safety and health at work / occupational safety and health (OSH) – all the institutionalized activities aimed at ensuring the best conditions for carrying out the work process, life protection, physical and psychical integrity, health of workers and of other persons participating in the work process;

o) dangerous incident – identifiable event, such as explosion, fire, damage, technical accident, major emissions of harmful substances, resulted from a malfunctioning of an activity or of a work equipment and/or from unadequate human conduct that had no effect upon workers but might have had consequences and/or caused or might have produces material damages;

p) external services – legal or natural persons from outside the undertaking/establishment, authorized to carry out protective and preventive services in the field of safety and health at work, according to the legal provisions;

q) light accident - event having as a consequence superficial injuries/lesions that need only first aid treatment and entailing incapacity to work of less than 3 days;

r) work related disease – a disease caused by multiple factors, to which some of the determining factors are of an occupational nature.

CHAPTER III

Employers' obligations

SECTION 1

General obligations on employers

ARTICLE 6

(1) The employer shall have the duty to ensure the safety and health of workers in every aspect related to the work.

(2) Where an employer enlists external services, this shall not discharge him from his responsibilities in this area.

(3) The workers' obligations in the field of safety and health at work shall not affect the principle of the responsibility of the employer.

ARTICLE 7

(1) Within the context of his responsibilities, the employer shall take the measures necessary for:

- a) ensuring the safety and health of workers;
- b) preventing occupational risks;
- c) providing information and training of workers;
- d) providing an organizational framework and necessary means needed for safety and health at work.

(2) The employer shall be alert to the need to adjust the measures referred to in paragraph (1) hereto, by taking into account the changing circumstances, and to improve existing situations.

(3) The employer shall implement the measures referred to in paragraphs (1) and (2) on the basis of the following general principles of prevention:

- a) risks avoidance;
- b) assessment of risks that cannot be avoided;
- c) combating risks at source;
- d) adapting the work to the individual, especially as regards the design of work places, the choice of work equipment and the choice of working and production methods, with a view to alleviating monotonous work and work at a predetermined work-rate and to reducing their effect on health;
- e) adaptation to technical progress;
- f) replacement of the dangerous by the non-dangerous or the less dangerous;
- g) development of a coherent prevention policy to cover technology, organization of work, working conditions, social relationships and the influence of factors related to the working environment;
- h) collective protective measures are given priority over individual protective measures;
- i) workers' access to appropriate instructions.

(4) Without prejudice to other provisions of this law, the employer shall, taking into account the nature of the activities of the enterprise and/or establishment:

a) evaluate the hazards to the safety and health of workers, including the choice of work equipment, the chemical substances or preparations used, and the fitting-out of work places;

b) take care that the preventive measures and the working and production methods implemented by the employer assure an improvement in the level of safety and health protection of workers, subsequent to the evaluation provided at (a) and as necessary, and to be integrated into all the activities of the undertaking and/or establishment and at all the hierarchical levels;

c) take into consideration the worker's capabilities as regards safety and health at work, when he entrusts him tasks;

d) ensure that the planning and introduction of new technologies are the subject of consultation with the workers and/or their representatives, as regards the consequences of the choice of equipment, the working conditions and the working environment for the safety and health of workers;

e) take appropriate measures to ensure that only workers who have received and are aware of the adequate instructions may have access to areas where there is serious and specific risks.

(5) Without prejudice to other provisions of this Law, where workers from several undertakings and/or establishments perform their work activity in the same work place, their employers have the following obligations:

a) to cooperate, taking into account the nature of activities, with a view to implementing the provisions concerning the safety, health and hygiene at workplace;

- b) to coordinate their actions, taking into account the nature of activities, with a view to the protection of workers and the prevention of occupational risks;
 - c) to inform one another about occupational risks;
 - d) to inform workers and/or their representatives about occupational risks.
- (6) Measures regarding safety, health and hygiene at work must in no circumstances involve any financial obligation for the workers.

SECTION 2

Protective and preventive services

ARTICLE 8

(1) Without prejudice to the obligations referred to in Articles 6 and 7, the employer shall designate one or more workers to carry out activities related to the protection and prevention of occupational risks for the undertaking and/or establishment, hereinafter named designated workers.

(2) Designated workers may not be placed at any disadvantage because of their activities related to the protection and prevention of occupational risks.

(3) Designated workers shall be allowed adequate time to enable them to fulfil their obligations arising from this law.

(4) If the protective and preventive activities cannot be organized for lack of competent personnel in the undertaking and/or establishment, the employers shall enlist external services.

(5) Where the employer enlists external services referred to in paragraph (4), s/he shall inform them of factors known to affect, or suspected of affecting, the safety and health of the workers and they must have access to the information referred to in Article 16 (2).

(6) Designated workers must have responsibilities regarding safety and health at work and at most complementary responsibilities.

ARTICLE 9

(1) In all cases, to deal with the organization of the preventive and protective activities, taking into account the size of the undertaking and/or establishment and/or the hazards to which workers are exposed, as well as their distribution throughout the undertaking and/or establishment, it is required that:

- a) designated workers have the necessary capabilities and the adequate means;
- b) external services have the necessary aptitudes and adequate personnel and professional means;
- c) designated workers and external services are sufficient in number.

(2) The risk prevention as well as the protection of health and safety of workers must be the responsibility of one or more workers, of one service or of separate services whether from inside or from outside the undertaking and/or establishment.

(3) The worker/workers and/or the service/services referred to in paragraph (2) must work together whenever necessary.

(4) In the case of micro and small enterprises where the activities performed arise no special risks, the employer may assume the attributions in the field of safety and health at work in order to accomplish the measures referred to in this law, if he has the necessary capability in the area.

(5) The Ministry of Labour, Social Solidarity and Family establishes the necessary capabilities and aptitudes as well as the number considered as sufficient, referred to in paragraphs (1) and (4), in the methodological norms for implementing the provisions of this law.

SECTION 3

First aid, fire fighting, evacuation of workers, serious and imminent danger

ARTICLE 10

(1) The employer has the following obligations:

a) to take the necessary measures for first aid, fire-fighting and evacuation of workers, adapted to the nature of the activities and size of the undertaking and/or establishment, and taking into account the other persons present;

b) to establish the necessary connections with specialized services, particularly as regards first aid, emergency medical care, rescue and fire-fighting.

(2) In order to implement the provisions of paragraph (1), the employer shall designate the workers who implement the measures for first aid, fire-fighting and the evacuation of workers.

(3) The number of workers mentioned in paragraph (2), their training and the equipment available to them shall be adequate to the size and/or specific hazards of the undertaking and/or establishment.

ARTICLE 11

(1) The employer has the following obligations:

a) to inform as soon as possible all workers who are, or may be, exposed to serious and imminent danger of the risk involved as well as of the measures taken or to be taken as regards their protection;

b) to take measures and give instructions to enable workers in the event of serious and imminent danger to stop work and/or immediately to leave the work place and to proceed to a place of safety;

c) to refrain from asking workers to resume work in a working situation where there is still a serious and imminent danger, save in exceptional cases and for reasons fully substantiated.

(2) Workers who, in the event of serious and imminent danger, leave their workplace and/or a dangerous area may not be prejudiced and must be protected against any negative and unjustified consequences for them.

(3) The employer shall ensure that all workers are able, in the event of serious and imminent danger for their own safety or that of other persons, and where the immediate superior hierarchical responsible cannot be contacted, to take the appropriate measures in accordance with their knowledge and technical means at their disposal, to avoid the consequences of such danger.

(4) Workers shall not be prejudiced in cases referred to in paragraph (3), except for the situations when they acted carelessly or there was a severe negligence on their part.

SECTION 4

Other obligations on employers

ARTICLE 12

(1) The employer has the following obligations:

a) to perform and be in possession of an assessment of the risks to safety and health at work, including those facing groups exposed to particular risks;

b) to decide on the protective measures to be taken and, if necessary, on the protective equipment to be used;

c) to keep a record of accidents at work resulting in an incapacity to work of more than 3 working days, and a record of minor accidents, occupational diseases, dangerous incidents, as well as a record of accidents at work, such as defined in Article 5 (g);

d) to draw up, for the competent authorities and in accordance with the regulation, reports on accidents at work suffered by his workers.

(2) The minister of Labour, Social Solidarity and Family shall establish by a minister order, in the light of the nature of the activities and the size of the undertakings, the obligations to be met by the different categories of undertakings in respect of the drawing-up of the documents provided for in paragraph (1).

ARTICLE 13

With a view to ensuring conditions of safety and health at work and preventing accidents at work and occupational diseases, employers have the following obligations:

a) to adopt a work equipment, in the early stages of research, planning and execution of constructions, and, early in the stage of manufacturing technologies, solutions according to the legal provisions concerning the safety and health at work, by the application of which risks of accidents at work and occupational diseases are eliminated or reduced;

b) to work out a prevention and protection plan made up of technical, medical, organizational and other kind of measures, on account of a risk assessment, that they shall apply according to the working conditions specific to their undertaking;

c) to obtain, from the safety and health standpoint, the operating authorization before starting any activity, according to the legal provisions;

d) to establish, by means of job description, the duties and responsibilities incumbent on workers in the field of safety and health, in keeping with their position;

e) to draw up their own rules, within the meaning of this law and by taking into account the characteristics of the activities and of the workplaces they are responsible for, so as to update and/or apply rules of safety and health at work;

f) to ensure and control the application by all workers of the measures stipulated in the established Prevention and Protection Plan, as well as in the legal provisions in the field of safety and health at work, through the appointed workers, the employers' own attributions or by means of external services;

g) to take measures and provide the materials necessary for the workers' information and training, such as folders, movies and film strips concerning the safety and health at work;

h) to provide every individual, prior to his/her hiring, access to information on the risks s/he is exposed to at the workplace, as well as on the necessary prevention and protection measures;

i) to take measures for the trades and occupations stipulated by the specific legislation to be certified;

j) to hire individuals that, following a medical examination and, if need be, a psychologic testing for skills, are found to be fit for the workload they are to carry out and to assure access to regular medical examinations and, if need be, to regular psychologic examinations, after they are hired;

k) to keep record of the high and specific risk areas as referred to in Article 7 (4) (e);

l) to ensure a permanent and proper operating of the protective systems and devices, of measurement and control devices, as well as of equipments for collecting, confining and neutralizing the harmful substances released during in work process;

m) to submit the labour inspectors documents and to offer the information they request during inspection visits or while investigating events;

n) to guarantee the taking of the measures ordered by the labour inspectors during their inspection visits or while investigating events;

o) to appoint, upon the labour inspector's request, the workers that shall participate in inspection activities or in event investigation;

p) to not change the state of things resulted from a fatal or collective accident, except for the situations when mentioning this state would generate other accidents or would endanger the life of the wounded and of other individuals as well;

q) to provide hazard-free work equipment for the workers' safety and health;

r) to provide personal protective equipment (PPE);

s) in case the workers' personal protective equipment is worn out or has lost its protective qualities, to mandatorily provide them with new personal protective equipment.

ARTICLE 14

Employers shall provide protective food, free of charge, for the persons working in conditions that require so and it shall be established in the collective labour agreement and/or the individual employment contract.

ARTICLE 15

(1) Employers shall provide hygiene materials, free or charge, for their workers.

(2) Categories of hygiene materials, as well as the workplaces that require them shall be established in the collective labour agreement and/or the individual employment contract.

SECTION 5

Worker information

ARTICLE 16

(1) Taking into account the size of the undertaking and/or establishment, the employer shall take the appropriate measures so that workers and/or their representatives receive, in accordance with the legal provisions, all the necessary information concerning:

- a) the safety and health risks and protective and preventive measures and activities in respect of both levels of the undertaking and/or establishment, in general, and of each type of workstation and/or job;
- b) the measures taken pursuant to Article 10 (2) and (3).

(2) The employer shall take appropriate measures so that employers of workers from any outside undertaking and/or establishment engaged in work in his undertaking and/or establishment receive adequate information related to the aspects referred to in paragraph (1) which is to be provided to the workers in question.

ARTICLE 17

The employer shall take appropriate measures so that workers with specific attributions in protecting the safety and health of workers or workers' representatives with specific responsibilities for the safety and health of workers shall have access, to carry out their attributions and, according to the provisions of this law, to:

- a) the risk assessment and protective measures referred to in Article 12 (1) (a) and (b);
- b) the list and reports referred to in Article 12 (1) (c) and (d);
- c) the information on the measures in the field of safety and health at work, as well as the information yielded by inspection institutions and competent authorities in the field.

SECTION 6

Consultation and participation of workers

ARTICLE 18

(1) Employers shall consult workers and/or their representatives and allow them to take part in discussions on all questions relating to safety and health at work.

(2) The implementation of the provisions referred to in paragraph (1) presupposes:

- a) the consultation of workers;
- b) the right of workers and/or their representatives to make proposals;
- c) a balanced participation.

(3) Workers and/or workers' representatives as defined in Article 5 (d) shall take part in a balanced way or shall be consulted in advance and in good time by the employer with regard to:

- a) any measure which may substantially affect safety and health at work;
- b) the designation of workers referred to in Article 8 (1) and Article 10 (2) as well as the activities referred to in Article 8 (1);
- c) the information referred to in Article 12 (1), Articles 16 and 17;
- d) the enlistment, where appropriate, of external services as referred to in Article 8 (4);
- e) the planning and organization of the training referred to in Articles 20 and 21.

(4) Workers' representatives with specific responsibilities for the safety and health of workers shall have the right to ask the employer to take appropriate measures and to submit proposals to him to that end to mitigate hazards for workers and/or to remove sources of danger.

(5) Workers' or the workers representatives with specific responsibilities for the safety and health of workers may not be placed at a disadvantage because of their respective activities referred to in paragraphs (1) – (3).

(6) The employer must allow workers' representatives with specific responsibilities for the safety and health of workers adequate time off work, without decreasing their salary, and provide them with the necessary means to enable such representatives to exercise their rights and functions deriving from this law.

(7) Workers and/or workers' representatives with specific responsibilities for the safety and health of workers are entitled to appeal to the competent authority if they consider that the measures adopted and the means used by employers are insufficient for the purposes of ensuring safety and health at work.

(8) Workers' representatives with specific responsibilities for the safety and health of workers must be given the opportunity to submit their observations during inspection visits to the labour inspectors and sanitary inspectors.

ARTICLE 19

With a view to complying to the provisions of Articles 16, 17 and of Article 18 (1), the employers shall set up committees on safety and health at work, organize them and make them operational.

SECTION 7

Training of workers

ARTICLE 20

(1) The employers shall ensure such conditions that each worker receives sufficient and adequate safety and health training, in particular in the form of information and instructions specific to his/her workplace and job, or:

- a) on recruitment;
- b) in the event of a change of job or a transfer;
- c) in the event of the introduction of new work equipment or a change in equipment;
- d) in the event of the introduction of any new technology or working procedure;
- e) in the event of the execution of a special type of work.

(2) The training referred to in paragraph (1) shall be:

- a) adapted to take account of changed risks or of the emergence of new risks;
- b) repeated periodically and whenever it is necessary.

(3) The employer shall ensure that workers from outside undertakings and/or establishments engaged in work in his undertaking and/or establishment have received appropriate instructions regarding safety and health risks at work during their activities in his undertaking and/or establishment.

(4) Workers' representatives with specific responsibilities in protecting the safety and health of workers shall be entitled to appropriate training.

ARTICLE 21

(1) The training referred to in Article 20 (1), (2), and (4) may not be at the workers' expense and/or at that of the workers' representatives.

(2) The training referred to Article 20 (1) and (2) must take place during working hours.

(3) The training referred to in Article 20 (4) must take place during working hours either within or outside the undertaking and/or the establishment.

CHAPTER IV

Workers' Obligations

ARTICLE 22

Each worker shall perform work so that s/he does not expose herself/himself nor other persons that may be affected by her/his acts or negligence during the working process to the danger of an accident or occupational disease, in accordance with his/her education and training, as well as the instructions given by the employer.

ARTICLE 23

(1) With the view to achieving the objectives referred to in Article 22, workers must in particular:

- a) make correct use of machinery, apparatus, tools, dangerous substances, transport equipment and other means of production;

- b) make correct use of the personal protective equipment supplied to them and, after use, return it to its proper place or to the place intended for safe-keeping;

- c) refrain from disconnecting, modifying, changing or removing arbitrarily safety device fitted, in particular, to machinery, apparatus, tools, plant and buildings, and use such devices correctly;

- d) immediately inform the employer and/or workers with specific responsibility for the safety and health of workers of any work situation they have reasonable grounds for considering represents a danger to safety and health, as well as of any shortcomings in the protection arrangements;

- e) inform the workstation chief and/or the employer of the accidents s/he had;

- f) cooperate with the employer and/or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable any measures or requirements imposed by the labour inspectors and sanitary inspectors to protect the safety and health of workers at work to be carried out;

- g) cooperate with the employer and/or workers with specific responsibility for the safety and health of workers, for as long as may be necessary to enable the employer to ensure that the working environment and working conditions are safe and pose no risk to safety and health within their field of activity;

- h) be aware of and observe the legal provisions in the field of safety and health at work and of the measures taken for their enforcement;

- i) give all information required by the labour inspectors and the sanitary inspectors.

(2) The obligations stipulated in paragraph (1) shall apply, if need be, also to the other participants in the work process, on account of the activities they carry out.

CHAPTER V

Health surveillance

ARTICLE 24

To ensure that workers receive health surveillance appropriate to the safety and health risks they incur at work, measures shall be introduced in accordance with national law.

ARTICLE 25

(1) The measures referred to in Article 24 shall be such that each worker may receive health surveillance at regular intervals.

(2) Health surveillance shall be provided by occupational physicians.

CHAPTER VI

Notification, investigation, registration and reporting of events

SECTION 1

Events

ARTICLE 26

Any event, as it is established in Article 5 (f), shall be immediately notified to the employer by the supervisor of the workplace or by any other person who has knowledge of it.

ARTICLE 27

(1) The employer shall immediately notify the events as follows:

- a) to the territorial labour inspectorates, all the events as established in Article 5 (f);
- b) to the insurer, according to Law no 346/2002 (subsequently amended and updated) concerning the insurance for accidents at work and occupational diseases, the events leading in a temporary incapacity to work, invalidity or death, by the time they have been acknowledged;
- c) to the criminal investigation bodies, if need be.

(2) Any physician, including the occupational physician who has a contract-based relationship with the employer, according to the legal provisions, shall notify the suspicion of occupational or work related disease, identified while medical services are being carried out.

(3) The notification referred to in paragraph (2) shall immediately be reported to the territorial public health authority or the one of the Bucharest municipality, when the case is identified.

ARTICLE 28

In case of traffic accidents on public roads, where among the victims there are also persons that perform their work activities, the competent bodies of road police shall send to the institutions and/or to the natural/legal persons mentioned in Article 29 (1) (a) and (b), in 5 days time from and upon their request, a copy of the official report of investigation on the spot.

ARTICLE 29

(1) The investigation of the events is compulsory and shall be carried out as follows:

- a) by the employer, where the events had as a result a temporary incapacity to work;
- b) by the territorial labour inspectorates, where the events generated obvious or acknowledged invalidity, death, collective accidents at work, dangerous incidents, where the events had as a result a temporary incapacity to work for those working at natural persons, as well as in cases of missing persons;
- c) by the Labour Inspection, in case of collective accidents at work caused by special events, such as technical damages or explosions;
- d) by the territorial public health authorities or the one of the Bucharest municipality, in case of suspicions of occupational disease and of work related diseases.

(2) The conclusions of the investigation of the event shall be written down in an official report.

(3) In case of death of the person involved in an event, the competent institution of forensic medicine has to submit to the territorial labour inspectorate a copy of the forensic report within 7 days from the person's death.

SECTION 2

Accidents at work

ARTICLE 30

(1) In respect of the provisions of Article 5 (g), it is also considered an accident at work:

- a) the accident of persons visiting the enterprise and/or the undertaking, with the employer's permission;
- b) the accident of the persons that perform State or public interest activities, including cultural or sports activities, in or outside the country, in the course and because of the completion of these activities;

- c) the accident occurred during organized cultural and sports activities, in the course and because of the completion of these activities;
- d) the accident of any person as a result of an action performed on one's own initiative for saving human lives;
- e) the accident of any person as a result of an action performed on one's own initiative, for the prevention or avoidance of a danger that represents a threat to the public and private property;
- f) the accident caused by activities that have no connection with the working process, if it occurs on the property of the legal or natural person who is also the employer, or at any workplace organized by the employer, during the working time and is not a result of the exclusive fault of the injured person;
- g) the commuting accident, if the travelling is made during and on the normal way from and to the worker's residence to the workplace organized by the employer;
- h) the accident occurred while travelling from the head office of the legal person or from the residence of the natural person to the workplace or from one workplace to another, to perform a work task;
- i) the accident occurred while travelling from the head office of the legal person or from the residence of the natural person to which the victim is employed, or from any other workplace organized by these legal and natural persons to another legal or natural person, to perform work tasks, while in move;
- j) the accident occurred before or after ceasing work, if the victim was taking over or handing in the tools, the workplace, the equipment or the materials, if s/he was changing the personal clothing, the PPE or any other equipment provided by the employer, if s/he was in the bathroom or in the washer or if s/he was going from the workplace to the exit of the enterprise or undertaking and vice-versa;
- k) the accident occurred during the breaks established according to the regulations, if it occurred in places organized by the employer, during and on the normal way to and from these places;
- l) the accident occurred to workers of Romanian employers or to Romanian natural persons, seconded abroad to perform work tasks, during and on the way stipulated in the travel paper;
- m) the accident occurred to Romanian personnel who carries out work activities and services on the territory of other countries, on the basis of contracts, conventions or in other circumstances stipulated by the law, concluded by Romanian legal persons and their foreign partners, during and due to the execution of their work tasks;
- n) the accident occurred to those who attend vocational, re-qualification or refreshing vocational courses, during and due to the execution of activities related to the vocational period;
- o) the accident caused by phenomena or natural disasters, such as storm, snowstorm, earthquake, flood, land slipping, thunderbolt (electrocution), where the victim was in the course of working process or whilst engaged in an occupational activity;
- p) the missing of a person in an accident at work and under circumstances that justify the assumption of his/her death;
- q) the accident of a person engaged in an occupational activity, as a result of an aggression.

(2) In the situations mentioned in paragraph (1) (g), (h), (i) and (j), the journey must be done without unjustified deviations from the normal way and the transport must take place under the conditions stipulated by the safety and health at work regulations or traffic regulations in force.

ARTICLE 31

Accidents at work are classified, on account of their consequences and of the number of persons injured, in:

- a) accidents leading to a temporary incapacity to work of at least 3 calendar days;
- b) accidents leading to invalidity;
- c) fatal accidents;
- d) collective accidents, when at least 3 people are injured at the same time and due to the same cause.

ARTICLE 32

- (1) The registration of an accident at work is based on the official investigation report.
- (2) The employer shall report the recorded accident at work to the territorial labour inspectorate, as well as to the insurer, in accordance to legal provisions.

SECTION 3 Occupational diseases

ARTICLE 33

In respect of the provisions of Article 5 (h), occupational diseases are also the illnesses that may occur to pupils and students during their vocational training.

ARTICLE 34

(1) Occupational diseases are reported on a compulsory basis, by physicians from the territorial public health authorities and that in Bucharest.

(2) The investigation of the causes of occupational diseases, with a view to acknowledging or invalidating them, and also the establishing of measures for the prevention of other diseases, are carried out by the professionals from territorial public health authorities, in collaboration with inspectors from the territorial labour inspectorates.

(3) The notification of occupational disease is grounded on the official investigation report.

(4) Newly reported occupational diseases are registered on a monthly basis by the county public health authorities and the one in Bucharest, at the National Centre for methodological co-ordination and information on occupational diseases within the Public Health Institute in Bucharest, the Centre for Health Statistics and Medical Documentation – Bucharest, and at the local structures of the insurance body, defined as according to the law.

(5) Occupational acute poisoning is reported, investigated and registered both as an occupational disease and as an accident at work.

CHAPTER VII

Particularly sensitive risk groups

ARTICLE 35

Particularly sensitive risk groups, such as pregnant women, women who had recently given birth or are breastfeeding, young people, as well as persons with disabilities must be protected against dangers which specifically affect them.

ARTICLE 36

Employers shall organize workplaces taking into account the presence of the particularly sensitive risk groups.

CHAPTER VIII

Criminal offences

ARTICLE 37

(1) The failure, of the person in charge with applying the safety and health measures stipulated by the legal provisions regarding safety and health at work, in taking any of the measures, if by this is generated an imminent danger of an accident at work or of getting an occupational disease, constitutes a criminal offence and is punished with prison from one year to 2 years or a fine.

(2) Where the action stipulated in paragraph (1) entails severe consequences, the punishment is prison from one year to 3 years or a fine.

(3) The action stipulated in paragraph (1) committed by guilt is punished with prison from 3 to 12 months or a fine, while the action stipulated in paragraph (2) committed by guilt is punished with prison from 6 to 12 months or a fine.

ARTICLE 38

(1) The non-observance, by any person, of the established obligations and measures regarding safety and health at work, if by this is created an imminent danger of an accident at work or of getting an occupational disease, constitutes a criminal offence and is punished with prison from one to 2 years or a fine.

(2) If the action stipulated in paragraph (1) entails severe consequences, the punishment is prison from one to 3 years or a fine.

(3) If the non-observance consists in restoring the installations, machines and equipment before having eliminated all the deficiencies for which labour inspectors ordered their cessation, the punishment is prison from one to 2 years or a fine.

(4) The actions stipulated in paragraphs (1) and (3) committed by guilt are punished with prison from 3 to 12 months or a fine, while the action stipulated in paragraph (2) committed by guilt is punished with prison from 6 to 12 months or a fine.

CHAPTER IX

Contraventions

ARTICLE 39

(1) Any infringement committed by employers in one of the circumstances provided by the present law constitutes a contravention.

(2) The infringement of the provisions of Article 13 (b), (c), (p) and (r) constitutes a contravention and is sanctioned with a fine from 5 000 RON to 10 000 RON.

(3) The infringement of the provisions of Article 13 (n) constitutes a contravention and is sanctioned with a fine from 3 000 RON to 10 000 RON.

(4) The infringement of the provisions of Article 12 (1) (a) and (b), Article 13 (a), (d-f), (h-m) and (o), Article 20, Article 29 (1) (a) and Article 32 (2) constitutes a contravention and is sanctioned with a fine from 4 000 RON to 8 000 RON.

(5) The infringement of the provisions of Article 7 (4-6), Article 8, Article 11 (1) and (3), Article 13 (q) and (s) and Article 27 (1) (a) and (b) constitutes a contravention and is sanctioned with a fine from 3 500 RON to 7 000 RON.

(6) The following infringements constitute contraventions and are sanctioned with a fine from 3 000 RON to 6 000 RON, as follows:

a) the infringement of the provisions of Article 9 (1), of Articles 10 and 16;

b) the infringement of the provisions of Articles 14, 15 and of Article 34 (1).

(7) The infringement of the provisions of Article 11 (2) and (4), Articles 17, 19 and 21 constitutes a contravention and is sanctioned with a fine from 2 500 RON to 5 000 RON.

(8) It constitutes a contravention and is sanctioned with a fine from 2 000 RON to 4 000 RON the following:

a) the infringement of the provisions of Article 12 (1) (c) and (d), of Article 13 (g), of Article 18 (5) and (6) and of Article 36;

b) the infringement of the provisions of Article 34 (5).

(9) The non-observance of the following safety and health at work regulations constitutes a contravention and is sanctioned with a fine from 5 000 RON to 10 000 RON:

a) the manufacturing, transportation, storage, handling or use of hazardous chemical agents and released waste products;

- b) the avoidance of the presence over the admitted levels of the chemical, physical or biological agents as well as the overwork of different organs or systems of the human body;
- c) the partial or complete operation or restart of the constructions, new or repaired work equipment, as well as for the use of the technological processes;
- d) the drawing up and the observance of the technical documentation while executing activities that require special safety measures;
- e) the use of open fire and the smoking at workplaces where they are forbidden;
- f) the prevention of accidents by electric shock when designing, using, maintaining and repairing installations and electric equipment as well as the prevention of the effects of static electricity and atmospheric discharge;
- g) the provision and use of adequate electric installations at workplaces where there is a potential danger of fire and explosion;
- h) the use of a second power source for the work equipment;
- i) the transportation, handling and storage of the work equipment, materials and products;
- j) the separation, enclosure and signalisation of hazardous areas;
- k) the signalisation of safety and/or health at the workplace;
- l) the safe operation of pressurised or liquified gas vessels/tanks, of pressurised mechanical and lifting equipment, of pipes with pressurised fluids and of other similar work equipment;
- m) the use, periodical maintenance, testing and repair of work equipment;
- n) the use, marking and maintenance of the access and traffic ways/paths;
- o) the use of safety lighting;
- p) the planning of the storage, maintenance and cleaning activities of the personal protective equipment;
- q) the drawing up of the documents for monitoring the working parameters of the work equipment and of the reports on the installations with special operation conditions;
- r) the application of the mining exploitation methods, the use, operation and maintenance of the mining works, the design and use of the ventilation system according to the classification of the mines from the point of view of the gas exhaust;
- s) the organization of the workplaces for the work at heights, in closed spaces or isolated areas.

ARTICLE 40

The failure of the external services in submitting their half year activity report constitutes a contravention and is sanctioned with a fine from 5 000 RON to 10 000 RON.

ARTICLE 41

The contravention sanctions referred to in Article 39 (2-9) and in Article 40 shall be applied to employers.

ARTICLE 42

(1) It is the duty of the labour inspectors to take note of the infringements and set the fines provided in Article 39 (2-9) and in Article 40.

(2) The sanitary inspectors within the Ministry of Public Health and its subordinate bodies shall also take note of the infringements and set the fines provided in Article 39 (6) (b) and (8) (b).

(3) In case of findings that fall under the provisions of the Articles 37 and 38, the inspectors referred to in paragraphs (1) and (2) shall notify at once the relevant criminal authorities according to the law.

ARTICLE 43

(1) The provisions of Article 39 (2-9) and Article 40 shall be supplemented by the provisions of the Government's Ordinance no 2/2001 concerning judicial system of contraventions, approved after being amended and updated through Law no 180/2002, in its turn subsequently amended and updated.

(2) The infringer may pay on the spot or at most in 48 hours from the concluding of the official report or, wherever necessary, from its being notified, half of the minimum amount of the fine provided by the law, on account of the deed s/he was sanctioned for, the labour inspector mentioning this option in the official report.

ARTICLE 44

Employers have patrimonial obligations, according to the civil law, for the prejudices caused to the victims of accidents at work or occupational diseases, unless damages are entirely covered from the State social insurances budget.

CHAPTER X

Relevant authorities and institutions with attributions in the field

ARTICLE 45

(1) The Ministry of Labour, Social Solidarity and Family is the relevant authority in the field of safety and health at work.

(2) The Ministry of Labour, Social Solidarity and Family has the following main functions in this field:

a) to elaborate the policy and the national strategy in the field of safety and health at work, in co-operation with the Ministry of Public Health and by consultations with other institutions with attributions in the field;

b) to elaborate drafts of legal documents with a view to a unitary implementation of the national strategy and of the *acquis communautaire* in the field;

c) to approve regulations with implications in the field initiated by other institutions, according to the law, and to participate in their elaboration whenever necessary;

d) to monitor, while carrying on its activity, the enforcement of the legislation on the grounds of data, information and proposals submitted by the subordinated or coordinated bodies, as well as by those collaborating with;

e) to authorize legal and natural persons to perform protection and prevention services for the safety and health at work, herein referred to as external services, such as mentioned in Article 8 (4);

f) to acknowledge, appoint, notify and watch over trying laboratories, as well as other organisms falling under its attributions, according to the law;

g) to co-ordinate, in collaboration with the Ministry of Education and Research, the elaboration of the national research programs in the field of safety and health at work;

h) to organise, together with the Ministry of Education and Research, the activity of general and/or specific training in the field of safety and health at work for educational institutions;

i) to develop documentation and information activities, according to the law;

j) to approve information and training materials, such as syllabi, brochures, leaflets, posters elaborated by legal or natural persons, in order to make sure that messages they contain are according to the legal provisions;

k) to represent the State in the international relationships within its area of competence.

ARTICLE 46

(1) The Ministry of Public Health, as a special body of the central public administration, is the central authority in the field of public health assistance.

(2) The Ministry of Public Health has the following main functions in the field of workers' health at the workplace:

a) to co-ordinate the occupational health activity at national level;

b) to elaborate or approve regulations on health protection in connection with the working environment, for the promotion of health at the workplace, as well as for the occupational medicine;

c) to monitor the workers' health;

- d) to assure training and vocational refreshment in the field of occupational medicine;
- e) to co-ordinate the activity of investigation, notification, registration and recording of occupational and work related diseases;
- f) to authorise/approve and control the quality of medical services provided to workers at the workplace;
- g) to collaborate with various institutions involved in activities which have an impact upon the workers' health;
- h) to fulfil other attributions, too, on account of its capacities in the field, regulated by special legislation.

ARTICLE 47

(1) The Labour Inspection represents the relevant authority concerning the control of the application of the legislation on safety and health at work.

(2) The institution stipulated in paragraph (1) controls the application by all the natural and legal persons from the sectors stipulated in Article 3 (1), with the exception of those stipulated in Article 50 (1) and (2) of the national legislation in the field of safety and health at work and has the following main functions:

- a) to control the implementation of the programs on the prevention of occupational risks;
- b) to request measurements and determinations, to test product and material samples inside and outside the undertakings/establishments, for the clarification of some events or dangerous situations;
- c) to order cessation of the work activity or of any work equipment whenever it acknowledges a serious and imminent danger of accident or of occupational disease and to inform the judicial bodies whenever necessary;
- d) to investigate the events on account of its capacities, to approve the investigation, to establish or confirm the classification of the accidents at work;
- e) to co-ordinate, in collaboration with the National Institute of Statistics and with the other involved institutions, whenever necessary, the system of reporting and recording the accidents at work and incidents and, in collaboration with the Ministry of Public Health, the system of reporting the occupational and work related diseases;
- f) to analyse the activity of the external services stipulated in Article 8 (4) and, whenever necessary, to propose the withdrawal of the authorization;
- g) to report to the Ministry of Labour, Social Solidarity and Family the situations out of the common that require the improvement of the regulations on safety and health at work;
- h) to provide information to whom may be concerned, on the most efficient means to observe the legislation on safety and health at work.

ARTICLE 48

(1) The insurance body, as established by the law, represents the relevant authority in the field of insurance for accidents at work and occupational diseases.

(2) The institution stipulated in paragraph (1) has functions in:

- a) supporting the employers' prevention activity in the field of safety and health at work;
- b) the medical and, wherever necessary, psychological rehabilitation, as well as the compensation of the victims of accidents at work and of occupational diseases;
- c) submitting to the Ministry of Labour, Social Solidarity and Family the situations out of common that require the improvement of the regulations on safety and health at work.

ARTICLE 49

The National Institute of Research-Development for the Labour Protection scientifically grounds the measures for the improvement of the activity of safety and health at work and promotes the policy established for this field.

ARTICLE 50

(1) The Ministry of National Defence, military structures and the structures where special public servants within the Ministry of Administration and Interior perform a work activity, the General Directorate of Penitentiaries within the Ministry of Justice, the Romanian Intelligence Service, the Foreign Intelligence Service, the Guard and Protection Service, the Special Telecommunications Service, as well as National Committee for the Control of Nuclear Activities organise, co-ordinate and control the activity of safety and health at work within their own institutions through the prevention and protection services created or appointed by these institutions, for the purpose of the enforcement of the provisions of the present law.

(2) The investigation, the registration and the recording of the accidents at work and occupational diseases occurred in the bodies subordinated to the institutions stipulated in paragraph (1) are carried out by their own bodies.

(3) The institutions stipulated in paragraph (1) may elaborate their own regulations for the enforcement of the present law, by complementing the ones existing at a national level.

CHAPTER XI

Final provisions

ARTICLE 51

(1) The following legal documents shall be approved by the Government at the proposal of the Ministry of Labour, Social Solidarity and Family:

- a) the methodological standards for the application of the provisions of this law;
- b) the transposition of the specific directives on safety and health at work.

(2) While enforcing the provisions of this law, the Ministry of Labour, Social Solidarity and Family shall elaborate drafts of legal documents necessary to the implementation and/or the adaptation of the existing situations to the requirements of this law.

ARTICLE 52

(1) The activities of national interest for the safety and health at work and the sources to cover the necessary costs for the development of these activities shall be approved by the Government at the proposal of the Ministry of Labour, Social Solidarity and Family.

(2) The activities of national interest regarding scientific research in the field of safety and health at work shall be financed from the funds especially created within the national budget, according to the law.

ARTICLE 53

(1) The present law shall become effective on 1 October 2006.

(2) The day this law enters into force, the following laws are repealed: Law no 90/1996 on labour protection republished in the Official Gazette of Romania, no 47, January 29, 2001, Part I, subsequently amended and updated, Decree of the Council of State no 400/1981 on setting up regulations regarding the operation and maintenance of installations, equipment and machinery, the reinforcement of order and discipline at workplace in undertakings with a sustained work activity or which operate with installations with a high level of danger, republished in the Official Gazette no 5, January 11, 1982, Part I, as well as any other contrary provisions.

*

This law transposes the Council Directive 89/391/EEC on the introduction of measures to encourage improvements in the safety and health of workers at work, as published in the Official Journal of the European Communities (OJ) no L 183/1989.

This law has been adopted by the Parliament of Romania, and it observes the provisions of Articles 75 and 76 (1) from the Constitution of Romania, republished.

CHAIRMAN OF THE CHAMBER OF DEPUTIES
BOGDAN OLTEANU

CHAIRMAN OF THE SENATE HOUSE
NICOLAE VĂCĂROIU

Done at Bucharest, 14 July 2006.
No 319.