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Covid-19: “Emergency” Law: The main provisions regarding labor and employment

In the context of the coronavirus health crisis, an emergency health law to deal with the covid-19 pandemic (the “Law”) was definitively voted on Sunday March 22, 2020 and published in the Official Gazette on March 24, 2020.

The Law empowers the Government to amend, by means of Ordinances and within 3 months from its publication, any measures in order to deal with the economic, financial and labor-related consequences of the spread of the pandemic, in particular with regard to labor law and social security.

The Law indeed includes a whole set of measures that are aimed at adapting labor law and that are of direct interest to employers. These measures focus on the following areas:

- **Partial activity (short-time work)**

The objective is to facilitate and reinforce the use of the short-time work scheme for all businesses, whatever their size (in particular by temporarily adapting the social treatment to allowances paid in this framework, extending it to new categories of beneficiaries, reducing the employer's contribution, etc.).

- **Sick leave**

The objective is to adapt the conditions and terms of allocation of the additional allowance provided for in

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Article L. 1226 1 of the French Labor Code (this concerns continued payment of the wage by the employer).

- **Paid vacation and so-called “RTT days” (i.e. additional rest days resulting from the reduction in the working time) et RTT**

The objective is to allow the employer, pursuant to a company-level or branch-level agreement, to impose or modify the dates for taking paid vacation within the limit of 6 working days, by derogating from the applicable notice periods and procedures for taking such leave; allow any employer to unilaterally impose or modify the dates for taking RTT, rest days provided under specific working time arrangements (so-called *forfait* working time arrangements) and rest days allocated to the employee's time savings account, by derogating from applicable notice periods.

[N.B.: currently, an employer may change the dates of paid vacation if such dates have already been set by the employee, but may not require an employee to take paid vacation days that he/she has not foreseen. In the case of RTT days, the applicable rules vary according to company-level or branch-level agreements].

- **Working time duration**

The objective is to allow businesses operating in industries that are essential for national security or the continuation of economic and social life to derogate from public policy rules and the provisions of agreements relating to working hours, weekly rest and Sunday rest (subject, however, to the limits on working hours laid down by European law).

- **Employee savings**

The objective is to exceptionally amend the deadlines and terms of payment of the amounts paid under mandatory and optional profit-sharing schemes.

[NB: currently, the amounts earned under mandatory and optional profit-sharing schemes must be paid before the first day of the sixth month following the end of the company's financial year, i.e. 31 May when the financial year corresponds to the calendar year].

- **Exceptional purchasing power bonus**

The objective is to change the deadline and terms of payment of the exceptional purchasing power bonus.

- **Elections in Very Small Businesses**

The objective is to adapt the organization of elections on the measure of the audience of trade union bodies in businesses with fewer than eleven employees (not bound by the obligation to organize professional elections) by modifying, if necessary, the definition of the electorate, and, consequently, extend, on an exceptional basis, the duration of the terms of office of labor court members and members of joint regional inter-professional committees.

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- **Health in the workplace**

The objective is to adapt the terms and conditions in which occupational health services carry out their missions, in particular the monitoring of the health conditions of workers, and to define the rules according to which the monitoring of the health condition is ensured for workers who have not been able, due to the pandemic, to benefit from the planned monitoring.

[N.B.: An instruction of the Ministries of Labor and Agriculture of March 17, 2020 anticipates this provision].

- **Social and Economic Committee**

The objective is to amend the procedures for informing and consulting staff representative bodies, in particular the Social and Economic Committee, to enable them to deliver the required opinions within the prescribed timelines and to allow for the suspension of the electoral processes of social and economic committees currently under way.

- **Vocational training**

The objective is to allow employers, training bodies and operators to meet the legal obligations regarding the quality and registration of qualifications and authorizations and to adapt the conditions of remuneration and payment of social security contributions for vocational training trainees.

- **Unemployment insurance**

The objective is to adapt, as an exceptional measure, the procedures for determining the duration of the allocation of replacement income to jobseekers.

25 Ordinances were adopted this morning during the Council of Ministers. Some of them contain provisions on the above-listed issues.

More info to come soon. Stay tuned...

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