

## Navigating workplace challenges and litigation trends: dismissals and workplace harassment



### I. Romanian market insights

As we move into 2025, we want to highlight some of the key developments in the Romanian employment dispute landscape over the past year. You can read our summaries of these key trends below, along with our thoughts on where we expect to see more employment litigation activity in the year ahead.

Two key drivers in Romania this year concerning the increased risk of employment litigation are economic uncertainty, which could lead company restructurings and related dismissals, as well as the many changes in Romanian legislation relating to whistleblowing and the prevention of discrimination and harassment at the workplace.

Specifically, there are two types of employee lawsuits we expect to see often in 2025: **(i)** harassment, discrimination, as well as whistleblower claims, and **(ii)** appeals against employment termination.

#### 1. Harassment, Discrimination and Whistleblower Claims

There is a strong focus on the importance of fair procedures when conducting complex investigations into issues relating to workplace culture and moral and sexual harassment and discrimination, together with significant investment in training, risk frameworks and policy reviews in light of the new Romanian legal obligations on employers to take reasonable steps to prevent moral and sexual harassment and discrimination at the workplace.

We have also seen an increase in the number of whistleblowing claims brought against company management. Although some of these are justified, others continue to use whistleblowing as a strategy to turn standard unfair dismissal claims into uncapped claims. Many employees tend to believe that allegations of moral and sexual harassment and discrimination should automatically constitute whistleblowing, which may increase the number of complaints made through company whistleblowing channels.

#### 2. Appeals against Dismissals

The Romanian labour market has faced significant challenges in recent years. From the impact of COVID-19 to rising inflation and rapid advances in AI, these disruptions have triggered economic shifts that have reshaped the professional landscape. In response, companies have resorted to mergers and restructurings, changes that often

result in individual, as well as collective dismissals.

The year 2025 began with a significant number of companies making redundancies, particularly in the technology sector. Redundancies of this magnitude can carry both business and reputational risks and need to be handled carefully in accordance with the law to avoid backlash.

## **II. Three different legal types of employment litigation won for employers in recent months in Romania by Kinstellar's skilled and agile employment litigation team**

Drawing on these trends, we are proud to share our Bucharest employment litigation team's court victories in favour of employers from the past two months, namely:

▫ **a case concerning collective dismissal**—We were able to demonstrate that the collective dismissal implemented by an employer/Romanian subsidiary of a global group of companies due to regional organisational changes and the unprofitability of some online games was legal and justified in the current global context;

▫ **a case concerning moral harassment and discrimination at work**—We were able to demonstrate that the annual increase in salaries is at the discretion of the employer/Romanian subsidiary of an international group of companies and that the employer has the right to organise its activities as it deems convenient, including by dismissing some employees if their positions have become objectively redundant;

▫ **a case concerning the unilateral termination of an individual employment contract during a probationary period**—We were able to demonstrate that the employer/Romanian subsidiary of a global IT company did not perpetrate an abuse of right by unilaterally terminating the individual employment contract if the employer can prove that the employee was not suitable both from a professional perspective, as well as from an ethical perspective; another particularity of this employment litigation was that the employee was in the incentive period (after the parental leave), protected by law against dismissal, but the employee did not inform the employer about this legal situation.

Such judicial outcomes are rare in Romania, where it is usually the employees who win labour disputes, so this is a remarkable achievement for our skilled and agile employment litigation team and our clients. The employment litigation team which won the Romanian employment court cases summarised above was led by Remus Codreanu (Partner, as well as Head of the local Employment and Labour Practice Area) and included Lidia Zarnescu (Managing Associate, as well as Co-head of the local Employment and Labour Practice Area) and Raluca Constantin (Senior Associate). In Romania, Kinstellar is fortunate to have a strong Litigation team of ten lawyers and an excellent Employment and Labour team of four lawyers, giving us the full capacity to offer dedicated and specialised teams to our clients.

## **III. Takeaway**

The takeaway for employers is that, in the event of a dismissal dispute, they will need to prove that the measure was not subjective or unjustified. Thus, an important step before the implementation of dismissals for reasons not related to the employees envisages preparing a financial and business analysis pointing out the solid/serious and real grounds for implementing the dismissal for redundancy. Should the dismissal decisions be established as illegally issued (i.e., if any of the procedural aspects reflected by the law are not properly observed or the reorganisation process is not solidly grounded on its merits), the court shall order its cancellation and oblige the employer to pay damages to the employee, representing up-to-date salaries, as well as other salary rights the employee would have been entitled to under the individual employment agreement, and even moral damages.

Also, in case of a claim raised by an employee, whether it relates to harassment, discrimination or any other issue,

the employers will need to demonstrate that they took reasonable steps to enquire as to the nature and substance of the complaint, as well as any remedial action that may be available to them.

#### **IV. Further information**

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