

COVID-19. What should an employer take into account?

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Given the current situation, please find hereinafter a summary of the most important aspects related to labour law in the context of the new Coronavirus (COVID-19).

What official protection measures are there?

Authorities may impose the following measures on persons who show no symptoms of the disease:

- quarantine, in case the persons concerned enter the country from the “so-called” red zone;
- “home isolation“, in case these persons have been in the so-called “yellow zone” or have potentially come into contact with the virus.

Further information, including a list of the areas included in the yellow, respectively red zone can be found on the website of the Romanian health authority¹.

How does this impact employment relationships?

- **Employment contracts**

According to the labor law, in case of quarantine, employment contracts will be suspended by law, which means they will be put on hold. The employees will not come to work.

Home isolation is not expressly regulated in the labour law, however, the case should be assimilated to the quarantine.

- **Certificates**

General Practitioners issue medical certificates for those who are in quarantine or home isolation because of the Coronavirus.

- **Remuneration**

The affected employees have no salary entitlement. They receive a compensation the calculation basis of which represents 75% of the average gross salary of the last 6 months, however not exceeding 12 minimum salaries. This compensation will be borne by the state budget.

¹ <https://www.cnscbt.ro/index.php/1440-lista-zonelor-cu-transmitere-comunitara-extinsa-si-a-altor-zone-afectate-de-covid>

What prevention measures can an employer take?

In order to protect the employees and to avoid the abovementioned consequences, the employer has the following options:

- **Home- Office / Remote Work**

The most efficient measure is to allow the employees – to the extent possible – to work from home, respectively away from the workplace. To this end, the workplace and, possibly, the type of work have to be modified.

Usually this happens with the consent of the employee, more exactly by signing an addendum to the employment contract. The addendum must include the typical and necessary regulations regarding home-office and also the duration of the modification. Where the employee carries out his or her activity by means of information technology, teleworking provisions have to be inserted additionally. Last but not least, work safety issues have to be taken into account.

However, the Labour Code allows the employer also to unilaterally change the workplace and the type of work for a limited period of time, in case such change takes place due to force majeure or for the protection of the employee. This should apply to the current situation – in particular if the epidemic was to spread even more.

- **Flexible work schedule**

In order to ensure that fewer employees will be at the workplace at the same time, the employer should take into account organizing the work schedule of those coming to work in shifts.

Are there any obligations to inform?

In principle, the employer and the employee must inform each other about all relevant matters, such as the imposition of official measures, but also about work safety issues such as hygiene measures.

How to react to school closures?

Since the schools have been officially closed until 22.03.2020, it is impossible for many employees to take care of their children and, at the same time, to fulfill their work duties.

In this situation, employees do not have a right to vacation. In practice, however, this problem is unfortunately often solved by means of (undue) medical leaves.

The legislative body has not yet taken any measures in this regard, but as we speak (12.03.), a draft law on this issue is being debated. It is supposed to grant parents the right to take days off during school closures. There are still many open questions and controversies, inter alia on the actual conditions in which the special vacation can be claimed, or on whether the remuneration of the employees will be borne by the employers or by the state. The economy hopes that the days off will be granted only as an *ultima ratio* (when there are no other possibilities) and that the financial burden for the companies will be as low as possible.

What measures are there in case of drops in orders?

The Labor Code still offers employers only few means to cope with times of missing workload. Among these, we should mention:

- The so-called „technical unemployment“: the temporary drops in or interruptions of the activity entitle the employer to suspend the employment contracts while still ensuring 75% of the base salary;
- The right of the employer to reduce the working week from 5 to 4 days and to adjust the salary accordingly;
- The possibility to grant paid days off and to compensate these with overtime worked in the future.

This has been a brief summary of the existing possibilities. Their implementation is often very problematic; employers that have created in advance internal regulations regarding remote work, crisis situations etc. are certainly one step ahead.

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