



Overview and Perspectives of Labor Law against the Coronavirus Pandemic (Covid-19): Romania

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On March 11, 2020, representatives of the World Health Organization declared¹ the situation generated by COVID-19 as a pandemic². At the same time, the National Committee for Special Emergency Situations in Romania decided to suspend the school courses until March 22, with the possibility of extension. Separately, the universities in the country suspended their activity until March 31 and moved the courses into the online system.

Law no. 19/2020 regarding the granting of free days to parents for the supervision of children, in the situation of temporary closure of the educational establishments³, provides that free days are granted to one of the parents for the supervision of children, in the situation of temporary closure of the schools where they are enrolled, as a result adverse weather conditions or other extreme situations so decreed by the competent authorities with responsibilities in the field. This regulation is not only incident to the coronavirus epidemic, but is of general applicability, for all periods when courses are suspended, including due to extreme weather events.

The provisions apply to parents who cumulatively fulfill the following conditions:

- a) have children up to 12 years old, enrolled in a school or have children with disabilities up to 18 years old, enrolled in a school;
- b) the job occupied does not allow work at home or teleworking.

The paid days off are granted only after all the options provided by law for the activity (telemarketing, remote work) are exhausted and with the obligation to ensure the continuity of the activity, including by delaying the work program or implementing flexible working forms.

Decree 195/2020 on establishing the state of emergency on the territory of Romania⁴, through art. 49, stipulates that during the state of emergency, courses in all units and educational institutions are suspended.

At the recommendation of the Ministry of Labor and Social Protection, among the measures to make the labor relations more flexible is the temporary modification of the place of work at the employee's domicile, in which case an additional act must be concluded to the individual

¹ www.who.int, accessed march 12, 2020.

² An epidemic that extends over a very large territory.

³ Published in the Official Gazette of Romania, Part I, no. 209 of march 14, 2020.

⁴ Published in the Official Gazette of Romania, Part 1, no.212 of march 16, 2020.

employment contract which should include, among others, the fact that the employee will work at home; the period in which this measure is applied, as well as other aspects characteristic of the work at home, regulated by art. 108-110 of the Labor Code.

Another recommendation concerns the operation of the telework activity, following the conclusion of an additional act to the individual employment contract, under the conditions provided by Law no. 81/2018 regarding the regulation of the telemarketing activity⁵, when fulfilling the specific duties of the position, occupation or occupation that the employee holds implies the use of information and communication technology⁶.

It should be mentioned that during the period of emergency, according to art. 33 of the Decree 195/2020 regarding the establishment of a state of emergency in the territory of Romania, it is possible for the employer to modify the place of work at the employee's domicile or in the telework by a unilateral act, without the need of the employee's agreement. As such, the change of the work place in such situations can be that place without the conclusion of an additional act to the individual employment contract.

Emergency Ordinance no. 30/2020 for the modification and completion of some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of the SARS-CoV-2 coronavirus⁷, in art. XI provided that during the state of emergency established by Decree no. 195/2020 regarding the establishment of the state of emergency on the territory of Romania, for the period of temporary suspension of the individual employment contract, at the initiative of the employer, according to art. 52 paragraph 1 bed c of the Labor Code, as a result of the effects produced by the SARS-CoV-2 coronavirus, the benefits that the employees receive are set at 75% of the basic salary corresponding to the job occupied and is supported from the unemployment insurance budget, but no more of 75% of the gross average wage earning⁸ provided by the Law of the state social insurance budget no. 6/2020, and through art. XV, that other professionals, as regulated by the Civil Code, who do not have the status of employers and interrupt the activity totally or partially based on the decisions issued by the competent public authorities according to the law, during the period of emergency established by Decree no. 195/2020 regarding the establishment of the state of emergency in the territory of Romania, benefits from the general budget consolidated by an allowance equal to the minimum gross basic salary per country guaranteed in payment⁹ established for the year 2020.

Decree no. 240/2020 regarding the extension of the state of emergency on the Romanian territory¹⁰ has in art. 46 that the Government establishes special measures to support employers and to protect employees and their families. In this respect, the recommendation of the previous decree is maintained, so that central and local public institutions and authorities, autonomous administrative authorities, autonomous administrations, national companies and companies and companies in which the state or an administrative-territorial unit is a sole or majority shareholder, the companies with private capital I introduce, where possible, during the state of emergency, the work at home or in telework regime, by unilateral act of the employer. During the period of work or work at home,

⁵ Published in the Official Gazette of Romania, Part 1, no. 296 of April 2, 2018.

⁶ Mihai R., Working relationships in the context of preventing the risk of coronary heart disease (COVID-19) www.juridice.ro, accessed on march 13, 2020.

⁷ Published in the Official Gazette of Romania, Part 1, no.231 of march 21, 2020.

⁸ Gross average wage for 2020: 5,429 lei (1123 euro), and gross monthly allowance: $5,429 \times 75\% = 4,072$ lei (842 euro).

⁹ The amount of the minimum gross basic salary in the country is 2230 lei (461 euro).

¹⁰ Published in the Official Gazette of Romania, Part 1, no. 311 of April 14, 2020.

employees perform their duties specific to their position or occupation, in accordance with the legislation governing work at home and teleworking.

Although in art. 51 shows that the validity of collective labor contracts and collective agreements is maintained during the state of emergency, however, a number of important restraints and limitations are foreseen, thus, during the state of emergency, it is prohibited (art. 52) to declare, trigger or conducting collective labor conflicts in the units of the national energy system, from the operating units from the nuclear sectors, from the units with continuous fire, from the health and social assistance units, from telecommunications, radio and public television, from the railways, from the units which ensures the public transport and sanitation of the localities, as well as the supply of the population with gas, electricity, heat and water.

Also, regarding the execution of the individual employment contracts the following are stipulated: The modification of the individual contract of employment of the contract staff in the institutions in the field of defense, public order and national security is carried out (art. 53) according to the Labor Code and the following derogatory rules:

- a) the delegation may regard the fulfillment of tasks or tasks for which the employee has the adequate professional training, even if they are not suitable for the duties of the service;
- b) the delegation can be extended without the agreement of the employee;
- c) by posting can change the way of work without the agreement of the employee.

The modification of the service report of the civil servants employed in the institutions in the field of defense, public order and national security is carried out according to the Administrative Code and the following derogating rule: the delegation can be arranged for a period of more than 60 days without the consent of the public official.

During the state of emergency, depending on the specific activity and needs, for the personnel from the public sector, the employer stipulates the art. 54.

- a) it may order unilaterally the interruption of the leave of rest, of additional rest, without payment, of studies and for professional training of the employed personnel and the resumption of the activity;
- b) may unilaterally dispose of or approve the total / partial leave of rest or additional rest of the employed personnel.

By exception from the provisions of the Government Emergency Ordinance no. 111/2010 regarding the leave and the monthly allowance for the raising of children, the entitled person retains the incentive of insertion in the situation of job loss due to the effects of the COVID-19 epidemic.

In art. 56 it is provided that the notice terms provided in art. 81 paragraph (4) of the Labor Code do not start to flow, and, if they have started to run, it is suspended for the entire duration of the state of emergency, in the case of personnel employed in health units, social assistance, medical-social assistance and in the institutions of the field of defense, public order and national security. During the state of emergency, for these categories of personnel the provisions of art. 81 paragraph 8 of Law no. 53/2003 regarding the Labor Code.

Emergency Ordinance no. 37/2020 regarding the granting of facilities for loans granted by credit institutions and non-bank financial institutions to certain categories of borrowers¹¹, established that

¹¹ Published in the Official Gazette of Romania, Part 1, no. 261 of March 30, 2020.

the obligation to pay the installments related to the loans, representing capital rates, interest and commissions, granted to the borrowers by the creditors up to on the date of entry into force of this emergency ordinance, it shall be suspended at the request of the debtor for up to 9 months, but no later than December 31, 2020.

Today, not only a medical pandemic is manifesting, but also an economic pandemic, that is, the global crisis that is spreading and rapidly deepening. The so-called "freezing of real economies" occurs in almost all countries. Romania is, as a matter of fact, almost all the countries of the world, in a deep economic crisis, which is expanding. Each country must have its own approach, depending on the specific national situation.

In order for Romania to be able to ensure a revival of the national economy, it was considered necessary to mainly consider¹² the following five primary factors:

- Demand for products and services, internal and external;
- Ensuring supply chains of companies and population at home and abroad;
- Providing liquidity and financing for companies and the population;
- Making substantial investments, public and private, domestic and foreign;
- Providing healthy, fit and available human resources to work.

In order for Romania to be able to ensure a revival of the national economy and reach the 5 primordial factors, a number of public policies are needed, such as: investments (in infrastructure; in strategic production units for society); supporting the distribution and marketing of products; local investment plans for public works ((road infrastructure, utility routes - gas, electricity, etc.)

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¹² CNIPMMR, *Program of priority measures for the economic recovery of Romania*, www. E-News LegislațiaMuncii.ro. accessed on April 20, 2020.