

INFORMATION

Decree-Law No. 10-G/2020 was published on March 26 and establishes some **extraordinary support measures for the maintenance of labour contracts**, in the context of the existing emergency situation, due to COVID-19.

MEASURES:

- A) Extraordinary support measures for the maintenance of employment contracts, with or without training, in case of temporary reduction of the normal working period or suspension of the employment contract, under the terms of articles 298 and following of the Labour Code;
- B) Extraordinary training plan;
- C) Extraordinary financial incentive to support the normalisation of the company's activity;
- D) Temporary exemption from payment of Social Security contributions by the employer.

SCOPE OF APPLICATION

These measures apply to private nature employers, including social sector entities, and employees at their service, who are affected by COVID-19's outbreak and who, due to this fact, have proven to be in a business crisis situation, by means of submission of an **electronic application** by the employer, to Social Security services.

(i) **Business Crisis Situation**

For the purposes of this decree-law, is considered to be a business crisis situation:

- ✓ The total or partial closure of the company or establishment, due to the obligation of closure of facilities or establishments, by legislative or administrative determination, covering all employees directly connected to that establishment;
- ✓ Companies that, by means of an employer declaration, along with a certificate issued by the certified accountant of the company attesting to the situation, prove:
 - i. A total or partial interruption of its activity, which results from:
 - the interruption of global supply chains;
 - the suspension or cancellation of orders.
 - ii. A sharp decrease of at least 40% of billing, in the period of thirty days prior to the request to the social security services, with reference to:
 - the monthly average of the two months preceding that period; or
 - the corresponding period of the previous year; or
 - the average of that period, for those who started the activity less than 12 months ago.

(ii) Supervision and proof of the business crisis situation

- ✓ Beneficiary companies may be subject to a subsequent monitoring, by the competent public authorities.
- ✓ Companies shall provide documentary evidence of the facts on which the application or renewals are based, in particular by means of:
 - i. The accounting balance sheet referring to the month of the support, as well as to the corresponding month or previous months, when applicable;
 - ii. VAT declaration referring to the month of the support, as well as to the two preceding months, or the declaration for the last quarter of 2019 and the first quarter of 2019, depending on whether the applicant is in the monthly or quarterly VAT regime respectively, which indicate the intermittence or interruption of supply chains or the suspension or cancellation of orders;
 - iii. In the event of suspension or cancellation of orders, documents demonstrating the cancellation of orders or reservations, which demonstrates that the

affected company or unit will have a 40% reduction of its production or occupancy, in the month following the application request; and

- iv. Additional supporting elements, to be determined by order of the Minister of Labour and Social Security.

(iii) Prohibition of Dismissal

- ✓ During the period of implementation of the support measures provided for in this Decree-law, as well as in the following 60 days, the employer may not terminate employment contracts, by collective dismissal or dismissal due to extinction of the work position.

(iv) Non-compliance and refund of supports

- ✓ Failure by the employer or employee to comply with the obligations relating to the supports provided for in the Decree-Law shall result in the immediate termination and in the refund or payment, in full or in proportion, of the amounts already received or exempted, particularly when one of the following events occur:
 - i. Dismissal, except for a fact attributable to the employee;
 - ii. Failure to punctually comply with the remuneration obligations towards employees.
 - iii. Non-compliance, by the employer, with its legal, tax or contributory obligations;
 - iv. Profit distribution during the duration of the obligations arising from the granting of the incentive, in any form, namely by way of withdrawal on account.
 - v. Non-compliance, attributable to the employer, of the undertaken obligations, within the established deadlines;
 - vi. Provision of false statements;

- vii. Provision of work to the employer by employee covered by the extraordinary support measure, in the form of contract suspension, or beyond the established working time, in the form of reduction of the normal working period.

A – Extraordinary support for maintaining employment contracts, in a business crisis situation – SIMPLIFIED LAY-OFF

(i) Procedure

- ✓ Written communication to employees of the decision to apply for support, with an indication of the expected duration;
- ✓ Trade union representatives and work councils must be heard, if they exist;
- ✓ Immediate sending (immediately after the communication to the employees) of an electronic application to Social Security, accompanied by:
 - i. Summary description of the business crisis situation, by the employer;
 - ii. Certificate issued by the certified accountant;
 - iii. Nominative list of the employees covered, with the respective social security number.
- ✓ The applications submitted under the previous Decree order (Ordinance no 71-A/2020, of March 15) remain effective and must be analysed in accordance with this decree-law.

(ii) Deadline

- ✓ Period of one month, exceptionally extendable monthly, up to a maximum of three months.

(iii) Support

- ✓ Payment to the employee of a retributive compensation of two thirds of the gross monthly salary, up to a maximum limit of EUR 1,905.00 (3 x minimum salary);
- ✓ 70% of the remuneration to be paid by Social Security and 30% by the employer;
- ✓ If the employee practices any paid activity outside the company, he/she must communicate that fact to the employer, within five days of the start of that activity, for purposes of an eventual reduction in the retributive compensation, under penalty of losing the right to the retributive compensation in general and, as well, the duty to refund the amounts received, constituting the omission a disciplinary offence.
- ✓ The employer must communicate to the Social Security the situation mentioned in the previous point, within two days of the date on which it was aware of the fact.
- ✓ Cumulative with a Training Plan, approved by the Institute of Employment and Professional Training (IEFP), along with a scholarship, in general terms.

(iv) Rights and duties of the employer and employee:

- ✓ In the event of a business crisis, the employer may:
 - i. Temporarily reduce the normal working periods;
 - ii. Suspend the employment contracts.
- ✓ In case of a reduction of the normal working periods, the employer and the employee remain obligated to the fulfilment of their work duties, in general terms.
- ✓ In case of a suspension of the employment contract, the rights, duties and guarantees of both parties that do not presuppose the effective provision of work are maintained.

(v) Administrative offence liability

- ✓ In case of violation of the legal rules related to the temporary reduction of the normal working period or suspension of the employment contract.

B - EXTRAORDINARY TRAINING PLAN

- ✓ Objective: aims to maintain the work posts and strengthen the employees' skills, in order to act preventively regarding an eventual unemployment.
- ✓ Duration: 1 month.
- ✓ Support Amount: defined according to the training hours attended, up to a limit of 50% of the gross salary, with the maximum limit of maximum limit of EUR 635.00.
- ✓ Procedure: the employer communicates to the employees, in writing, the decision to initiate a training plan and the foreseeable duration of the measure, and immediately sends the information to the Institute of Employment and Professional Training (IEFP), accompanied by the information that attests the situation of a business crisis.
- ✓ Training plan: it shall (i) be implemented in conjunction with the entity, and it is up to the IEFP its organization; it can be developed at distance, when possible and when the conditions allow it; (ii) contribute to the improvement of the employees' professional skills, while increasing their level of qualification whenever possible, and to contribute to the increase of the company's competitiveness and (iii) correspond to the qualification modalities under the National Qualifications System.
- ✓ Training Entities: employment and professional training centres of IEFP.

C – EXTRAORDINARY FINANCIAL INCENTIVE TO SUPPORT THE STANDARDIZATION OF THE COMPANY'S ACTIVITY

- ✓ Objective: aims to support companies that are no longer being constrained in their working capacity and need support in the first phase of returning to normality, in order to prevent the risk of unemployment and support the maintenance of work posts, in companies that have been in a crisis situation, as a result of the outbreak of COVID - 19.
- ✓ Incentive: EUR 635.00 per worker, granted by the IEFP, in one installment.

- ✓ Procedure: to access the incentive, the employer submits an application to the IEFP, accompanied by a joint statement, with a certificate issued by the company's certified accountant, attesting the situation of business crisis.

D – TEMPORARY EXEMPTION FROM PAYMENT OF SOCIAL SECURITY CONTRIBUTIONS

- ✓ Scope of application: employers and self-employed workers who are employing entities benefiting from these measures and their spouses.
- ✓ Support: total exemption from the payment of Social Security contributions by the employing entity, in relation to the employees covered and members of the statutory bodies.
- ✓ Duration: for the duration of the validity of the measures.
- ✓ Procedure: employing entities submit autonomous remuneration declarations for the employees covered and pay the respective contributions.
- ✓ The exemption from payment of contributions applicable to self-employed workers does not eliminate the obligation to submit the quarterly statement.

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