

Tax Alert

17th of March, 2020



Summary:

- Actions recommended by the Department of Work and Social Protection (MMPS)
- Other possible actions of the employers if their activity is impacted by the official measures or by the economic consequences specific to their activity

ECOVIS Romania: HR & Payroll Services

Esteemed Clients,

On the background of the current situation generated by the COVID-19 epidemics, we are aware that many businesses confront with disruptions of activity. Our target is to keep being a support for you in this conditions too, and in this spirit we encourage you to contact us without hesitation if you need consulting and professional assistance from us, due to the fact that we are open for business and available to our customers.

We introduced and tested already all systems and procedures, as well as the IT infrastructure which allows our team to work from remotely in the benefit of your company, and to keep being available for you by e-mail or by phone, at the phone numbers and e-mail addressed you already know and use.

We invite you to contact us if you have questions, requirements or current requests, and we are happy to ensure you that we are present, available and ready to assist you at any moment.

Please find below a brief informing material about the measures that can be adopted by employers regarding the existing work relations with own employees, under the circumstances of the fact that economical activities are or can be impacted by the current economy conditions.

We mention that these information were extracted from the legal stipulations applicable today. For this compilation we did not take into consideration various press releases of competent authorities, because these do not have a legal deed power (currently).

We invite you to read the following material and, if you have questions for ECOVIS Romania, as a service provider to your company, please address those questions in writing.

We will inform you again about additions or applicable changes if more official information will come out regarding various applicable economic facilities or specific documents / procedure to be followed.

A.ACTIONS RECOMMENDED BY THE DEPARTMENT OF WORK AND SOCIAL PROTECTION (MMPS)

On the background of the manifestation of the risk of the spreading of the Covid-19 disease, the Department of Work and Social Protection (MMPS) requests from the employers, and from the employees as well, to prove their flexibility and openness towards the introduction of personalized work schedules and to the maintaining of normal and true work relations.

MMPS considers that, if there is no clear indication regarding the infection at the workplace, the activity of the employees must be conducted under normal circumstances, with the providing of all hygiene and protection measures for the employees.

MMPS takes into consideration the possibility of granting free days or leaves, if the general situation will worsen.

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If under the law a state of **quarantine or force majeure**, the individual employment contract will be suspended by law, pursuant to the stipulations of art. 50 lett. c) and f) of the *Employment Code*.

In these conditions, MMPS **recommends 3 actions for the adjustment of the work relations**, under the circumstances that it is considered that the presence of the employees at the workplace might represent a risk.

1. The introduction of individualized work schedules, with the agreement or at the solicitation of the respective employee, in accordance with the stipulations of art. 118 of the *Law no. 53/2003–Employment Code, republished, with the subsequent changes and additions*, with the observance of the maximum legal duration of the work time. In this respect, the schedule for the beginning of the work should be preset for three time intervals – a part of the employees at 8.00, another part at 9.00 and the remaining group at 10.00. Implicitly leaving office for home will be made in shifts. Thus, leaving at different hours to the workplace would lead to the decrease of the crowding in the public transportation.

2. The temporary modification of the workplace at the domicile of the employee, pursuant to the stipulations of the art. 108–110 of the *Employment Code*, **unilaterally**, in accordance with the stipulations of art. 48 of the same Law, **or through the mutual agreement of the Parties, with the pointing out expressly in the DECISION of the employer or, according to each situation, in the addendum for the changing of the workplace address and of the conditions for conducting the activity of the employees.**

In this situation, the employer must ensure the training of the employees for work health and safety.

We attach to this info a draft of such a DECISION of the employer.

This document is a recommendation and it should not be considered as being endorsed by ECOVIS Romania as an official form announced/approved by the authorities as applicable for this decision, which is to be ruled by each employer individually

3. Conducting activity under the form of telework, after the signing of an Addendum to the individual employment agreement, under the conditions stipulated by Law no. 81/2018 regarding the regulation of the telework, **when the specific attributions of the job, occupation or the trade of the employee involves the utilization of the IT technology.**

For the application of this measure it is necessary **to prepare the Addendums** to the individual employment agreements (the unilateral decision of the employer is not applicable).

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B. OTHER POTENTIAL ACTIONS OF THE EMPLOYERS IF THEIR ACTIVITY IS IMPACTED BY THE OFFICIAL DECISIONS OR OF THE ECONOMIC CONSEQUENCES SPECIFIC TO THEIR ACTIVITY

1) The granting of the sick leaves for the quarantine period

QUARANTINE

What is quarantine? The quarantine represents the preventive isolation of a collectivity which was in contact with a contagious sick person or with persons or materials originating in an epidemic area. According to art. 50 of the Employment Code, the quarantine represents a period of rightful suspension of the individual employment contract. In this interval the lay-off of the employee is not possible. (art. 60 of the Employment Code).

Sick leave for quarantine: conditions for issuing

As a first step, it is necessary to obtain the NOTICE issued by the competent branches of the Public Health Directions (DSP), and the quarantine sick leave certificates are issued by the doctor in charge (family doctor, specialist doctor) on the basis of the NOTICE issued by DSP. In case of quarantine, the sick leaves certificates might be issued at a later date, but only for the current or previous month.

The allowance code for quarantine must be „07”, and the diagnostic code must be „994” – persons susceptible of contamination with transmittable disease

The payment of the quarantine sick leave for the employees :

The gross allowance for quarantine represents 75% of the average gross incomes derived in the last 6 months, and the net allowance is paid by the employer to the employee under the same payment conditions used for other types of sick leaves.

Reimbursement to the employers of the payments made to the employees as sick leaves:

The amounts paid by the employers for the payment of the allowance due to the sick leaves is reimbursed from the budget of The Sole National Fund for Social Health Insurance, based on the specific documentation (application and justifying documents).

If an employee is confirmed with COVID – 19, the employer must notice the territorial Public Health Chamber, in order to launch the procedure of the epidemiology investigation. The employer must inform the employees regarding the procedure of granting the sick leave for cases of quarantine and home isolation.

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2) The suspension of the employment agreement (known in practice as technical unemployment)

When a company confronts economic or technological difficulties, the employer might be forced to reduce or interrupt the activity for a determined period of time.

The employer might decide the temporary suspension of the individual employment agreement for the employees.

Pursuant to art. 52 (1) lett. c), the individual employment agreement might be suspended by the initiative of the employer in cases of interruption or temporary reduction of activity, **without the cessation of the work relations**, for economic, technological, structural or other similar reasons.

There are the following possibilities:

A. The temporary reduction of the activity, for economic, technological, structural or other similar reasons, **for durations over 30 work days**.

In this situation, the employer has the possibility of the reduction of the work schedule from 5 to 4 work days on week, **with the due diminution of the salary**, until the situation generating the problem is settled, after the prior **consultation** of the representatives of the employees.

If the representatives of the employees are not formally assigned, the employer may issue a written notice addressed to all employees, requiring their opinion.

The employer is not bound to obtain the formal agreement of the employees for the application of this temporary measure.

B. The temporary Interruption of the activity of the employees

Pursuant to art. 53 of the Employment Code, during the reduction and/or the temporary interruption of activity, **the employees with reduced or interrupted activity**, who do not conduct activity anymore, benefit from a gross allowance paid by the employers from the salary fund, of minimum 75% of the gross salary, with the exception of the situations when they cease to be in the situation of temporary diminution of activity. (Item 1 above). During the reduction and/or the temporary interruption above-mentioned, the employees will be at the disposal of the employer, who is entitled at any moment to dispose the restart of the activity.

Attention! The period of suspension of the individual employment agreement must end at the moment when the problem generating it was solved.

Attention! The suspension of the individual employment contract will be operated and transmitted in the Revisal.

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For these procedures for the suspension of the employment agreement (A and B) we couldn't identify procedures and document templates generally applicable, and in consequence we do not propose drafts for such documents.

Considering that these are actions applicable to each entity in accordance with the applicable economic conditions, which can generate effects on medium and long term, we recommend that the employer's decision regarding these measures to be prepared on a solid justification of the specific conditions and to be clearly transmitted to the employees. According to each situation, and in accordance with the organization structure of the company, it might be necessary to issue a Decision of the General Assembly of the Associates/Shareholders, mentioning the decision of the owners of the business regarding the measures applicable on short, medium and long term, and empowering the Administrator / Administration Council to apply this decision.

3) Vacation leave

The vacation leave is granted at the written application of the employee, which is accepted by the employer. For this leave the employee receives a paid leave allowance, which cannot be lesser than the hire salary.

4) Unpaid Leave

The unpaid leave is granted at the written request of the employee, accepted by the employer. For its duration the employment contract is suspended, and the salary is not paid.

Attention! The suspension of the individual employment contract will be operated and submitted through Revisal.

5) The reduction of the workload and implicitly of the hire salary

The reduction of the activity of the employees may lead to the reduction of the individual workload (number of work hours/day), which can lead to the corresponding diminution of the hire salary. This modification is made through an Addendum to the individual employment contract, with the mutual agreement of the employer and employee.

Attention! This modification will be operated and submitted in Revisal.

ECOVIS Romania: One Stop Shop

Accounting

- Financial Accounting;
- Preparing & registering tax statements for legal and natural persons, both Romanian and foreign;
- Harmonizing the national financial accounting with the accounting norms of the parent-company;
- Preparing and certifying the annual financial situations;

Audit

- Financial audit according to ISA;
- Restatement of financial statements prepared according to national regulations, to International Financial Reporting Standards (IAS/IFRS) or Reporting Standards specific to the Client (GAAP);
- Financial audit required by the group's policy;
- Internal audit;
- Audit missions such as: agreed procedures (ISA 4.400), revisions (ISA 2.400), due diligence;

Payroll & HR

- Payroll services;
- Managing, auditing and registering the personnel files according to legal bindings and to the company's regulations;
- Preparing the job descriptions and of the Internal Order Regulation specific to Client's activity;
- Interface with banking applications and performing of salary payment transactions;
- Staff appraisal and selection for accounting/HR departments;

Consulting

- Tax consulting
- Assistance for drafting the **transfer pricing file**;
- Consulting for M&A, company restructuring;
- Assistance in implementing IT solutions regarding: financial and management accounting, employees' records, payroll, management reports, etc.;
- Tax registration of various entities and VAT payer registration;
- Tailored information regarding significant law.

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