



## Working relationships in the context of preventing the risk of Coronavirus (COVID-19) infection

### Coronavirus (COVID-19) – a global threat

On March 11, 2020 representatives of the World Health Organization declared the situation generated by COVID-19 a pandemic (an epidemic that extends over a very large territory).

In this global context, it becomes imperative that employers take appropriate measures to protect the health and safety of their employees, while at the same time, as much as possible, continuing the activity and working relationships under normal and legal conditions.

### What are the legal solutions that can be used by employers?

Taking into account the particularities of each company and the field in which they operate, employers can use one of the following measures to reduce the risk of infection with Coronavirus COVID-19 among their employees.

- **establishing an individualized work schedule**, with the approval or at the request of the employee concerned, according to the provisions of art. 118 of the Labor Code - in this respect an addendum to the individual employment agreement shall be signed;
- **temporarily changing the place of work at the employee's home**,
  - a) either unilaterally, based on art. 48 of the Labor Code, according to which the employer may temporarily change the place of work (for a clear definite duration and not for a long period of time), without the employee's consent, in cases of force majeure, as a disciplinary sanction or as a protection measure for the employee; in this case, the employer will have to issue a justified decision, in which it must expressly include the mandatory elements to be specified in the case of working from home, established by the Labor Code;
  - b) or by the parties' agreement, through the conclusion of an addendum to the employment agreement regarding the modification of the place of work (for longer fixed periods or indefinite periods); obviously, and in this situation too it is necessary to include the mandatory elements to be specified in the case of working from home provided by the Labor Code.

It should also be clarified that, according to art. 1351 par. 2 of the Civil Code, the force majeure is defined as any external, unpredictable, absolutely invincible and inevitable event. For more details please consult our article prepared for this purpose – The Coronavirus and force majeure, which focuses on the consequences of a force majeure event on contractual relations.

- **conclusion of an addendum to the employment agreement** regarding telework (in compliance with the provisions of Law 81/2018 regarding the regulation of teleworking), if the fulfillment of the specific duties of the job/occupation/profession that the employee holds imply the use of information and communication technology;

- in the case of employees for whom working from home or under the teleworking regime is not possible (for example, in the case of production, distribution, transport, sales activities), [the reduction of the work hours or the obligation to wear protective equipment](#) provided by to the employer (at its expense) are options that can be considered;
- [applying of the mechanism of compensation in advance the overtime](#), by granting corresponding paid leave days from which the overtime hours that will be provided in the next 12 months are compensated, according to art. 122 par. (3) of the Labor Code;
- [scheduling the outstanding days of paid leave](#), by consultation and agreement of the employees concerned;
- [the establishment of temporary layoff](#), based on a technical and economic basis that justifies the temporary reduction/interruption of the activity, by payment of a compensation equal to 75% of the base salary corresponding to the job;
- [agreement with the employees to benefit from unpaid leave for a fixed period of time](#).

It should be mentioned that, in case of the establishment (under the law) of the state of quarantine or in case of force majeure, the individual employment contract will be suspended by law, in accordance with the provisions of art. 50 c) and f) of the Labor Code.

**Obligations of employers - Preventive occupational health and safety measures**

In the context of the expansion of the number of persons infected with Coronavirus (COVID-19), employers must implement measures to prevent infection among employees. In this regard, we recommend the following:

- conducting an analysis in order to prioritize the essential or relevant services in relation to the non-essential ones, observing the rights regarding employees' health and safety at work;
- ensuring the health and safety of workers in all aspects of work, according to the Law no. 319/2006 regarding occupational health and safety and the provision of the necessary measures for informing and training the employees, as well as the free provision of the necessary protective equipment (masks, protective gloves, disinfectants, etc.); training of employees in the field of occupational health and safety must also be carried out in the case of remote work (work from home or telework);
- assessing the nature and level of risk for any activity likely to present a risk of exposure to COVID-19, accompanied by a plan of measures, based on the recommendations of the responsible occupational medicine physician;
- drawing up a plan to ensure the continuity of the activity in case a significant number of employees cannot carry out their activity at the workplace provided by the employer (the following measures could be implemented: identification of the jobs for which continuity must be insured, identification of workers with qualifications/ skills that allow them to be moved from one job to another so as to ensure the continuity of the activity, identification of the workers who have the IT infrastructure necessary to work from home);
- scheduling frequent medical checks in the next period, in collaboration with the occupational medicine service provider;
- training employees for using e-mail and teleconferencing (to the extent possible) in order to reduce physical contact, as well as eliminating work travel if not imperiously necessary;
- applying the procedures established at national level by the competent authorities if the employees present symptoms associated with respiratory infections in the workplace;

- mandatory information of the Public Health Department in your jurisdiction in the case of an employee confirmed as infected with COVID - 19, in order to start the procedures for conducting the epidemiological investigation;
- informing the employees about the procedure for granting medical leave in case of quarantine and self-isolation at home.

### Employees under quarantine or self-isolation at home - How to manage these cases ?

As we have been informed by the competent authorities in the field, the [quarantine](#) measure is established for a period of 14 days for people who do not have symptoms, but who return from areas with extensive community transmission of the new Coronavirus (these areas are updated in real time on the website of the Ministry of Health). On the other hand, self-isolation at home for 14 days occurs for persons returning from areas affected by COVID-19, other than areas with extended community transmission, during which they will be monitored by the public health departments and through the family physician (the measure of self-isolation at home is also required for people who have come into direct contact with people with symptoms and who have traveled to areas with extended community transmission, who have come into direct contact with people who have been confirmed as infected with Coronavirus, as well as family members of persons who fall into one of these categories).

Regarding [quarantine](#), this is a cause of suspension by law of the individual employment agreement (art. 50 c) of the Labor Code), which means that the employees do not perform the work anymore and will not receive the salary during the period in question. However, people affected by quarantine measures benefit from quarantine leave and allowance. These are granted to the insured persons who are prohibited from continuing the activity due to a contagious disease, during the period established by the certificate issued by the Public Health Department for this purpose. The gross monthly amount of the quarantine allowance represents 75% of the calculation base established according to the law and is fully supported by the budget of the single national health insurance Fund.

In contrast, [self-isolation at home](#) is not expressly regulated by the Labor Code as a cause of suspension of the employment agreement. However, the Ministry of Health has informed that the employees benefit, at the time of their exit from isolation, of medical leave, which would be issued by the family doctor, on the basis of the certificate of the Public Health Department, not needing a certificate from the employer.

We should not overlook the obligation of the employer to inform the competent authorities in case of existence of an employee confirmed as infected with COVID - 19. Of course, this obligation is correlated to the one that incumbent on the employee to inform the employer about the changes regarding their state of health. Failure to comply with measures for the prevention or control of infectious diseases can represent the offence of hindering the fight against diseases, which is punishable even by imprisonment.

The information provided herein presents general information and should not be relied on as legal advice when analyzing and resolving a specific legal issue. If you have specific questions regarding a particular fact situation, please address your queries to:

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