

PETERKA PARTNERS

THE CEE LAW FIRM

COVID-19 impact on labour relationships in Romania



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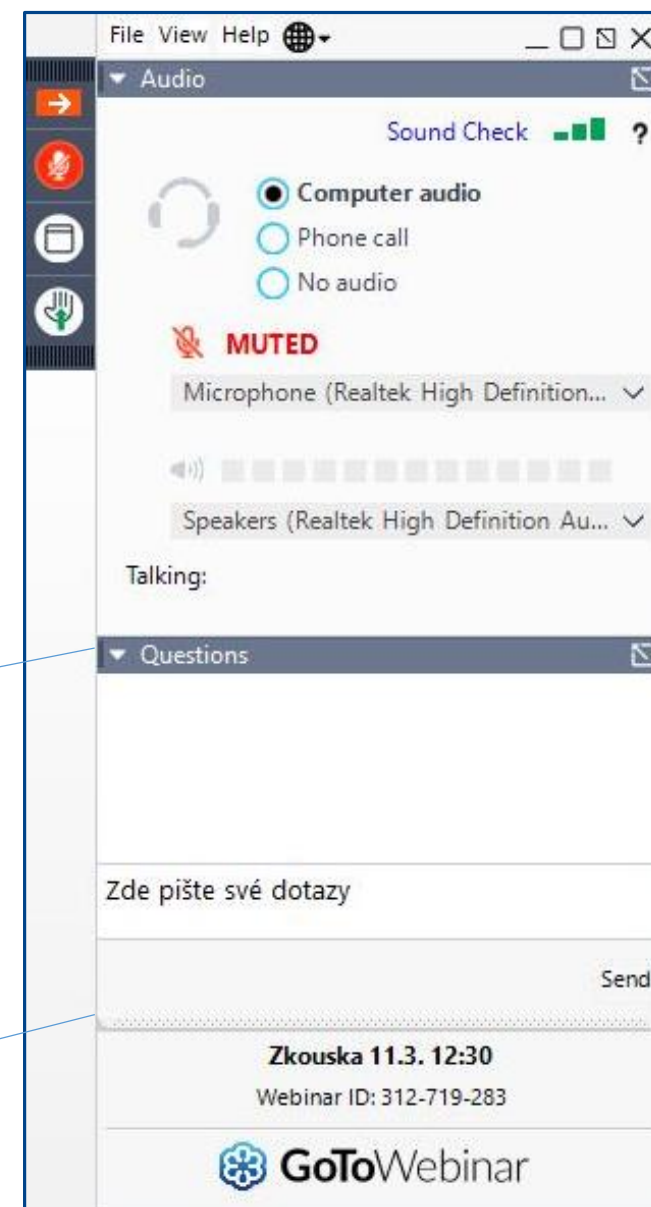
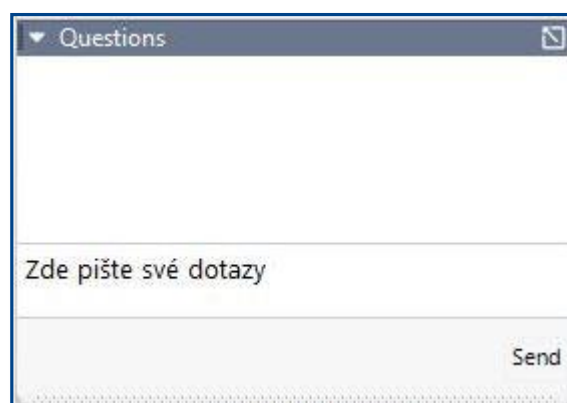
Agenda:

We will focus on the following topics:

- General considerations;
- Preventive measures to be taken by the employer;
- Mandatory measures imposed by the authorities (quarantine/home isolation/closing schools/closing business etc);
- Rights and obligations of employees in case of quarantine/self-isolation/home-office/close of business;
- Measures on business activity to be taken by employers and related impact on labor relationships;
- Useful contacts and links.



- Considering the number of participants, this webinar is streamed live and we only broadcast it in the so-called **listening format**. Your microphones are muted during this session.
- We suggest you to send us your questions and comments via the internet interface integrated in the webinar and we will revert with answers via e-mail.



General aspects (I)



- The President of Romania decreed a state of emergency as of 16 March 2020 for a period of 30 days;
- **Some of the measures directly and immediately applicable:**
 - (1) employers to implement, where possible, the work from home/teleworking. The measure can be taken unilaterally, without the need for employee agreement;
 - (2) the inspections of labor inspectors are suspended;
 - (3) collective labor contracts remain valid during the state of emergency;
 - (4) an order of the Minister of Labor to be issued with measures to protect the employees in the economic fields affected by the decision of the public authorities.

General aspects (II)



➤ Measures to be applied gradually:

- the quarantine of certain buildings, localities or geographical areas;
- the limitation or prohibition of the movement of vehicles or persons in / to certain areas or between certain hours, but also the exit from those areas;
- the prohibition of road, rail, maritime, river or air traffic on different routes and the subway;
- closure of restaurants, hotels, cafes, clubs, casinos and other public places (already in place).

Preventive measures to be taken by the employer (I)

➤ General measures:

- Inform employees about the measures to be taken to prevent COVID-19 (including the recommendations of the Romanian Minister of Health), which should be regularly reviewed and repeated;
- Appropriate hygiene equipment necessary for occupational safety (e.g., hand sanitizer) must be provided and regular disinfection of offices needs to be ensured;
- Inform employees of their obligation to inform the employer if a quarantine/self-isolation measure is established in relation to them.



Preventive measures to be taken by the employer (II)

➤ Working alternatives:

In the context of Covid-19 outbreak, employers need to consider implementing working alternatives, such as:

- Work from home;
- Teleworking;
- Flexible working structures for the employees;
- Vacation or non-paid days off for the employee;
- Advance compensation of overtime;
- Unilateral change of place/type of work.



Work from home/teleworking



➤ Home office:

- Employees will continue performing the tasks associated with their role/position from home.

➤ Teleworking:

- Employee performs his/her duties in another place than the employer's, at least one day per month, using information and communication technology (e.g. laptops).
- In principle, changes to the place of work should be registered in the Electronic Registry of Employees.

During the emergency state period, the public and private companies shall implement, where possible, home working or teleworking, by unilateral decision of the employer.



➤ **Flexible working structures:**

- Working in shifts;
- Customized working schedules (e.g. to allow parents to substitute each other and ensure care of children; for employees using the public transportation to get to work; for employees working in sectors where home office/teleworking is not an option such as transporters);
- Flexible working structures have to be agreed with the employee.

➤ **Holiday/unpaid days off:**

- Where possible, employer to allow employees to take holiday or even unpaid leave.

Change of place/type of work

- **Advance compensation of overtime** - employees may receive paid time-off (the overtime that will be done during the following 12 months will be compensated thereby);
- **Unilateral change of place/type of work by the employer** - in cases of force majeure or as a measure of protection of the employee, without employee's consent.



Topics of interest



❖ What happens if an employees refuse to go to work (due to fear of Covid-19 epidemics)?

Generally, an employee cannot refuse to be present and work at the workplace invoking a fear of COVID-19. If an employee has no legitimate fear, he/she would be in breach of the duty to be available at the employer's disposal and to perform work.

❖ Can the employer process health personal data (in the context of Coronavirus) and force the employee to issue a statement that he/she was not in a country with COVID-19 infection or has not been in contact with an infected person?

The rule is that the confidentiality of the personal medical data of the employees must be observed. Exceptionally, this can be done provided that the employer can justify a legitimate interest and under certain conditions. Data processing policy at the company level and information of employees on this should be observed.

Topics of interest



❖ May the employee refuse to take paid leave when required by the employer?

There are no provisions enabling employers to order employees to take immediate paid leave, if such vacations have not been scheduled in the previous year. Employee may refuse to take paid leave when required by the employer.

❖ Are there any sanctions for the employers in case of non-observing health & safety requirements?

Fines ranging from RON 3,000 to 6,000 for employers breaching their obligation on appropriate hygiene equipment or information of employees on the health & safety risks .

Mandatory measures imposed by the authorities (I)

➤ Quarantine:

- It is a measure imposed by the authorities entailing the legal suspension of the individual employment contract (employees do not work and, consequently, do not receive a salary).
- Type of quarantine: institutionalized quarantine and self-isolation at home.
- Employees in quarantine benefit from medical leave.
- Allowance for the employees in the amount of 75% of the average monthly gross income for the last 6 months, up to 12 gross minimum wages per month.



Mandatory measures imposed by the authorities (II)

➤ Close of schools:

- Under Law no. 19/2020, parents are given paid days off for the supervision of their children in case of temporary closure of the educational units due to adverse weather conditions or other extreme situations officially instituted by the authorities (e.g. the Covid-19 epidemic).
- One parent has right to stay at home with the child if (i) the child is up to 12 years old, enrolled in a school (or, in the case of the child with disabilities, if he is up to 18 years old and is registered in a school) when the schools are closed due to adverse weather conditions or other extreme situations so decreed by the competent authorities with responsibilities in the field and (ii) the work cannot be performed from home or by using teleworking.
- Subsequent legislation for the implementation of Law no. 19/2020 is currently expected.



Mandatory measures imposed by the authorities (III)

➤ Close of business:

- Close of business due to decisions of authorities may lead to suspension by law of employment agreements (whether based on the force majeure or in other cases).
- The employees may return to work once the situation based on force majeure stops.





Rights and obligations of employees in case of quarantine/self-isolation/home-office/close of business -Topics of interest-

❖ Who should issue the medical certificate for quarantine?

If an employee is positively confirmed with COVID-19, a certificate issued by the relevant Public Health Department should be obtained. On the basis of such certificate, the quarantine leave certificate is issued by the attending physician or by the family during the period of quarantine.

❖ Does the duration of the medical leave for quarantine shall cumulate with the regular medical leave of the employee?

The duration of medical leave for quarantine is not cumulated with the duration of medical leave granted to an employee for other illnesses, during a calendar year.

❖ May employees on home office and using teleworking benefit of meal tickets?

Yes, they may benefit as the other employees (provided that particular situations do not indicate otherwise).

❖ May employees benefit of any allowances in case of close of business by decisions of authorities?

Such situation may be regarded as force majeure, thus no payment of the salary, nor to any other type of compensation would be applicable.

Measures on business activity taken by employers (I)



➤ Temporary reduction of activity/close of business

- Temporary reduction of activity/close of business entails the suspension of the employment relationships.
- Employer required to pay the employees an allowance of at least 75% of their basic salary.
- Under current circumstances, the Government may decide that at least part of the allowance to be borne from public funds.
- Suspension of the employment should be registered in Revisal at the latest on the day before such suspension (failure of obligation triggering fines ranging between RON 5,000-8,000).

➤ Reducing the working program

- In case of temporary activity reduction, for economic, technological, structural or similar reasons, on periods that exceed 30 working days, the employer has the possibility to reduce the working program from 5 days to 4 days per week, along with the corresponding salary decrease.
- Consultation of the trade union or the employees' representative, as applicable would be required.

Measures on business activity taken by employers (II)

➤ Dismissals

- Dismissal may be effective following the restructuring/closing of working position(s).
- Any dismissal performed without complying with the applicable requirements is sanctioned by nullity.



Last-minute normative act projects*



- Emergency Ordinance amending and supplementing normative acts and setting up measures in the field of social protection under the epidemiological circumstance triggered by the spreading of SARS-CoV-2.
- Government Decision for the implementation of Law no. 19/2020 on the granting of days off to parents in order to survey the children under the circumstance of the closure of educational facilities.
- Emergency Ordinance regarding certain fiscal budgetary measures.
- Government decision regarding the granting of emergency situation certificate by the Ministry of the Economy, Energy and the Business Environment to undertakings whose activity is affected by the SARS-CoV-2 pandemic.
- They will contain provisions regarding the protection of employees (i.e., performance/termination of labour contracts under special conditions, etc.), sanctions for employers, issuing of certificates that may prove force majeure and entitle the activation thereof for undertakings.

Useful contacts



➤ Websites:

- ✓ <https://stirioficiale.ro/informatii>
- ✓ Institutul National de Sanatate Publica Romania <https://www.insp.gov.ro/>;
<http://www.cnscbt.ro/>
- ✓ Ministerul Sanatatii <http://www.ms.ro/coronavirus-covid-19/>
- ✓ Ministerul Muncii si Protectiei Sociale <http://www.mmuncii.ro/>
- ✓ World Health Organization <https://www.who.int/>

➤ Telephone numbers:

Tel verde: 0800.800.358



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COVID-19 Help Desk:



Thank you for your attention!

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