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# COVID-19 Legal Insights



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## Active measures to support employees and employers in the context of the epidemiological situation generated by the SARS-CoV-2 spread

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On 29 May 2020, the Official Journal of Romania Part I published Emergency Ordinance No. 92/2020 setting out active measures to support employees and employers in the context of the epidemiological situation generated by the SARS-CoV-2 spread, and amending certain enactments (“**GEO No. 92/2020**”), which sets forth a number of supportive measures for employers.

1. **Reimbursement of part of the salaries paid**

Beneficiaries:

- (a) Employers whose employees had their employment contracts suspended under Article 52(1)(c) of the Labour Code and received unemployment indemnity under Article XI of Emergency Ordinance No. 30/2020, during the state of emergency or the state of alert; and
- (b) Employers whose employees had their employment contracts suspended under Article 52(1)(c) of the Labour Code and did not receive unemployment indemnity under Article XI of Emergency Ordinance No. 30/2020, during the state of emergency or the state of alert.

Reimbursement limits:

Eligible employers shall receive 41.5% of the gross base salary corresponding to the relevant job, but no more than 41.5% of the average gross salary provided for by the Law on the State Social Insurance Budget for the year 2020.

Duration:

The measure shall be applicable for three months (June-August 2020).

Conditions:

- (a) The employees in respect of whom reimbursement is requested had their employment contract suspended for at least 15 days during the state of emergency or the state of alert, and received the unemployment indemnity set out in Article XI of GEO No. 30/2020 or the technical unemployment indemnity set out in Article 53 of the Labour Code;
- (b) The employers maintain the employment relationships with such employees until 31 December 2020, except for seasonal workers and except for the cases in which the employment contract is terminated for reasons that are not attributable to the employer;
- (c) The amounts thus granted for the reimbursement of part of the salaries paid shall not be cumulated with the subsidies granted to employees in the case of employers who concluded contracts or agreements with the county employment agencies pursuant to Article 80, Article 85 and Article 93<sup>4</sup> of Law No. 76/2002 on the unemployment insurance system and employment stimulation; and
- (d) The employers with several objects of activity, of which at least one is under the restrictions imposed by the authorities, may opt for either reimbursement of part of the employees' salaries paid, or for the unemployment indemnity set out in Article XI of GEO No. 30/2020, the application of which is extended beyond 31 May 2020, until such restrictions are lifted.

Procedure:

For the reimbursement of these amounts, the employers shall first bear in full the employees' salaries, and subsequently, starting with the 1<sup>st</sup> and up to the 25<sup>th</sup> day of the month following the reporting period to which the salaries relate, they shall electronically submit the documents below to the county employment agency competent in the area where the employer is headquartered (or the Bucharest employment agency, as the case may be):

- a) An application signed and dated by the legal representative;
- b) An affidavit and the list of the persons to benefit from such amount, assumed by the employer's legal representative, according to the template to be approved by order of the President of the National Employment Agency.

The employers shall be liable for the accuracy and veracity of the data provided in the abovementioned documents.

The amounts from the unemployment insurance budget will be reimbursed in a maximum of 10 days from the date the employers duly fulfil their declaratory and payment obligations concerning the salaries and the incomes treated as salaries for the reporting period in respect of which the request is made.

The amounts shall be paid by transfer to the accounts opened by the employers with the credit institutions, after the county employment agencies/the Bucharest employment agency verify that the conditions described above have been met.

## **2. Indemnity for the employment of personnel**

### Beneficiaries:

Employers who, between 1 June and 31 December 2020, hire full-time and for an indefinite period:

- (a) Persons aged over 50 whose employment was terminated for reasons that were not attributable to them, during the state of emergency or during the state of alert, registered as unemployed in the records of the county employment agencies or the Bucharest employment agency, respectively;
- (b) Persons aged between 16 and 29 registered as unemployed in the records of county employment agencies or the Bucharest employment agency, respectively; and/or
- (c) Romanian citizens whose employment relationship with their foreign employers, which was in progress on the territory of other states, was terminated by dismissal, for reasons not attributable to them.

### Limits of the indemnity:

For each person from the mentioned categories that they hire, the employers shall receive monthly 50% of the employee's salary, but not more than RON 2,500.

### Duration:

The measure is applicable for 12 months from the employment date.

### Conditions:

- (a) The employers shall maintain the employment relationship for at least 12 months from the expiry of the 12 months in respect of which the indemnity is granted;
- (b) The indemnity shall be granted for the payment of the salary pro rata with the time actually worked by the employee;
- (c) The indemnity shall not be cumulated, for the same employee, with the subsidies granted to the employers who concluded contracts or agreements with the county employment agencies pursuant to Article 80, Article 85 and 93<sup>4</sup> of Law No. 76/2002 on the unemployment insurance system and employment stimulation.

### Procedure:

In order to obtain the amounts, the employers shall electronically submit an application to the county employment agency or the Bucharest employment agency responsible in the area where the employer

is headquartered. The procedure for granting the amounts of money shall be established by order of the President of the National Employment Agency.

### **3. Penalties**

Employers who terminate the relevant employees' employment contracts before the deadlines indicated in sections 1 and 2 above are bound to fully return to the employment agencies the amounts received for each person whose employment was terminated before the provided deadline, plus the reference interest established by National Bank of Romania valid on the termination date of the employment contract, where such termination occurred:

- a) By consent of the parties, on the agreed date;
- b) Following the employment contract being found null and void, from the date the nullity is found by consent of the parties or by final judgement;
- c) Following admission of a reinstatement application of a person unlawfully or unfoundedly dismissed, from the date the reinstatement-related court decision becomes final;
- d) For reasons unrelated to the employee's person, as a result of the termination of the job occupied by the employee, for one or more reasons unrelated to the employee's person.

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## Editors

**COVID-19 - Legal Insights** is our response to the COVID-19 outbreak. We shall keep you informed on the various legal challenges posed by the coronavirus, thanks to a dedicated practice group comprising lawyers with different backgrounds, such as compliance/regulatory, corporate and commercial, insurance, labour and employment, litigation and arbitration, insolvency, public procurement, data privacy, tax and customs. In addition, our taskforce offers strategic advice on crisis-specific matters: corporate restructuring, review and (re)negotiation of agreements (including collective bargaining agreements and individual employment contracts), performance of the contracts which are affected by force majeure and hardship, unblocking pre-litigation relationships, etc. To be up to date with the news in these matters, you may access the resources available at the following link: <http://www.tuca.ro/covid-19/>



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