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Update

Employment Law



End of state of emergency and - instead of expected - mandatory telework regime countrywide (until May 16)

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Until the Prime Minister's statements on April 29, it was expected that, with the end of the state of emergency, **telework would no longer be mandatory in all municipalities in the country**, and that such a requirement would be limited to certain municipalities where the levels of contagion so dictated.

Following these statements, on April 30, the [Council of Ministers Resolution No. 45-C/2121](#) ("CMR") was published, providing for the transition from a state of emergency to a state of calamity until 11:59 p.m. on May 16 throughout the continental national territory.

With specific regard to the telework regime, the CMR determined that **such a regime is mandatory in all municipalities on the national continental territory** (cf. § 14 of the CMR) - a solution that will remain in place at least until May 16.

Therefore, this imposition was once again extended, regardless of the contractual relationship, whenever the duties in question allow it and the employee is able to perform them, without the need for a written agreement between the parties, with the employer/beneficiary having the duty to provide the necessary work tools and communication equipment for telework.

When such provision is not possible and the employee consents, telework may be performed through the tools/equipment owned by the concerned employee.

Note that are also foreseen specific **rules to be adopted in the event that the functions in question are not compatible with telework**.

In such situations, in companies with more than 50 employees, technical and organizational measures must be adopted to ensure the physical distance and protection of the professionals, namely:

1. Ensuring that between the times of entering and leaving the workplace there is a minimum break of 30 minutes up to a limit of 1 hour between groups of professionals;

2. By adopting the following organizational measures:

- a) Establishment of stable work teams, so that contact between professionals occurs only between those who belong to the same team or department;
- b) Alternation of rest breaks, including for meals, between teams or departments, so as to safeguard social distancing;
- c) Use of adequate personal protective equipment, in situations where physical separation is clearly impractical, given the nature of the activity.

- For the purposes of complying with the organisation of the working hours in a staggered manner, the employer may change the working hours up to a maximum limit of one hour, unless such alteration causes serious harm to the employee (*serious harm being considered, namely, the non-availability of public passenger transport that would allow the employee to comply with the working hours due to the stagger and the need to provide immediate and indispensable assistance to the family*).
- Before implementing the change in the working hours, the employer must inform the employee of such modification, with a prior notice of, at least, five days;
- The change in working hours should remain stable for periods of at least one week, the employer not being allowed to make more than one change per week and it may not imply a change in the maximum limits of the normal daily and weekly working periods, nor a change in the working mode from day to night or vice-versa;
- Pregnant employees, employees who have recently given birth or are breastfeeding, employees with reduced work capacity, employees with disabilities or chronic illnesses and employees with dependent children under 12 years of age, or, regardless of age, with disabilities or chronic illnesses, would be exempt from working in accordance with the new work schedules set by the employer for the purposes of organizing the entry and exit times of workplaces in a staggered manner.

We should, therefore, wait until May 16 to confirm what will be decided to implement, in this regard, afterwards.