

Ministerial Decision Clarifying issues Arising from the Newly Introduced Legislative Measures Relating to the COVID-19 Pandemic

On 28 March a decision of the Ministers of Finance and Labor was published aimed at clarifying issues arising from the newly introduced legislative measures relating to the COVID-19 pandemic. The matters that the decision covers can be summarized as follows:

A. Measures for employees employed at businesses whose operation has been prohibited by a state order

- The employment agreements of these employees are suspended as the closing down of the businesses is considered an event of force majeure. In the cases of employment agreements of definite duration, these agreements are suspended for the entire period that the businesses remain closed, re-commence upon the opening of the business and remain in force for their remaining term.
- Employers may not terminate employment agreements for the period that the businesses remain closed. This prohibition commences as of 18.3.2020.
- Employees are entitled to a special purpose remuneration amounting to 800 Euros. This remuneration covers a period of 45 calendar days. The social security contributions corresponding to this period are covered by the State and are calculated on the basis of the nominal salary of the employee.
- The ministerial decision also describes in detail the procedure that employees need to follow in order to receive the special purpose remuneration and to be entitled to the benefit of a 40% discount on their rent.
- In order to be eligible to benefit from the measures regarding suspension of payments to the State, employers are under an obligation to file a statement during the period from 24.3.2020 to 31.3.2020 declaring:
 - That their operation has been suspended following a state order;
 - The details of the lessor and of the leased property (in case they have a commercial lease agreement in place);

- The employees whose agreements are suspended;
 - The employees whose employment agreements were terminated for any reason during the period from 1.3.2020 to 20.3.2020.
- Employers whose businesses have been significantly affected or whose operation has been suspended or prohibited, may transfer employees within the same group of companies following an agreement between the entities of the group. The businesses that will apply this measure are under an obligation to maintain the same number of employees throughout the period that this measure shall remain in force.

B. Measures for employees employed at businesses that are considered to have been materially affected on the basis of their Business Activity Codes (KAA)

- Businesses that are considered to have been materially affected on the basis of their Business Activity Codes (KAA) may suspend the employment agreements of their employees that were employed on 21.3.2020, either of all or of some of them, for a continuous irrevocable period of 45 days. Regarding employment agreements of definite duration, these can also be suspended for a period of 45 days, recommence upon the opening of the business and remain in force for their remaining term.
- Employers that make use of the suspension measure for some of their employees may, at the same time, make use of the option to operate with security personnel or to transfer employees within the same group, as provided in the Legislative Act issued on 20.3.2020, for the rest of their employees.
- Employers that make use of the suspension option may not terminate any employment agreement during the suspension period.
- Following the end of the suspension, employers are under an obligation to maintain the same number of employees for a period equal to the suspension, i.e. for a period of 45 days. Employees that leave voluntarily or because of retirement or because the term of employment agreement of definite duration ended are not taken into account when defining the same number of employees.
- Employers may apply the suspension measure for a period of one month, beginning on 21.3.2020 and ending on 20.4.2020. During this period, employees may be placed on suspension gradually (i.e. employers are not under an obligation to apply the measure for all the employees they want to suspend on the same date; they may place on suspension some of their employees and at later stage some more and so forth, provided that all such placements on suspension are effected during the period from 21.3.2020 to 20.4.2020).
- Regarding the amount of the special purpose remuneration and the payment of social security contributions, the same applies as in the cases of businesses whose operation has been prohibited according to what is described under A above. The same goes for the process that employees have to follow to receive the amount of 800 Euros, i.e. this process is described in detail in the ministerial decision.
- In order to be eligible to benefit from the measures regarding suspension of payments to the State, employers are under an obligation to file a statement during the period from 24.3.2020 to 20.4.2020 declaring:

- That their business has been materially affected;
 - The employees whose agreements are suspended;
 - The employees whose employment agreements were terminated for any reason during the period from 1.3.2020 to 20.3.2020.
- Employees who work under the teleworking regime are not entitled to the special purpose remuneration.
 - Employers may pay to their employees additional amounts if they so wish. In such cases, relevant periodic declarations have to be filed and social security contributions are payable (calculated on the basis of the amount paid by the employer).
- By way of exception, employers may agree with employees whose employment agreements have been suspended that the latter will provide their services on the basis of the teleworking regime only for the purpose of dealing with temporal needs of the employer. Teleworking must be declared with ERGANI before it commences and must be remunerated by the employer proportionally to the days that the employee worked and on the basis of the agreed gross remuneration of the employee.

The above summarize the matters covered by the Ministerial Decision which came as a result of enquiries of various professionals (including accountants and lawyers) regarding points that were not dealt with and grey areas of the legislation introduced.

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