

10 March 2020

Legal Bulletin



Employment

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Impact of COVID-19 spread on labour relations

Currently, the data released by the public authorities confirm the daily increase in the number of cases of infection with the new coronavirus (COVID-19), both globally and locally.

Besides the social and economic implications which are already being broadly analysed and debated in the public space, such exceptional context also requires some legal clarifications, especially from the perspective of employment relationships.

1. Quarantine and self-isolation

Both quarantine and self-isolation are measures to limit the risk of COVID-19 spread inasmuch as possible.

Quarantine is established for persons having no symptoms but returning from the areas with extended Community transmission (the “red area”). Currently, the red area includes:

- **China:** Hubei province (including Wuhan city);
- **Italy:** Lombardy, Veneto, Emilia-Romagna, Marche, Piedmont regions; and
- **South Korea:** Daegu (city) and Cheongdo region.

The quarantine lasts for 14 days and it is organized in specially designated areas, made available by the local authorities, in cooperation with the public health authority.

Self-isolation is established for 14 days, for persons who do not have symptoms, but:

- They travelled during the last 14 days in regions/towns from the areas impacted by COVID-19, others than those with extended community transmission (the “yellow area”), i.e.: the other territories from China, Italy and South Korea and the entire territory of Iran;
- They came in direct contact with persons having symptoms and who travelled in the red area;

- They came in direct contact with persons confirmed to be infected with COVID-19;
- They are family members of persons falling within any of the aforementioned cases.

The list of regions and towns in the red and yellow areas are updated and may be seen on the website of the National Institute of Public Health of Romania (<https://www.cnscbt.ro/index.php/1440-lista-zonelor-cu-transmitere-comunitara-extinsa-si-a-altor-zone-afectate-de-covid-19-actualizare-28-02-202>).

2. Effects of quarantine/self-isolation on individual employment contracts

Quarantine is listed among the cases for the suspension of the individual employment contract. Self-isolation, although not found among the express cases of suspension *de jure*, may be deemed as similar to the suspension for a temporary incapacity to work.

Therefore, both cases refer to suspensions *de jure* of individual employment contracts, periods when the employees do not work and, therefore, they do not receive a wage.

3. Rights and obligations of the employees in quarantine/self-isolation

The employees must immediately inform the employer that a measure of quarantine/self-isolation was taken in respect to them.

In both cases, such employees benefit from sick leave, and medical certificates are issued on the basis of the certificates issued by the specialized bodies of the public health authorities.

The employees are also entitled to an indemnity of 75% of the average gross monthly income for the last 6 months, within the limit of 12 minimum gross wages at national level on a monthly basis.

Quarantine indemnity shall be paid in full from the budget of the sole national fund of social security. In the absence of an express provision on the self-isolation indemnity, such indemnity shall be paid in accordance with the conditions applicable to ordinary sick leaves.

It is strictly prohibited to dismiss employees while individual employment contracts are suspended due to these reasons.

4. Employers' obligations and options in the current context

4.1. Increased employee security and health measures

Employers have the general obligation to ensure employees' security and health in all employment-related matters. Measures for ensuring security and health at work shall on no account involve financial obligations for the employees.

In this special context, employers should make available the necessary health and hygiene products to the employees (e.g., antibacterial soap, alcohol-based disinfectants, etc.), to ensure regular disinfection of contact areas, and they should inform the employees on the appropriate hygiene measures and on their obligation to inform the employer if a quarantine/self-isolation measure is established in relation to them.

4.2. Work from home

Distinctly, companies may agree with their employees to work from home (i.e., telework). However, such measure involves at least the following:

- The specificity of company's activity allows such work, i.e., it involves the use of information technology and communications; and
- The employee should agree to such type of work, by signing an addendum to his/her individual employment contract which will include the mandatory elements provided by the law¹ in this respect.

4.3. Temporary suspension or reduction of activity

Should they deem necessary, employers may unilaterally decide to temporarily suspend their activity, thus suspending employment relationships with their employees. Unlike other suspension cases, in such scenario the employer must pay the employees an indemnity of at least 75% of their base salary. Such measure can be taken only after the consultation of the representative trade union or of the employees' representatives.

4.4. Reducing the working programme from 5 to 4 days/week

If the temporary reduction of activity exceeds 30 business days, the employer may decide the reduction of the working schedule from 5 days to 4 days per week, with the corresponding reduction of the salaries. In this manner, the period of contact between the employees and, by default, the contamination risks are reduced, as well as the costs. Such measure can be taken only after the consultation of the representative trade union or of the employees' representatives.

4.5. Force majeure

In exceptional cases where the situation generated by the spread of COVID-19 escalates to such an extent that it can qualify as a force majeure case (i.e., an external, unforeseeable, absolutely insuperable and unavoidable event), employment relationships will be suspended *de jure*. During such suspension, the employees would not be entitled to the payment of salaries or other type of indemnity.

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¹ Law No. 81/2018 on the regulation of telecommuting, published in the Official Journal of Romania, Part I, No. 296 of 2 April 2018.

Editors

Employment is one of the practice areas in which our lawyers have acquired extensive experience, ranging from management schemes tailored for both entities undergoing privatisation or private entities set up by international corporations in Romania, to preparing and negotiating collective and individual labour agreements and related specific clauses (employee benefits, restrictive covenants, stock option plans and trade option plans). Our attorneys also deal with employment related matters in relation to mergers & acquisitions and privatisations, involving redundancy programs, negotiations with trade unions, pension issues raised in transactions, investment management agreements etc. Our specialists are frequent lecturers on employment law issues and regular contributors to local and foreign publications, whilst being actively involved in the activities of reputed domestic and international associations and organisations such as the European Employment Lawyers' Association (EELA), Multilaw, AmCham etc.



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