



In Monitorul Oficial nr. 231 din 21 martie 2020 a fost publicata Ordonanta de Urgenta nr. 30/2020 pentru modificarea si completarea unor acte normative, precum si pentru stabilirea unor masuri in domeniul protectiei sociale in contextul situatiei epidemiologice determinate de raspandirea coronavirusului SARS-CoV-2.

Principalele noutati aduse de Ordonanta in ceea ce priveste suspendarea contractului individual de munca din initiativa angajatorului/ intreruperii activitatii totale sau partiale de catre profesionisti/ suspendarii temporare a contractului de activitate sportiva sunt:

Pe perioada starii de urgenta instituite, pentru perioada suspendarii temporare a contractului individual de munca, din initiativa angajatorului, **salariatii** beneficiaza de o indemnizatie care se stabileste la nivelul de 75% din salariul de baza corespunzator locului de munca ocupat si se suporta din bugetul asigurarilor pentru somaj, dar nu mai mult de 75% din castigul salarial mediu brut (5.429 lei), respectiv nu mai mult de 4.072 lei.

Salariatii angajatorilor beneficiaza de aceasta indemnizatie daca, angajatorii indeplinesc una din urmatoarele conditii:

a) intrerup activitatea total sau partial in baza deciziilor emise de autoritatile publice competente potrivit legii, pe perioada starii de urgenta decretate, si detin certificatul de situatii de urgenta emis de Ministerul Economiei, Energiei si Mediului de Afaceri;

b) reduce activitatea ca urmare a efectelor epidemiei COVID-19 si nu au capacitatea financiara de a achita plata tuturor salariilor angajatilor lor. Angajatorii

In the Official Gazette no. 231 of March 21-st, 2020 was published Emergency Ordinance no. 30/2020 for the amending and supplementing of some normative acts, as well as for establishing measures in the field of social protection in the context of the epidemiological situation determined by the spread of the SARS-CoV-2 coronavirus.

The main novelties brought by the Ordinance regarding the suspension of the individual work contract at the initiative of the employer/ the interruption of the total or partial activity by the professionals/ temporary suspension of the sports activity contract are:

During the state of emergency established, for the period of temporary suspension of the individual employment contract, at the initiative of the employer, **the employees** benefit from an allowance that is established at the level of 75% of the basic salary corresponding to the job occupied and is supported from the insurance budget for unemployment, but not more than 75% of the average gross salary (5,429 lei), respectively not more than 4,072 lei.

Employers' employees benefit from this allowance if the employers meet one of the following conditions:

a) discontinue the activity in whole or in part based on the decisions issued by the competent public authorities according to the law, during the period of emergency state decreed, and hold the certificate of emergency situations issued by the Ministry of Economy, Energy and Business Environment;

b) reduce the activity as a result of the effects of the COVID-19 epidemic and do not have the financial capacity to pay all the salaries of their employees.

pot beneficia de plata indemnizatiei pentru cel mult 75% din numarul angajatilor care au contracte individuale de munca active la data 21.03.2020. Pentru acesti angajatori, plata indemnizatiei se va realiza in baza unei declaratii pe propria raspundere din care sa reiasa faptul ca angajatorul inregistreaza o diminuare a incasarilor din luna anterioara depunerii declaratiei pe propria raspundere, cu un procent de minimum 25% fata de media incasarilor din perioada ianuarie-februarie 2020, si ca nu are capacitate financiara pentru a plati toti salariatii.

Indemnizatia este supusa impozitarii si platii contributiilor sociale obligatorii.

Angajatorul realizeaza calculul, retinerea si plata impozitului pe venit, a contributiei de asigurari sociale de stat si a contributiei de asigurari sociale de sanatate din indemnizatiile incasate din bugetul asigurarilor pentru somaj.

Angajatorul declara impozitul pe venit, contributia de asigurari sociale de stat si contributia de asigurari sociale de sanatate prin depunerea declaratiei portivit Codului fiscal.

Termenul de plata si declarare a obligatiilor fiscale este data de 25, inclusiv, a lunii urmatoare celei in care se face plata din bugetul asigurarilor de somaj.

Pentru indemnizatie primita de salariatii nu se datoreaza contributie asiguratorie pentru munca

In vederea acordarii sumelor necesare platii indemnizatiei angajatorii depun, prin posta electronica, la agentiile pentru ocuparea fortei de munca judetene, precum si a municipiului Bucuresti, in raza carora isi au sediul social, o cerere semnata si datata de reprezentantul legal dupa modelul prezentat in Ordonanta, insotita de lista persoanelor care urmeaza sa beneficieze de aceasta

Employers can benefit from the payment of the compensation for up to 75% of the number of employees who have individual labour contracts active on 21.03.2020. For these employers, the payment of the allowance will be made on the basis of a declaration on their own responsibility, stating that the employer registers a decrease of the receipts from the month preceding the submission of the declaration on their own responsibility, with a percentage of at least 25% compared to the average of the receipts from the period January-February 2020, and does not have the financial capacity to pay all employees.

The compensation is subject to taxation and payment of compulsory social contributions.

The employer calculates, withholds and pays income tax, the contribution of state social insurance and the contribution of social health insurance from the benefits collected from the unemployment insurance budget.

The employer declares the income tax, the contribution of state social insurance and the contribution of social health insurance through the filing of the tax return.

The term of payment and declaration of fiscal obligations is given 25, inclusive, of the month following the month in which the payment is made from the unemployment insurance budget.

For the compensation received by the employees there is no insurance contribution for the work.

In order to grant the necessary amounts for the payment of the compensation, the employers submit, by electronic mail, to the agencies for the employment of the county, as well as of the municipality of Bucharest, within which they have their registered office, a request signed and dated by the legal representative according to the model presented in the Ordinance, accompanied by the list of persons who

indemnizatie, asumata de reprezentantul legal al angajatorului.

Plata indemnizatiilor se face in baza cererii semnate si datate de reprezentantul legal, depusa prin posta electronica, la agentiile pentru ocuparea fortei de munca judetene, precum si a municipiului Bucuresti, in raza carora isi au sediul social.

Documentele solicitate pentru plata indemnizatiei se depun in luna curenta pentru plata indemnizatiei din luna anterioara, iar plata din bugetul asigurarilor pentru somaj a indemnizatiilor se face in cel mult 30 de zile de la depunerea documentelor.

Practic documentele trebuie depuse cel mai devreme in luna aprilie 2020 pentru indemnizatiile aferente lunii martie 2020.

Modelul declaratiei pe propria raspundere se stabileste prin ordin comun al ministrului muncii si protectiei sociale si al ministrului fondurilor europene.

Totodata **alti profesioniști care nu au calitatea de angajatori** si intrerup activitatea total sau partial in baza deciziilor emise de autoritatile publice competente potrivit legii, pe perioada starii de urgenta instituite prin Decretul nr. 195/2020, beneficiaza din bugetul general consolidat de o indemnizatie egala cu salariul de baza minim brut pe tara garantat in plata stabilit pentru anul 2020, respectiv suma de 2.230 lei brut.

Conform Codului civil:

“Sunt considerati profesioniști toti cei care exploateaza o intreprindere.

Constituie exploatarea unei intreprinderi exercitarea sistematica, de catre una sau mai multe

will benefit from this allowance, assumed by the legal representative of the employer.

The payment of the allowances is made on the basis of the application signed and dated by the legal representative, submitted by electronic mail, to the agencies for the employment of the county, as well as of the municipality of Bucharest, within which they have their registered office.

The documents requested for the payment of the indemnity shall be submitted in the current month for the payment of the indemnity from the previous month, and the payment from the insurance budget for the unemployment benefit shall be made within 30 days from the submission of the documents.

Basically the documents must be submitted at the earliest in April 2020 for the allowances for March 2020.

The model of the declaration on its own responsibility is established by common order of the Minister of Labour and Social Protection and of the Minister of European Funds.

At the same time, **other professionals who do not have the quality of employers** and interrupt the activity totally or partially based on the decisions issued by the competent public authorities according to the law, during the period of emergency established by Decree no. 195/2020, benefits from the general budget consolidated by an allowance equal to the minimum gross basic salary in the country guaranteed in the payment established for 2020, respectively the amount of 2,230 gross lei.

According to the Civil Code:

“All those who operate a company are considered professionals.

The operation of a company constitutes the systematic exercise, by one or more persons, of an organized

persoane, a unei activitati organizate ce consta in producerea, administrarea ori instrainarea de bunuri sau in prestarea de servicii, indiferent daca are sau nu un scop lucrativ.”

Pe perioada starii de urgenta, pentru perioada suspendarii temporare a contractului de activitate sportiva, din initiativa structurii sportive, ca urmare a efectelor produse de coronavirusul SARS-CoV-2, urmatoarele persoane - **participanti la activitatea sportiva (sportivii, antrenorii, medicii, asistentii medicali, maseurii, kinetoterapeutii si cercetatorii)** beneficiaza de o indemnizatie de 75% din drepturile in bani aferente contraprestatiei activitatii sportive, dar nu mai mult de 75% din castigul salarial mediu brut (5.429 lei), respectiv nu mai mult de 4.072 lei. Indemnizatia se suporta din bugetul general consolidat. Indemnizatia este supusa impozitarii si platii contributiilor.

In baza prevederilor OUG nr. 30/2020, etapele pentru obtinerea indemnizatiei de care beneficiaza salariatii societatilor aflate in dificultate ca urmare a masurilor din Decretul nr. 195/2020 sunt urmatoarele:

A. Pentru situatia cand activitatea angajatorului este intrerupta total sau partial in baza deciziilor emise de autoritatile publice

- a1)** se **suspenda** contractele individuale de munca, din initiativa angajatorului, in baza prevederilor art. 52, alin. 1, lit. c) din legea 53/2003- Codul Muncii;
- a2)** avand in vedere ca, pentru obtinerea indemnizatiei suportata din bugetul asigurarilor pentru somaj, trebuie ca angajatorul sa detina certificat pentru starea de urgenta, se depune la Ministerul Economiei, Energiei si Mediului de Afaceri **cerere** pentru obtinerea certificatului de situatie de urgenta;

activity consisting in the production, administration or transfer of goods or in the provision of services, whether or not it has a lucrative purpose.”

During the period of emergency, for the period of temporary suspension of the sports activity contract, at the initiative of the sports structure, as a result of the effects produced by the SARS-CoV-2 coronavirus, the following persons - **participants in the sports activity (athletes, coaches, doctors, nurses, masseuses, physiotherapists and researchers)** benefit from a compensation of 75% of the money rights related to the consideration of the sports activity, but not more than 75% of the average gross salary (5,429 lei), respectively not more than 4,072 lei. The allowance is borne by the general consolidated budget. The compensation is subject to taxation and payment of contributions.

On the basis of the provisions of the Government Emergency Ordinance no. 30/2020, the steps to obtain compensation for the employees of companies in difficulty as a result of the measures of Decree no. 195/2020 are as follows:

A. When the employer's activity is wholly or partly interrupted on the basis of decisions issued by public authorities

- a1)** individual employment contracts shall be suspended, on the initiative of the employer, by virtue of the provisions of Article 52 (1) (c) of Law 53/2003- Labor Code;
- a2)** considering that, in order to obtain the compensation from the unemployment insurance budget, the employer must hold a certificate for the state of emergency, the application for the certificate of emergency situation is submitted to the Ministry of Economy, Energy and Business Environment;

La art. 12 din anexa din Decretul 195/2020, privind instituirea starii de urgenta pe teritoriul Romaniei se mentineaza:

Art. 12: *“Ministerul Economiei, Energiei și Mediului de Afaceri elibereaza, la cerere, operatorilor economici a caror activitate este afectata in contextul COVID-19 certificate de situatie de urgenta in baza documentelor justificative. „*

N.b. Deocamdata nu este aprobata metodologia de eliberare a certificatului de situatie de urgenta.

a3) dupa obtinerea certifiactului de situatie de urgenta, in vederea acordarii sumelor necesare platii indemnizatiilor, angajatorul depune, prin posta electronica, la Agentia pentru Ocuparea Fortei de Munca a Judetului („AOFMJ”)/ Agentia Municipala pentru Ocuparea Fortei de Munca Bucuresti („AMOFMB”), dupa caz, in raza teritoriala a sediului social al angajatorului:

- cererea, semnata si datata de catre reprezentantul legal, cerere care trebuie sa aiba formatul din anexa 1 la OUG 30/2020;
- lista persoanelor care urmeaza sa beneficieze de indemnizatie.

Cererea se depune in luna curenta pentru plata intemnizatiei din luna anterioara. *Se intelege ca practic setul de documente (cerere + lista persoanelor) se depune in fiecare luna.*

a4) plata de catre AOFMJ/AMOFMB a indemnizatiei se face in termen de 30 de zile de la depunerea documentelor.

B. Pentru situatia cand angajatorul reduce activitatea ca urmare a efectelor epidemiei COVID-19 și societatea nu are capacitatea financiara de a achita plata tuturor salariilor angajatilor lor

Article 12 of the annex of Decree no. 195/2020, concerning the establishment of an emergency situation on the territory of Romania, states:

Article 12: *“The Ministry of Economy, Energy and Business Environment issues, upon request, emergency certificates to economic operators whose activity is affected in the context of COVID-19 based on supporting documents”.*

Nota bene: The methodology for issuing the emergency certificate is not yet approved.

a3) after obtaining an emergency certificate, the employer shall submit by electronic mail the necessary amounts for the payment of the allowances, the employer shall submit by electronic mail to the Agency of the Employment of the County (‘AEC’)/ The Municipal Agency for Employment, Bucharest (‘MAEB’), as appropriate, within the territorial range of the employer’s registered office:

- the application, signed and dated by the legal representative, which must have the format of Annex 1 to the Government Emergency Ordinance no. 30/2020;
- the list of persons who will benefit from the allowance.

The application shall be submitted in the current month for payment of the forecast of the previous month. It is understood that practically the set of documents (application + list of persons) is submitted every month.

(a4) payment by the AEC/MAEB of the allowance shall be made within 30 days of the submission of the documents.

B. For the situation when the employer reduces the activity due to the effects of the COVID-19 epidemic and the company does not have the financial capacity to pay all the salaries of their employees

- b1)** se **suspenda** contractele individuale de munca, din initiativa angajatorului, in baza prevederilor art. 52, alin. 1, lit. c) din legea 53/2003- Codul muncii
- b2)** angajatorul analizeaza incasarile din luna in care isi reduce activitatea si compara nivelul respectivelor incasari cu media incasarilor din perioada ianuarie – februarie 2020;
In situatia in care in urma compararii rezulta ca incasarile din luna analizata sunt mai mici cu cel putin 25% fata de media incasarilor din perioada ianuarie-februarie 2020 si totodata angajatorul nu are capacitatea financiara de a plati toti salariatii, atunci, trece la etapa urmatoare (b3), in caz contrar nu poate solicita plata indemnizatiei din bugetul asigurarilor pentru somaj.
- b3)** angajatorul intocmeste declaratia pe propria raspundere din care rezulta ca incasarile din luna analizata sunt mai mici cu cel putin 25% fata de media incasarilor din perioada ianuarie-februarie 2020; *Modelul declaratiei pe propria raspundere urmeaza sa fie aprobat prin ordin comun al Ministrului Muncii si al Ministrului Fondurilor Europene;*
- b4)** angajatorul intocmeste o cerere (conform formatului din Anexa 2 la OUG 30/2020), cerere semnata si datata de catre reprezentantul legal; cererea + lista persoanelor care urmeaza sa beneficieze de indemnizatie (Anexa 3 din OUG 30/2020) + declaratia pe propria raspundere, se depun prin posta electronica la Agentia pentru Ocuparea Fortei de Munca a Judetului („AOFMJ”)/ Agentia Municipala pentru Ocuparea Fortei de Munca Bucuresti („AMOFMB”), dupa caz, in raza teritoriala a sediului social al angajatorului;

- (b1)** individual employment contracts **shall be suspended** at the initiative of the employer in accordance with the provisions of Article 52 paragraph (1) letter (c) of Law no. 53/2003- Labor Code
- (b2)** the employer analyzes the incomes from the month in which they reduce their activity and compares the level of the respective incomes with the average of the incomes from January to February 2020;
If the comparison shows that the receipts of the month under review are at least 25% lower than the average receipts of the January-February 2020 period and at the same time, the employer does not have the financial capacity to pay all employees, then move to the next stage (b3), otherwise, it cannot request the payment of the allowance from the unemployment insurance budget.
- (b3)** the employer draws up the declaration on his own responsibility which results that the incomes of the analyzed month are at least 25% lower than the average of the incomes from January to February 2020; The model of the declaration on its own responsibility is to be approved by common order of the Minister of Labor and the Minister of European Funds;
- (b4)** the employer makes an application (in the format of Annex 2 to the Government emergency Ordinance no. 30/2020), signed and dated by the legal representative; application + list of persons to be granted the allowance (Annex 3 of GEO 30/2020) + the declaration on its own responsibility, is submitted by electronic mail to the Agency of the Employment of the County ('AEC')/ The Municipal Agency for Employment, Bucharest ('MAEB'), as appropriate, within the territorial range of the employer's registered office;

Setul de documente antementionate se depune in luna curenta pentru plata indemnizatiei din luna anterioara. *Se intelege ca, practic setul de documente (cerere + lista persoanelor + declaratia pe propria raspunder) se depune in fiecare luna.*

b5) plata de catre AOFMJ/ AMOFM MB a indemnizatiei se face in termen de 30 de zile de la depunerea documentelor.

The set of documents mentioned before is submitted in the current month for the payment of the previous month's payment. It is understood that practically the set of documents (application + list of persons + declaration on own responsibility) are submitted each month.

b5) payment by AEC/ MAEB of the allowance shall be made within 30 days from submission of the documents.

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