

8. Economic Activity During Crisis

8.1 New labor schemes during the crisis

The Covid-19 pandemic has brought up many issues related to appropriate labour schemes directed to employees. The matter of ensuring the continuity of business, while also dealing with the issue of employees not being able to come to work or requesting special working conditions has been faced by many domestic companies.

The issue of special labour schemes in relation to employees should be addressed with any crisis leading to disruption of a company's activity and is not limited to the COVID-19 pandemic only. While being confronted with a crisis situation, the company must take certain measures to ensure that employees are able to continue working and performing their duties to the best of their abilities.

On the other hand, certain crises, such as shortage of production, economic difficulties or internal structural changes may require measures such as terminating the labour relationships. Special rules should be observed in this regard, as well.

Below is a description of measures to be undertaken for ensuring the continuity of employees' activity or the termination of their employment with the company.

(1) Special labour schemes

Moldovan labour law allows for special labour schemes to be laid down, depending on the necessary requirements of both employers and employees. Regardless of the schemes implemented, it is necessary to first obtain the employee's consent in this regard, and to perform the necessary formalities, as required by law.

- i. Flexible working hours. The employer may agree with the employee on a flexible working schedule. Such schedule would allow the employee to come and to leave work at the desired hours, subject to labour duties being completed in time.

While applying this labour scheme, it is important to ensure the maximum allowed working hours per day are not exceeded.

- ii. Part-time work. Another applicable solution would be for the part time work regime to be implemented. The employee can benefit from a part-time day or part-time week, as agreed with the employer.
- iii. Compressed work week. The employer and employee may also agree on the compressed work week. Such working regime would consist of 4 days working week or 4 days and a half, as necessary.
- iv. Working in shifts. Working in shifts regime allows for working in 1, 2, 3 or 4 shifts, as necessary due to the workload of the employer. This regime requires for the maximum working time and working hours rules to be observed.
- v. Working from home. The work from home regime was one of the most applied schemes in the context of COVID-19 pandemic and can be implemented in any other situation which precludes the employee from coming to work.

Working from home implies certain rules to be observed by the employer towards the employee. The employer has to ensure the employee benefits from the proper health and safety conditions while working from home, similarly as working from the employer's office.

Also, the maximum allowed working time per day cannot be exceeded, and the usual working hours should be observed.

The employer should also ensure compliance with the protection of personal data rules and undertake the necessary measures for ensuring the employee is keeping the confidentiality of the information related to the employer and its operation.

- vi. Segmented working day. The segmented working day is composed of a part which the employee is working from the employer's office and another part of the day which the employee is deciding on his/her own as to the hours of coming and leaving the office. The maximum working hours per day may not be exceeded.
- vii. Technical unemployment. In the event the crisis faced by the employer leads to the employees not being able to work in any of the above-mentioned labour schemes, the employer may dispose the technical unemployment. It is at the sole discretion of the employer, without requiring the employee's consent.

For the technical unemployment period, the employment relationship is suspended, thus the employee is not working while always being at the employer's disposal, if so requested. A special allowance should be paid by the employer for this period, consisting of at least 50% of the employee's monthly base salary.

- viii. Work Stoppage. Another measure that can be taken by the employer without the need to obtain the employee's consent is work stoppage. This is also a measure that suspends the employment agreement, due to the employee not being able to perform his/her duties.

The allowance to be paid to the employee for the work stoppage period amounts to 2/3 of the employee's base salary per time unit.

(2) Terminating the employment relationship

In the event no special labour arrangement can be applied, the employers might have to terminate the employment relationship with certain employees.

In this regard, for terminating an employment agreement at employer's initiative, subject to no fault of the employee, certain measures should be observed.

a) *Mutual termination agreement*

An applicable option for terminating an employment contract is to conclude a mutual termination agreement between the employee and employer. Such an agreement should be concluded in writing and is subject to the employee's consent. Thus, in no way can the employee be bound or persuaded by the employer to conclude a termination agreement.

The termination agreement should provide all the conditions for terminating the labour relationship, including the severance payment to be provided to the employee, if so agreed by parties.

b) *Redundancy procedure*

If the employee does not agree to terminating the employment by a mutual agreement, the redundancy procedure may be applied. This procedure requires certain steps to be followed by the employer and formalities to be observed. Thus, a notice should be addressed to the employees, a 2-months' notice period should be granted, and the corresponding severance payment should be paid.

Additionally, the employer is prohibited from reinstating the position having been subject to redundancy for a one-year period. Also, the rules regarding certain categories of employees that cannot be subject to redundancy have to be observed.

8.2 Business models during crisis

While faced with a crisis, companies may be bound to adapt to new ways of performing their activity, appropriate to the difficulties encountered. The COVID-19 pandemic for example, has led to several companies being precluded from continuing their usual businesses, and being prohibited to provide goods, services and works to consumers as they normally do.

Since in any difficult situation it is important to be able to adapt to new conditions, companies should also implement new business models, adjusted to the circumstances brought by the crisis.

An alternative business model applied by many companies in the COVID-19 pandemic is the e-commerce. It allowed companies to continue the provision of services, goods and works to consumers, while complying with the rules imposed by the government.

E-commerce provides for various opportunities and forms of activity, which can be applied by businesses. However, despite the limitless possibilities granted by e-commerce, the participants on digital markets cannot and should not ignore the control mechanisms established by the competent authorities.

The most common forms of online business organisation are e-shops and electronic marketplaces.

Regardless of the exact form the company chooses to deploy its e-commerce activity, the statutory rules established in this area should be complied with. Thus, the rules related to proper registration of the entrepreneur, the permissive documents to be obtained should be complied with. Additionally, Moldovan law establishes exhaustive rules related to consumers' protection and personal data protection to be observed by national and international companies providing goods and services to Moldovan consumers.

Another matter to be observed by the subjects on the digital market is the conclusion of the electronic contract. Performing business activity by means of e-commerce leads to the obligation of the company to immediately acknowledge the receipt of the order placed by the consumer and to confirm its acceptance or rejection. As to the electronic contracts to be further concluded, the national requirements established towards the digital document and the electronic signature should be observed.