

# GUIDELINES FOR EMPLOYERS

STATE OF  
EMERGENCY

•  
CORONAVIRUS  
(COVID-19)



## INTRODUCTION

The rapid spread of coronavirus leads to detrimental consequences on the business which require an adequate and timely response. This brochure marks the basic concepts that you should keep in mind when dealing with the emergency situation in your position as an employer. Given the situation, there is a high probability that your working progress will be prevented either by a suspension of work activity, decreased workload or due to work prohibition as a preventive measure. In such cases, you can deal with the situation by using some of the following options.

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## OPTIONS FOR THE EMPLOYERS:

### Option 1: You can change the work routine: (“home office”, remote work)

#### **“Home office”**

If your employees' work obligations are related to manufacturing and/ or provision of services which can be carried out outside of the employer's enterprise, then you can introduce “home office” work. It can be accomplished either by requiring employee's consent, i.e. by signing an annex to the existing labour contract or by an unilateral Order of the employer under the conditions of Art. 7, para. 1 of the Measures and Actions during the State of Emergency Act announced by a Decision of the National Assembly of March 13th, 2020 (“State of Emergency Act”).

In such cases, the employee shall work in a workplace of their choice (most frequently from their home) and you can explicitly agree whether the employee shall use its own materials and equipment or you, as an employer, will provide the necessary equipment. You should keep in mind that in such case you will be obliged to keep a record of the employees that follow that work regime.

For your employees this regime would mean that they shall decide for themselves when to start, when to rest, when to finish work, and how to distribute their workload within the time limits prescribed by law.

#### **Remote work**

If your employees' work obligations can be performed by using information technologies, then you can introduce a remote work routine. It can be accomplished either by requiring employee's consent, i.e. by signing an annex to the existing labor contract or unilaterally – by an Order of the employer under the conditions of Art. 7, para. 1 of the Measures and Actions during the State of Emergency Act.

In this case, the employer shall provide at its expense the necessary equipment for the remote work routine, consumables for its functioning, etc. You may also arrange that the employee will use their own equipment as well as all rights and obligations that come with it. The employer shall remain liable for the health and safety working conditions. The remote workers shall still comply with the enterprise's policy in relation to work organization and health and safety working conditions. This is why it is necessary for the employer to update his health and safety working conditions policy in accordance with the emergency situation.

**Benefits:** You will be able to preserve the working process as much as possible given its nature, to preserve employee's health and therefore his workforce and you will be able to reduce the working and supporting costs such as heating and lighting costs.

## **Option 2: You can establish part-time or flexible working hours for your employees**

### **Part-time**

If there is a reduction of the work volume as a result of the pandemic, the employer can establish part-time work for a period of up to three months in a calendar year for the employees in the whole enterprise, or in its unit, who work full-time. This can be established only after prior coordination with the representatives of the trade union organizations and the representatives of the employees under Art. 7, Para. 2 of the Labour Code.

The duration of the part-time work cannot be less than half of the legally established working time for the respective period, i.e. a minimum of 4 hours. Part-time work is established by an Order of the Employer.

**Benefits:** You will limit the presence of employees in the enterprise and thus follow the guidelines of the WHO, the Ministry of Health, etc. Also, you will optimize the work process so that it is adequate for the needs of labor force and, as a consequence, the employees' remuneration for the part-time work will also be reduced accordingly.

### **Flexible working hours**

In enterprises where the work organisation allows it, the employer can establish flexible working hours through an amendment in the Internal Labour Regulations, i.e. determining certain hours, in which the employee must be at work in the enterprise while the employee himself determines the beginning of his working hours.

**Benefits:** Outside the time of mandatory attendance, the employee may work the unprocessed working time in the following or other days of the same working week.

## **Option 3: You can unilaterally change the nature or the place of work of the employees.**

In case of production necessity in the enterprise (temporary shortage of workforce for certain structures of production activity) or idle time (discontinuance of the activity in a certain workplace due to organizational and technical reasons), under the conditions of Art. 120, Para. 1 of the Labor Code, the employer can unilaterally change the place or nature of work of its employees. This can be done only for a period of up to 45 days in a calendar year, and in the event of idle time - as long as such idle time continues.

**How:** By an Order of the employer and without the employees' consent.

**Benefits:** Continuation of the production process under conditions tailored to the needs of the employer and the production. In this way, a maximum and appropriate utilization of the workforce in the most useful way for the interests of the employer is achieved.

## **Option 4: You can provide the employee with paid or unpaid leave**

### **Paid leave**

Art. 173 of the Labor Code regulates the issues related to the use of paid annual leave, and para. 4, in particular, entitles the employer to impose unilaterally the usage of paid annual leave if all workers and employees have taken an annual leave of more than 5 working days at the same time. According to Art. 7, para. 2 of the State of Emergency Act, employers can grant up to one-half of the paid annual leave of the employee without their consent.

### **Unpaid leave**

At the request of the employee, the employer may grant them unpaid leave regardless of whether they have taken their paid annual leave and regardless of the length of their professional experience. Unpaid leave of up to 30 working days in one calendar year is recognized as work experience.

## **Option 5: Suspension of activity**

The Labor Code regulates two situations in which the enterprise may suspend work during the state of emergency (the new Article 120c). The first is by an Order of the employer and the second – by an Order of a public authority. In both cases, however, the employer owes the gross remuneration to its employees.

## **Option 6: To receive 60% of the insured income from the National Social Security Institute**

During the state of emergency, but for a period not exceeding three months, the National Social Security Institute shall transfer 60 percent of the amount of the insured income for January 2020 for persons insured under Art. 4, para 1, item 1 of the Code of Social Insurance by insurers who meet the criteria determined by an Act of the Council of Ministers. The remaining 40% of the salary will be paid by the employer.

## **Option 7: Termination of employment**

If, despite your best efforts, for you, as an employer, there is no other option to remain in business, you may consider terminating your employment relationships with your employees. In this particular situation, this could be achieved by giving notice if one of the following situations is present:

- ✓ upon *closure of the enterprise*;
- ✓ when *part of the enterprise is closed* or there is *staff reduction*;
- ✓ when the *work volume is reduced*;
- ✓ upon work suspension for more than *15 working days*.

In case of redundancy of one or more of the existing several similar positions (job functions) and in case of work volume reduction, termination of the employment contracts with the employees occupying the redundant position (respectively employees on positions in the reduced workload), you must conduct a selection.

### **Recommendations to employers regarding work processes management during the state of emergency and compliance with the requirements of the competent authorities:**

On March 11, 2020, the Ministry of Labor and Social Policy sent recommendations to all nationally represented employers' organizations, which set out specific options for work process organisation under the current conditions.

#### **What steps should you take to comply with these recommendations:**

1. Introduce *“home office”* or a *remote form of work* where possible;
2. In case work cannot be carried out entirely outside the place of work, you should establish *an appropriate work organization* by introducing flexible working hours or a combination of variable working hours and *“home office”* in order to avoid the cluttering of large number of employees and the spread of the virus;
3. If vacant premises are available, *create new workplaces*, so that as few employees as possible will accumulate in a single room;
4. It is strongly recommended that you *conduct briefings, provide protective equipment for workers, and restrict access for people with severe symptoms* to the employer's premises.

On 20.03.2020, the Minister of Health adopted Order RD-01-143 /20.03.2020, which limits the journeys of citizens between regional centers. Checkpoints are introduced through which citizens are only allowed to pass in case of urgency of the journey, imposed by work, which is evidenced by a note from the employer.

For more information, visit the Ministry of Health's website and follow the adopted acts at the following links:

[Order of the Minister of Health](#)

[Orders, Regulations and Instructions](#)

*This text does not constitute legal advice or consultation and should not be considered sufficient to resolve specific legal issues.*