

Potential criminal liability for employers who illegally claimed technical unemployment support

The Romanian authorities recently announced controls and severe sanctions for employers which may have illegally claimed (and obtained) technical unemployment support offered by the government in the context of the COVID-19 pandemic.

As we previously reported, the Romanian Government has issued legislation supporting employers that have needed to suspend the employment contracts of their employees due to COVID-19, by bearing 75% of the employees' gross salary (but not more than 75% of the average gross salary at the national level).

Over 1 million employment contracts are reported to have been suspended due to COVID-19 since the beginning of the pandemic. This has translated into a large number of applications for the State's support during the technical unemployment period. The State now seeks assurance that all these applications were legit and complied with the legal requirements. Such applications submitted by the companies and the supporting documents will be verified in order to check the reality of data comprised therein.

These controls can materialise in notifications to the competent criminal investigation authorities, as announced by the Ministry of Labour and Social Protection. According to the Ministry, the main focus seems to be on the companies that, despite having applied for technical unemployment support, did not in fact interrupt their activity during the state of emergency and requested their employees to come to work. In other cases, there are suspicions that employers may have submitted the same application with authorities from different counties in order to receive multiple payments.

In addition to returning any illegally obtained amounts to the State, companies which have illegally applied for technical unemployment support from the State may also face criminal law consequences. In such context, the offences that may be investigated include making false statements (art. 326 Criminal code), unlawfully obtaining European Funds (art. 181 from Law no. 78/2000) and fraud (art. 244 Criminal code). Both companies and their representatives may be at risk to face prosecution. The punishment for the said offences may be up to 14 years of imprisonment for individuals and a maximum criminal fine of RON 3,000,000 (approx. EUR 625,000) for the companies.

For more information on the above or general advice on criminal defence, contact your regular CMS advisor or local CMS experts [Mihai Jiganie-Serban](#) and [Cosmin Cretu](#).