



Tonucci & Partners

MEMO

Covid – 19 - ROMANIA

A brief guide on the possible legal implications.

Preliminary and general considerations.

March 2020



IN GENERAL

The new coronavirus (COVID-19) epidemic, first identified in Wuhan, China, on December 2019, has spread to dozens of countries around the world, infecting thousands of people and causing several fatalities.

The World Health Organization declared on March 11 that we are facing a pandemic, with 118,000 cases confirmed in 114 countries, including 4291 deaths.

In addition to the humanitarian and public health dimensions of the Covid-19 diffusion, the Covid- 19 massive transmission presents complex legal issues for companies, including employment law, contract, and so on.

In this respect, companies must adopt procedures for the purpose of protecting their employees and, at the same time, their business sustainability and continuity.

Furthermore, for the purpose of ensuring business sustainability and continuity, it is necessary to evaluate which are the circumstances which allow the early termination of an agreement due to *force majeure* occurrence due to the Covid-19 transmission.

BRIEF GENERAL INFORMATION ABOUT COVID-19 VIRUS

In summary, it is possible to consider that coronavirus is a respiratory illness that belongs to the same family as the common cold.

In general, it is possible to assess, based on the current information and data, that around five percent of cases are considered critical, while more than two percent prove lethal.

The elderly and people with conditions that weaken their immune system are most likely to develop severe symptoms.

Covid-19 initial symptoms are not different from the ones of the common flu, due to the fact that the virus belongs to the same family.

In general, Covid – 19 symptoms include cough, headache, fatigue, fever, aching and difficulty breathing.

The Covid-19 is transmitted primarily through airborne contact or contact with contaminated objects. As per the current data and information, it is possible to assess that the incubation period is 2 to 14 days, with an average of seven days even if it is not possible to exclude an incubation period of more than 14 days.



Public authorities have issued several guidelines for the purpose to invite the population to take certain precautions which are mainly

- a. wash hands thoroughly and often with soap and water, especially after coughing and sneezing
or before eating;
- b. avoid touching eyes, nose or mouth, especially with unwashed hands;
- c. cover nose and mouth when coughing or sneezing;
- d. avoid close contact with people who have symptoms of respiratory illness;
- e. wear a mask if there is a suspect to be ill;
- f. clean off surfaces with alcohol- or chlorine-based disinfectants;
- g. do not take any antibiotics or antiviral medication unless it's been prescribed by a doctor.



Information about the current situation in Romania

According to the press release published on the website of the Ministry of Health until March 16, 158 cases of people infected with COVID - 19 (coronavirus) virus are confirmed, and in institutionalized quarantine there are 3,008 people for which checks are carried out to detect if they have contracted COVID-19 (coronavirus) virus. Another 15,546 people are in isolation at home and are under medical supervision.

Quarantine and self-isolation

Quarantine is established for all persons who do not have symptoms, but who return from the areas with extended community transmission of the new coronavirus (COVID-19), for a period of 14 days, being organized in specially arranged spaces, made available by the local authority, in collaboration with the Department of Public Health.

Self-isolation is established for people who have no symptoms but:

- (i) have traveled in the last 14 days in regions/localities in areas affected by COVID-19, other than those with extended community transmission;
- (ii) have come into direct contact with people with symptoms and have traveled to areas with extended community transmission;
- (iii) have been in direct contact with persons who have been confirmed with coronavirus (COVID-19);
- (iv) the family members of a person who falls into one of the above situations.

These persons will isolate themselves at home for a period of 14 days from the date of their return from the trip, respectively from the date of the last contact with a symptomatic / confirmed person. During this time, they will be monitored by the family doctor or, failing that, by the Public Health Department.

Self-isolation is applied to all family members and persons living in the same home, for a period of 14 days from the date of return from the trip, respectively from the date of the last contact with a symptomatic / confirmed person.

Everyone has the obligation not to leave the declared home, where they are from the moment of isolation.

If the rest of the family does not want to go into isolation with the person who traveled, then the Public Health Department is asked to enter its institutionalized quarantine. This option is only possible if the person has not previously had contact with the family.

People who have arrived from areas other than those in need of quarantine can leave their home only after 14 days of self-isolation, if they have no symptoms. In these cases, coronavirus testing is NOT required.



Persons who have come into direct contact with a case confirmed with COVID-19 will be tested on the first day of self-isolation and before the end of the self-isolation period, they can leave home only if the final results are negative.

Individuals in self-isolation will receive at the end of the 14 days of self-isolation epidemiological notice from the Public Health Department, attesting that they can return to the community.

Upon exiting self-isolation, a consultation with the family physician should be performed to release medical leave and / or school certificates. The employer and / or school must be contacted to be notified of the extent of self-isolation.

According to the provisions of GEO 158/2005 at art. 60 (2) of the rules of order, in accordance with the medical agreements for quarantine, the employee is not obliged to submit the certified employer for the previous month until 5 months in progress, but until the end of the current month. Thus, the employee can submit the certificates for medical dismissal after being released from quarantine / isolation.

The gross monthly amount in quarantine allowance is 75% of the calculation bases, in this way medical benefits granted for a common illness can be given.

The duration of the quarantine allowance cannot reduce the number of days of medical leave granted to the insured for the other conditions and no 10-day restrictions apply for the grant and allowance for temporary incapacity for work, the cause of common illnesses or accidents outside work.

According to the draft decision regarding the approval of the Methodological Norms for establishing the quarantine expenses and for the allocation of an enterprise from the Government's Guarantee Fund, in accordance with the state budget 2020, to supplement the Health Minister's budget, quarantine space must meet minimum criteria:

- the access on the premises is controlled;
- it must be pedestrian accessible for vehicles;
- be equipped with facilities adapted to people with physical disabilities;
- ventilation conditions are ensured;
- to provide access to water, food and personal hygiene products, laundry;
- to ensure a survival of at least 10 square meters per room, bathroom and own shower;
- to ensure the appropriate management procedures for the danger;
- to provide storage space for the luggage of quarantined persons;
- access to the internet.

The state will allocate the amount of 300 lei for each person quarantined, as follows:

- **230 lei** per day of quarantined man for the expenses of accommodation, which include cleaning, laundry services, personal hygiene products, sheets, towels, protection of the baggage of the quarantined persons and



- **70 lei** per day of quarantined man, the amount that includes the following expenses: with food (three meals a day), with water (between two and four liters per day) and disposable glasses, with disposable pajamas and slippers.

If there are spaces provided free of charge by other institutions or public authorities, the expenses incurred will be a maximum of 50 lei per day of quarantined man, representing the expenses for cleaning, laundry, personal hygiene products, bed linen, towels, luggage protection.

The local or county public authorities will request monthly settlement to the competent public health departments, and the Ministry of Health will allocate the respective funds.

The Ministry of Health will be supplemented by 42 million lei to ensure the transfers to the local budgets for the settlement of the quarantine expenses. For two weeks of quarantine the state settles 4200 lei for each quarantined man.

The legal basis for the issuance of the leave and the quarantine allowance for a quarantined employee is represented by art. 37 of the “Rules for the application of the provisions of the Emergency Ordinance no. 158/2005 regarding the holidays and the social health insurance benefits from 05.01.2018”:

1. Quarantine leave and allowance shall be granted to the insured persons who are prohibited from continuing the activity due to a contagious disease, during the period established by the certificate issued by the public health department;
2. The medical leave certificate for quarantine shall be issued by the treating physician to the insured persons who are prohibited from continuing the activity due to a contagious disease, during the period established in the certificate issued by the specialized bodies of the public health departments. If the duration of the quarantine period established by the specialized bodies of the public health departments exceeds 90 days, the expert doctor's opinion of social insurance is not required;
3. The gross monthly amount of the quarantine allowance is determined according to art. 20 paragraph (2) of the Government Emergency Ordinance no. 158/2005, approved with modifications and completions by Law no. 399/2006, as subsequently amended and supplemented;
4. The quarantine allowance shall be fully borne by the budget of the single national health insurance fund.

Another aspect that should be mentioned is the one related to the receipt of correspondence by persons in quarantine or self-isolation. Therefore, the Romanian Postal Service will continue its activity, using special methods of protection (equipment, masks, gloves and goggles). There is also the possibility of the quarantined persons to make a power of attorney to a contact person to receive social contributions and correspondence on their behalf.



The measures imposed by the Romanian Authorities

The National Committee for Special Emergency Situations adopted the Decision no. 11 of 17.02.2020, stating the following:

- Suspension of the activity of serving and consuming food and alcoholic and non-alcoholic beverages, organized by restaurants, hotels, cafes or other public places, in the spaces destined for this purpose inside or outside the location, except for the commercialization of food and alcoholic and non-alcoholic beverages, which do not imply staying customers in the spaces intended for this purpose, such as drive-in, room-service or customer delivery;
- Suspension of all cultural, scientific, artistic, religious, sports, entertainment or gambling, spa treatment and personal care activities, conducted in confined spaces;
- Prohibiting the organization and conduct of any event involving the participation of more than 100 persons, in open spaces, and for those involving the participation of a maximum of 100 persons, the organizers are obliged to have measures to ensure a distance of at least 1 meter between the participants;
- Exception of medical equipment assemblies and subassemblies manufactured in Romania for beneficiaries outside the national territory from the measure of export ban;
- Suspension of flights performed by the airline operators to Spain and from Spain to Romania, for all airports in Romania and extension of the measure of suspension of flights from Italy and from Italy to Romania;
- Exception of drivers of freight vehicles with a maximum authorized capacity of more than 3.5 tonnes from quarantine or isolation measures, if at the border crossing point they do not show COVID-19 symptoms, they have individual means of protection and they have documents attesting the route to the destination.

On March 14, 2020, the National Committee for Special Emergency Situations adopted a decision to establish measures to prevent the spread of COVID-19 (coronavirus), as follows:

- Restriction of cultural, scientific, artistic, religious, sports and entertainment activities, which involve the participation of over 50 people, performed in enclosed spaces, including those performed in spa treatment rooms, fitness rooms, SPA salons, cosmetics, gambling halls and casinos;
- The members of the Government and high-ranking officials from the institutions belonging to the national security and defense system, can go out of isolation, keeping the distance of at least 5 m from other persons who are not in isolation and with the obligation to wear the protective mask, exclusively for the performance of the obligations expressly provided by the Constitution and strictly during the performance of these obligations;
- Enabling the National Administration of Penitentiaries, to initiate a draft normative act amending the provisions of Law 254/2013 regarding the execution of penalties and the deprivation of liberty measures ordered by the judicial bodies during the criminal process, to be put under urgent parliament debate;
- Establishing the preventive isolation measure of the personnel essential to ensure the functioning of the Cernavoda Nuclear Power Plant, in accordance with the provisions of the Continuity Plan of the basic activities in case of an epidemic /



pandemic;

- The relations of the personnel of the National Post Office with the persons in self-isolation;
- The relationships of the intervention teams (water, channel, gas, electricity, internet / cable, fixed telephony) in the interaction with the persons in self-isolation;
- Relations of representatives of public authorities (IPJ, IJJ, ITPF, ISUJ, DSP, MS) with truck drivers, with a total mass greater than 3.5 tonnes, entering the country coming from the red and yellow areas;
- Defining the term "close contact" of a confirmed case;
- Aspects regarding the continuity plan in the critical institutions and critical infrastructures.

Furthermore, the National Committee for Special Emergency Situations decided:

- Prohibition of public or private events, in open or closed spaces, with a number of participants greater than 1000 persons. The events for which the participation of a smaller number of people is estimated can be organized only after obtaining the approval from the local Public Health Departments;
- During the same period, no traineeships will be organized in hospitals for the students of the post-secondary schools in the county.

These measures are required from March 9 to March 31, with the possibility of extension.

Air, rail, river, maritime traffic

The legislative framework is ensured by the provisions of Decision no. 6 of 09.03.2020 of the National Committee for Special Emergency Situations, regarding the approval of additional measures to combat Covid-19.

According to art. 4 paragraph (1), "it is approved to suspend the road transport of persons by regular services, special regular services and occasional services in international traffic, for all the routes performed by the transport operators to Italy and from Italy to Romania, starting with 10.03. 2020 12:00, until 31.03.2020 12:00".

According to art. 4 paragraph (2) of the same normative act, " The operators of road transport of persons who perform regular services, special regular services and occasional services, which transit Italy, have the obligation to communicate to the Romanian citizens who will embark from Italy to Romania, that they will enter quarantine / self-isolation on the Romanian territory and will assume responsibility by completing a declaration on their own responsibility when boarding the bus ".

Thus, air travel to and from Italy is suspended.

Also, the air operators have the obligation to communicate to the Romanian citizens who will embark from Italy, China, Iran and South Korea to Romania, with a call, that they will enter quarantine or self-isolation on the territory of our country.

Airline operators have the obligation not to allow the boarding of persons other than Romanian citizens coming to Romania, with stops, from Italy, China, Iran and South



Korea.

Romanian citizens arriving in the country through land border points coming from or having previously traveled to Italy, China, Iran and South Korea enter institutionalized quarantine on the border county border or in isolation at home, depending on the are they come from.

Access of foreign nationals who come to Romania from Italy, China, Iran, South Korea, regardless of the means of transport used, is only allowed under the mandatory condition of quarantine or self-isolation, as the case may be.

Freight transports of at least 3.5 tonnes are exempted from the traffic restrictions imposed by the CNSSU decision of March 8, regarding access to the territory of Romania. Concerning this exemption from quarantine and isolation, the Council adopted a new decision on March 17, specifying the conditions that these drivers must meet (they do not present the symptoms of the virus, have individual protection means and present documents that attests the route of travel to the destination).

The above restrictions also apply to maritime and river transport.

The National Committee for Special Emergency Situations adopted a new decision on March 17, where it imposes new restrictions on airline operators, by suspending flights to Spain and from Spain to Romania, for all airports in Romania and extending the measure to suspend flights to Italy and from Italy to Romania.

As far as rail traffic is concerned, CFR Călători has taken additional measures to combat the coronavirus pandemic, so that Romanian citizens who left Italy to Romania and use the rail transport to get home will go into quarantine or self-isolation in our country.

According to CFR Călători, they will assume the responsibility of self-isolation by completing a declaration on their own responsibility for boarding the train.

At the same time, foreign citizens using the railway transport will not be allowed to cross the border of Romania by the authorized bodies of the Romanian state, if they come from Italy.

State of emergency - considerations

The legislative framework is ensured by the provisions of the Emergency Ordinance no. 1/1999 regarding the regime of the state of siege and the regime of the state of emergency, thus "the state of siege and the state of emergency are exceptional measures that are instituted in cases determined by the emergence of serious dangers to the defense of the country and to national security or constitutional democracy or to prevent , limiting and removing the consequences of disasters ".

The President of Romania, Klaus Iohannis, has declared a state of emergency since March 16.

The state of emergency can be established for a maximum period of 30 days.



The decree must be countersigned by the Prime Minister and published in the Official Gazette, in order to produce effects.

Subsequently, within a maximum of 5 days, the President asks the Parliament for approval on the state of emergency.

If Parliament does not approve it, the President immediately revokes the decree, the measures taken ceasing its applicability.

Thus, on March 16, the "Decree regarding the establishment of the state of emergency on the territory of Romania" was issued, for a period of 30 days, restricting the exercise of the following rights according to art. 2 of this regulation:

- a) free movement;
- b) the right to intimate, family and private life;
- c) inviolability of the domicile;
- d) the right to education;
- e) freedom of assembly;
- f) the right of private property;
- g) the right to strike;
- h) economic freedom.

Some considerations have to be made in relation to the establishment of the state of emergency, economically, as the Government may adopt measures to support the economic operators in the areas affected by COVID-19, and according to art. 11 “ The beneficiaries of the European funds affected by the adoption of the emergency measures provided for in this decree may decide, together with the managing authorities / intermediary bodies, to suspend the financing contracts concluded according to the law “.

Also, the validity of the documents issued by the public authorities that expire during the period of emergency will be maintained.

The Ministry of Economy, Energy and Business Environment issues, upon request, the economic operators whose activity is affected in the context of COVID-19, emergency situation certificates based on the supporting documents.

Regarding the field of work and social protection regulated in chapter IV of this normative act, the Government will support the employees and the employers affected by the effects of the virus.

According to art. 31 “By order of the Minister of Labor and Social Protection, social protection measures are established for employees and their families in the economic sectors whose activity is affected or stopped totally or partially by decisions of public authorities, during the period of emergency”.

The provisions of Law no. 19/2020 on granting parents free days for the supervision of children, in the situation of temporary closure of the educational units, does not apply to the employees of the national defense system, the employees of the



penitentiaries, the personnel of the public sanitary units and other categories established by order of the Minister of Internal Affairs, the Minister of Economy and the Minister of Transport, as the case may be, having the right only to increase the salary.

Central and local public institutions and authorities, autonomous administrative authorities, autonomous authorities, national companies and companies and companies in which the state or a territorial-administrative unit is sole or majority shareholder, private equity companies, introduce, where possible, during the period state of emergency, work at home or telemarketing, by unilateral act of the employer.

The decree also provides for the suspension of the controls carried out by the Territorial Labor Inspectorates, with the exception of the controls ordered by the Minister of Labor and Social Protection, those ordered by the Labor Inspectorate for the implementation of the decisions of the National Committee for Special Emergency Situations, of the necessary ones. to respond to the notices by which the commission of certain acts with a high degree of social danger and for the investigation of accidents at work is required.

In the field of justice, prescriptions and deadlines of any kind do not start to flow and, if they have started to run, they are suspended throughout the state of emergency.

The activity of trial continues in the cases of special urgency, and the cases that do not represent a special urgency are suspended by law, without the need to perform an act of procedure.

Regarding the situation of the time limits for exercising the remedies underway on 16.03.2020, these have been interrupted, and from the date of cessation of the state of emergency new terms will start to run, with the same duration.

The forced executions continue only in cases where it is possible to comply with the sanitary discipline rules established by the decisions of the National Committee on Special Emergency Situations.

The activity of the National Trade Register Office and the Trade Register Offices of the Courts continues through electronic means.

During the state of emergency, courses in all units and educational institutions are suspended.

Decree no. 195/2020 stipulates regarding the field of health that during the period of emergency may be employed for a fixed period of 6 months, pharmacists, medical contract staff, auxiliary staff, laboratory personnel and other categories of contract staff required without having to the standard procedure for occupying the functions (the contest) was performed in the health units, in the structures of the Ministry of Internal Affairs and in the social assistance services.

Also, the validity of the normative acts that were applied until March 31, 2020, aimed at providing medical services and medicines within the social health insurance system, the national health programs - preventive and curative, will be extended.



All persons who have contracted the COVID virus will benefit from medical services supported by the budget of the National Health Insurance Fund (FNUASS), and the medical services and medicines can be granted and validated without signing with the national health insurance card and without reporting of obtaining these services within 3 working days.

Family doctors have the possibility of prescribing even restricted medicines.

The medical materials needed to fight the pandemic will be purchased by the public health departments and by the health units through the direct procurement procedure, the amounts being paid by transfers by the Ministry of Health.

The legal entities and central public authorities whose majority shareholder is the state will be able to directly purchase materials and equipment necessary to combat the virus.

Ministries that have their own health system can make direct purchases for their own health units using the budgets of the line ministries as well as those of the health units.

The budget of the Ministry of Health will cover the amounts necessary for the purchases made by the public health departments and the health units.

An important provision in the field of health is the possibility that the prices of the medicines purchased by the healthcare units exceed the maximum prices approved by the Ministry of Health. The prices of medicines and medical equipment may be capped and public authorities may requisition units for the production of materials and equipment to combat the virus.

Execution of contracts

Given the current situation of the spread of the Covid-19 virus, some contractual obligations can no longer be executed, being able to intervene to relieve the liability of non-execution, the force majeure.

One of the exonerating causes of liability in the situation of non-fulfillment of the contractual obligations is the force majeure, being regulated in the content of art. 1351 para. 2.

The force majeure represents “any external event, unpredictable, absolutely invincible and inevitable”.

Force majeure is a cause for exemption from liability, whether or not it is a contract. Covid virus can be considered an external event, unpredictable, absolutely invincible and inevitable.

The rule is represented by the exemption of liability in case of an event that corresponds to the concept of force majeure, so that it prevents the execution of the contractual obligations. However, the parties may expressly agree that they will also



respond in a case of force majeure.

In Romania, there are two ways in which the existence of force majeure can be ascertained:

- through the court;
- through the Chamber of Commerce and Industry of Romania, which according to Law no. 335/2007 of the chambers of commerce in Romania, respectively art. 28 paragraph (2) lit. i), the National Chamber (the legal continuator of the Chamber of Commerce and Industry of Romania) fulfills the following main attributions: “ (...) i) it approves, on request, for the Romanian companies, based on documentation, the existence of force majeure cases and their effects on the performance of international trade obligations”.

In case the exemption of liability is done through the Chamber of Commerce and Industry, the person wishing to obtain a force majeure certificate must take the necessary steps to prove the existence of the force majeure case (the COVID-19 pandemic with the help of the existing international documents, such as the World Health Organization Report of 30.01.2020 declaring the state of international emergency, the World Health Organization declaration on 11.03.2020 of the pandemic and the official documents of the Romanian authorities regarding COVID).

The Chamber of Commerce and Industry mentions on its official page the documents necessary to obtain the force majeure opinion, as follows:

- presentation of the event in detail, its consequences in relation to the contractual partner and legal arguments that the event invoked represents a major force;
- the request for issuing the opinion, signed by the legal representative;
- a copy of the contract affected by the force majeure event, including the force majeure clause;
- certifications from the authorized bodies, authorities and institutions, on a case-by-case basis (other than the Chamber of Commerce and Industry of Romania), regarding the existence and effects of the event invoked, its location, the moment of beginning and ending the event - in the case of coronavirus from the Ministry of Health, the Ministry of Internal Affairs or the Inspectorate for Emergency Situations;
- notifications addressed to the contractual partner regarding the occurrence of the event invoked and its effects on the conduct of the contractual operations.

There is also the possibility that the execution of a contract becomes excessively burdensome for a contracting party due to an unpredictable event - COVID 19, applying the unpredictability provided by art. 1271 para.2 “ (2) However, if the execution of the contract has become excessively onerous due to an exceptional change of the circumstances which would make it manifestly unjust to oblige the debtor to perform the obligation, the court may order:

- a) adaptation of the contract, to equitably distribute the losses and benefits resulting from changing circumstances;
- b) termination of the contract, at the time and under the conditions it establishes “

In case the contractual obligations cannot be executed, the Civil Code also provides



for the possibility of invoking the temporary impossibility of execution, regulated by art. 1557 para. 2 “If the impossibility of performing the obligation is temporary, the creditor may suspend the execution of his obligations or he may obtain the cancellation of the contract. In the latter case, the rules in the matter of resolution are properly applicable. “

Labor relations

The situation of the Covid virus spread requires changing working conditions, according to the recommendations of the Ministry of Labor and Social Protection.

The legislative framework offered to employers to take the necessary measures to protect the health of employees is represented by the Labor Code, as well as Law 319/2016 on occupational safety and health.

Employers can establish individualized work programs, with the agreement or at the request of the employee according to the provisions of art. 118 of the Labor Code - Law no. 53/2003 respecting the daily working time.

Another necessary measure in this period of international crisis is the temporary modification of the workplace by establishing work at the employee's domicile, in accordance with the provisions of art. 108-110 of the Labor Code, which provides the legal basis for work at home.

The employer, according to art. 48 of the Labor Code may temporarily unilaterally change the way of work in cases of force majeure or as a measure of protection of the employee.

In order to implement work at home, the following elements must be specified in the decision or in the additional act of modification of the workplace:

- the express indication of the work performed at home by the employee;
- the period at which the work at home is applied;
- the program in which the employer has the right to control the activity of his employee and the concrete way of carrying out the control;
- the obligation of the employer to ensure the transport to and from the employee's domicile, as the case may be, of the raw materials and materials they use in the activity, as well as of the finished products that they make.

Also, the employer has the obligation to ensure the training of workers in the field of occupational safety and health.

As mentioned above, the decree no. 192/2020 in art. 33 provides for the possibility of private capital companies, central and local public institutions and authorities, autonomous administrative authorities, autonomous governments, national companies and companies in which the state or a territorial-administrative unit is the sole or majority shareholder to introduce work unilaterally at home or teleworking during the emergency period.



Another way of exercising the activity during this period is through teleworking, when fulfilling the specific duties of the position that the employee holds implies the use of information and communication technology.

Teleworking is regulated by Law no. 81/2018, and the additional act that will establish this working method must include the following provisions:

- the express indication that the employee works in a teleworking regime;
- the period and / or the days when the teleworking employee performs his work at a job organized by the employer;
- the place (s) of teleworking activity agreed by the parties;
- the program in which the employer has the right to verify the activity of the teleworking employee and the concrete way of performing the control;
- the way of highlighting the working hours provided by the teleworking employee;
- the responsibilities of the parties agreed according to the place (s) of teleworking activity, including responsibilities in the field of occupational safety and health;
- the obligation of the employer to ensure the transportation to and from the place of the teleworking activity of the materials that the teleworking employee uses in his activity, as the case may be;
- the obligation of the employer to inform the teleworking employee about the provisions of the legal regulations, of the applicable collective labor agreement and / or the internal regulation, regarding the protection of personal data, as well as the obligation of the teleworking employee to comply with these provisions;
- the conditions in which the employer bears the expenses related to the activity in the teleworking regime.

There is also the possibility to suspend the labor contract in the situation of the institution, under the law, the quarantine status or in case of force majeure, according to art. 50 letter c) and f) of the Labor Code.

The employer has the obligation to ensure the safety and health of the workers in all aspects related to work under the conditions of Law no. 319/2006 on occupational safety and health through the provision of the following measures:

- ensuring the safety and protection of workers' health;
- prevention of professional risks;
- information and training of workers;
- providing protective equipment (masks, protective gloves, etc.).
- limitation of exposure.

The situation of employees who cannot carry out their activity by teleworking or working at home and have children, insofar as the educational units were closed during the emergency, was resolved by promulgating on March 14, 2020 Law no. 19/2020 regarding the granting of free days to the parents for the supervision of the children in the situation of temporary closure of the educational establishments.

The law applies to both public and private employees, with the exception of the employees of the national defense system, the employees of the penitentiaries, the personnel of the public health units and other categories established by order of the



Minister of Internal Affairs, the Minister of Economy and the Minister of Transport, as the case may be, having the right only to increase the salary.

The provisions will apply to parents whose children are up to 12 years old, registered in a school or parents of children with disabilities up to 18 years old registered in a school and the place of work does not allow home working or teleworking.

The paid days will be granted at the request of one of the parents, respectively the legal guardian, in the case of single-parent families. The provisions are applied on the basis of a declaration on their own responsibility, signed by both parents, with the exception of single-parent families, submitted to the employer by the parent who will supervise the child during the mentioned period.

The employer has the obligation to approve this request from the employees, except the employees from the units of the national energy system, from the operating units from the nuclear sectors, from the continuous fire units, from the health and social assistance units, from telecommunications, of public radio and television, from rail transport, from units that provide public transport and sanitation of localities, as well as the population's supply of gas, electricity, heat and water, in which case the free days will be granted only with the agreement of the employer.

The amount of the allowance will be 75% of the salary corresponding to a working day, but capped at the correspondent per day of 75% of the average gross wage used to substantiate the state social insurance budget.

Also in the context of labor law, the Decision no. 9 of 10.03.2020 of the Group of technical-scientific support regarding the management of highly contagious diseases on the territory of Romania, which provides in art. 2 the recommendation applicable to the entities from the private environment, and especially to those with more than 99 employees, to defer the work program applicable to the personnel using the public transport, as follows: a) either for all the personnel - outside the periods of maximum agglomeration; b) either by dividing the personnel who use public transport in 2-3 groups, to be scheduled to start and end the program in the intervals offset by one hour / one and a half hours compared to the normal program.

Economic Impact

The National Agency for Fiscal Administration presented in a press release the measures to be adopted to support the business environment, as follows:

- the suspension or, as the case may be, the non-commencement of the forced execution of the budgetary debts. Virtually no seizures will be instituted on the goods, issue summonses, appropriations on the money availability and the follow-up income, except for the amounts from the judgments given in criminal matters;
- VAT refund, during March, for all settled settlements and for which up-to-date reimbursement decisions have been issued;
- implementation of a new VAT reimbursement mechanism, aimed at speedily settling the payments, starting with April 1, 2020;
- suspension of tax control actions (tax inspections, anti-fraud controls), except for



remote checks, as well as tax evasion cases, where there are indications in this regard;

- suspension of anti-fraud actions regarding Filter II and of the specific activities in the Border Crossing Points with Hungary and Bulgaria.

The measures will be applied both during the period in which Romania is declared a state of emergency, and for a period of 30 days from the end of this state.

At the same time, the deadline for filing tax returns from March 25, 2020, until April 25, 2020 is postponed.

Also, the first payment period of the building tax, of the land tax, of the means of transport tax, for this year from March 31, 2020 to June 30, 2020 is extended.

Criminal sanctions

Failure to comply with the measures imposed by the Romanian authorities to stop the spread of the Covid virus, will be sanctioned with imprisonment of between one month and 6 months or the fine if the infringement was committed because of the fault, and if the deed was intentionally committed it will be sanctioned with imprisonment between 6 months and 2 years or fine, according to art. 352 of the Criminal Code:

(1) Failure to comply with the measures regarding the prevention or control of infectious diseases, if it has resulted in the spread of such a disease, shall be punished by imprisonment from 6 months to 2 years or with a fine.

(2) If the deed provided in par. (1) is committed with negligence, the punishment is imprisonment from one month to 6 months or the fine.

Until March 15, 2020, 36 criminal files have been registered, in the aspect of committing the crime of abusing the disease.

Persons who communicate false information regarding the spread of the virus, endangering national security, risk being punished by applying the prison sentence between 1 year and 5 years, according to art. 404 of the Criminal Code, "The communication or dissemination, by any means, of fake news, data or information or falsified documents, knowing their false character, if by this the national security is endangered, it is punished by imprisonment from one to 5 years."

According to the press release of the Ministry of Internal Affairs of March 12, 2020, two criminal files have been opened regarding the offense of communicating false information.

People who have traveled to countries affected by the pandemic and do not declare the actual itinerary, can be punished by imprisonment from 3 months to 2 years or with a fine, according to art. 326 of the Penal Code on false statements:

“ Inappropriate declaration of truth, made to a person among those provided in art. 175 or to a unit in which it operates in order to produce a legal consequence, for



itself or for another, when, according to the law or the circumstances, the declaration made serves to produce that consequence, it is punished by imprisonment from 3 months to 2 years or with a fine. “

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¹ We say **“Because We Care”** and we have not chosen it by chance, but because, for all of us, the attention to the needs of people, the constant care in dealing with the issues that we are entrusted of daily, the tenacity placed in the protection of the interests of our clients have always represented primary values as well as the objectives of excellence that we set ourselves in the services offered.

These are days of national and international concern, but we are confident that, now more than ever, these are also the days where conscience, seriousness, professionalism and competence play an extraordinary role in overcoming any emergency.

Also for Tonucci & Partners the health and safety of clients, professionals, staff, suppliers and all families are and must be maximally safeguarded.

Therefore, since the beginning of the COVID-19 health emergency, we have considered it being responsible to immediately adopt all reasonable cautions, inviting our customers and business partners to participate in virtual, comfortable and secure meetings, using the most advanced IT tools, telephony and video-audio conference.

Our professionals and staff are equipped with the necessary technology to ensure constant online and remote assistance.

We continue to be close to you and ready, even remotely, to work and face the challenges of this serious emergency together.