

SHORT-TIME WORK AND SUSPENSION OF EMPLOYMENT CONTRACTS

1. INTRODUCTION

The corona pandemic brings with it enormous challenges and uncertainties for many companies. The Spanish government has reacted to the crisis by declaring a state of emergency and issuing a series of legislative decrees. Royal Legislative Decree 8/2020 of 17 March simplified the procedure for short-time work and suspension of employment contracts (ERTE). Due to the numerous requests received in recent days, we will briefly present the main content of this procedure.

2. BASIC PRINCIPLES OF ERTE

A distinction is made according to the reason for initiating the procedure: (a) either force majeure or (b) economic, technical, organisational and production reasons. Both procedures have now been simplified.

It must be carefully examined in each individual case whether the effects which lead the company to initiate the procedure are directly caused by the corona pandemic (e.g. companies which had to cease operations due to the emergency decree) or feel the effects only indirectly. In order to be able to make use of the special facilitation of the proceedings due to force majeure, it will be necessary to prove accordingly that the company is affected (e.g. loss of suppliers, e-mails from customers cancelling orders, etc.).

3. EFFECT OF THE PROCEDURE

During the ERTE, the employer does not pay wages, but the employees receive unemployment benefits (regardless of the reason for which the procedure is initiated).

For the duration of an ERTE due to force majeure, the company's social security contribution is reduced by 100% if the company had fewer than 50 employees on 29 February 2020 or by 75% if it had more than 50 employees on the reference date. This reduction has no effect on the employees; the contributions for the period in question are deemed to have been paid in all respects.

4. OBLIGATION TO ENSURE EMPLOYMENT

The measures described above shall apply only if the undertaking undertakes maintains the employment of the workers for a period of six months from the date of resumption of normal activities.

5. CONCLUSION

The ERTE procedure is a very interesting help for companies in crisis. In view of the practically high requirements for proving that the procedure is caused by the corona pandemic (the first days have shown that the authorities are checking this quite strictly), it has to be well justified and proven.



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