

Short-time work practicable again in Romania

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On 10.08.2020, short-time work was introduced in Romania at the initiative of the government and as a result of long discussions with the legislative body (with an intense participation on the part of STALFORT Legal. Tax. Audit).

After the legal institution became unattractive and very cumbersome due to the unfortunate trends depicting the end of 2020, new initiatives led to a law correcting this and also introducing the measures required for creating more flexibility.

The law was adopted on 10.03.2021 in Parliament and was published in the Official Journal on 05.04.2021.

Context

One year ago, the Romanian business environment started promoting the implementation of short-time work. Longsome discussions and negotiations yielded a regulation which in practice proved to lack transparence and be partly rigid.

On 07.12.2020, the Orban Government shed some light upon existing ambiguities and introduced certain measures for creating more flexibility through Emergency Ordinance 211/2020. Unfortunately, a law was adopted the same week, which not only neutralized the effects of EO 211 to a great extent, but also brought along significant obstacles for short-time work in business practice.

In 2021, the new government has resumed the issue and, taking in consideration the economic factors, has worked on improvements. With the approval of the trade unions, the law was adopted by the Parliament on 10.03.2021. In the meantime, the law was promulgated the president.

Mechanism of short-time work

We have already described the main rules of short-time work on different occasions; you can find all our articles on this subject at <https://stalfort.ro/en/publications/>

In principle, short-time work implies that the employer may reduce the working hours and the salary of the employee. Part of the loss of earnings, more exactly 75% of such will be borne by the state.

The most important new regulations

Among other things, the following new regulations are relevant in practice and useful for all parties involved:

- The employer can reduce up to 80% (previously 50%) of the working hours and remuneration.
- It is entitled to do so if at least 10% of its personnel is affected (unchanged) and its turnover in the previous month or the months before dropped by at least 10% in comparison to a similar month or to the monthly average of 2019. This change was essential since up to now, the turnover has been compared to the one of a similar month in the previous year – starting with April 2021, this would have cancelled short-time work.

- in companies where entitled trade unions or employees' representatives are present at collective negotiations, short-time work requires the approval of the trade union, respectively of the employee representatives.
- The reduction of working hours will be then decided upon unilaterally by the employer for minimum 5 working days, which should fall in a period of 30 calendar days. The obligation of planning the working hours for an entire month is no longer expressly provided.
- The employer can change the working hours, if needed, at any time and upon justification of such, as long as this is covered by the approval of the trade union/employee representatives.
- The decision of the employer must be communicated, just like before, 5 days in advance. Departing from this rule, in special cases when the activity increases (new orders or for replacing employees prevented from working), the employer may change again the working hours and must communicate this change only 24 hours in advance.
- During short-time work, no other employees may be hired or no other subcontractors may be assigned for carrying out activities similar or identical to the ones performed by the employees subjected to a short time-work regime. This highly criticized regulation was amended in such way that it would apply for all branch offices, permanent establishments etc. belonging to the employer, which are actually subjected to a short time-work regime.
- Moreover, it has been provided that, by derogation from the last paragraph, hiring employees is possible if it serves the purpose of replacing employees whose employment contracts ended by law, through termination for reasons related to the person of the employee or through resignation of the employee.
- During short-time work, certain bonuses may not be granted. In a very practical way, it has been clarified in this regard, among other things, that this regulation is limited to the persons that, according to company law, ensure the management of the employer. Managers and department leaders as well as others positioned hierarchically on lower levels, that have been affected by the previous interdiction have been excluded.

No further novelties can be described hereby.

We are pleased by the totally welcomed change and will take part actively in such initiatives also in the future.

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