

Client Alert

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Remote Working Regulation

Remote working was regulated for the first time under the Labor Law, with the amendment introduced in 2016. Accordingly, remote working is defined as an “*employment relationship through which the employee performs his/her duties from home or out of the workplace, through technological communication means within the scope of the employer’s business organization*”. The relevant provisions provided that further details of remote working would be governed through a regulation to be issued by the Ministry of Family, Labor and Social Services. On 10 March 2021, the Remote Working Regulation (the “**Regulation**”) finally entered into force.

Under the Regulation, employment contracts with remote working model must be executed in writing. The Regulation specifies the mandatory provisions to be included in these employment contracts. In this regard, the relevant employment contracts must set forth provisions regarding job description, working method, duration and place of work, salaries and payment conditions, equipment provided by the employer and obligations concerning their protection, definition and scope of data (that should be protected) regarding work or workplace, determination and compensation of necessary expenses arising from performance of the work and that are directly related to the production of goods or services, the employer’s communication with the employee, as well as general and specific work conditions.

The Regulation stipulates that the employer must take the occupational health and safety measures specified under the Labor Law. According to the Regulation, the employer is obligated to inform the employee about occupational health and safety issues; provide the necessary trainings; provide health surveillance; and take the necessary occupational safety measures regarding the equipment it provides, taking into account the nature of the work performed. Certain important matters regulated for the first time with the Regulation are as follows:

- The Regulation specifies the duties that cannot be undertaken through remote working. In general, remote working cannot be performed in duties that require working with hazardous chemicals and radioactive materials or their wastes, or have a risk of exposure to biological factors.

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- Employees working remotely will work overtime only when the employer requests in writing and obtains the employee's consent in this regard.
- The Regulation also addresses protection of the work and workplace related data. The employer is obligated to inform the employee of the legislation and internal rules on data protection and transfer, and it must adopt the necessary measures to protect the data. In return, the employee is obligated to comply with these rules determined by the employer.
- Unless otherwise agreed in the employment contract, the necessary materials and equipment will be provided by the employer. The equipment's use, maintenance and repair conditions will be notified to the employee expressly and clearly.
- The employer and the employee may agree on remote working at any time. If the employee requests to work remotely, he/she must convey this request in writing. The employer will evaluate this request and inform the employee in writing within 30 days starting from the date of the written request.
- The Regulation also puts forth that the employee's request or approval will not be required in case of switching to remote working system entirely or partially at the workplace as a result of the compelling reasons specified under the legislation. COVID-19's effect falls within the scope of these compelling reasons.

Please contact us for any questions regarding this matter.