

Rules of teleworking during the state of danger

With regard to the state of danger (regulated by the Fundamental Law of Hungary), the Government amended the government decree on the application of telework rules during the summer, which rules are expected to be applicable until 1 January 2022 in view of the extension of the state of danger, emergency.

The relevance of working from home has not been lost in view of the existence of the pandemic and the spread of the delta virus mutant in Europe, thus, it is not a negligible factor in controlling the epidemic.

With the new, but only temporary regulation, teleworking has been given a character similar to home-office, whereas teleworking is not just about working outside the workplace and using a computer device, but also if the worker performs his/her work only part of the working time outside the workplace, even in a job that he/she does not perform with a computer device.

According to the new regulation, telework still requires an agreement between the employee and the employer, in practice the amendment of the employment contract with an effect of the existence of the state of emergency. The employer's right to instruct in telework only covers the designation of the tasks to be performed, the fulfillment of the tasks can be checked remotely, by online means, or at the place of teleworking, appearing in person by prior arrangement.

The timeliness of working from home is such that the employee works at his/her workplace for a maximum of one-third of the working days, and does the work remotely on the other working days. It is a significant change that while, according to the general rule of the Labor Code, in the case of telework, the casual (undefined) work schedule shall prevail, now, under this amendment, unless otherwise agreed by the parties, the employee is required to work both at home and at work on his/her original working hours.

The government decree also lays down occupational safety regulations, according to which the employee can also work with his or her own work equipment, and the employer is obliged to verify the safe, non-hazardous condition of this device by means of a preliminary risk assessment, while the employee is obliged to ensure that this condition is maintained.

In the case of teleworking by means of computer technology, the employee is free to choose the specific place of work, unless otherwise agreed by the parties, so it can be a different place from his/her home, even a cafe. The employer is only obliged to inform the employee about the requirements for healthy and safe work, however, this may raise liability issues in the event of an accident at work, so it's worth thinking about this in advance when amending the employment contract.



In the case of telework by non-computer means, the parties shall agree in advance in the amendment of the employment contract on the exact location of the work, which may be only a room previously declared suitable by the employer for health and safety.

The government decree also clarifies the situation regarding the costs of working from home, so the employer may pay the employee compensation in the amount of 10% of the minimum monthly wage without a special certificate, if the employee does not account for other costs according to the Personal Income Tax Act, such as internet usage fees, rent fees, heating, lighting and technological energy fees.

The rules of the new home-office-like telework are not mandatory, it is possible to deviate from them by separate agreement of the parties, which may be relevant, among other things, to clarify the above-mentioned liability situation, so it is worthwhile to consult a specialist in order to amend the employment contract.