**Response to the message from Olga Antonova, Hewlett Packard Enterprise LLC**

**Question 1** *What risks does an employer encounter if the employees are transferred to remote work using an order, but not a supplementary agreement to an employment contract?*

**Answer** According to requirements of the Labor Code of Kazakhstan, changes in labor conditions (which definitely include changes in the place of work and work regime when transferring employees to remote labor/work) cannot take place solely based on the employer's decision (by issuing a relevant act/order), except for the cases where labor conditions are changed pursuant to Article 46 of the Labor Code of Kazakhstan. Strictly from the legal point of view, this issue is the subject of the parties' agreement executed by three documents – notice to an employee with a proposal to change labor conditions, parties' agreement in the form of a supplementary agreement to the employee's employment contract and relevant employer's order. Furthermore, remote work contemplates the necessity to agree the conditions of compensation for the employee's expenses in connection with the use of own communication facilities, as well as other expenses incurred when working at home, and to determine the conditions of exercising control over the employee's fixed work time accounting during such period, which may be done only in a supplementary agreement to an employment contract. Violation of the statutory procedure for changing labor conditions and agreeing the conditions of remote work with an employee entails disputes with such employee regarding the lawfulness of transfer to remote work and admonitions from the controlling agencies in the event of inspecting the company's activities.

**Question** *Is it allowed to transfer employees to remote work on certain days, while on other days they will work at office? Are there any risks from the standpoint of labor law and inspections with a view to compliance with sanitary rules?*

**Answer** If the procedure for the transfer to remote work and back is agreed upon with an employee in a separate supplementary agreement to an employment contract and in an employer's act (e.g. remote work regulations), this significantly mitigates the risk of disputes with employees and admonitions from the controlling agencies. As regards the sanitary rules, the current restrictive quarantine measures in Kazakhstan, which are governed by a number of resolutions of the Chief State Sanitary Doctor of Kazakhstan (including No. 42, 43 and 48), primarily provide for specific requirements to the work of offices, including with respect to admission to office work of no more than 50% of employees (in case the staff size is greater than 30 employees). It is recommended to transfer other employees to remote work (paragraph 2.22 of the Resolution No. 48). Accordingly, transfer of employees to remote work by parts and for certain periods in order to ensure the said proportion of employees present at office each day and working remotely is likely to be focused on the fulfillment of sanitary rules.

**Question 3** *There is a situation where the resolutions of sanitary doctors contain different requirements across the Republic of Kazakhstan and with respect to certain cities. Are the "local" or "national" requirements of higher priority?*

**Answer** According to the general rule, the Chief State Sanitary Doctor of Kazakhstan introduces restrictive measures if there is a threat of infection spread across Kazakhstan, and territorial state sanitary doctors establish such measures with a view to territorial specifics and epidemically significant factors in a particular territory. However, the list of potential measures, which may be introduced by sanitary doctors in the territory of the whole country or a certain administrative and territorial unit or even at a specific facility, is determined by legislation. This is to say that local requirements cannot expressly contradict, but must further define general national measures and may differ only subject to specifics of the sanitary and epidemiological situation in a particular territory. Requirements of sanitary doctors are binding. Accordingly, if a sanitary doctor introduces any restrictive measures with respect to a specific territory or facility, they must be fulfilled.

**Question** *We have encountered a situation where the resolutions of sanitary doctors contain different requirements by the date of issue. New resolutions are issued, and the old ones are not cancelled. What should we do in this situation? Should we base ourselves on the assumption that the requirements of "older" resolutions remain in effect, unless cancelled by a separate act?*

**Answer** According to the general rule, the new adopted regulatory legal acts replacing the previous ones contain relevant provisions that the latter acts lose their legal force (cancelled). We assume that, in light of dynamic changes in legislation subject to constantly changing epidemiological situation, the law-maker could "miss" certain regulatory legal acts and did not timely mention the loss of effect of certain acts. In this situation, according to the rules of legal hierarchy of regulatory legal acts and the rules of their effect in time, if there are acts with different legal force, the act with a greater legal force will prevail; and if there are acts with equal legal force, the later act will prevail.