

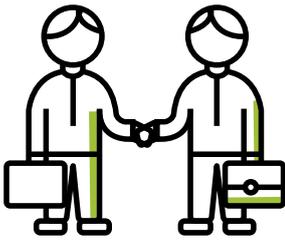
5 actions for companies
in tackling reduced workforce
activity during COVID-19



Actions available to companies related to reduced activity in the context of COVID-19

In the context of the current pandemic, more and more Romanian employers find themselves in the situation where their activity is highly reduced affecting therefore their financial stability. As a natural consequence, the diminished income is reflected also in the reduced possibility to continue the payments of the salary income.

In such cases, where both demand and financial possibilities of the companies are scarce the provisions of the Romanian labour law allows several options to be implemented, each of them having both advantages and disadvantages to be considered when implemented.



Mutual agreement with the employees

An employer may decide together with its employees, against the current background, the reduction of the working schedule, which in turn leads to a reduction of the salary. This way, the employer partially diminishes the costs incurred with its employees.

However, as mentioned, in this scenario, the employees would need to agree on the implementation of such an option, which could cause difficulties in practice, when considering the negative implications on their remuneration (which is decreased).

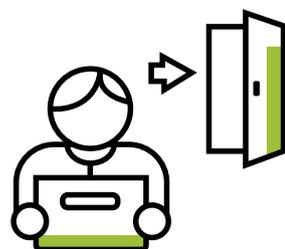


Paid time off

The employer can establish, after appropriate consultations with the employees' representatives or employees, individually, that the remaining annual leave should be taken during the period of reduction in activity. However this measure can be implemented, in principle, only if the employees agree to use their annual leave for this purpose.

Nevertheless, the employer could argue (as a point of leverage) that he can impose employees to enter into annual leave in cases where:

- At company level there is no annual leave planning in place;
- The employees have a significant number of accrued untaken annual leave days.



Technical unemployment – temporary ceasing of activities

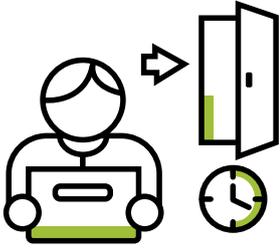
Companies may apply technical unemployment in cases where the activity is interrupted in whole or in relation to a part of the employees, who will no longer be able to perform any type of work for a limited period.

To be able to implement this, the company must firstly identify the economic, technical and/or structural reasons that justify the temporary (total or partial) interruption of activity and prepare a decision detailing these reasons.

In relation with its employees, the company must communicate them the decision taken and prepare individual addendums for the suspension of the employment agreements. For the duration of the interruption of the activities, the company must not ask its employees to carry out work. However, the employer may instruct the employees when to resume work.

In terms of salary income, the personnel is entitled to receive an indemnity of at least 75% of their base salary.

The Government recently implemented an economic aid for employers significantly affected by the current pandemic situation based on which they can receive public funds for the indemnity mentioned above, but capped to 75% of the national average salary, subject to certain conditions.



Technical unemployment

- changes in the working schedule

Another form of technical unemployment entails decreasing the working schedule from five to four working days per week. Such measure entails also a salary decrease. However, the law provides the employer with the option to pay the employees in full and further use the amount corresponding to the unworked day per week in the following 12 months in order to compensate the overtime.

This measure can be applied only in case of temporary reduction of the activity for economic, technological or structural reasons, for periods exceeding 30 working days.

This is the most extreme option for the company which has as consequence the temporary suspension of the employment agreements involving also the fact that the employees will no longer receive their salaries.

Force majeure is defined as an external, unpredictable, absolutely unavoidable and inevitable event. Events that can be included in this category are, in general, earthquakes, floods, landslides, as well as wars and revolutions. However, the qualification of an event as a force majeure depends in a large proportion also on the factual circumstances.

Having regard to the definition of force majeure, in principle, companies affected by the COVID-19 epidemic can invoke the force majeure as grounds to justify the suspension of employment agreements. Nevertheless, in order to establish if a company can suspend the employees' contracts following the reduction/interruption in activity due to the COVID-19 epidemic, the exact reason of such reduction/interruption of activity should be analysed, namely, if it fulfils the conditions of the force majeure. If so, the company must issue a decision on the intervention of force majeure and the suspension of the employment agreements. For the duration of the suspension, the employees are not allowed to work in favour of the company.



Force majeure

The most suitable option depends on each company's activity and business needs, as well as the current relationship with its employees. For more details regarding each case, please contact our team specialized on employment law, as follows:

Florentina Munteanu

Partner, Reff & Associates

Mobile: +40 730 077 934

Email: fmunteanu@reff-associates.ro

Gabriela Ilie

Managing Associate, Reff & Associates

Mobile: +40 744 474 622

Email: ailie@reff-associates.ro

Ana-Maria Vlasceanu

Senior Associate, Reff & Associates

Mobile: +40 726 215 083

Email: avlasceanu@reff-associates.ro

Maria-Monica Tariuc

Senior Manager, Global Employer Services

Mobile: +40 729 847 433

Email: mtariuc@deloittece.com



This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the "Deloitte Network") is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional advisor. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this communication.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee ("DTTL"), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as "Deloitte Global") does not provide services to clients. Please see www.deloitte.com/ro/about to learn more about our global network of member firms.