

Tax & Legal Weekly Alert

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The entrance into force of Law no. 81/2018 regarding the regulation of teleworking

On 2 April 2018, Law no. 81/2018 on the regulation of teleworking activity was published in the Official Gazette no. 296, which shall take effect starting with **5 April 2018**.



The Law no. 81/2018, published in the Official Gazette on 2 April 2018, establishes a number of obligations on the employer in the event that the employees carry out the activities by way of teleworking

The implications of Law no. 81/2018 on the regulation of teleworking

Starting April 5, 2018, the Law no. 81/2018, which regulates the way in which employees carry out their activities by way of teleworking, shall enter into force, introducing a number of obligations for employers.

The law defines teleworking as a form of work organization by which the employee performs the specific duties assigned to his/ her job: (i) in another working place than the one organized by the employer; (ii) using information technology; and (iii) on a regular and voluntary basis.

One of the main issues raised by the way Law no. 81/2018 is drafted, consists in determining its scope of application – i.e. when the employee can be considered to carry out regular activities in a working place other than the one organized by the employer, the Law being limited to determining that the duties assigned to his/ her function must be exercised under the above conditions at least one day per month.

If the activity carried out by the employees fulfills the necessary conditions to be qualified as teleworking, Law no. 81/2018 sets out a series of obligations for the employer, including:

- the obligation to conclude addenda to the employment agreements (or, in case of new employees, employment agreements) expressly stipulating that the performance of the activity is carried out by way of teleworking - failure to observe this obligation shall be sanctioned with a fine of RON 10,000 for each person;
- the obligation to regulate certain specific elements in the addenda/ employment agreements (e.g.: the period and/ or the days when the employee carries out his/her activity at the working place organized by the employer, the working places where teleworking activity is carried out, the evidence of the working hours performed by the employee, the responsibilities of the parties agreed with respect to the place/ places of teleworking, including those related to health and safety at work, the conditions under which the employer shall bear the expenses related to the teleworking activity etc.) - failure to observe this obligation shall be sanctioned with a fine of RON 5,000;
- obligations in the field of health and safety at work (e.g.: the employer shall provide the means of information technology and/ or safe work equipment necessary for the performance of the work, unless the parties agree otherwise, the conditions for the employee to be adequately trained in the field of health and safety at work) - non-compliance with these obligations shall be sanctioned with a fine of RON 2,000;
- the possibility of the employee to perform overtime, but only at the request of the employer and with the written consent of the full-time tele-employee - failure to observe this obligation shall be sanctioned with a fine of RON 5,000.

For further questions regarding the aspects mentioned in this alert,
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