

## PAID LEAVE DURING COVID-19 PANDEMIC IN ROMANIA

The right to annual paid leave is guaranteed under the Romanian Labour Code to all employees with individual labour agreements and it cannot be subject to any waiver, assignment or limitation.

Moreover, the annual paid leave must be taken effectively (i.e., the employee will not perform work for the employer), and only in limited cases can it be remunerated with payment (and not actually taken).

The COVID-19 pandemic, which has led to the institution of a state of emergency on the territory of Romania, has brought about re-arrangements in the relationship between employers and employees. However, as a general observation, the fundamental right to annual paid leave has not seen substantial amendments (with the exceptions that will be briefly mentioned below).

Therefore, the general rule stipulated in the Romanian Labour Code (providing that annual paid leave is established by the end of the calendar year before the calendar year for which the scheduling is made) is still applicable, even under the pandemic situation.

Given that once the scheduling of the annual leave is established, the employee must take the paid leave during the scheduling established beforehand, in the absence of a contrary agreement with the employer, even if such scheduling is made for the period of the pandemic.

However, on the opposite side, the employee cannot be coerced to take paid leave during such period.

Nevertheless, there have been limitations as to the granting of paid leave to Romanian employees during this period in certain sectors (the military, the police, etc.).

In addition, a new law has come into force in this period, Law 19/2020, which stipulates that parents, legal guardians and representatives of children up to 12 years of age or up to 18 years of age, in case of disability, whose school facilities are closed, are entitled, during the entire duration that such school facilities are closed, upon meeting certain conditions and producing certain documents, to an indemnification of 75% of basic salary (but not more than 75% of the average gross salary for 2020, provided by the social insurance budget law), paid by the employer but incurred from a state-owned salaries' guarantee fund.

Thus, if individual working schedules, shift work, work from home or tele-working are not feasible and other conditions are met with regard to the other parent/legal representative, the employer does not have the legal means to deny the granting of such paid days off, as a general rule.

For any further information and assistance with respect to the above and any other COVID-19 related legal matters, please do not hesitate to contact us at [covidhelpdesk@peterkapartners.com](mailto:covidhelpdesk@peterkapartners.com).