



Flash Reports on Labour Law March 2020

Summary and country reports

Written by The European Centre of Expertise (ECE), based on reports submitted by the Network of Labour Law Experts

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Executive Summary

National level developments

In March 2020, the COVID-19 crisis triggered extraordinary developments in labour law in all Member States and European Economic Area (EEA) countries (see Table 1). This included, notably, the following measures:

Measures to diminish the risk of infection in the workplace

Virtually all countries have introduced mandatory legislative measures to prevent the spread of the virus in the work place. In most countries, all work activities that require direct proximity with co-workers or clients have been temporarily prohibited – with the exception of specifically identified “essential” activities such as medical, security, key administrative tasks as well as the provision of basic supplies. As a result, workers for whom adaptations such as telework are not an option are effectively prevented from working. The exception in this regard is **Sweden**, where only selective mandatory restrictions (such as the prohibition of large gatherings) and recommendations (notably, work from home) have been introduced.

In nearly half of the countries (**Bulgaria, Croatia, Cyprus, France, Greece, Hungary, Italy, Lithuania, Luxembourg, Malta, Poland, Portugal, Romania, Spain** and the **UK**), legislative measures relating to telework and work from home have been adopted. These generally aim to facilitate the use of such work arrangements and/or to enable employers to impose them unilaterally.

In countries such as **Croatia, Italy**, and **Poland**, companies are required to apply specific health and safety standards and communicate them to their workers. In **Liechtenstein**, authorities’ competence to conduct inspections in workplaces has been enhanced.

Measures to alleviate the financial consequences for businesses and workers

Over half of the countries (**Austria, Belgium, Denmark, France, Germany, Greece, Iceland, Ireland, Latvia, Liechtenstein, Lithuania, Luxembourg, Norway, Poland, Portugal, Romania, Spain, Sweden** and the **UK**) have initiated schemes similar to those that were adopted during the financial crisis (known as short-time work, partial unemployment, suspended employment, etc.), which allow workers to keep their jobs despite the suspended or significantly reduced workload and ensures that they receive a certain level of their income. Such schemes consist of various models and public subsidies. In **Spain**, work that is remunerated now but not performed should be carried out later before the end of 2020.

In addition to such schemes, many countries have introduced financial benefits for workers and/or self-employed persons who are prevented from working (**Denmark, Greece, Iceland, Italy, Latvia, Lithuania, Malta, the Netherlands, Portugal, Slovenia**) and/or subsidies to employers (**Croatia, the Czech Republic, Denmark, Ireland, Latvia, Luxembourg, the Netherlands, Norway, Slovenia**). Countries such as **Malta**, the **Netherlands, Norway**, and **Portugal** have deferred tax payments and/or social security contribution payments; the latter two countries have also deferred debt payment obligations.

In **Austria, Bulgaria, Denmark** and **France**, employers have been authorised to require workers to use up their annual leave entitlements; in **Bulgaria**, employers can impose part-time work. **Finland** has eased conditions for dismissals. Conversely, employers have been prohibited to proceed with (collective) dismissals in countries such as **Greece, Italy** and **Spain**.

To support workers who have already been dismissed, **Denmark, Greece, Luxembourg, Malta, Norway, Slovakia** and **Spain** have amended their



unemployment benefits schemes; in **Germany**, reforms aim to facilitate access to social security for certain groups.

Leave entitlements

More than half of all countries (**Austria, Bulgaria, Croatia, Cyprus, the Czech Republic, Germany, Greece, Iceland, Italy, Lithuania, Luxembourg, Malta, Norway, Portugal, Romania, Slovakia, Spain**) have adapted their rules on entitlements to family- and care-related leave to facilitate leave for the duration of school and/or care facility closures.

Sick leave entitlements have also been amended in many cases by introducing special sick leave for persons in quarantine in countries such as **Iceland, Latvia, Malta, Portugal, Romania, Slovakia** and **Sweden**, and otherwise enhanced entitlements in **Denmark, France, Ireland, Slovakia, Spain** and the **UK**. The rules for notifying the employer of sickness have been amended in **Germany** and **Norway**.

Measures to ensure the performance of essential work

Most countries have also adopted measures to prevent labour shortages in areas that are especially crucial to effectively deal with the pandemic – most notably, health care, but also parts of public administration and social services. To this end, **Italy** has eased requirements to enter the medical profession, and **Luxembourg** and the **UK** have introduced special leave for volunteers to provide essential tasks.

A number of countries (**Cyprus, the Czech Republic, Iceland, Italy, Luxembourg, Slovakia, and Spain**) have introduced some form of public duty to work for medical staff and partly also for other essential workers, which may include a temporary ban on taking annual leave or exercising the right to strike. In countries such as the **Czech Republic** and **Spain**, this includes students of medicine, who have been called to work.

Several countries (**Bulgaria, Croatia, Finland, France, Greece, Hungary, Latvia, Liechtenstein, Luxembourg, the Netherlands, and Poland**) have relaxed working time restrictions to ensure the availability of essential workers for longer hours.

Conversely, **Slovenia** has introduced a 'risk allowance' to be paid to medical staff who are dealing with these extraordinary conditions.

More far-reaching measures

Hungary stands out for introducing far-reaching derogations from labour law for all workers for the duration of the state of emergency. This includes most notably the employer's power to unilaterally modify working time schedules at any time, and the possibility of the parties to the employment contract to deviate from all otherwise mandatory provisions by individual agreement.

In **Poland**, the prime minister has been authorised to dismiss any member of the Social Dialogue Council that was appointed by the social partners in case of 'loss of trust'.

It should be emphasised that in the current situation, labour laws continue to be subject to repeated change in most countries. The rules described above relate to the law in force on 1 April.

Table 1. Main developments (focusing on COVID-19-related measures)

Topic	Countries
Forced interruption / restriction of business activity	All countries except SE
Restriction of access to workplaces	All countries except SE
Short-time work / partial unemployment / suspended employment	AT BE DE DK EL ES FR IE IS LI LT LU NO PL PT RO SE UK
Family / parental leave	AT BG CY CZ DE EL ES HR IS IT LT LU MT NO PT RO SK
Telework / work from home	BG CY EL ES FR HR HU IT LT LU MT PL PT RO UK
Working time (medical / essential workers)	BG EL FI FR HR HU LI LU LV NL PL
Benefits for workers / self-employed prevented from working	DK EL IS IT LT LV MT NL PL PT SI
Employer subsidies	CZ DK HR IE LU LV NL NO PL SI
Public duty to work / ban on leave or strike (medical / essential workers)	CY CZ ES FI IS IT LU SK
Unemployment benefits	DK EL ES LU MT NO SK
Sick leave for quarantine	IS LV MT PT RO SE SK
Enhanced sick leave entitlement	DK ES FR IR SK UK
Forced annual leave	AT BG DK FR
Tax / contributions payment suspension	MT NL NO PT
Suspension of (collective) dismissals	EL ES IT
Company-level protocols / health and safety measures	HR IT PL
Sickness notification	DE NO
Leave for volunteers	LU UK
Debt payment suspension	MT NL
Forced part-time work	BG
Access to social security	DE
Eased dismissal protection	FI
General derogation from labour law	HU
Admission to medical profession	IT
Enhanced inspection authority	LI
Social dialogue	PL
Danger allowance (medical workers)	SI

Austria

Summary

(I) Parliament has passed legislation to provide the legal basis to implement a short-time work scheme agreed by the social partners on a nationwide basis in response to the COVID-19 crisis.

(II) Subsidised paid leave for certain employees with care obligations has been introduced and employees' entitlement to continued remuneration throughout the pandemic in exchange for the obligation to use up holidays and time credits upon request has been temporarily introduced.

(III) One decision of the Supreme Court published in March 2020 is of relevance from the EU labour law perspective, dealing with data protection and privacy.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

1.1.1 COVID-19 laws

The Austrian Parliament has been very active in passing legislation on labour law to tackle the current COVID-19 crisis, in the 1st and 2nd COVID-19 Acts. The [1st COVID-19 Act](#) (*COVID-19 Gesetz*, [National Gazette I 12/2020](#)) passed both the National and Federal Assembly on 15 March 2020, the [2nd COVID-19 Act](#) passed both the National and Federal Assembly on 20 March and 21 March 2020 (*2. COVID-19-Gesetz*, [National Gazette I 16/2020](#)). The 3rd COVID-19 Act will be submitted to Parliament on 02 April and will be passed one day later and published in the National Gazette at the beginning of next week.

1.1.2 COVID-19 Measures Act and ministerial ordinances

The [Epidemic-Act](#) (*Epidemiegesetz*) that dates back to 1950 provides for different measures to fight epidemics, so called "notifiable diseases". Corona or COVID-19 has been deemed to be such a notifiable disease by ministerial decree and therefore, the measures envisaged in this Act are applicable. As a general rule, this Act stipulates that in case of an employee's quarantine, the continuation of his or her pay was to be reimbursed by testate. The same applied for losses due to an official closure or restriction of a business.

This situation has now been modified by the [COVID-19 Measures Act](#) (*COVID-19-Maßnahmengesetz*) that is part of the 1st COVID-19 Act and provides for the Minister of Social Affairs, Health, Care and Consumer Protection to restrict access to places of business or workplaces as well as to public places by ordinance. If businesses are restricted due to such measures, the Epidemic Act shall not apply and therefore no compensation for losses is granted by the State.

The Act reads in extracts as follows (all translations are unofficial and by the authors):

"Entry to business premises for the purpose of acquiring goods and services or places of work

§ 1 Taking regard to COVID-19, the Federal Minister of Social Affairs, Health, Care and Consumer Protection may, by ordinance, prohibit the entry to business premises or to certain business premises only for the purpose of acquiring goods and services or places of work within the meaning of § 2 (3) of the Workers' Protection Act, insofar as this is necessary to prevent the spread

of COVID-19. The ordinance can regulate the number of persons and time of access to those business premises exempt from the prohibition of entry.

Entry to specific places

§ 2 Taking regard to COVID-19, the entry to certain places can be prohibited by ordinance, insofar as this is necessary to prevent the spread of COVID-19. The regulation is:

- 1. to be issued by the Federal Minister of Social Affairs, Health, Care and Consumer Protection if their application extends to the entire territory of the Federal Republic*
- 2. to be issued by the Governor if their application extends to the entire territory of a Federal State, or*
- 3. to be issued by the district administrative authority if its application extends to the political district or parts thereof.*

The prohibition to enter may be limited to certain times.”

On this basis, the Minister of Social Affairs, Health, Care and Consumer Protection has issued two ordinances that are important from the labour law perspective as well. The [first ordinance](#) National Gazette II 98/2020 as amended by National Gazette II 107/2020 and II 108/2020 regulates the entry to public places. It reads as follows:

“§ 1 To prevent the spread of COVID-19, entry to public places is prohibited.

§ 2 Entry to those premises excluded from the prohibition according to § 1 are those

- 1. which are necessary to avert an immediate danger to life, limb and property*
- 2. which serve to care for and provide assistance to persons in need of support;*
- 3. which are necessary to cover the basic needs of daily life and which ensure that a distance of at least one metre can be maintained between persons at the place where such needs are covered, unless the risk of infection can be minimised by appropriate protective measures. This exception also includes burials within the immediate family circle;*
- 4. which are necessary for occupational purposes and which ensure that a distance of at least one metre can be maintained between persons at the place of occupational activity, unless the risk of infection can be minimised by appropriate protective measures. It must be ensured that an occupational activity should preferably take place outside the workplace, if this is possible, and the employer and employee agree on this.*
- 5. if public places outdoors, which are to be entered alone, with persons living in the same household or with pets, a distance of at least one metre must be maintained from other persons.*

....”

The [other ordinance](#) National Gazette II 96/2020 as amended by National Gazette II 110/2020 and 112/2020 restricts access to business premises:

“§ 1. It is prohibited to enter the customer area of business premises of retailers and service providers as well as of leisure and sports facilities for the purpose of purchasing goods or services or using leisure and sports facilities.

§ 2 (1) Section 1 shall not apply to the following areas:

- 1. public pharmacies*

2. Food retailers (including the sales outlets of food producers) and farmers' direct marketers

...

§ 3 (1) The entry to business premises of all types of operations in the hospitality sector is prohibited.

...

(5) Paragraph 1 does not apply to delivery services."

Although there is no prohibition to work or to leave home to go to work, a large number of businesses were no longer able to operate due to these two ordinances, especially in the hospitality and retail sector as they were not allowed to sell goods or services to customers. Other businesses are affected due to a lack of demand. This has led to a large number of layoffs and an enormous increase in the number of unemployed – this is to be countered by retaining the workforce during the crisis, making use of a rather generous short-term work scheme (see 1.1.3).

1.1.3 Adaption of the requirements for short-time work (§ 37b para 7 AMSG)

Generally, the short-time work scheme in Austria applies in case of temporary non-seasonal economic difficulties and allows for funding in the amount of the employee's entitlement to unemployment benefits. Parliament has amended the legal basis for the funding of short-time work, asserting that economic difficulties related to COVID-19 represent such temporary non-seasonal economic difficulties. The amendment also provides the legal basis for higher amounts of funding than previously determine: now, public funding for short-time work shall guarantee that employees who participate in a short time work scheme will receive 80 per cent to 90 per cent of their last net remuneration.

The changes in the [Labour Market Services Act](#) (*Arbeitsmarktservicegesetz* – hereinafter AMSG) reads as follows:

"1. The following paragraph 7 is added to § 37b

(7) Economic difficulties such as the effects related to the coronavirus (COVID-19) are temporary, non-seasonal economic difficulties within the meaning of para. 1 (1). The Directive pursuant to para. 4 may, by way of derogation from para. 3, provide for higher flat rates in such cases. [...]."

2. the following paragraph 37 is added to § 78:

(37) § 37b para. 7 as amended by Federal Act BGBl. I No. /2020 shall enter into force retroactively as of 1 March 2020."

The details on the short-time work scheme and its funding were agreed between the social partners. Formally, the Labour Market Services (*Arbeitsmarktservice* – hereinafter AMS), which administers the, funds passed a Federal Directive on the Short-Time Work Subsidy ([Bundesrichtlinie Kurzarbeitsbeihilfe](#) – KUA-COVID-19) that reflects this agreement. The social partners have also provided model agreements for establishments with a works council (works council agreement) and for establishments without a works council (agreement with all employees affected). Once a short-time work agreement has been reached within the company/ establishment, the social partners on both sides of the industry (mainly, the Chamber of Commerce and the Trade Union Federation) must agree on it as well in order for the employer to receive public funding (the short-time work subsidy) to compensate him/her for continuing to pay the employees at least 80 per cent to 90 per cent of their last net income (depending on their level of pay). This social partner agreement is issued within 48 hours.

The short-time work subsidy must be applied for through the Labour Market Services on the basis of the short-time work agreement with the works council (or an individual agreement in case there is no works council) and additionally, a social partner agreement that to some extent ratifies the works or individual agreement. The subsidy will be granted if the parameters of the Federal Directive are complied with. It is paid out to the employer each month retroactively on the basis of a documentation of the hours actually worked by the employee.

Currently, the following parameter apply:

- Short-time working can be agreed for a maximum period of three months and be extended on a one-off basis for three further months;
- The reduced standard working hours must, on average, be between 10 per cent and 90 per cent of the employee's standard working hours as agreed under a collective working arrangement, but may, temporarily, also be set to zero. During the short-time work period, the working time must be reduced by such percentage on average (i.e. the employee can work zero hours for 15 weeks and then full time for the last two weeks). The agreement on short-time work may also include the admissibility of overtime;
- Before and during the short-time working period, holiday and time credits should be used up. An agreement still needs to be made and if none can be reached although the employer tried to arrive at an agreement, it is not an obstacle to the payment of the short-time work subsidy;
- During short-time working, the number of employees in a business must be maintained at the same level. Following the end of short-time working, posts must be retained for a minimum of a one-month period; employees may only be dismissed following the expiry of this retention period;
- Employers shall pay employees a short-time benefit in addition to the remuneration for the hours worked, which is then refunded by the Labour Market Services in the form of the short-time work subsidy. The benefit/subsidy depends on the number of reduced working hours and is reduced proportionately if employees work more than initially expected, thus providing for flexibility to adapt to an increasing workload;
- Short-time work can be applied for retroactively until 01 March 2020.

The amendment was passed with retroactive effect, and has thus been in force since 1 March 2020.

1.1.4 Funded paid leave for parents (§ 18b AVRAG)

Additionally funded paid leave for parents was introduced in response to the closing down of schools and child care facilities pursuant to the Epidemic Act: a new provision in the Act on the Adaption of Employment Contract Law (*Arbeitsvertragsrechtsanpassungsgesetz* – hereinafter AVRAG) provides that employers may grant employees a period of paid special childcare leave for up to three weeks for children under the age of 14. The same applies to employees who have to take care of persons with special needs.

During this period, employees will continue to draw their pay (or part of it, as agreed) and in return, employers will receive a refund from the federal government of one-third of the wage or salary paid to the employee during this special childcare period. Employees working in a key or frontline profession cannot be granted special childcare leave or, to be more precise, a refund for continuation of pay (for such persons, schools or childcare facilities provide care services. School classes are not taking place, but children are being taught via distance learning at home).

The new [§ 18b AVRAG](#) reads as follows:

"If, due to official measures, facilities are partially or fully closed and if an employee, whose work performance is not necessary for the maintenance of the business, is not entitled to time off from work to care for his or her child, the employer may grant the employee a special care period of up to three weeks, starting from the date of the official closure of educational institutions and childcare facilities, for the care of children up to the age of 14 years for whom care is mandatory. The same shall apply if is the employee has a duty to care for a disabled person who is cared for or taught in an institution for the disabled or in an educational establishment for disabled persons or in a school of higher education, and this institution or educational establishment or school of higher education is partially or fully closed due to the official measures. Employers are entitled to remuneration by the Federal Government of one-third of the remuneration paid to employees during the special care period. [...]"

The amendment will be in force until 30 April 2020 at least, and may be extended by decree of the Minister of Labour until 31 December 2020. It was obviously passed with the intention to help parents until the Easter school holidays which start on 6 April. What measures shall apply to parents after these school holidays, considering that it is very likely that schools will remain closed is still unclear.

1.1.5 Entitlement to continued remuneration (§ 1155 Abs 3 and 4 ABGB)

Under Austrian contract law, employees remain entitled to continued remuneration, even though the employer is unable to provide them with work/make use of their work force. The relevant legislation, [§ 1155 of the General Civil Code](#) (*Allgemeines Bürgerliches Gesetzbuch* – hereinafter ABGB) reads as follows:

"Even for services that were not provided, the employee is entitled to remuneration if he/she was prepared to perform work and was prevented from doing so owing to circumstances on the part of the employer; however, he/she must set off what he/she has saved as a result of not performing the service or has acquired or deliberately failed to acquire through other employment."

In case of *force majeure*, i.e. natural catastrophes, civil wars or epidemics, the general opinion holds that this provision is not to be applied. The relevant criterion is how widespread the resulting disruption is: the employer is required to provide for continued remuneration to non-working employees in the event of a local disruption. However, in case of a widespread disruption/*force majeure*, the employer is generally not required to continued remuneration, despite the employee's willingness to work.

There was a widespread debate on how to qualify the COVID-19 pandemic, and more importantly, the measures to limit the implications of this pandemic within this legal framework. Parliament, therefore, decided to add a temporary clause to the general contractual provision in § 1155 ABGB, expressly stipulating that all *"measures based on the COVID-19 Measures Act, which lead to the prohibition or restriction of entry to establishments shall be deemed to be circumstances"* that fall within the sphere of the employer, meaning that the employer is legally required to continue to pay employees' wages, even though he or she is not (fully) able to make use of the employees' work.

Employers who have to continue to pay wages under the provision of § 1155 (3) ABGB may require employees to use their annual leave and time credits during this period, up to a maximum of eight weeks (annual leave entitlements in the current year may only be used up to the extent of two weeks).

The new [§ 1155 para 3 and 4 ABGB](#) reads as follows:

"(3) Measures based on the COVID-19 Measures Act, Federal Law Gazette No. 12/2020, which prohibit or restrict entry to establishments shall be deemed to be circumstances within the meaning of paragraph (1). Employees whose services cannot be provided as a result of such measures are required, at the employer's request, to use up annual leave and time credits during this period.

(4) The following shall apply to their use pursuant to paragraph (3)

1. Only 2 weeks of annual leave entitlements from the current holiday year must be taken if requested.

2. Time credits that have been credited to time accounts based on collective sources of law are also excluded from the obligation to use available leave.

3. In total, no more than 8 weeks of annual leave and time credits must be used up".

The amendment was passed with retroactive effect, it has been in force since 15 March 2020 and will be in force until 31 December 2020.

The amendment, therefore, is a compromise, and clarifies the discussion on the allocation of risk in such a situation for one constellation, i.e. that businesses cannot be entered due to measures introduced in response to the COVID-19 Measures Act. This is somehow compensated by the possibility for the employer to force the employee to use annual leave and time credits without an agreement. Such an agreement is otherwise necessary as the employer cannot decide unilaterally on the timing of the employee's annual leave or time credits.

On the other hand, the amendment did not clarify the question whether the employer has to bear the risk if it is only economically not feasible to employ the employee due to the effects of the COVID-19 pandemic. With the introduction of the short-time work subsidy, the State has taken responsibility for a large share of this risk and it can therefore be argued that the exemption due to *force majeure* does not apply, considering that a special risk allocation is taking place under these special circumstances.

Sources:

On short-time work

AN Q&A of the Labour Market Services is available [here](#).

Information of the Chamber of Commerce is available [here](#).

An Q&A of the Austrian Trade Union is available [here](#).

Press on short-time work is available [here](#) (please note that currently, details are being amended and these amendments are not reflected in this article).

On subsidised paid leave

Press on subsidised paid leave is available [here](#).

On continued entitlement to remuneration

Press on continued entitlement to remuneration is available [here](#).

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

2.1 GPS tracking

Supreme Court, 9 ObA 120/19s, 22 January 2020

§ 96 of the Labour Constitution [Act](#) (*Arbeitsverfassungsgesetz – ArbVG*) provides that control measures that affect human dignity require the works council's consent:

"The following measures of the employer shall require the consent of the works council in order to be legally effective:

1. ...

3. *the introduction of control measures and technical systems to monitor employees, provided that these measures (systems) affect human dignity;"*

If there is no works council, § 10 of the [Act](#) on the Adaption of Employment Contract Law (*Arbeitsvertragsrechtsanpassungsgesetz – AVRAG*) provides for consent of the employee to such measures to be permitted:

"The introduction and use of control measures and technical systems that affect human dignity is not permitted unless these measures are regulated by a works agreement within the meaning of § 96 (1)(3) ArbVG or are carried out with the consent of the employee in companies in which no works council has been established.

(2) The employee's consent may be terminated in writing at any time without notice, unless there is a written agreement with the employer on its duration."

In the present case, the employee was employed in the sales force and provided with a company car that he was allowed to use for private purposes as well outside work. The car was—without the knowledge of the employee—equipped with a GPS tracking-system from the start. There was no works council and there was also no agreement on the GPS tracking system in the company car. When the employee learned of its existence, he repeatedly asked the employer to turn it off, at least during his free time. This was not done and ultimately, the employee sued the employer for immaterial damages for invasion of privacy – of course, only after he had been dismissed.

The relevant provision in the General Civil Code (*Allgemeines Bürgerliches Gesetzbuch – ABGB*), that was only introduced in 2004, reads as follows:

"§ 1328a (1) Anyone who unlawfully and culpably encroaches on the private sphere of a person or discloses or exploits circumstances related to the private sphere of a person shall compensate him/her for the damage caused thereby. In the case of substantial violations of privacy, for example if circumstances are exploited in a way that is likely to expose the person in public, the claim for compensation shall also include compensation for the personal impairment suffered."

All courts from the Labour Court to the Supreme Court supported the employee's claim. The GPS tracking system constituted a "technical system of control" that affected human dignity. This was the case as the continuous tracking during working hours was an intensity of control that reached beyond the level of control inherent to all employment relationships and that could not be justified by legitimate interests of the employer. As there was no consent by the employee to such control measures, the GPS tracking system was illegal and the employee was entitled to damages for infringement of his privacy in the amount of EUR 400 per month, in total EUR 2 400,-.



3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other Relevant Information

4.1 Collective bargaining in the care, health and social service sector

The ongoing conflict on a new collective bargaining agreement in the care, health and social services sector (see also February 2020 Flash Report) was [resolved](#) on 31 March 2020. A three-year package has been concluded: a 2.7 per cent salary increase for 2020, for 2021, an increase by the inflation rate plus 0.6 per cent, and from January 2022, a reduction of working hours to 37 hours per week. In addition, a "corona premium" of EUR 500 was agreed for employees in pandemic deployment.

Belgium

Summary

(I) Federal Parliament has conferred the power to the federal minority government to amend labour law in the fight against the COVID-19.

(II) The Minister of Home Affairs has ordered all employees of non-essential companies to stay at home and telework, insofar as this is possible.

(III) In the event of economic difficulties or a temporary ban issued by the public authorities for companies to operate, a system of temporary unemployment allows workers to be temporarily unemployed without having to terminate their contracts of employment, and they have the possibility of receiving temporary unemployment benefits.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

1.1.1 Special Powers Laws

This Flash Report focusses on the COVID-19 crisis and its impact on employment.

The Federal Parliament has conferred the power of attorney to the federal minority government (!) for two laws to fight the coronavirus and its consequences. They are the [Law](#) of 27 March 2020 I (*Moniteur belge* 30 March 2020, p. 22.054), authorising the King to initiate measures to fight the spread of COVID-19 and another Law of 27 March 2020 II (*Moniteur belge* 30 March 2020, p. 22.054), authorising the King and the federal government to introduce measures to fight the spread of COVID-19.

The first Special Powers Law relates to the functioning of the judiciary.

The second law empowers the King and the federal government to introduce various types of socio-economic measures in the broader sense. For example, the King has the power to amend labour laws in the fight against the coronavirus. In order for Belgium to be able to respond to the COVID-19 pandemic and cope with its consequences, the King can "make adjustments to labour and social security law with a view to protecting workers and the population, ensuring proper organisation of businesses and the authorities, while safeguarding the country's economic interests and the continuity of critical sectors". Article 3 stipulates, however, that the royal decrees may not affect the existing social protection (standstill). Measures may have retroactive effect from 1 March 2020. The Law entered into force on 30 March and expires three months following its entry into force. Decrees must be ratified within a period of one year from their entry into force. They are otherwise deemed to never have had any effect.

1.1.2 Staying at home

On 23 March 2020, the Minister of the Interior Affairs decided to close shops and stores by means of the Ministerial Decree "on urgent measures to limit the spread of COVID-19" (*Moniteur belge* 23 March 2020). Businesses and shops were closed, with the exception of:

- grocery stores, including night shops;
- pet food shops;
- pharmacies;

- newsagents;
- filling stations and fuel suppliers.

These measures were introduced to enforce the rules of 'social distancing', specifically, maintaining a distance of 1.5 meters between persons. These measures apply to all activities referred to in the decree. Access to supermarkets is limited. The following criteria must be met: a maximum of one customer per 10 square meters for a maximum period of 30 minutes and, as far as possible, individual shopping. Supermarkets and night shops may only be open from 7 a.m. to 10 p.m. Markets have, in principle, been closed, except for food stalls that are indispensable in terms of food supply in areas that do not have commercial food infrastructure.

Establishments that are part of the cultural, festive, recreational, sporting and catering sectors will be closed.

Employees of non-essential establishments shall work from home (telework), insofar as possible. Where this is not possible, the companies must take the necessary measures to ensure 'social distancing' at the workplace. If non-essential companies cannot guarantee the application of these measures, they must close down.

Teleworking is compulsory for all employees of non-essential companies, regardless of size, where possible. For those functions that cannot be carried out via teleworking, the companies must take the necessary measures to ensure compliance with the rules of social distancing, in particular, maintaining a distance of 1.5 meters between each employee. Non-essential companies that are unable to comply with the above measures must close down (Article 2).

The obligation to work from home does not apply to companies in key sectors and essential services, as set out in the annex to the Royal Decree. However, these companies and services are also required to apply, as far as possible, the system of teleworking and the rules of 'social distancing'.

The annex to the Royal Decree defines companies in crucial sectors and essential services as:

- medical care institutions, including preventive health care services;
- care, reception and assistance services for elderly persons, minors, disabled persons and vulnerable persons;
- telecommunications infrastructure and services (including the replacement and sale of telephones, modems, SIM cards and carrying out installations) and digital infrastructure;
- police forces;
- judicial services and the professions associated with them: courthouses, magistrates and penitentiaries, youth centres, electronic surveillance, court experts, bailiffs, court staff, translators-interpreters, lawyers;
- universities and colleges of higher education;
- distributive trade and businesses involved in the food chain, animal feed, the food industry, agriculture and horticulture, fertiliser production and fisheries;
- the packaging industry associated with the authorised activities;
- pharmacies and the pharmaceutical industry;
- hotels;
- the water sector: drinking water, purification, extraction, distribution and pumping;

- the chemical industry;
- financial sector: banks, electronic payments, securities trading, financial market infrastructure, foreign trade, cash supply services, transportation of cash;
- the insurance sector;
- national, international transport and logistics;
- air transport, airports and essential services in support of air transport;
- ports, maritime transport, estuarine navigation, short sea shipping, transport of goods over water, inland waterways.

The measures set out in the Ministerial Decree of 23 March 2020 shall apply until at least 5 April 2020.

1.1.3 Temporary unemployment

Belgium has a unique system to avoid the dismissal of workers in the event of economic crises or economic difficulties in companies, namely the system of temporary unemployment. In the event of economic difficulties or a temporary ban by the public authorities on operate the company, this system allows workers to be temporarily unemployed without the employer terminating their contracts of employment, with the possibility of receiving temporary unemployment benefits under social security regulations during the suspension of the performance of the employment contract.

Depending on the situation in which the company finds itself, the employer can take recourse to two types of temporary unemployment:

- (i) temporary unemployment due to force majeure;
- (ii) temporary unemployment for economic reasons.

This is explained as follows:

(i) Temporary force majeure

Article 26 of the Employment Contracts Act of 03 July 1978 allows the employer to temporarily suspend the performance of the employment contract of both blue and white collar workers in case of force majeure with temporary consequences.

Force majeure presupposes a sudden, unforeseeable event, independent of the will of the parties, which temporarily makes the performance of the employment contract completely impossible. It must be a sudden and unforeseeable event (the event could not have been expected). The event must occur beyond the will ('fault') of the parties. This includes both the employer and the employee. Force majeure makes the further performance of the employment contract completely impossible. This therefore does not apply just because the performance of the contract has become more difficult or more expensive. The impossibility to work must be of a temporary nature. If the event is of such a nature that the performance of the contract becomes permanently impossible, temporary unemployment due to force majeure cannot be invoked. The employment contract shall then be terminated for reasons of force majeure.

Employer bankruptcy does not in itself constitute a case of force majeure that terminates the employment contract without severance pay.

The following situations can be considered to be force majeure: a fire that destroys the company, a power outage if the outage occurred in the power plant outside the company, a lack of supply of raw materials at the planned delivery date, provided that late delivery is not due to a fault on the part of the employer (e.g. late order), the

government's decision to temporarily close down the company to prevent or limit the consequences of the (corona) virus, and the government's order to close down the company in the event of terrorism or threat of terrorism.

(ii) Temporary unemployment for economic reasons.

This scheme differs for blue and white collar workers.

1. Blue collar workers

On the basis of Articles 51 and 51bis of the Employment Contracts Law of 03 July 1978, the employer may introduce a scheme of temporary unemployment due to a lack of work for blue collar workers if the employer is temporarily unable to maintain the existing work schedule in the company for economic reasons.

The workers will continue to be employed, but the performance of their employment contract will be temporarily suspended entirely or in part, thus avoiding possible dismissals.

The lack of work must be of a temporary nature: if employees are put out of work temporarily on a continuous basis, the National Employment Office can decide that their unemployment is of a structural nature and that from a certain date onwards, temporary unemployment as a measure will no longer be accepted.

Work must usually be resumed after 4 weeks of full unemployment (Articles 51, §2 of the Employment Contracts Law of 03 July 1978). It must be noted that different maximum periods than the general four-week period and specific modalities can be determined by a royal decree. This is the [case](#), among others, for companies in Joint Committee 102 for the quarrying industry, in Joint Committee 104 for the iron and steel industry, in Joint Committee 106 for the cement industry, in Joint Committee 109 for the clothing industry, in Joint Committee 110 for the textile care industry, in Joint Committee 111 for the metal, machine and electrical construction industry, in Joint Committee 113 for ceramics, in Joint Committee 114 for brickworks, in Joint Committee 118 for foodstuffs, in Joint Committee 120 for textiles, in Joint Committee 124 for construction, in Joint Committee 140 for transport and logistics, in Joint Committee 301 for ports and in Joint Committee 302 for hotels.

The rule that work in case of economic unemployment must be resumed within 4 weeks or after the expiry of the specific sectoral time limit determined no longer applies (temporarily) in the context of the fight against the coronavirus.

The lack of work must also be 'independent of the will of the employer', which is not the case if the employer outsources the work normally carried out by the employees to third parties during the suspension of the performance of their employment contract (Article 30quinsquies of the Employment Contracts Law).

Economic causes include the lack of or reduction of orders, delays in or serious difficulties in the supply chain, export problems, etc.

The employer must communicate the economic reasons justifying the introduction of temporary unemployment to the works council or, if there is no works council in the company, to the trade union representative (Articles 51, §2bis of the Employment Contracts Law of 03 July 1978).

2. White collar employees

The regulation on the full suspension and/or partial employment of white collar employees due to lack of work on account of economic reasons differs from that for blue collar workers.

The suspension of the employment contract of white collar employees due to the lack of work is provided for in Articles 77/1 to 77/7 of the Employment Contracts Law.

Private sector companies can suspend white collar employees due to lack of work if they cumulatively meet the following conditions:

- the company faces economic difficulties as a result of a decrease of at least 10 per cent of its turnover (according to the VAT return), of production or orders, or as the result of temporary unemployment of at least 10 per cent, or if the company is recognised by the Minister of Employment as being a company in difficulty on the basis of unforeseen circumstances resulting, in the short term, in a substantial drop in turnover, production or in the number of orders;
- A collective bargaining agreement must be concluded additionally.

Such an agreement must entail (a) a scheme that provides for the use of temporary unemployment in a sectoral collective bargaining agreement, a collective bargaining agreement at company level or a business plan approved by the Minister of Labour. Such a scheme often requires the employer to pay a supplement to the temporarily unemployed employees.

In addition, (b) the social partners have agreed on a scheme for companies in difficulty (see Article 77/1, §4 of the Employment Contracts Law), which belong to economic sectors that have not yet concluded a collective bargaining agreement for the temporary unemployment of their white collar employees. This applies to Collective Bargaining [Agreement](#) No. 147 of 18 March 2020, establishing a scheme of full or partial suspension of the performance of the employment contract due to lack of work for white collar workers attributable to economic causes as a result of the coronavirus crisis.

This does not affect pre-existing collective bargaining of joint committees or agreements at company level. Company agreements or business plans can still be adapted. The complete suspension may last a maximum of 16 weeks, while a scheme of partial employment may last 26 weeks. An allowance of at least EUR 5 per day of unemployment is provided by the employer. Collective Bargaining Agreement No. 147 has been concluded for a fixed term and enters into force on 18 March 2020. It will cease to apply on 30 June 2020.

(iii) The amount of unemployment benefits is identical for both temporary unemployment due to force majeure and due to the lack of work for economic reasons.

A temporarily unemployed worker receives a lump sum of unemployment allowance of EUR 1 450 per month, followed by an adjustment.

Temporarily unemployed employees normally receive 65 per cent of a limited wage. At present, temporary unemployed persons receive an increased unemployment allowance equal to 70 per cent of their gross salary, with a maximum of EUR 2 754.76 per month. The maximum unemployment allowance is EUR 1 928.22. This applies until 30 June 2020.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.



3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other Relevant Information

Nothing to report.

Bulgaria

Summary

During the state of emergency, various amendments have affected labour law – notably through new rules on telework, the option of mandatory annual leave or part-time work, and family-related leave.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

On 13 March 2020, the National Assembly of Bulgaria declared a state of emergency due to the COVID-19 pandemic. On 23 March, the National Assembly adopted the Act on Measures and Actions during the Extraordinary Situation Declared by the National Assembly on 13 March 2020 (promulgated in the State Gazette [No. 28](#) of 24 March 2020).

This Act established special rules on employment relationships.

Several measures are applicable to all employers and employees. They are generally applicable.

Depending on the specific nature of the work, employers are entitled to organise domestic work or telework without the employees' consent. The conditions and procedures on assignments, the performance and control of such work must be specified in an order of the employer (Article 7(1)).

In cases of extraordinary situations, the employer may halt the enterprise's activities, a part of the enterprise or individual employees (§ 4, point 2 of the Act related to the new Article 120c of the Labour Code). Such measures may also be implemented by a State body. In that case, the employee is entitled to his/her gross labour remuneration (Article 267a LC). The employer may also grant paid annual leave to the employee, even without the latter's written request or consent during an idle period of more than five working days (Article 173 (4) LC). In cases in which work is halted for more than 15 working days, the employer may terminate the employment relationship (Article 328 (2) issue 4 LC).

The employer is entitled to modify employees' working time, and introduce part-time work (Article 138a (2) LC). In this case, the requirement for information and consultation of trade union organisations and of employee representatives is not applicable.

According to § 6 of the Transitional and Concluding Provisions of the Act on Measures, the National Social Insurance Institute may remit 60 per cent of the contributions of employees for three months for certain categories of employers, as defined by an act of the Council of Ministers.

Pursuant to Article 7 (2) of the Act on Measures, the employer may request the employee to take half of his or her paid annual leave without the employee's prior consent.

Some special measures for certain categories of employees have also been introduced.

The employer is required to grant explicitly listed employees their entitlement to paid or unpaid leave upon request (Article 173a (2) LC). These categories of employees are pregnant women and women in an advanced stage of in vitro treatment; mothers of children under the age of 12 years; single fathers with children under the age of 12 years; mothers and single fathers with children with disabilities, irrespective of the



child's age; employees with disabilities of over 50 per cent; employees that have been rehabilitated after an occupational disease; and employees who suffer from a disease designated in an ordinance of the Minister of Health. These leaves shall be included in the employee's total length of service.

Limitations of extraordinary work are not applicable to employees with reduced working time in case they provide medical care (Article 8 (1) of the Act on Measures).

1.2 Other legislative developments

1.2.1 European Union

On 11 March 2020, a Decision on the Adoption of the Annual Working Programme of the National Assembly on the Issues of the European Union (2020) was adopted (State Gazette [No 22](#) of 13 March 2020). This Programme is divided into several areas: European Green Plan; Europe ready for IT era; Economy for Peoples' Interest; Stronger Europe on the World Stage; European Stay of Life; New Impetus to European Democracy; Relations between the European Union and the United Kingdom. Different legislative and non-legislative initiatives are included, e.g. the Strategy for Small and Medium Enterprises, the new Strategy for the Implementation of the Basic Rights Charter, etc.

2 Court Rulings

Nothing to report.

3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Croatia

Summary

(I) A number of amendments to the different pieces of legislation have been adopted with the purpose of addressing the challenges caused by the COVID-19 crisis.

(II) Salary compensation during parental leave has been increased in the Amendment to the Maternity and Parental Benefits Act.

(III) The Croatian Bureau for Statistics has published data on the average gross and net salary in Croatia.

(IV) The Agreement on the Establishment of an Economic and Social Council has been concluded.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

The pieces of legislation that address the COVID-19 crisis and that have direct or indirect implications for labour law can be grouped accordingly:

- Legislation regulating working time of epidemiologists and employees working in the emergency medical service;
- Legislation on work at home due to the coronavirus lockdown;
- Legislation on social distancing and specific health and safety measures;
- Legislation providing financial support for employers;
- Legislation on tax benefits for employers.

1.1.1 Working time of epidemiologists and employees working in the emergency medical service

Based on the Amendment to the System of Civil Protection (Official Gazette No 31/2020), which give the Civil Protection Headquarters additional entitlements during the crisis, the Civil Protection Headquarters issued decisions that partly refer to specific employment relationships:

- Decision on the Introduction of Necessary Measures for the Organisation of Epidemiological Services and Specific Epidemiological Measures Relating to the SARS CoV-2 Virus during the COVID-19 Epidemic (Official Gazette [No 35/2020](#)). This Decision introduces the continuation of on-call duties of epidemiology specialists, who are employed within the health care network of the Republic of Croatia, regardless of place of work and employer. All employees of the Croatian Institute for Public Health can be ordered to work in shifts and stand-by duty during the epidemic when it is otherwise not possible to ensure the provision of health care to the general public;
- Decision on the Implementation of Necessary Measures of Special Organisation of the Emergency Medical Service and Sanitary Transport during the COVID-19 Epidemic (Official Gazette No [35/2020](#)). It entitles the Croatian Institute for Emergency Medicine to order shift work, on-call and stand-by duty of employees of the Emergency Medical Services when such forms of work are needed.

1.1.2 Work at Home in the Public and Private Sector

Social distancing measures as well as the limitations to the freedom of movement have an impact on labour law. Employers are required to:

- organise work from home where possible, cancel meetings or organise teleconferences and use other technologies to hold remote meetings;
- cancel business trips outside the country, except as necessary;
- prohibit workers who have a fever and respiratory issues, especially a dry cough and shortness of breath, from coming to the workplace (Article of the Decision on measures to limit social gatherings, work in commerce, services and the holding of sports and cultural events, Official Gazette [No 32/2020](#)).

According to the Decision on work organisation of the state administration bodies during the COVID-19 epidemic which has been caused by the SARS-CoV-2 virus (Official Gazette No 32/2020), civil servants and state employees who are considered essential staff shall not perform their work in the workplace but are required to perform their work at home on working days during the prescribed working hours in the manner and under the conditions determined by the head of the body by decision.

1.1.3 Social distancing and specific health and safety measures

Employees who do not work from home must adhere to social distancing and specific health and safety measures. For instance, according to Article III of the Decision on general and specific protection measures implemented by taxi service providers (Official Gazette [No 35/2020](#)), employers are required to inform and educate employees about the illness itself and make recommendations on general and specific protection measures. Furthermore, employers are required to provide working conditions that include sufficient amounts of soap and disposable towels in sanitary facilities, regular cleaning of premises with disinfectants, and must organise the normal functioning of business processes at the company's premises.

The Decision on the Procedure and Application of Quarantine and Home Isolation for Drivers of International Transportation Lorries during the COVID-19 Outbreak (Official Gazette [No 37/2020](#)) has been issued. It introduces mandatory quarantine and home isolation for drivers of international transport cargo vehicles upon entering the Republic of Croatia.

1.1.4 Financial support for employers (minimum wages subsidised; financial assistance)

The Amendment to the Trade Act (Official Gazette No 32/2020) entitles the Civil Protection Headquarters of the Republic of Croatia to limit the opening hours of shops under special circumstances such as the current COVID-19 crisis. Due to the coronavirus lockdown, only essential services are being provided and only essential shops are open. The Decision on Store Opening Hours (Official Gazette [No 35/2020](#)) limits the opening hours of stores from 8 a.m. to 5 p.m. (stores that can remain open are those considered to be essential, such as grocery stores or pharmacies). Numerous stores (as well as theatres, cinemas, libraries, services such as hairdressers, beauty salons, etc.) have been closed based on the decision on measures to limit social gatherings, to work in commerce, services and the holding of sports and cultural events.

Information is available [here](#) and [here](#).

The effects of the interruption of business operations include dismissals and unpaid leave in the private sector (in particular, employees in the hospitality sector). The Croatian Bureau for Employment has [reported](#) on influx of newly unemployed persons.

Certain vulnerable groups of self-employed persons (such as freelance artists) who lost income due to the closure of theatres, museums or concert halls also need to be protected. Therefore, the Ministry of Culture has on its [official web site](#) announced that it will establish a crisis fund. The crisis fund will provide financial assistance to natural and legal persons engaged in culture and the arts for an extended period for preparatory activities for approved cultural projects whose implementation has been delayed due to the epidemic.

The Minister of Labour and Pension System has issued the decision on using means and postponing the payment of fees for non-fulfilment of the obligation of quota employment of persons with disabilities (Official Gazette [No 36/2020](#)). Before the COVID-19 crisis, employers who had not met the quota system of employment of persons with disabilities had to pay a fine. Based on the Minister's Decision, the unspent amount derived from these fines, an amount of HRK 300 000 000 will be used to pay the minimum wages as part of the implementation of an active employment policy measure for the purpose of job-saving and retaining workers in employment. The minimum wage will be paid in the net amount of HRK 3 250 for the months of March, April and May 2020, with the possibility of extending the payment for the following 3 months. Furthermore, the obligation of employers to pay compensation for not meeting the quota employment system of persons with disabilities, which applies for the months of March, April and May 2020, has been postponed, with the possibility of delaying the payment of obligations that will arise in the following 3 months. More precisely, the Croatian Bureau of Employment has introduced a new active policy [measure](#): support for job-saving in coronavirus-affected industries (COVID-19). The job-saving measure applies to employers affected by the effects of the COVID-19 pandemic in the accommodation, food and beverages, transportation and storage, labour-intensive industries (textiles, clothing, footwear, leather, wood and furniture) and employers who are unable to perform their activities as a result of the decisions of the Civil Protection Headquarters, and other employers who can prove that they have been impacted by the special circumstances. The amounts of the subsidies are as follows:

- an amount of HRK 3 250 per month for a full-time employee;
- up to HRK 1 625 per month for part-time workers;
- a proportionate share of HRK 3 250 or HRK 1 625 per employee for time they did not perform work as a result of the Decision of the Civil Protection Headquarters.

The media [reports](#) that around 60 000 employers (who employ about 330 000 employees) have requested the above described financial support. Furthermore, 30 000 entrepreneurs have requested tax deferrals.

Apart from this, another measure has been introduced for a relatively small group of employees. A right to financial assistance for so-called permanent seasonal workers (for whom the employer pays contributions for an extended pension insurance between seasons when he or she does not work and which guarantees him or her that the seasonal worker will accept the offer for employment in the next season; if the worker declines the offer to conclude an employment contract, he or she must reimburse the contributions paid) and co-financing of the costs of the extended pension insurance is prescribed by the Amendment to the Act on the Labour Market (Official Gazette [No 32/2020](#)) in case of special circumstances that could not have been foreseen and could not be influenced, which endanger the life and health of citizens, property of higher value, significantly damage the environment, disrupt

economic activity or cause significant economic damage, such as the current COVID-19 crisis.

1.1.5 Tax benefits for employers

Measures on taxation are not directly related to employment relationships. When its purpose is to help employers overcome challenges caused by the COVID-19 crisis and consequently, to save jobs, they are worth mentioning. Several measures have been adopted in this regard. It refers to employers whose income declined (or will likely decrease in the following 3-month period compared to the same period of last year) by at least 20 per cent due to the COVID-19 crisis (Ordinance on Implementation of General Tax Law, Official Gazette [No 35/2020](#)). In short, the employers affected by the crisis are entitled to deferral of interest-free tax payments and the payment of deferred tax liabilities in instalments.

1.2 Other legislative developments

1.2.1 Employment for persons with disabilities

The Act on Occupational Rehabilitation and Employment of Persons with Disabilities (Official Gazette [No 32/2020](#)) has been amended.

The novelty refers to the quota system for employment of persons with disabilities. Such quota will no longer be an obligation for employers in the textile, clothing, leather, wood and furniture manufacturing sectors.

1.2.2 Maternity and parental benefits

The Maternity and Parental Benefits Act (Official Gazette [No 37/2020](#)) has been changed.

Since parental benefits are part of the social security scheme, it suffices to only briefly mention that the salary compensation during parental leave has been increased. The maximum amount has been increased from HRK 3 991,20 (around EUR 525) to HRK 5 654,20 (around EUR 744). The waiting period (period of previous employment as a precondition for exercising this right) has been reduced as well.

The amendment to the other pieces of legislation will be analysed below in the section 4.

2 Court Rulings

Nothing to report.

3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

4.1 Average gross and net salary

The Croatian Bureau for Statistics has published data on the average gross and net salary in Croatia in 2019 (Official Gazette [No 24/2020](#)). The average net salary

amounts to HRK 6 457 (about EUR 850) and the average gross salary amounts to HRK 8 766 (about EUR 1 153).

4.2 Economic and Social Council

The [Agreement](#) on the Establishment of the Economic and Social Council (Official Gazette No 28/2020) has been concluded by the Government of the Republic of Croatia, the Croatian Employers' Association and three representative umbrella trade union associations. The Agreement regulates the establishment and manner of functioning of the Economic and Social Council, which is the highest form of tripartite dialogue at the national level.

According to Article 11 of the Agreement, the Economic and Social Council:

- promotes the idea of tripartite cooperation between the government, trade unions and employers' associations in considering and addressing economic and social issues and problems;
- monitors and evaluates the impact of economic policy and economic policy measures on social stability and development;
- monitors, studies and evaluates the impact of social policy and social policy measures on social stability and development;
- proposes measures for conducting a coherent economic, social and development policy;
- assesses and gives opinions on measures for achieving macroeconomic stability, competitiveness of the economy and balanced economic and social development;
- gives an opinion on the draft State budget;
- monitors, studies and evaluates the impact of price and wage changes on economic and social stability and development;
- proposes the pursuit of a harmonised price and wage policy to the government, employers and trade unions, or their associations and umbrella associations;
- monitors the situation in the field of employment, pension and health insurance, education and labour market harmonisation and protection at national and European level and proposes measures to encourage and improve them;
- gives opinions on draft laws in the field of labour, economy and social security;
- discuss and may give opinions on proposals of other laws and regulations of public interest;
- encourages the conclusion and implementation of collective agreements;
- gives a reasoned opinion to the minister responsible for labour on all issues and problems related to the conclusion and implementation of collective agreements and assessment of the effect of the extension of the collective agreement;
- encourages the peaceful settlement of collective and individual labour disputes;
- establishes a list of conciliators in collective labour disputes;
- gives opinions on the draft rulebook regulating the manner of selecting the conciliator and conducting the conciliation procedure in the settlement of collective labour disputes;



- submits opinions and proposals to the minister responsible for labour in relation to other issues regulated by the Labour Act;
- monitors the implementation of labour and social security pieces of legislation;
- monitors the implementation of protection of rights from work and social security and propose measures for improvement;
- adopts a report on the work of the Council and its working bodies.

Cyprus

Summary

The emergency measures to restrict the spread of the COVID-19 pandemic include new rules on telework, family-related leave, and a public duty to work for medical workers.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

Cyprus, like many other countries, has witnessed a major transformation of its labour relations as a result of the outbreak of the coronavirus pandemic. Both parts of the divided island are in a lockdown. Only cargo and those with exceptional leave are allowed to travel. Once they arrive on the island, they are placed in a 14-day quarantine.

The outbreak of the coronavirus pandemic found Cyprus rather ill-prepared and the response came rather late. Few measures were taken prior to 7 March. Travel continued without restriction, i.e. without any monitoring or screening, including countries like Greece, Italy and the UK, until the first incident of COVID-19 was recorded. Moreover, major public gatherings like the carnival celebrations went ahead, despite the fact that other countries like Greece had cancelled such public gatherings. The first government statement on the coronavirus was on 28 February, when it advised citizens to take general caution and avoid crowded spaces and self-isolate, and it made some announcements about possible future measures to be adopted if need be. The only measure taken at the time was the closure of four checkpoints along the ceasefire line separating the south (the Republic of Cyprus) from the north (the Turkish occupied "Turkish Republic of Northern Cyprus") (Council of Ministers (2020), Series of [measures](#) decided by the Ministerial Council to address the coronavirus epidemic, *Σειρά μέτρων αποφάσισε το Υπουργικό Συμβούλιο για αντιμετώπιση της επιδημίας του κορωνοϊού*, 28 February 2020). The checkpoints had been opened by the Turkish Army in 2003 as a measure to assist collaboration between the Greek and Turkish communities and had remained open for 17 years until 28 February 2020. This was a controversial decision and was criticised; it was a surprise decision, as there was no confirmed incident of coronavirus in the north or south, and the leaders of the two communities had pledged to collaborate to address the coronavirus crisis. The political confrontation continued for several days between the government and the opposition regarding the closure of the checkpoints (Philenews (2020), [Αντιπαράθεση κυβέρνησης - ΑΚΕΛ για κλείσιμο οδοφραγμάτων](#), 7 March 2020).

The public debate about the closure of the checkpoints ceased on 7 March 2020 as soon as the first confirmed coronavirus case was reported; it was the head of the cardiology clinic of the central public hospital of Nicosia, who had just arrived from a trip to the U.K. on 03 March without having been screened at the airport. The government chose not to declare a state of emergency. Since then, the Ministry of Health has issued 12 decrees, the Quarantine Law (Ministry of Health (2020), a decree issued under the Quarantine Law Cap. 260 Para. 6(c) and 6(d)).

On 19 March a new decree placed all registered doctors and nurses, public and private, under public duty to prevent the threat of collapse of the health system (Ministry of Health (2020), Decree issued under the Quarantine Law Cap. 260 Para. 6(c) and 6(d), [\(Περί Λοιμοκαθάρσεως \(Καθορισμός Μέτρων για Παρεμπόδιση της Εξάπλωσης του Κορωνοϊού COVID-19 Διάταγμα \(Αρ. 7\) του 2020\)](#), ΚΔΠ 107/2020,

E.E. Παρ.ΙΙΙ(1), Αρ. 5222, Σελ. 397, 19/3/2020). New measures are being announced by the hour, as the number of cases rises and the country has already lost three patients to the virus as of 24 March.

As of 20 March, supermarkets and pharmacies remain open on Saturdays and Sundays from 6 am to 10 am exclusively for persons aged 60+, persons with disabilities and other vulnerable persons (Reporter (2020), ['Νέο διάταγμα το οποίο αφορά κυρίως τη λειτουργία των φαρμακείων και των υπεραγορών αλλά και την απαγόρευση επισκέψεων σε όσους βρίσκονται σε καραντίνα ή περιορισμό, εξέδωσε ο υπουργός Υγείας, Κωνσταντίνος Ιωάννου'](#), 20 March 2020).

On 23 March, a set of new measures were introduced, which came into force on 24 March 2020 at 6 pm (In-Cyprus (2020) ['Coronavirus: Full text of address of President Anastasiades announcing the lockdown'](#), 22 March 2020). The measures were set to expire on 13 April 2020 at 6 pm. The new measures impose a ban on movement for anyone except in specified cases. Strict observance of the measures will be monitored by the police and Army, and failure to comply with the measures will carry a penalty of EUR 150. A grace period of a few days applied before the fines were actually imposed until people became aware and accustomed to the new restrictive measures. Under the new measures, all movements are prohibited except for persons travelling to work, for the transport of goods for businesses authorised to operate, visiting the doctor or pharmacy, for banking purposes that cannot be done online, people visiting others who are not able to take care of themselves or are confined at home, people who want to go out for physical activities or walk their pets, provided they remain in their neighbourhood, in groups of no more than two people. Parks, playgrounds, open areas for sports, picnic areas, open markets, bazaars and street vendors will be closed to the public until 13 April. No one is allowed to attend places of religious worship, such as churches, mosques and other places of prayer. Construction sites are closed, with the exception of social utility projects that will obtain a special permit from the Minister of Transport. The Easter tradition of 'Lambradjia', a campfire in neighbourhoods that traditionally attracts youth, is prohibited and any such preparations will be removed by police (Ministry of Health (2020), [Decree No. 9 of 2020 issued under the Quarantine Law](#) Cap. 260 Para. 6(c) and 6(d) for the determination of measures to prevent the spreading of coronavirus COVID-19, [*Περί Λοιμοκαθάρσεως (Καθορισμός Μέτρων για Παρεμπόδιση της Εξάπλωσης του Κορωνοϊού COVID-19 Διάταγμα Αρ. 9 του 2020*]). Close relatives attending weddings, funerals or baptisms will not be restricted either, providing they do not exceed a group of 10 people. Divorced parents are permitted to travel to meet their children, and persons with disabilities are permitted to travel to obtain treatment (Dialogos (2020), ['Νέο διάταγμα εξαιρεί διαζευγμένους και ΑμεΑ, αναστέλλει λειτουργία επιχειρήσεων πώλησης οχημάτων'](#), 24 March 2020). Persons moving outside their homes are required to carry their IDs. People travelling to and from their place of work must carry a certificate from their employers. All others who need to travel must carry a completed form explaining the reason for their travel or, alternatively, inform the authorities via SMS.

All private businesses must close their operations except:

- Food and beverage sellers (supermarkets, grocery stores, butchers, fishmongers, bakeries, pastry shops, wine cellars), pharmacies, gas stations, establishments that provide food and beverage services, provided they do so by delivery (restaurants, coffee shops, bars), establishments providing drive through services, kiosks and mini markets;
- Health services (clinical labs);
- Car wash businesses, provided they apply all announced prevention measures;
- Businesses and workshops for disabled and orthopaedic merchandise;
- Businesses and workshops of medical and industrial gases and machinery;

- Opticians and their workshops;
- Businesses selling hearing aids;
- Car and motorbike workshops;
- Businesses selling tires;
- Businesses selling and repairing bicycles;
- Drycleaners;
- Courier services;
- Businesses selling pet food or veterinary medicine;
- Telecommunication providers (for bill payments, renewal of credit, repairs and replacements of mobile devices);
- Businesses selling pesticides, fertilisers and other agricultural equipment;
- Funeral offices;
- Flower shops and plant nurseries.

All retail businesses that are allowed to remain open must abide by all measures announced to prevent the spread of COVID-19, including ensuring that no crowding takes place inside the store (one person per 8 m²).

The closure of the places of worship comes after various human rights groups and health professionals have been calling for tougher measures after milder restrictions had failed to reign in people who gathered in parks and other public areas in large numbers. Human rights groups and health professionals have criticised the government for allowing churches to operate, violating the decree for “social distancing” and the gatherings of more than 75 persons, as well as engaging in ceremonies which spread the virus (such as kissing saints’ icons hanging on church walls, kissing the hand of the priest and sharing Holy Communion using the same spoon. At the end of the ceremony, the priest is required to drink the remainder of the Holy Communion. See Psyllides, G. (2020) ‘Coronavirus: Limassol bishop [tries](#) to sidestep Tuesday’s lockdown, changes mass time’, *Cyprus Mail*, 24 March 2020).

No measures were taken to disseminate either the protection measures or restrictions in sign language, in braille or in an easy-to-read format for persons with disabilities. No measures were taken to alleviate the problems created by the crisis for persons with disabilities (telephone communication with the confederation of disability organisations KYSOA, 24 March 2020). A number of municipalities and other organised groups have set up informal solidarity networks offering to shop for and take care of other needs of elderly and other vulnerable persons in their vicinity.

On 19 March, a new decree placed all registered doctors and nurses, public and private, under public duty to prevent the threat of collapse of the health system Ministry of Health (2020), Decree issued under the Quarantine Law Cap. 260 Para. 6(c) and 6(d), ([Περί Λοιμοκαθάρσεως \(Καθορισμός Μέτρων για Παρεμπόδιση της Εξάπλωσης του Κορωνοϊού COVID-19 Διάταγμα \(Αρ. 7\) του 2020](#)), ΚΔΠ 107/2020, Ε.Ε. Παρ.ΙΙΙ(1), Αρ. 5222, Σελ. 397, 19/3/2020. New measures are being announced by the hour, as the number of cases rises and the country has already lost eight patients to the virus as of 1 April (there are 250 confirmed cases).

As of 20 March, supermarkets and pharmacies are open on Saturdays and Sundays from 6 am until 10 am exclusively for persons aged 60+, persons with disabilities and other vulnerable persons.

On 30 March, further closures of businesses and restrictions were imposed, including a curfew between 9.00 pm until 6.00 am (Ministry of Health (2020), Decree issued

under the Quarantine Law Cap. 260 Para. 6(c) and 6(d), (*Περί Λοιμοκαθάρσεως (Καθορισμός Μέτρων για Παρεμπόδιση της Εξάπλωσης του Κορωνοϊού COVID-19 Διάταγμα (Αρ. 12) του 2020*), ΚΔΠ 135/2020, Ε.Ε. Παρ.ΙΙΙ(1), Αρ. 5236, Σελ. 522, 30/3/2020).

On 10 March, the Council of Ministers announced the shutting down of all schools and kindergartens initially in the capital Nicosia. In the days that followed, the kindergartens, schools and universities in all other districts were closed as well. The Ministry of Education instructed teachers at all levels to introduce measures to teach using online platforms, starting from mapping the connectivity and equipment possibilities of the families they could reach. The first stage of the measures involved the completion of questionnaires through telephone consultation with parents to determine how many homes are equipped with devices and connected to Wi-Fi. Teachers have reported problems reaching families of migrant families and refugees who do not speak Greek, families whose parents are not computer literate and cannot support their children in joining the endeavour and a great number of families whose only equipment is one mobile phone for the entire family (Politis (2020), *Teleteaching days (Ημέρες τηλεδιδασκαλιών)*, 30 March 2020).

On 24 March, the Education Ministry announced that it had completed the design of a system to provide distant teaching and pedagogical support to all public schools. The press release states that over 110 000 teachers and students have been integrated and have access to the distant learning system, urging those parents who were not contacted to get in touch with their school to obtain the information. Within 48 hours, the system was to be put into operation and almost 100 000 students would be able to access distant learning daily programmes, adding that private organisations have expressed an interest in contributing to cover the gaps in connectivity and equipment in some homes. The press release states that the government will support all children and families so that no one is excluded from the endeavour. The announcement added that TV channels had offered to broadcast special TV programmes for children of younger ages (Cyprus, [Ministry of Education, Culture, sports and youth](#) (2020), The Minister issued a statement on distance learning, press release, 24 March 2020). The announcement did not clarify the measures to be adopted, if any, for children who are digitally disadvantaged, nor did it specify the number of children with connectivity or equipment gaps.

All universities have switched to online and distance learning and lecturers are now working from home.

A number of measures on labour and social insurance have been introduced. On 17 March, the Ministry of Finance announced a set of measures on the operation of public service and the wider public sector, providing for flexible working schedules, work from home where possible, a special partly paid leave of absence only for one of the parents who have children under the age of 15 years for up to four weeks for the time being, leave for persons belonging to vulnerable categories, such as persons aged 60 years of age and older, persons with specific chronic illnesses, pregnant women, irrespective of age. Orders were issued for some enterprises to close down fully and for others to scale down their operations to avoid dismissals (Ministry of Finance (2020), 'Instructions in relation to the operation of public service and the wider public sector under the extraordinary circumstances created for the prevention of the spreading of the coronavirus in Cyprus', Circular No. 1608, 17 March 2020). One trade union reported that employees were pressured into taking their annual or sick leave and that some enterprises were dismissing employees in spite of the order (Offsite (2020), '[Αυθαίρετο τερματισμό απασχόλησης καταγγέλλει η ΔΕΟΚ](#)', 19 March 2020).

The Ministry of Labour announced a special plan for benefits for vulnerable groups and social insurance (Ministry of Labour, Social Care and social Insurance (2020), Decree under the Emergency Measures taken to deal with the COVID-19 pandemic, Law



27(I)/2200, [ΚΔΠ126/2020](#), Cyprus Gazette 5230, 28 March 2020). The benefit is calculated at 60 per cent of their income. The benefit is not granted if the person receives other benefits such as unemployment benefits, sickness benefits, or special leave for child care. Also excluded are those who cannot continue working via telework or other flexiwork. The benefit will end on 12 April. However, it is likely to be renewed if the lockdown continues. The benefit is provided for the following persons:

- vulnerable persons who are defined in regulations;
- those who are under quarantine;
- those who have been infected by COVID-19;
- those between the ages of 63-65 who have no pension;
- who are eligible for benefits up to the age of 65 and are not recipients of an institutional pension.

Another new benefit is parental leave for child care (Ministry of Labour, Social Care and Social Insurance (2020), Decree under the Emergency Measures taken to deal with the COVID-19 pandemic, Law 27(I)/2200, [ΚΔΠ127/2020](#), Cyprus Gazette 5229, 28 March 2020). The benefit has been retrospectively applied from 16 March. Many employees in the public and private sector have taken advantage of this.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Czech Republic

Summary

Extraordinary measures have been enacted by the government in connection with the COVID-19 crisis. These include an extended entitlement to carer's allowance and the provision of financial aid for employers.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

To tackle the COVID-19 crisis, the Government of the Czech Republic has adopted a number of extraordinary measures. The most relevant measures (with regard to employment and labour law) are included here.

1.1.1 Declaration of state of emergency

[Resolution](#) of the Government No. 69/2020 Coll. issued on 12 March 2020 as Resolution No. 194 (published)

With effect of 12 March 2020, the government has declared a state of emergency. The state of emergency will last for 30 days and its extension is subject to approval by Parliament. Under the state of emergency, the government is authorised to issue extraordinary measures (and impose restrictions on the rights of persons) (see below).

1.1.2 Reintroduction of border controls

[Resolution](#) of the Government No. 70/2020 Coll. issued on 12 March 2020 as Resolution No. 197 (published).

Resolution of the Government of 15 March 2020 No. 221 approving the Measure of a General Nature.

The Resolutions are available [here](#) and [here](#).

[Resolution](#) of the Government No. 112/2020 Coll. issued on 19 March 2020 as Resolution No. 267 (published).

With effect of 16 March 2020 (0:00) until 4 April 2020 (23:59), border controls have been reintroduced for the land borders with Germany and Austria, and for the air border. The land border with Germany can only be crossed at certain designated places / certain designated times. Only the airports in Prague and Kbely can be used to cross air borders.

With effect of 21 March 2020 (0:00), all cross-border employees must carry an "authorisation for cross-border employees" signed by the employer and a "book of cross-border employee" (required by the police in the Czech Republic for the purpose of stamp evidence when crossing state borders and to prove the regularity and frequency of state border crossings).

1.1.2 Restrictions in international transport

[Resolution](#) of the Government No. 73/2020 Coll. issued on 12 March 2020 as Resolution No. 200 (published)

As of 14 March 2020 (0:00), all international buses (vehicles for 9 or more passengers), train and ship transportation (for passengers) is prohibited. Air passenger transport is also limited (only the Prague airport can be used for cross-border travel). Freight transport is allowed.

1.1.3 Travel ban

[Resolution](#) of the Government No. 142/2020 Coll. issued on 30 March 2020 as Resolution No. 334 (published)

With effect of 31 March 2020 until 12 April 2020, the government has issued a travel ban. This travel ban replaces the previous travel bans issued in the course of March 2020.

The government has banned entry into the territory of the Czech Republic for all foreign nationals, with the following exceptions:

- foreign nationals with a temporary residence permit for more than 90 days or a permanent residence permit or underage children of citizens of the Czech Republic, who were abroad at the time of issue of the travel ban;
 - EU nationals and foreign citizens with an EU residence visa who must pass through the Czech Republic to get home and have received a pass permit for that purpose issued by the embassy;
 - EU nationals who are married to citizens of the Czech Republic;
 - cross-border workers who cross borders with Germany or Austria for the purpose of performing work for a period exceeding 21 days, given that at least 14 days have passed from the last entry into the Czech Republic;
 - cross-border workers in healthcare, social services, and the integrated emergency system, who regularly cross borders with Germany, Austria, Poland, or Slovakia for the purpose of performance of work;
 - cross-border workers who regularly cross borders with Poland or Slovakia;
 - workers in transnational transport;
 - service workers of critical infrastructure;
 - diplomats and officials of international organisations with a place of residence in the Czech Republic;
 - other extraordinary situations.
- Czech citizens can still enter the territory of the Czech Republic.
- The government has furthermore issued a ban on leaving the territory of the Czech Republic with the following exceptions:
- foreign nationals who wish to travel outside the Czech Republic (one-way travel);
 - citizens of the Czech Republic who hold a residence permit in another country and wish to travel outside the Czech Republic (one-way travel);
 - cross-border workers who cross borders with Germany or Austria for the purpose of performance of work for a period longer than 21 days;
 - cross-border workers in healthcare, social services, and the integrated emergency system, who regularly cross borders with Germany, Austria, Poland, and Slovakia;
 - cross-border workers who regularly cross borders with Poland or Slovakia;

- workers in transnational transport;
- service workers of critical infrastructure;
- diplomats and officials of international organisations with a place of residence in the Czech Republic.

All persons entering the Czech Republic are required to notify their medical service provider of their entry into the Czech Republic. This provider is required to order a quarantine of 14 days for such individuals. Persons who are exempt from this obligation are subject to other obligations, such as restriction of free movement in the territory of the Czech Republic. They must also inform their medical service provider in case they develop symptoms.

1.1.4 Restrictions on provision of goods and services

The Resolution of the Government issued on 30 March 2020 as Resolution No. 348 and Annex No. 1 "Extraordinary Measure of The Ministry of Health" (published)

The Resolution is available [here](#) and [here](#).

With effect of 01 April 2020 (6:00) until 11 April 2020 (6:00), a ban on the retail sale of goods and the provision of services in establishments applies, with certain listed exceptions – such as the sale of groceries, sale of fuel, operation of pharmacies, sale of newspapers and magazines, sale of tobacco products, operation of flower shops, provision of funeral services, and others.

With effect of 01 April 2020 (6:00) until 11 April 2020 (6:00), restaurants/ cafeterias and other similar establishments are closed to the public. This does not apply to establishments that are not open to the public (such as company cafeterias, prison cafeterias, etc.). This also does not apply to sales outside of the actual establishment (e.g. fast food take-out windows).

With effect of 01 April 2020 (6:00) until 11 April 2020 (6:00), restaurants in shopping centres with a sale space exceeding 5 000 m² must remain closed.

With effect of 01 April 2020 (6:00) until 11 April 2020 (6:00), the operation of casinos, driving schools, taxi services, outdoor and indoor sport facilities, as well as self-service laundries and dry cleaners must remain closed.

With effect of 01 April 2020 (6:00) until 11 April 2020 (6:00), the provision of accommodation services is prohibited, with the exception of the provision of accommodation services to persons for the purposes of performing a profession, business or similar activities, and to foreign nationals for the period before they leave the Czech Republic and foreign nationals with a work visa for the territory of the Czech Republic.

1.1.5 General restrictions on the free movement of persons

The Resolution of the Government issued on 30 March 2020 as Resolution No. 348 and Annex No. 2 "Extraordinary Measure of The Ministry of Health"

The Resolution is available [here](#) and [here](#).

With effect of 01 April 2020 (6:00) until 11 April 2020 (6:00), the free movement of persons within the territory of the Czech Republic is prohibited with the following exceptions:

- travel to work and for the purpose of the performance of business and other similar activities;

- travel to visit family or close persons;
- travel undertaken to fulfil basic living needs (such as shopping for groceries, medicine and other medical goods, feed for animals, etc.), including the needs of family members and close persons, taking care of children and animals, use of necessary financial and postal services, purchase of fuels;
- travel to ensure the fulfilment of needs and the provision of services for other persons (e.g. volunteering, neighbourly help);
- travel to medical establishments and social services establishments (including accompanying family members and close persons), as well as veterinary establishments;
- travel to tend to urgent official matters (including the accompaniment of family members and close persons);
- performance of a profession or activity to ensure safety, order, or solution to a crisis, protection of health, provision of medical services or social care, including volunteering, individual spiritual care, operation of public transport and other infrastructure, provision of services for residents, including supply and distribution services, and veterinary care;
- stay in nature or parks;
- travel back to the place of residence;
- funerals.

With effect of 01 April 2020 (6:00) until 11 April 2020 (6:00), it is ordered that:

- persons staying in the territory of the Czech Republic are to restrict their movement in publicly accessible places to a strictly necessary duration and shall shelter in place (with the above listed exceptions);
- contact with other persons is to be restricted to a necessary minimum;
- persons may only move in publicly accessible places in groups of a maximum of 2 persons (with exceptions of family members, for the performance of a profession or business or other similar activity, funeral attendance) and to keep a distance from other persons of at least 2 metres, if possible.

1.1.6 Prohibition of free movement of persons not wearing respiratory protective equipment (of mouth and nose)

Extraordinary [measure](#) of the Ministry of Health of 30 March 2020, file No. MZDR 13894/2020-1/MIN/KAN

With effect of 31 March 2020, the Ministry of Health issued an order by which the movement and stay outside the place of residence is prohibited for all persons (including cross-border workers) not wearing protective face equipment (such as respirators, drapes, face masks, headscarves, etc.) to stop the spread of COVID-19. Exception applies for children under 2 years of age and drivers of vehicles if they drive alone.

This even applies to employees during their stay in the workplace. The employer shall supervise adherence to the obligation to wear protective face equipment (non-adherence is considered a breach of duty). The employer is generally, however, not required to provide employees with such equipment.

1.1.7 Employees in critical infrastructure

[Resolution](#) of the Government No. 140/2020 Coll. issued on 30 March 2020 as Resolution No. 332 (published)

With effect of 30 March 2020, the government has issued a ban for employees in critical infrastructure (such as critical energy infrastructure) to take leave, with exception of employees who are under quarantine.

The Resolution has further issued an order for employees in critical infrastructure to spend safety break times and rest periods (including breaks for food and rest) in places determined by their employer, with the exception of:

- travel to fulfil their basic needs;
- travel to medical facilities in case of urgent medical services to be provided to such employees;
- necessary travel to appointments with public authorities.
- The employer must be notified in advance of such travels.
- Employers providing critical infrastructure must adhere to the following obligations, such as:
 - ensure that all employees, who are ordered to stay in a place other than their residence, to shelter in a dignified accommodation free of charge and other necessary living conditions, including e.g. adequate contact with family and persons close to the employee;
 - ensure that employees perform their work with a specific respirator and that the employee does not use one such respirator for more than 8 hours a day;
 - ensure that the employee has minimal contact with other employees;
 - ensure that movement within the workplace is minimised;
 - ensure that employees can use rooms to rest and eat without the presence of other persons.

1.1.8 Ban of personal attendance in schools and other similar facilities

[Resolution](#) of the Government No. 74/2020 Coll. issued on 12 March 2020 as Resolution No. 201 (published)

On 12 March 2020, the government issued orders according to which the personal attendance of children, pupils, and students in schools and other educational facilities has been prohibited. This has led to the closure of the relevant facilities.

This clearly affects employees who are parents– if the employee has to take care of a child because the child care facility has been closed and he or she can therefore not perform work, there is an obstacle to work on the part of the employee without entitlement to compensation of his or her salary to be paid by the employer.

Some employees may, however, be entitled to the so-called carer's allowance (see below).

1.1.9 Student's work obligation

[Resolution](#) of the Government No. 79/2020 Coll. issued on 13 March 2020 as Resolution No. 207 (published)

[Resolution](#) of the Government No. 90/2020 Coll. issued on 15 March 2020 as

Resolution No. 220 (published)

On 13 March 2020, the government issued an order imposing the duty of work on students of secondary schools, higher professional schools and universities with specialisations in social services to ensure due provision of care in social services facilities during the period of the state of emergency in connection with the COVID-19 epidemic in the territory of the Czech Republic.

On 15 March 2020, the government issued an order imposing the duty of work on fifth and sixth year students studying "General medicine" in medical schools of public universities and last year students registered in programmes preparing them for certain professions (general practitioner, nurse, paediatric nurse, practical nurse, paramedic, etc.).

1.1.10 Certain measures relating to health assessment, medical examinations, and visas

[Resolution](#) of the Government No. 127/2020 Coll. issued on 23 March 2020 as Resolution No. 280 (published)

For the duration of the state of emergency, for employees whose employment relationship commences from the day of issuance of this measure, the following can be replaced by an affidavit:

- health cards;
- assessment of health capacity of a person applying for employment.

For the duration of the state of emergency, it is further no longer necessary to perform periodical medical exams of employees.

For the duration of the state of emergency, the validity of work permits and permissions and residence visas issued until the date of issuance of this measure to persons in employment relationships with employers or employment agencies is extended for a period of 60 days following the termination of the state of emergency, provided that they are valid on the date of issuance of this measure.

All of the above measures will be effective as of 1 April 2020, at the latest. This is an important/substantial development. The measures adopted by the government are meant to limit the risks arising in connection with COVID-19.

1.1.11 Carer's Allowance

[Act](#) No. 133/2020 Coll. on certain social security adjustments in connection with extraordinary measures during the 2020 epidemic has been adopted and published.

If an employee cannot ensure care for his or her child or other dependent person in any other way and must stay at home, there is an obstacle to work on the part of the employee – employees in that case are not entitled to any compensation of salary provided by the employer. They may, however, be entitled to the so-called carer's allowance.

Carer's allowance is a sickness insurance benefit provided by the Czech Social Security Administration (CSSA) in the amount of 60 per cent of the so-called reduced daily basis (calculated based on the employee's salary).

Until now, carer's allowance was provided by the state to employees who could not perform work due to having to take care of a child under the age of 10 years as a result of:

- schools and other similar facilities being closed based on a decision of the

competent authority;

- the child being under quarantine;
- a person previously taking care of the child being incapable of doing so due to an injury, illness, etc.

As of 27 March 2020, new rules apply for the duration of extraordinary measures. During this period, carer's allowance is also provided to employees who cannot perform work due to having to take care of:

- a child under the age of 13 years if school or similar facility is closed due to extraordinary measures;
- a dependent child (regardless of age) with a level of dependency of at least I (light dependency) if the school was closed due to extraordinary measures;
- person above the age of 10 years who is placed in a facility providing specific care to persons with a level of dependency of at least I (light dependency), if such facility was closed due to extraordinary measures.

The condition of common household must be fulfilled – the carer and the person being cared for must live in the same household and meet the costs of their needs together. The fulfilment of this condition is not required for parents and children.

Carer's allowance will be provided for the entire period of effect of the extraordinary measures adopted by the government. The allowance can be claimed retroactively and even when the carer's allowance was already used up prior to the Act's effect.

Two carers can rotate in terms of receiving the carer's allowance in accordance with their needs (rotation cannot, however, occur within the same calendar day).

After the end of the extraordinary measures, the rules for the provision of carer's allowance will revert back to the previous requirements.

The Act entered into effect on 27 March 2020.

1.1.12 State financial aid for employers

The Government of the Czech Republic adopted [Resolution](#) of 19 March 2020 No. 257 on a targeted programme to support employment, and [Resolution](#) of 23 March 2020 No.293 amending Resolution No. 257.

By means of the Resolutions above, the government has approved the so-called "Antivirus" programme. This programme is meant to support employment and to help employers overcome the COVID-19 crisis.

As regards state financial aid, the government has recently adopted a targeted programme to support employment and to help employers overcome the COVID-19 crisis, i.e. the so-called "Antivirus" programme.

Under the Antivirus programme, a state contribution is provided to employers who cannot allocate work to employees due to obstacles arising in connection with the COVID-19 crisis and have to provide compensation of salary to such employees. The contribution is provided under two schemes, depending on the character of the obstacle to work. These schemes are as follows:

- **Scheme A**

Scheme A applies in two cases:

- (i) where employees cannot perform work due to quarantine imposed in connection with the COVID-19 disease. For the first 14 days, the employer is required to pay such employees compensation of salary in the amount of 60

per cent of the employee's reduced average earnings.

(ii) when the employer cannot allocate work to employees due to obstacles relating to restrictions or the closure of operations in connection with the measures adopted within the scope of the COVID-19 crisis. The employer must provide affected employees with compensation of salary in the amount of 100 per cent of the employees' average earnings.

In both cases, the employer will be able to claim a state contribution covering 80 per cent of the salary compensation (including health and social security contributions) paid by the employer to employees. The upper limit for such a contribution per month for one employee is CZK 39 000 (i.e. approx. EUR 1 429).

- **Scheme B**

Scheme B applies in the following cases:

- (i) where the employer cannot allocate work to employees due to obstacles related to the absence of a significant number of employees who are either under quarantine or are taking care of a child in connection with the COVID-19 crisis – this applies in case at least 30 per cent of employees are absent for at least one day in the month for which the state contribution is claimed by the employer. The employer must provide affected employees with compensation of salary in the amount of 100 per cent of the employee's average earnings for the duration of the obstacle.
- (ii) where the employer cannot allocate work to employees due to obstacles related to the decrease in availability of inputs (raw materials, goods, and services) that are caused by the quarantine measures imposed on the suppliers of such inputs (or the general halt of production among such suppliers), including foreign suppliers – a causal link must be proven by the employer. The employer must provide affected employees with compensation of salary in the amount of 80 per cent of the employee's average earnings for the duration of the obstacle.
- (iii) where the employer cannot allocate work to employees due to obstacles related to a decrease in demand for their services caused by the quarantine measures of the government adopted for the areas of business of the employer (whether in the Czech Republic or abroad)

Under Scheme B, state contributions covering 60 per cent of salary compensation (including health and social security contributions) paid by the employer to employees due to the relevant obstacles would be provided. The upper limit for such contributions per month for one employee is CZK 29 000 (i.e. approx. EUR 1 062).

The list of measures may expand in the future – e.g. Scheme F has been discussed which considers supporting employers who do not close their operations and keep their business (at least partially) going, despite circumstances that adversely affect such operations.

These schemes only apply where there is a causal link between the circumstances adversely impacting the employer's operations and the COVID-19 pandemic and related measures of the government.

The above-mentioned contributions will be provided based on an agreement concluded between individual employers and the state (i.e. the Labour Office of the Czech Republic). Employers must submit a written application for the contribution. The Labour Office must conclude such agreements should all the requirements be met.

Please note that the antivirus programme may be subject to further modifications or



specifications by the government – the above presented information may therefore not be final.

The antivirus programme is only approved for March and April.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Denmark

Summary

(I) All non-essential public employees have been ordered to work from home, while private employers are encouraged to send their employees home to telework. Schools, universities, and places where close physical contact is unavoidable have been closed. Supermarkets and pharmacies remain open.

(II) Based on an emergency procedure, Parliament has adopted several acts and tripartite agreements on different measures that aim to mitigate the consequences of the COVID-19 crisis, especially redundancies. The measures include salary compensation to private employers, an online retraining course for some workers from home and extended reimbursement possibility with regard to sickness benefits paid by employers.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

1.1.1 General information

In response to the COVID-19 crisis, the Danish government has initiated a number of measures to be introduced as of 13 March 2020, initially for two weeks. The measures have been intensified in the meantime and extended until 13 April 2020.

All non-essential public employees have been ordered to work from home. The employees must work from home to the extent possible, and all public employees will be paid during the (initial) lockdown. This means that work that is not of a physical nature is still being performed. Danish society is already very digitalised, and all schools and universities, for example, continue to teach and educate to the same extent as before, just with the use of digital tools to interact and engage with students. All homes have access to digital devices and thus all school children and students are expected to continue their school work using digital devices. If the home does not own a digital device, schools provide devices on loan for free. All homes have good, fast and reliable internet connections, which also allows for several persons in each household to continue working online at the same time – school children, students and parents.

Private employers are strongly encouraged to allow their employees to work from home, to let them take time off in lieu or to take annual leave.

Society has been partially locked down, which includes the closure of schools, of public childcare services, universities, cultural institutions, restaurants, bars, cafes, dentists, shopping malls, hairdressers, etc. Public gatherings of more than 10 people are now prohibited. The courts have initiated an emergency service and all physical court hearings have, as a general rule, been postponed.

Following the introduction of the lockdown, the government adopted several help packages for Danish companies, self-employed persons and others. Acts have been adopted by use of an emergency procedure. The government has also negotiated large tripartite agreements with labour market associations to support companies and employees. The measures are discussed in detail in Section 2 below.

The lockdown has given rise to many employment and labour law-related questions. This is evident in the information flow. Law firms as well as employers' and employee associations issue newsletters on a daily basis. However, what is occasionally presented as facts are actually questions of interpretation. It follows from Danish

labour law principles that until the correct interpretation has been settled by a court or industrial arbitration, the employer's interpretation is given precedence.

One example is the question of whether an employer may send employees home without pay in case of lack of work as a result of force majeure. The concept of force majeure is not defined in Danish labour law, nor are the consequences for labour law contracts. This remains to be settled by judicial review in the specific cases, which will inevitably come before the courts. Another question is whether an employer may order employees to take his or her remaining holidays (*restferie*) without prior notification due to the extraordinary circumstances. Normally, an employee must notify the employer at least one month in advance if he or she plans to take remaining leave, unless special circumstances prevent such notification, cf. the Danish Holiday Act, section 15(2). Following the agreements on salary compensation, the question only remains relevant for employees who fall outside the scope of such agreements.

1.1.2 Salary compensation to workers

A Tripartite [Agreement](#) of 14 March 2020 concluded between the government, the Danish Confederation of Trade Unions (FH) and the Danish Employers' Confederation (DA), provides for a temporary state-funded salary compensation scheme for employers at risk of redundancies. The aim is to keep employees in their jobs and for them to be paid their salaries until the extraordinary situation on the labour market improves. The scheme will be in effect from 09 March to 09 June 2020.

The compensation scheme applies to all private companies that anticipate having to give notice of redundancy for at least 30 per cent of their work force or more than 50 employees.

For the employees at risk of redundancy, the state will pay 75 per cent of their monthly salary, with a maximum of DKK 30 000 (approx. EUR 4 000) for every full-time employee. For employees paid by the hour, state compensation will be 90 per cent, with a maximum of DKK 30 000. Companies must pay the remaining amount of the employee's salary. Companies may make use of the scheme for up to three months.

In return, the employee must take annual leave or time off in lieu of 5 days for the period of salary compensation. If the employee does not have five remaining days of leave or accrued time off in lieu, the employee must take leave without pay or can use leave from the new holiday year. The scheme does not conflict with Directive 2003/88/EC, as the Danish Holiday Act entitles employees to an additional week of holidays and the compensation agreement only applies to this 5-day /1 week additional holiday.

The scheme applies on condition that employees have been asked to work from home receiving their full salary, and that the company does not dismiss any workers on economic grounds during the salary compensation period.

Sources:

Act L 141 of 24 March 2020 is available [here](#).

The supplementing Agreement of 30 March 2020 is available [here](#).

1.1.3 Taking of holiday by public employees during the lockdown

Similar to the aforementioned agreement on salary compensation, a Tripartite [Agreement](#) was concluded on 27 March 2020 between the government and the public labour market parties. The agreement stipulates that all public employees who do not perform tasks in full or in part during the period 28 March – 13 April 2020 must take

any remaining annual leave they have (*restferie*) or take time off in lieu for up to five days. Employers decide locally which employees shall take annual leave or time off in lieu.

1.1.4 Suspension of employer paid periods of sick leave

Parliament has adopted an [Act](#) amending the rules on the employer's right to reimbursement for sick leave benefits for sick leave periods relating to the COVID-19 virus.

According to the existing rules, an employer shall pay the first 30 days of sick leave benefits to the employee and does not receive state-financed reimbursements for those initial 30 days of sick leave. If the employer pays employees their full salary during sick leave, the employer is entitled to receive sick leave reimbursements from day 31 onwards. The first 30 days of sick leave is an 'employer paid period' of sick leave.

The new Act entitles employers to reimbursement of sick leave benefits from day 1 of the employee's sick leave. The new Act in essence suspends the employer's period to pay the employee's sick leave.

The suspension only applies to COVID-19 related diseases. The new rules apply to employees who are on sick leave due to being infected by COVID-19, or who are quarantined due to suspicion of being infected with COVID-19, and who are not able to work from home.

For self-employed persons, the rules have similarly been amended. Self-employed persons cannot usually receive sickness benefits for the first two weeks of absence due to sickness. This period has also been suspended for absences relating to the COVID-19 virus. Self-employed persons may receive sickness benefits from day 1 onwards, if the sick leave or quarantine is due to COVID-19.

1.1.5 Supplementing unemployment insurance benefits

According to some collective agreements, companies can—in periods with a lack of work—choose to distribute the available work between employees rather than dismiss employees. This means that the working time (and salaries) of the employees are temporarily lower. This is called 'distribution of work scheme'. The collective agreements allow for this measure to be activated, if no employees are dismissed in that period. During the application of such a distribution of work scheme, the affected employees can receive supplementary unemployment benefits for days without work.

The existing rules under the Unemployment Insurance Act allows for employees who are temporarily unemployed part time to receive supplementary unemployment insurance benefits during the temporary period of part-time work. The distribution of work-scheme must be established under an industry-wide collective bargaining agreement applicable at the workplace, or must be in force at the company in accordance with a shop-level agreement. Furthermore, the municipal job centre must be notified of the distribution of work scheme one week in advance.

In response to the COVID-19 crisis, the government has decided to make access to funds in case of distribution of work schemes more flexible. Companies that choose to distribute work rather than dismiss employees may activate the scheme immediately upon notifying the job centre. Employees, whose work week decreases as a result of distribution of work scheme during the COVID-19 measures will be able to receive supplementary unemployment insurance benefits immediately.

Sources:

The Governmental Fact Sheet of 12 March 2020 is available [here](#).

Information by the Employment Ministry of 13 March 2020 is available [here](#).

1.1.6 Retraining of employees in the services, tourism, hotel and restaurant industry

To prevent redundancies in the services-, tourism-, hotel- and restaurant-industry, a new 30-day online retraining course has been [established](#). The course is [available](#) to employed skilled and unskilled workers during the COVID-19 crisis as an alternative to not working or being dismissed.

The 30-day online course is the result of a collaboration between the largest Danish trade union (United Federation of Workers (*3F*)), the Employers' Organisation for the restaurant, hotel and tourism industry (*Horesta*), and the Ministry of Employment. Courses in personal sales, online customer service, marketing and food hygiene are being offered, and a well-established online course centre, *Rybner*, is responsible for conducting the courses.

Whilst taking the 30-day course, employees are entitled to receive full salaries from their employer. Employers receive compensation (up to 100 per cent) for the salary expenses as either publicly financed benefits (*VEU-godtgørelse*) or as reimbursements from the labour market competency funds (*kompetencefonde*) established under the major collective agreements. Employers only pay the course fee for their employees.

1.1.7 More financial support to initiatives for redundant persons

The government has decided to increase the redundancy fund (*varslingspuljen*) by DKK 10 million (approx. EUR 1 340 000). The increase brings the available funds for 2020 up to DKK 16.3 million.

The purpose of the redundancy fund is to assist employees, who have been made redundant as part of collective redundancies, with targeted efforts. In case of a large-scale closing or redundancies, which are of vital significance to a local community, the Regional Labour Market Council, *det regionale arbejdsmarkedsråd*, may offer financial support to initiatives that support a targeted effort for the redundant employees. The funding for these initiatives are drawn from the redundancy fund.

The funds are available in case of collective redundancies, i.e. for workplaces with at least 20 employees, where at least 50 per cent of employees are terminated.

The Governmental Fact Sheet of 12 March 2020 is available [here](#).

1.1.8 Suspension of weekly rest time for drivers

To avoid a shortage of drivers due to the COVID-19 crisis, the rules on weekly rest periods for road transportation in the understanding of EU Regulation No. 561/2006 have been temporarily [suspended](#). The suspension currently expires on 11 April 2020.

Both the regular weekly rest time of at least 45 hours and the reduced weekly rest time of at least 24 hours have been suspended. The suspension applies to national road haulage transport. Other rules on driving and rest time must still be observed.

After the expiry of the temporary suspension, the normal weekly rest periods must again be observed. Weekly rest periods that have not been taken due to the suspension, do not have to be compensated after the expiry of the suspension.

1.1.9 Act on unemployment insurance adjustments during the COVID-19 crisis

Under the existing rules, employees who become unemployed can receive unemployment insurance benefits, if they are a member of an unemployment insurance fund (voluntary membership). Unemployment insurance benefits are primarily state funded, with minor contributions by employers.

Under the existing rules, unemployed persons, who have earned the full right to benefits, are entitled to unemployment benefits for up to 2 years (maximum 3 848 hours) within a period of 3 years (maximum period).

Parliament has decided to suspend the use of unemployment benefits during the COVID-19 crisis, as it will be nearly impossible for unemployed persons to find full employment due to the special circumstances on the labour market.

The [Act](#) suspends the use of unemployment benefit hours, as well as the period from 1 March to 31 May 2020. Effectively, this adds 3 months of benefits and 3 months to the period of entitlement to benefits.

The Act likewise suspends the use of supplementary unemployment insurance, which is usually limited to 30 weeks. This means that part-time unemployed persons (on part-time employment) can receive supplementary unemployment benefits for additional 3 months.

Under the existing rules, the employer must pay the unemployment benefit insurance for terminated employees the first two days of unemployment (g-days), as the employer has paid contributions to the state-funded system.

The Act amends the duty of employers to pay g-days until 31 May 2020. Employers have to pay g-days for employees who are part of a distribution of work scheme (see above), or who are on temporary leave without pay as specified in the rules established in a collective agreement. Temporary leave without pay and without observing the notice of termination is a measure that is provided in some collective agreements, allowing employers to temporarily send employees home without pay due to unforeseen circumstances, e.g. weather or lack of materials. In such situations, employment is not terminated, but the employees do not work and do not receive pay as a temporary measure until conditions have normalized, e.g. the weather improves, or materials begin to arrive. The amendment allows employers to send employees home without pay without, however, terminating their contract and without paying their g-days; instead, the employees are entitled to unemployment insurance from day 1 during their leave without pay, cf. the [preliminary works](#) to the amendment act.

The information of the Ministry of Labour on the proposal of the Act is available [here](#).

1.1.10 Small initiatives to ease the market situation

The period for entitlement to sick leave benefits from the local municipality has been extended by 3 months due to the COVID-19 crisis. Persons who receive sick leave benefits are automatically extended by 3 months if their right to sick leave benefits would have expired in the period from 09 March to 09 June 2020.

Sources:

The Act amending the Act on Sick Leave Benefits is available [here](#).

Information by the Ministry of Labour is available [here](#).

The payment of premiums for sick leave benefit insurance for self-employed persons has been suspended for 3 months. Self-employed persons can take out a voluntary sick leave insurance, which allows them to receive reimbursement of sick leave

benefits from days 1 or 3, rather than from day 15. Annual premiums are collected in March, but the collection of premiums has been suspended until the end of July. The payment of premiums has been suspended during the COVID-19 crisis as a measure of assistance to not drain small enterprises of capital.

Sources:

The Amendment of Executive Order on Sick Leave Benefit Insurance for Self-employed Persons is available [here](#).

Information by the Ministry of Labour is available [here](#).

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

2.1 TV surveillance of employees

Supreme Court, BS-27412/2019, 2 March 2020

TV surveillance of employees results in compensation for pain and suffering

The question before the Supreme Court was whether an employee had been subject to unlawful TV surveillance at the work place, and if so, whether she was entitled to compensation for pain and suffering according to the Danish Liability for Damages [Act](#), section 26(1).

The Supreme Court [found](#) that the employer had not presented fair or proportionate reasons for applying TV surveillance to the employee, and found that the surveillance had thus been a breach of both the managerial prerogative of the employer and of the Danish Personal Data Act then in force.

The Supreme Court stated that a breach of the aforementioned rules would not in itself result in a claim for compensation for pain and suffering. It depends on an individual assessment of the specific case whether the unlawfulness leads to compensation.

TV surveillance had, to a wide extent, been used for ongoing control of the employee in the execution of her work. The Supreme Court found that she had rightfully felt as though she were under constant surveillance and that this had resulted in great emotional stress.

The unlawful TV surveillance entailed the required level of severity and had infringed on the employee's self-esteem and dignity. Thus, the employee was awarded DKK 20 000 (approx. EUR 2 700) in compensation for pain and suffering.

The ruling concerns a breach of the Danish Personal Data Act. The Act was replaced by the General Data Protection [Regulation](#) (GDPR) on 25 May 2018. Even though the GDPR was not applicable in this ruling, the ruling must be regarded as informative as to how similar breaches would be assessed under the GDPR rules.

The ruling is in line with existing national case law, e.g. the Danish Maritime and Commercial Court [ruling](#) of 06 December 2007 (*matas-dommen*), where an employee was similarly awarded compensation in the amount of DKK 25 000 for an employer's unlawful video surveillance of the employee whilst performing her work.



3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Estonia

Summary

Since 13 March 2020, the Estonian government has declared a state of emergency. To support employers, the Estonian government has approved wage subsidy programmes.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

Since 13 March 2020, the Estonian government has declared a state of emergency.

Although there is no total ban of movement inside Estonia, movement across the state border has been limited. The shopping centres have been closed. Public meetings have been banned. In case there is an urgent need to travel, the 2 plus 2 rule applies: only two persons can be in a group, the distance between them must be at least two metres. The main requirement for all Estonian residents is to stay at home and to not leave home unless there is a specific need to do so.

The Estonian government has not introduced any specific measure relating to labour law. The labour law rules have not been modified. No specific new rules were introduced.

Where possible, telework is encouraged. This also concerns e.g. universities, where all study activities have been carried out using different platforms and distance teaching methods.

Companies are using four different options:

- To reduce wages. According to the Estonian Employments Contracts Act, in situations of emergency, an employer can unilaterally reduce wages for a maximum period of three months during a 12-month period. The wage cannot be lower than the monthly minimum wage (currently, EUR 584 per month);
- Employees have been requested to take leave without pay;
- Employees have been suspended from work and the average wage of the suspended worker will be guaranteed;
- Employees will be dismissed due to redundancy (on an individual or collective basis).

The government has adopted special measures for employers to compensate the possible losses due to COVID-19, the so-called **temporary subsidy programme**.

Temporary subsidies will be paid to those employees whose employers have been significantly impacted by the current extraordinary circumstances. The subsidy will grant an income for those employees and help employers deal with temporary difficulties without having to lay off their staff or declare bankruptcy.

The subsidy is paid when an employer's situation complies with at least two of the following terms:

- The employer must have suffered a drop of at least 30 per cent in turnover or revenue in the month for which the subsidy is being applied for compared to the same month last year;
- The employer is not able to provide at least 30 per cent of its employees with work;



- The employer has cut the wages by at least 30 per cent or down to the minimum wage.

The employer must meet the conditions during the calendar month it requests the subsidy. The employee must have an employment contract with the employer.

Both private and state organisations are eligible for the subsidies, independent of the size of the organisation.

Subsidies will be paid to employees whose employers are not able to provide them with work or whose wages have been reduced.

The amount of the subsidy will be 70 per cent of the employee's average monthly. The maximum amount of the subsidy is EUR 1 000. In addition, the employer must pay a wage of at least EUR 150 to the employee.

The employee will receive at least the minimum wage of EUR 584 from the Unemployment Insurance Fund and their employer, collectively. In case the employee has received less than the minimum wage due to working part time, his or her income will remain the same as before.

Any employee's wage can be subsidised for up to two months during a 3-month period.

The Unemployment Insurance Fund will pay social security, unemployment insurance tax and mandatory pension funds, and income tax on the subsidy; the employer will pay the aforementioned taxes on the employee's wages.

The employer will apply for the temporary subsidy, but it will be paid directly to the employees. The period between March to May 2020 can be subsidised, the employer can apply for 2 months of a single employee's wage to be subsidised during that period.

The employer will send a separate application to the Unemployment Insurance Fund every month, after having paid the employees' wages. If the employer terminates the contract with the employee due to redundancy in the course of the same or following calendar month if they have received the temporary subsidy, the subsidy must be returned to the Unemployment Insurance Fund.

The application for the subsidy will be available in 'e-töötukassa' (electronic platform of the Unemployment Insurance Fund) in April, the exact date and specifications will be provided as soon as possible.

To apply for the subsidy, the employer will send an application to the Estonian Unemployment Insurance Fund for each calendar month separately. The terms that the employer complies with may differ for different months, but two out of three terms must be met, in any case.

The possibility to apply for a temporary subsidy will be open on 06 April 2020.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.



3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Finland

Summary

(I) The government has issued two bills on temporal amendments to employment legislation and one bill on pensions of the staff of the Bank of Finland.

(II) The Emergency Powers Act has entered into force, enabling derogations to employment legislation.

(III) The Labour Court has issued rulings on a strike, an interpretation of a collective agreement and standby time.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

1.1.1 Restriction of dismissal protection

The government has proposed ([Government Bill HE 26/2020 vp](#) of 26 March 2020) the Employment Contracts Act (55/2001), the Seafarers' Employment Contracts Act (756/2011) and the Act on Cooperation within Undertakings (334/2007) to be temporarily amended due to the current situation (the COVID-19 pandemic). The notice period preceding the layoff of employees is reduced from 14 days to 5 days. The duration of negotiations between social partners on layoffs has been reduced from 6 weeks or 14 days to 5 days. Additionally, the employer has the right to lay off employees with fixed-term contracts in a similar fashion as with permanent employees. Terminations of employment contracts during the probation period would be possible on financial and production-related grounds – normally, this is only possible on grounds related to the employee's person.

The purpose of the amendment is to enable employers to adjust more flexibly to potentially sudden and drastic decreases in demand for products and services.

The amendment shall enter into force at the earliest possible time and will remain in force until 30 June 2020.

1.1.2 Amendment of Unemployment Benefits Act

The government has proposed ([Government Bill HE 27/2020 vp](#) of 26 March 2020) a temporary amendment of the Unemployment Benefits Act (1290/2002). The right of an employee who has been laid off to receive unemployment benefits would require—in accordance with the current situation—for the employee to register as a job applicant with the Employment and the Economy Office and to obtain a statement supporting his or her entitlement to receive the benefit.

Receipt of this benefit would not be restricted if the employee is pursuing entrepreneurship or studies.

The obligation to accept employment offered by the employer remains.

The purpose of the proposal is to support the guarantee of livelihood and the functioning of the unemployment benefits scheme.

The amendment shall enter into force on 01 April 2020 and apply until 31 July 2020. The amendment shall apply to employees who were laid off on or after 16 March 2020.

1.1.4 Enforcement of Emergency Powers Act

Due to the current situation of the COVID-19 pandemic, the Finnish government has proposed enforcement of the [Emergency Powers Act](#) (1552/2011) Sections 86, 87, 88, 93-95 and 109 on 17 March 2020. No translation of the Act is currently available. The Finnish Parliament passed the proposal, and the selected sections of the Act entered into force on 18 March 2020.

Section 86 of the Emergency Powers Act authorises the Ministry of Social Affairs and Health and the regional state administrative agencies to decide on the operations of the social welfare and health care units. Section 87 authorises the introduction of nationwide restrictions of sales of medicine and health care products and services. Section 88 allows the temporal termination of public non-urgent medical care, social services and day care. Section 109 allows the exceptional organisation or temporal termination of public education.

Sections 93, 94 and 95 enable derogations from Finnish labour laws.

Section 93 allows for derogations from contracts of employment of health care, social service, Emergency Response Centre and emergency services employees as well as the police. The regulations on rest time and overtime in the Working Hours Act (872/2019) may be temporarily modified. The regulations of the Annual Holidays Act (272/1973) may be derogated from as well.

Section 94 restricts the right to terminate the employment relationships of health care, social service, Emergency Response Centre and emergency services employees. If deemed necessary for national health care purposes, minimum livelihood or security, the employer has no right to terminate the contract of employment. The employee's period of notice must be at least one month longer than it is according to the relevant collective agreement, however, may not exceed 6 months.

According to Section 95, all citizens aged between 18-68 who are either employed in the health care sector or have received an education in health care, may be required to work. This obligation may be imposed for a maximum of 2 weeks and may be renewed once.

The Emergency Powers Act shall remain in force until 13 April 2020, unless otherwise issued.

1.2 Other Legislative Developments

2.1.1 Public pensions

The government has proposed (Government Bill HE 28/2020 vp of 26 March 2020) amendments to the Public Sector Pensions Act (82/2016), the Act on Civil Servants of the Bank of Finland (1166/1998) and the Act on Keva (66/2016). Keva is the institution for public sector earnings-related pensions in Finland. Amendments to eight other acts were proposed as well. It is proposed to transfer responsibility for the enforcement of pensions of employees of the Bank of Finland to Keva. The enforcement of pensions is currently being carried out by a private service provider.

According to the proposed transfer, the pension protection of employees of the Bank of Finland would be regulated by the Public Sector Pensions Act instead of the Pension Provisions of the Bank of Finland. The transfer would not affect the funding of the pensions nor the pension benefits.

The amendment shall enter into force on 01 January 2021.

2 Court Rulings

2.1 Right to strike

Labour Court, No. TT 2020:26, 05 March 2020

After layoffs followed by negotiations between the social partners, the employees of an undertaking went on a strike. The local employee representative failed to prevent the strike. The Court [found](#) that the strike had been organised during a period of industrial peace and had targeted the employer's right to instruction as established in the applicable collective agreement. The local representative was sentenced to a compensatory fine due to its failure to execute its supervisory obligation.

2.2 Wage

Labour Court, No. TT 2020:28, 10 March 2020

The plaintiff claimed that according to the Agreement on International Passenger Ships Article 6.1, the employer should pay a daily wage of 1/30 of the monthly wage, as determined in the collective agreement, regardless of the actual working hours of that day. The Court [dismissed](#) the claim.

In addition, the plaintiff claimed that according to Article 6.1, the employer was to pay the employee a full daily wage according to a wage category that was higher than that of the employee's, should part of the employee's tasks that day be in a higher wage category. The Court ruled that the collective agreement did not regulate this question, and the acceptance of the plaintiff's claim would have required amendments to the collective agreement. On that basis, the Court dismissed the second claim as well.

2.3 Working time

Labour Court, No. TT 2020:30, 17 March 2020

The Court assessed whether the standby time of emergency medical technicians should be considered working time. The Court [found](#) that emergency medical technicians were tied to their work and that they had to remain at their place of work during standby time indicating that this standby time should be considered working time.

2.4 Working time

Labour Court, No. TT 2020:31, 19 March 2020

Similar to the ruling of 2020:30, the Court assessed whether standby time should be considered working time. During their standby time, the fire fighters were required to be at the fire station within 5 minutes after receiving the call. The Court [found](#) that the time of 5 minutes was so short that it did not leave the employees a de facto possibility to leave the workplace or its immediate surroundings. The requirement to arrive at the workplace within 5 minutes substantially restricted the employees' use of their free time. The fire fighters were thus considered to be tied to their workplace similarly as during their actual working hours. The Court concluded that the standby time should therefore be considered working time.

3 Implications of CJEU Rulings and ECHR

Nothing to report.



4 Other relevant information

Nothing to report.

France

Summary

(I) To address the economic, financial and social consequences of the spread of the COVID-19 virus and the consequences of the measures taken to limit that spread, France has adopted multiple labour measures in response to the COVID-19 crisis.

(II) The Court of Cassation has ruled on a reclassification, termination and incapacity.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

To address the economic, financial and social consequences of the spread of the COVID-19 virus and the consequences of the measures taken to limit that spread, Article 11 of Law No. 2020-290 of 23 March 2020 allows the government to legislate by ordinance, for three months from the publication of this law, on measures that may come into force, if necessary, as of 12 March 2020.

Thus, several ordinances have been issued pursuant to Article 11 of Law No. 2020-290:

- [Ordinance](#) No. 2020-346 of 27 March 2020 (JO 28 March) on emergency measures for partial activity;
- [Ordinance](#) No. 2020-323 of 25 March 2020 (JO 26 March) on emergency measures with regard to paid annual leave, working hours and rest days;
- [Ordinance](#) No. 2020-322, 25 March 2020 (JO 26 March), temporarily adapting the terms and conditions of allocation of additional indemnity provided for in Article L. 1226-1 of the French Labour Code and modifying, on an exceptional basis, the deadlines and terms and conditions of payment of the sums paid as optional profit sharing and incentive schemes
- **Partial activity (“activité partielle”)**

The conditions for implementation of partial activity, a mechanism that allows the reduction or temporary suspension of a company's activity, have been simplified so all companies whose activity has been reduced as a result of the COVID-19 crisis and those subject to a closure obligation are eligible for the partial activity scheme.

According to Article 11 of the Law of 23 March 2020, the aim is to limit the termination of employment contracts and reduce the effects of the decline in activity, by facilitating and strengthening the use of partial activity for all companies, regardless of size.

Decree No. 2020-290 of 25 March 2020 (JO March 26) followed by Ordinance No. 2020-346 of 27 March 2020 implement the government's announcements on partial activity:

- **Authorisation of the Administration**

Normally, in accordance with the provisions of [Article R. 5122-2](#) of the French Labour Code, before requesting employees to only work partially, the employer must send a prior request for authorisation for partial activity to the Regional Directorate for Companies, Fair Trading, Consumer Affairs, Labour and Employment (DIRECCTE) of the region in which the establishment is located.

The application must provide:

- the reasons for the use of partial unemployment,
- the foreseeable period of partial activity, and
- the number of employees concerned.

The prior opinion of the CSE must be attached to the application.

By derogation, the employer is authorised to submit such an application after the employees have been requested to work part time, with retroactive effect, in the following two cases:

- partial activity due to an accident or inclement weather of an exceptional nature;
- from now on, partial activity due to any other exceptional circumstances, such as the COVID-19 crisis.

The employer may resort to the partial activity scheme in one of the following cases:

- if the business is affected by orders providing for the closure of the company;
- if the business faces a drop in activity and/or disruptions in supply;
- if it is impossible for the employer to implement the preventive measures necessary to protect the health of employees (teleworking, setting up of barriers to implement social distancing, etc.) for all employees.

The employer has a period of 30 days from the date on which the employees begin working part time to send the request to the regional office, by any means, providing a precise date of receipt ([Article R.5122-3](#) of the Labour Code).

For its part, the labour administration has a period of two days instead of 15 from the date of receipt of the request to grant or reject the authorisation. Failure to reply within this period shall be deemed to constitute implicit acceptance of the request.

This two-day period is only provided in exceptional cases and only applies to requests made up to 31 December 2020.

- **Prior information and consultation of the Social and Economic Committee**

Implementation of partial activity requires prior information and consultation of the Social and Economic Committee (hereinafter CSE).

However, if the introduction of the partial activity is the result of an exceptional circumstance, the opinion of the Social and Economic Committee can now be obtained *after* the request for authorisation from the regional office has been submitted. In other words, the CSE can be consulted after the partial activity has been introduced.

In this case, the employer must submit the staff representatives' opinion within a period of no more than two months from the request ([Article R. 5122-2](#) of the Labour Code).

Companies without staff representatives must inform their employees directly of their intention to introduce partial activity.

- **Employees and fixed annual working time in days and in hours**

Employees whose working hours are fixed over the year by means of a fixed annual working time in a days or hours agreement were excluded from the partial activity scheme in the event of a reduction in working hours within the company. Such employees would only benefit from the partial activity scheme in the event of the company's total closure.

They are now entitled to the partial activity allowance in the event of a reduction in working hours ([Article R. 5122-8](#) of the Labour Code).

- **Amount of partial activity allowance (*'indemnité d'activité partielle'*)**

The partial activity allowance paid to employees whose activity has been interrupted does not change. Regardless of the size of the company, employees who suffer a loss of remuneration from an allowance paid by the employer equal to at least 70 per cent of their previous gross remuneration.

A branch or company agreement or a unilateral decision of the employer may provide for a more favourable level of compensation. The hourly rate of allowance may not be less than EUR 8.03. However, this minimum is not applicable to employees under an apprenticeship or professionalisation contract (Articles R. 5122-12 and R. 5122-13 of the Labour Code).

- **Allowance paid to the employer**

An employer who has compensated the employees can benefit from an allowance that is co-financed by the state and UNEDIC (i.e. unemployment authorities).

The employer must formulate a request instructed by the DIRECCTE and paid by the Service and Payment Agency (*'l'agence de services et de paiement – ASP'*).

- **Paid annual leave (*'congés payés'*)**

Ordinance No. 2020-323, 25 March 2020 (JO 26 March)

The employer may exceptionally be allowed to unilaterally impose the taking of paid annual leave for a limit of six days.

This possibility requires the conclusion of a company agreement or, failing that, a branch agreement.

The collective agreement must specify the conditions under which the employer is authorised to unilaterally impose the taking of paid annual leave, for a limit of six days, and the leave request period of at least one full day.

The collective agreement can reduce the number of days of paid annual leave concerned and/or increase the necessary leave request period.

The branch or company agreement may furthermore authorise the employer to:

- divide paid annual leave, without being required to obtain the employee's agreement;
- set the dates of paid annual leave without being required to grant simultaneous leave to spouses or partners of PACS (i.e. partners of a pact of civil solidarity) working in the company.

The period of paid annual leave imposed or modified by the employer may not extend beyond 31 December 2020. Nevertheless, the employer may impose the taking of paid annual leave accrued before the beginning of the period during which the leave is usually intended to be taken.

- **Reduction of working time (RTT)**

Ordinance No. 2020-323, 25 March 2020 (JO 26 March)

Leave related to the reduction of working time arrangements can also be unilaterally imposed or modified by the employer for a limit of 10 days, if justified by company interests with regard to economic difficulties they face due to the COVID-19 crisis.

The employer may:

- impose the taking of RTT days earned by the employee on dates unilaterally determined by the employer;

- unilaterally modify the dates on which rest days are to be taken by the employee;
- decide on the dates of rest days provided for in a flat-rate agreement;
- unilaterally change the dates of rest days provided for in a flat-rate agreement;
- require the entitlements assigned to the employee's time savings account (*compte épargne-temps* – CET) to be used to take rest days, with the employee determining the dates.

The employer must respect a notification period of at least one full day.

Finally, the period imposed or modified to take rest days may not extend beyond 31 December 2020.

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Employee representatives

Ordinance No. 2020-323, 25 March 2020 (JO 26 March)

In accordance with the Law of 23 March 2020, the government may, by means of an ordinance, "*modify the procedures for informing and consulting employee representative bodies, in particular the Social and Economic Committee (CSE), to enable them to issue the required opinions within the time limits set*".

The purpose of this measure is to facilitate the use of dematerialised consultation of the CSE.

For the committee to be able to meet by videoconference, an agreement between the employer and the elected members of the committee's staff representatives is required, and in the absence of such an agreement, this is possibly limited to three meetings per calendar year. This issue will therefore be amended by ordinance, so that meetings can be held within the required time limits despite this exceptional situation.

The government is also authorised to "*suspend the electoral processes of the Social and Economic Committees in progress*". Negotiations on the pre-election agreement (*protocole d'accord préélectoral*) or ongoing elections may thus be suspended under the conditions laid down by ordinance.

- **Derogation regarding working time and rest periods in certain sectors**

Ordinance No. 2020-323, 25 March 2020 (JO 26 March)

The Ordinance also provides for the possibility to derogate from maximum working hours and mandatory rest periods in certain sectors.

The companies concerned are those covered by the "*sectors of activity that are essential for the security of the nation and the continuity of economic and social life*", and which must be determined by decree. These are usually energy, telecommunications, logistics, transport, agriculture and food processing.

By exception:

- the maximum daily working time of 10 hours pursuant to [Article L.3121-18](#) of the Labour Code may be extended to 12 hours;
- the maximum night working time of 8 hours in accordance with [Article L.3122-6](#) of the Labour Code may be extended to 12 hours, under the condition of granting a compensatory rest period equal to the number of hours exceeding 8 hours;
- the daily rest period may be reduced to 9 consecutive hours instead of 11 hours provided by [Article L.3131-1](#) of the Labour Code, under the condition of

granting a compensatory rest equal to the length of the rest period from which the employee was unable to benefit;

- the maximum weekly rest period of 48 hours pursuant to [Article L.3121-20](#) of the Labour Code, may be extended to 60 hours;
- the weekly working time of 44 hours calculated over a period of 12 consecutive weeks according to [Article L.3121-22](#) of the Labour Code, or over a period of 12 months for some companies (for farms, companies, establishments and employers mentioned in sections 1 to 4 of [Article L. 722-1](#) and in sections 2, 3 and 6 of [Article L. 722-20](#) of the Rural and Maritime Fishing Code and engage in an agricultural production activity), may be extended to 48 hours;
- the weekly working time of night workers set to 40 hours by [Article L.3122-7](#) of the Labour Code and calculated over a period of 12 consecutive weeks, may be extended to 44 hours.

For each of the sectors of activity concerned, a decree must specify the categories of derogations allowed and, within the limits mentioned above, the maximum working time or minimum rest period that may be determined by the employer.

The employer seeking to use one of these derogations must inform the Social and Economic Committee and the Direccte without delay and by any means.

Some employers may also derogate from Sunday rest established in [Article L.3132-3](#) of the Labour Code by allocating the weekly rest period in rotation. The sectors concerned will be defined by decree.

All the derogations on maximum working hours and rest periods will cease to have effect on 31 December 2020.

- **Arrangements for the coverage of sick leave**

Ordinance No. 2020-322, 25 March 2020 (JO 26 March)

- **Temporary suspension of the waiting period**

The waiting period provided for in the event of sick leave is temporarily suspended.

Thus, health insurance cash benefits are paid from the first day of sick leave, for all leaves starting from the date of publication of the Law of 23 March 2020 (24 March), until the end of the state of the health emergency (as of today, the emergency has been declared for two months from 24 March, and applies to the entire national territory).

- **Simplified eligibility for complementary allowance in case of sick leave**

The conditions for benefiting from any allowance paid by the employer in the event of sick leave that is paid in addition to the daily allowance paid by the social security have been simplified.

Until 31 August 2020, the one-year length of service condition required, in principle, to benefit from this additional allowance has been suspended.

Moreover, the benefit of the supplementary allowance has been extended to certain categories of employees who are in principle excluded, such as employees working from home, seasonal employees, intermittent employees and temporary employees.

A decree may adjust the terms and conditions of payment of this benefit.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

2.1 Reclassification

Labour Division (Chambre sociale) of the Court of Cassation, No.19-13.316, 4 March 2020

A platform worker, bound by a contract to Uber, had worked as a driver using Uber's digital platform since 12 October 2016, after leasing a vehicle from an Uber partner and registering with the SIRENE registry as an independent contractor, listed under the activity passenger transport by taxi. Uber permanently deactivated his account on the platform as of April 2017.

The worker filed a claim before the Labour Court to obtain the reclassification of his contractual relations with Uber as an employment contract, and lodged claims for retroactive salary payments and termination indemnities.

Pursuant to Article L.8221-6 of the French Labour [Code](#), natural persons, when conducting operations requiring registration in the registers or repertoires listed in this Article, are presumed to not be bound to the principal by an employment contract. Nevertheless, the existence of an employment contract may be established in cases where said persons provide services under terms and conditions placing them in a relationship of permanent legal subordination towards the principal.

In accordance with the established case law of the Court (Soc., 13 Nov. 1996, [n° 94-13187](#)), the relationship of legal subordination is characterised by the performance of a job under the authority of an employer who has the power to give orders and instructions, to monitor performance thereof, and to sanction the subordinate for any breaches.

In accordance with the aforementioned case law, working within an organised service may constitute an indication of subordination in cases where the employer unilaterally determines the terms and conditions of performing the job.

In addition, the existence of a salaried employment relationship depends neither on the will expressed by the parties nor on the name they have given to their agreement, but on the de facto conditions under which the professional activity is carried out (Cass. soc. 17-April 1991 [n°88-40.121](#), Cass. soc. 19 December 2000 [n°98-40.572](#), Cass. soc. 9 May 2001 [n°98-46.158](#)).

In the present case, the Labour Chamber of the Court de Cassation approved the Paris Court of Appeal's decision that the relationship between the former driver and the Uber platform was one of subordination. In this decision, the Court of Cassation relied on a number of elements retained by the Court of Appeal. The judges [found](#) that;

- a driver who uses the Uber application does not have his or her own clients, does not freely set his or her rates and does not determine the conditions of performance of his or her transport service, which are unilaterally defined by the Uber company;
- the tariffs were contractually fixed by the platform's algorithms by means of a predictive mechanism imposing a particular route on the driver of which he or she had no choice and for which tariff corrections were applied if he or she followed a different route;
- in addition, the driver could be temporarily disconnected from the application after three or more refusals to take passengers and lose access to his or her account if a given cancellation rate was exceeded or lose access to the application if users reported "problematic behaviour";

All of these elements showed that the Uber company had issued instructions to the driver, monitored his performance and exercised its power to sanction his conduct. Consequently, there was a relationship of subordination, and therefore, an employment contract existed between the platform worker and the company. The complainant's self-employed status was considered "*fictional*".

Court cases have involved platform workers claiming status of employee in order to benefit from the protected status of employees.

Indeed, in a judgment [dated](#) 28 November 2018, the Labour Chamber of the Court of Cassation ruled for the first time on the characteristics of the relationship between a delivery driver and a digital platform.

In that case, a rider had filed a claim before the Court to obtain a reclassification of his relationship with Take Eat Easy into an employment contract. The Court of Appeal rejected the claim on the grounds that there were no exclusivity or non-competition obligations, and the rider could determine his own working hours, or even decide not to work. The question as to the existence of an employment relationship between the rider and the platform was therefore brought before the Court of Cassation.

The Labour Chamber of the Court of Cassation noted from the findings of the trial judges that "*the app included a geo-tracking system which enabled the company to monitor the delivery rider's position in real time and to record the total number of kilometres travelled*", which likely characterised a power of direction and control by Take Eat Easy.

In addition, the company held disciplinary power over the delivery rider through a bonus/malus system applied by the platform if the worker failed to fulfil his/her contractual obligations, and gave the rider instructions. The Court of Cassation granted the status of employee to the former delivery driver.

By listing the elements that can be used to characterise a relationship of subordination, the 2020 ruling has considerable significance for all platform workers. Many workers linked to such platforms under the same conditions could rely on this decision to request the reclassification of their contractual relationship.

2.2 Illegal subcontracting of labour

Labour Division (Chambre sociale) of the Court of Cassation, No. 18-10.636, 4 March 2020

In the present [case](#), a company operating a hotel chose to outsource the cleaning activity to a company specialised in the cleaning of luxury hotels and palaces, with and had specific knowledge in this field.

The question was whether a hotel can outsource cleaning services without this being an illegal form of subcontracting of labour or illegal loan of workforce.

Illegally subcontracting labour ("*marchandage*"), defined as any profit-making operation to supply labour with the effect of causing harm to the employee or avoiding the application of legal or conventional provisions, is prohibited ([Article L. 8231-1](#) and seq. of the Labour Code).

The same applies to the illegal loan of workforce ("*prêt de main d'oeuvre illicite*"), which is a profit-making operation whose sole purpose is the loan of workforce ([Article L. 8241-1](#) and seq. of the Labour Code). The illegal loan of workforce refers to situations where the purpose of the agreement is the loan of workforce in return for payment to carry out a permanent task of the user company without the transmission of know-how or the implementation of technical skills specific to the lending company.

For the Court of Cassation, the fact that a luxury hotel outsources the cleaning of its rooms and public places, an activity which is, in principle, part of its normal activity, does not necessarily characterise one or the other of these offences.

In the present case, the Court of Cassation agreed with the Court of Appeal which had rejected the characterisation of illegal subcontracting of labour and illegal loan of workforce claimed by the employee of the lending company and claimed the existence of a subordinate relationship with the hotel company.

The trial judges found that the service provider had "specific skills" in the cleaning of luxury hotels and palaces. They also noted that the contract for the provision of services provided for "*the intervention of qualified staff, the permanent supervision of such staff by the service provider, the supply by the latter of the necessary products and equipment and its assumption of all the obligations of the employer*".

Therefore, there was no evidence of the existence of a relationship of subordination between the employee and the hotel company.

«Mais attendu qu'ayant relevé que la S. avait choisi de confier l'activité de nettoyage à la société F., spécialisée dans l'activité de nettoyage des hôtels de luxe et palaces et ayant un savoir-faire spécifique dans ce domaine, aux termes d'un contrat de prestations de service prévoyant que la prestataire s'engageait à fournir et exécuter les prestations de nettoyage des chambres et des lieux publics de l'hôtel par un personnel qualifié, en fournissant les produits et le matériel nécessaires, que le contrat précisait que le prestataire assurait une permanence d'encadrement et assumait l'entière responsabilité du recrutement et de l'administration de son personnel, ainsi que de manière générale, de toutes les obligations qui lui incombaient en qualité d'employeur et constaté qu'aucune pièce ne démontrait la réalité de l'existence d'un lien de subordination entre la salariée et la S., la cour d'appel, qui n'était pas tenue de procéder à des recherches que ses constatations rendaient inopérantes ou qui ne lui étaient pas demandées, a, par ces seuls motifs, légalement justifié sa décision».

2.3 Termination

Labour Division (Chambre sociale) of the Court of Cassation, No. 18-19.189, 4 March 2020

In the present [case](#), a pregnant employee was fired for rejecting a proposal for internal mobility formulated within the framework of an internal mobility agreement.

Contesting her dismissal, she brought an action before the Labour Court.

Internal mobility agreements were a mechanism that enabled the employer to enter into negotiations on the conditions of professional or geographical mobility within the company in the context of collective organisational measures without a workforce reduction project. The provisions of such an agreement applied directly to the employment contracts of the employees concerned, who, in the event of rejection, could be dismissed for economic reasons (Articles L. 2242-17 to L. 2242-19 of the Labour Code).

Under the terms of Article L. 1225-4 of the Labour Code, as it drafted prior to the amendment resulting from Law [n°2016-1088](#) of 08 August 2016, no employer can terminate the employment contract of an employee who is medically confirmed to be pregnant and during all periods of suspension of the employment contract to which she is entitled under maternity leave, whether or not she makes use of this right, as well as during the four weeks following the expiry of these periods.

The employer may only terminate the contract by proving that the employee concerned is guilty of serious misconduct unrelated to the state of pregnancy or that she is unable to pursue the contract for reasons unrelated to the pregnancy or childbirth. In that case, the termination of the employment contract may not take effect or be notified during the periods of suspension of the employment contract.

It follows from Article L. 2242-19 of the Labour Code, as amended by Law [n° 2015-994](#) of 17 August 2015, that when one or more employees refuse to accept the provisions of the agreement relating to internal mobility mentioned in the first paragraph of Article L. 2242-17, their dismissal is based on an economic reason. However, the Court of Cassation considered that the refusal of a pregnant employee to have the provisions of an internal mobility agreement applied to her “*does not in itself characterise an impossibility for the employer to maintain the employment contract of a pregnant employee for a reason unrelated to pregnancy or childbirth*”.

The dismissal was therefore null and void.

The Court of Cassation has had occasion to recognise the impossibility of an employer to maintain the employment contract of a pregnant employee. This, for example, was the case in the closure of the establishment for economic reasons (Cass. soc., 4 October 1995, [n° 94-41.162](#)) or the cessation of the company's activity (Cass. soc., 26 September 2012 [n°11-17.420](#)).

« 9. Il résulte de [l'Article L. 2242-19 du Code du travail](#), dans sa rédaction issue de la [loi n° 2015-994 du 17 août 2015](#), que lorsqu'un ou plusieurs salariés refusent l'application à leur contrat de travail des stipulations de l'accord relatives à la mobilité interne mentionnées au premier alinéa de l'Article L. 2242-17, leur licenciement repose sur un motif économique.

10. Cependant, un tel refus ne caractérise pas, par lui-même, l'impossibilité dans laquelle se trouve l'employeur de maintenir le contrat de travail d'une salariée enceinte pour un motif étranger à la grossesse ou à l'accouchement »

2.4 Incapacity

Labour Division (Chambre sociale) of the Court of Cassation, No. 18-10.719, 4 March 2020

In the present [case](#), an employee was placed on sick leave as of 7 March 2013 and declared unfit for her position by the occupational physician following examinations in August and September 2014. She was then dismissed for incapacity for work on 03 December 2014.

In 2015, the employee brought a claim before the Labour Court seeking to have her dismissal declared null and void.

In accordance with [Article L. 1226-4](#) of the Labour Code, the employer is required to pay the employee who suffers from a non-occupational illness or accident and who is not reclassified in the company at the end of the one-month period from the date of the examination for resumption of work or who is not dismissed, the amount of salary corresponding to the salary earned prior to the suspension of his or her employment contract.

In the present case, the Court of Appeal considered that the employee had to reimburse the association for the salaries paid by the latter between October 2014, i.e. one month after her declaration of incapacity for work, and 03 December 2014, the date of her dismissal, on the grounds that the employee had found new full-time employment since September 2014.

The Court of Cassation overruled the decision and considered that, in accordance with Article L.1226-4 of the Labour Code, the contract had only been terminated by dismissal on 03 December 2014, with the result that the employer was required to pay the employee, for the period from 12 October to 03 December 2014, the salary corresponding to the post she held prior to the suspension of the employment contract.

In other words, the employer will have to pay the salary corresponding to the post the employee held prior to the suspension of her employment contract, regardless of whether the dismissed employee found new full-time employment during the period in question.

« Vu [l'Article L. 1226-4 du Code du travail](#) ;

Attendu que, selon ce texte, l'employeur est tenu de verser au salarié victime d'une maladie ou d'un accident non professionnel, qui n'est pas reclassé dans l'entreprise à l'issue du délai d'un mois à compter de la date de l'examen de reprise du travail ou qui n'est pas licencié, le salaire correspondant à l'emploi qu'il occupait avant la suspension de son contrat de travail ;

Attendu que pour condamner la salariée à rembourser à l'association les salaires versés par cette dernière entre le 12 octobre 2014, soit un mois après sa déclaration d'inaptitude, et le 3 décembre 2014, date de son licenciement, la cour d'appel a retenu que depuis le 17 septembre 2014, la salariée avait retrouvé un nouvel emploi à temps plein ;

Qu'en statuant ainsi, alors qu'il résultait de ses constatations que le contrat n'avait été rompu que par le licenciement intervenu le 3 décembre 2014, de sorte que l'employeur était tenu de verser à la salariée, pour la période du 12 octobre au 3 décembre 2014, le salaire correspondant à l'emploi qu'elle occupait avant la suspension du contrat de travail, la cour d'appel a violé le texte susvisé ».

3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Germany

Summary

- (I) The rules on short-time work compensation have been amended considerably.
- (II) A new law inserts an authorisation into the Working Hours Act to issue ordinances to enact labour law exemptions
- (III) Under a new law, those who must care for their children due to school or day care closures and cannot go to work will be protected against excessive income losses.
- (IV) The Higher Administrative Court of Lower Saxony decided that members of professional fire brigades must receive financial compensation for on-call duty or additional leisure time.
- (V) The conditions for medical issuance of a certificate of incapacity for work of employees have been eased.
- (VI) In view of the corona crisis, numerous changes to labour law regulations are currently being discussed.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

1.1.1 Act on the temporary crisis-related improvement of the regulations for short-time work compensation

The [Act](#) on the temporary crisis-related improvement of the regulations for short-time work compensation (*Gesetz zur befristeten krisenbedingten Verbesserung der Regelungen für das Kurzarbeitergeld*) was promulgated in the Federal Law Gazette on 14 March 2020 and entered into force the following day.

The new law modifies the rules on so-called short-time work allowance (*Kurzarbeitergeld*) which is paid by the Federal Employment Agency if companies temporarily reduce working hours for economic reasons or due to an unavoidable event and report short-time work. The main purpose of this allowance is to enable employees to continue working and to avoid redundancies if they are temporarily unable to work.

The explanatory memorandum to the new law states: "During the crisis on the financial market in 2008 and 2009, the responsible behaviour of the social partners and internal company adjustments to working hours, together with the regulations on short-time working, proved to be the suitable labour market policy instruments to protect the German economy from dramatic distortions. To be prepared for times of crisis—triggered, for example, by a corona pandemic—the Federal Government shall have temporary powers to issue regulations until 2021, which will make it easier to access short-time working benefits and relieve the burden on companies, as well as to allow temporary workers to receive short-time working benefits".

The new law entails the following changes:

Section 109 Social Code III (*Sozialgesetzbuch III* on promotion of employment) is supplemented by a new para 5. The new paragraph contains an authorisation for the Federal Government to issue special regulations at short notice for a limited period of time to cope with extraordinary circumstances on the labour market, such as those that may arise, in particular, in connection with a corona pandemic. Specifically, to facilitate access to short-time working allowance, the Federal Government is

authorised to regulate by ordinance: 1) the share of employees in the company who must be affected by the loss of working hours may be reduced to up to 10 per cent. By contrast, current law stipulates that at least one-third of the employees must be affected by a loss of working hours. 2) the accumulation of negative working time balances prior to payment of the short-time working allowance may be waived in whole or in part. By contrast, current law requires that in companies where agreements on working time fluctuations are used, these are also used to avoid short-time work. 3) employers should be reimbursed for all or part of their social security contributions. This will relieve companies of the burden of social security contributions.

A new provision has been introduced into the Act on Temporary Agency Work (*Arbeitnehmerüberlassungsgesetz, AÜG*). Section 11a AÜG contains an authorisation to issue regulations. Accordingly, the Federal Government may exceptionally allow the payment of short-time work compensation to temporary agency workers to deal with the crisis.

The Ordinance on Facilitating Short-time Work (*Kurzarbeitergeldverordnung – KugV*) was adopted on 23 March 2020 and published in the Federal Law Gazette on 27 March 2020. It came into force retroactively as of 01 March 2020. The Federal Government has made full use of the authorisation.

1.1.2 Act on facilitated access to social security and to the deployment and protection of social service providers due to the coronavirus SARS-CoV-2 (Social Protection Package)

The [Act](#) on facilitated access to social security and to the deployment and protection of social service providers due to the coronavirus SARS-CoV-2 (*Gesetz für leichteren Zugang zu sozialer Sicherung und zum Einsatz und zur Absicherung sozialer Dienstleister aufgrund des Coronavirus SARS-CoV-2, Sozialschutz-Paket*) was published in the Federal Law Gazette on 27 March 2020 and came into force on the day following promulgation.

The law aims to help cushion the social and economic consequences of the corona pandemic for citizens by, inter alia, temporarily facilitating access to basic social security systems, temporarily adapting, the assessment of child supplement to the current situation and relaxing the ceiling for permissible additional income with regard to pension insurance and old-age provision of farmers.

Moreover, the law inserts an authorisation into the Working Hours Act to issue ordinances to enact labour law exemptions that help ensure the maintenance of public safety and order, health care and nursing care, services of general interest and the supply of the population with existential goods in the current situation of the corona pandemic. To this end, section 14 of the Working Hours Act of 6 June 1994 (*Arbeitszeitgesetz*) has been supplemented by adding a new para 4.

Under the current law, deviations from major provisions of the Working Hours Act are possible *“in the case of temporary work in emergencies and in exceptional cases that arise independently of the will of the persons concerned and whose consequences cannot be avoided in any other way, especially if raw materials or foodstuffs spoil or work results are threatened with failure”* (section 14(1) of the Act). Moreover, deviations from major provisions of the Working Hours Act are permitted *“1. where a relatively small number of workers are temporarily engaged in work, the non-performance of which would jeopardise the outcome of the work or cause disproportionate damage, 2. in research and teaching, in preliminary and final work that cannot be postponed and in work that cannot be postponed for the treatment, care and supervision of persons or for the treatment and care of animals on individual days, if the employer cannot reasonably be expected to take other precautions”* (section 14(2) of the Act). If the powers under subsections 1 or 2 are exercised, the

working time shall not exceed 48 hours per week on average over six calendar months or 24 weeks (section 14(3) of the Act).

The new section 14(4) reads as follows:

"The Federal Ministry of Labour and Social Affairs may, by statutory order in agreement with the Federal Ministry of Health and without the consent of the Bundesrat (Federal Council), in exceptional emergencies with nationwide implications, in particular in epidemic situations of national significance pursuant to § 5(1) of the Infection Protection Act (Infektionsschutzgesetz), allow exceptions for a limited period of time for working employees, which exceed the exceptions provided for in this Act and in the statutory orders issued on the basis of this Act and in collective agreements. These activities must be necessary for the maintenance of public safety and order, health care and nursing, services of general interest or the provision of the population with existential goods. The statutory instrument shall determine the necessary conditions for the protection of the employees referred to in sentence 1".

1.1.3 Act on the protection of the population in the event of an epidemic situation of national concern

The law on protection of the population in the event of an epidemic situation of national concern (*Gesetz zum Schutz der Bevölkerung bei einer epidemischen Lage von nationaler Tragweite*) was published in the Federal Law Gazette on 27 March 2020 and came into force on the day after promulgation.

Under the [new law](#), those who must care their children due to school or day care closures and cannot go to work will be protected against excessive income losses. The Infection Protection Act (section 56, in particular) was amended for this purpose. Parents will receive compensation in the amount of 67 per cent of their monthly net income (maximum EUR 2 016) for up to six weeks. Payment is made by the employer, who can apply for reimbursement with the competent state authority. The prerequisite for such compensation is that the working parents must care for children under the age of 12 years because care cannot be provided otherwise and that flexitime or overtime credits have been exhausted. Moreover, families with a low income can receive a monthly child allowance (KiZ) of up to EUR 185.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

2.1 Compensation for on-call duty

Higher Administrative Court of Lower Saxony, 5 LB 49/18, 11 March 2020

Members of professional fire brigades of two German cities must receive financial compensation for on-call duty or additional leisure time. This was [decided](#) by the Higher Administrative Court (OVG) of Lower Saxony. With this decision, the Court fully granted the firefighters' requests.

The complaints had been filed by firefighters who had to be on standby for 24 hours with a company vehicle, mobile phone and radio alarm receiver for possible deployment in the disputed services. The two cities classified this as on-call services. Only when the alarm was raised were the times spent on duty fully counted. For the remaining hours, however, only 12.5 per cent of those were compensated with a lump

sum of additional leisure time or money. The plaintiffs demanded higher compensation.

The Court ruled in favour of the plaintiffs, also taking into account the ruling of the European Court of Justice on 21 February 2018 in Matzak.

3 Implications of CJEU Rulings and ECHR

Nothing to report.

4 Other relevant information

4.1 Facilitation of sickness notification

Since 09 March 2020, employees with minor illnesses of the upper respiratory tract can, after consulting their doctor by telephone, be issued a certificate of incapacity for work (for a maximum of seven days). Following an [agreement](#) between the National Association of Statutory Health Insurance Physicians (KBV) and the National Association of Statutory Health Insurance Physicians (GKV-Spitzenverband), it is no longer necessary to visit the doctor's office in person. This measure should help contain the spread of the coronavirus. Moreover, it protects sick employees and aims to ensure the ability of doctors' offices to work in particularly trying times. The simplification in issuing a certificate of incapacity for work (AUB) will initially be limited to four weeks.

4.2 Discussion to changes to labour law

In view of the corona crisis, numerous changes to labour law regulations are currently being discussed.

One focus of the discussion is the digitisation of co-determination at the workplace. Under the existing rules, resolutions of the works council require personal presence of the works council members; resolutions based on virtual communication are not permitted (see section 33 of the Works Constitution Act, *Betriebsverfassungsgesetz*).

The German Lawyers' Association (*Deutscher Anwaltverein, DAV*), the voluntary association of German lawyers which includes approximately 62 000 members, now [suggests](#) allowing "digital decision-making". The model for this should be section 41a of the Act on European Works Councils (*Europäisches Betriebsräte-Gesetz*), which contains special regulations for crew members of seagoing vessels. Section 41a (1) of the Act reads: "*If a crew member is at sea or in a port located in a country other than that in which the shipping company has its registered office and is therefore unable to attend a meeting pursuant to paragraph 1, participation in the meeting may be effected by means of new information and communication technologies if 1. this is provided for in the rules of procedure of the competent body, and 2. It is ensured that third parties cannot take note of the contents of the session*". However, the DAV considers the requirement of the corresponding rules of procedure for the works council to be counterproductive in the current situation, as the rules of procedure would first have to be created or amended, which in turn would require a personal decision to be taken.

In addition, the DAV proposes amendments to the Act on Temporary Agency Work (*Arbeitnehmerüberlassungsgesetz*) and the Working Hours Act (*Arbeitszeitgesetz*). Under the current law, the main provisions of the Act on Temporary Agency Work do not apply to the supply of temporary workers between employers in the same branch of industry to avoid short-time work or dismissals if a collective agreement applicable

to the user undertaking and the temporary agency provides for this (section 1(3) No. 1 of the Act). The DAV suggests facilitating the hiring-out of workers between companies in different sectors of the economy and also where there are no collective agreements. Under current law, deviations from major provisions of the Working Hours Act may be made *"in the case of temporary work in emergencies and in exceptional cases that arise independently of the will of the persons affected and the consequences of which cannot be avoided in any other way, especially if raw materials or foodstuffs spoil or work results threaten to fail"* (section 14(1) of the Act). The DAV proposes to add the following sentence: *"In establishments and enterprises that maintain their operations during (...) to supply the population in accordance with separate regulations of the federal or Land governments, an emergency is presumed if the time limits of the Working Hours Act are not disproportionately exceeded"*.

4.3 Promotion of mobile work

A majority of the Committee on Petitions of the German Parliament has [supported](#) the promotion of mobile work. In their meeting on 04 March 2020, the members of the Committee adopted the recommendation to promote teleworking forms of work more strongly. The public petition refers, among other things, to a draft of the Parliamentary Scientific Service, according to which 40 per cent of jobs in Germany would not require permanent presence at the workplace, but not even one-third would work from home at least occasionally. According to the petition, a particularly strong disproportion between the suitability of teleworking and its actual use exists in financial services and public administration.

4.4 Statistics on working hours

About 55 per cent of male and 35 per cent of female employees "normally" work between 40 and 48 hours per week. About 5 per cent of men and just under 37 per cent of women work less than 35 hours per week. More than 48 hours per week are worked by around 10 per cent of men and just under 4 per cent of women. This is the result of [evaluations](#) by the Linked Personnel Panel (LPP) 2019, to which the Federal Government refers in its answer (19/17621) to a minor question (19/17237) of the parliamentary group Die Linke.

Greece

Summary

The measures introduced in Greece to tackle the coronavirus crisis vary depending on the category of company: companies whose operations have been prohibited, companies in sectors designated as having been “severely affected”, and other companies.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

1.1.1 Organisational measures for companies due to COVID-19

Suspension of employment contracts of employees of companies whose operations have been prohibited by State decision

The employment contracts of staff members of companies whose operations have been prohibited by State decision shall be suspended for as long as the ban is in force. Article 656 of the Civil Code applies here, providing that employers in case of “force majeure” are not required to pay salaries. Employees of these companies are entitled to a special grant (see below).

Fixed-term contracts that end during the period of prohibition of the undertaking’s operations are also suspended. The contract will continue after the end of the above prohibition for the remaining period.

Suspension of employment contracts of employees of undertakings in sectors designated as “severely affected”

1. Private sector employers, who are designated as “severely affected” by the negative effects of the COVID 19 crisis, may over a continuous 45-day period, suspend the employment contracts of all or of part of their staff to adapt their needs to the adverse circumstances caused by the crisis. This measure of suspension of employment contracts applies up to 20 April 2020, with the possibility of extension, taking into account the further development of the special circumstances. The application of this measure can be gradual and only for part of the staff.

2. This provision only applies to private sector companies, designated by the Ministry of Finance as sectors affected by the spread of COVID-19.

Transfer of employees within the same group of companies designated as “severely affected” by the coronavirus crisis

1. In the context of emergency and temporary measures in the labour market to counter and limit the spread of COVID-19, an employer whose company is designated as “severely affected” or prohibited from conducting its operations, may transfer staff from a company of the group to another company of the same group, following an agreement between them.

2. The undertakings of the group that apply the above measure are required to maintain the same number of employees employed before the transfer.

Operation of undertaking with minimum staff –in all companies

For the purpose of limiting the spread of coronavirus, for a period not exceeding six (6) months from 20 March 2020, the employer may, by decision, appoint staff of the company as follows:

1. Each employee may be employed, continuously or intermittently, for at least two weeks with a reference period of one month;
2. The above approach to the organisation of work shall be conducted weekly and shall comprise at least 50 per cent of the staff of the undertaking;
3. An employer who applies this approach to the organisation of work shall be required to maintain the same number of employees as employed before the provision of the above measure.
4. Employees' salaries will be reduced accordingly with the work provided.

Provision of work through telework - in all companies (Article 4 (2) Act of 11.3.2020)

The employer may decide that the work provided by the employee shall be carried out via telework.

1.1.2 Financial measures supporting employees – dismissal prohibitions

Support mechanism - allowance for employees of undertakings whose operations have been temporarily prohibited

1. A special mechanism to support employees in undertakings of employers whose operations have been temporarily prohibited due to the emergency measures to fight the coronavirus, has been established.
2. Employers whose companies are subject to or have been subject to measures of temporary prohibition, following a public authority order, are required to submit a declaration to the Information System of the Ministry of Labour and Social Affairs, stating that their company is subject to a temporary ban of operations with reference to employees whose employment contracts have been suspended. In the event that employers do not submit such a declaration, they shall be excluded from the measures of suspension of instalment payments or arrangements or partial payment measures and any type of certified debt to the State.
3. Employees employed by employers referred to above shall submit a declaration to the Information System of the Ministry of Labour and Social Affairs.
4. The above measures do not apply to: (a) those working remotely, (b) those who are legally on leave, e.g. annual leave, (c) those working as security personnel, and (d) employees whose contract has not been suspended due to the ban of the undertaking's operations by State decision.
5. The amount of the allowance shall be EUR 800 for the period from 15 March 2020 until 30 April 2020.
6. Employees' social insurance during the 45-day period is covered by the state budget.
7. Employees of the above undertakings, whose employment contracts have been terminated from 1 March 2020 to 20 March 2020, either by termination by the employer or by resigning, shall also be entitled to exceptional financial assistance, unless they have concluded an employment contract with another employer. This financial assistance is independent from unemployment benefits.

Special assistance for employees whose employment contract has been suspended due to an employer's decision

1. Employees whose employment contract has been suspended due to the application by their employer of the measure of suspension (see above) are entitled to exceptional financial assistance.

2. Employees of companies whose employment contract has been terminated from 1 March 2020 to 20 March 2020, by termination by either party, shall also be entitled to exceptional financial assistance, unless they have concluded an employment contract with another employer. This assistance is independent from any unemployment benefits
3. The above compensation scheme is irrevocable, tax-free and not offset against any debt.
4. The cost of their full insurance coverage during the 45-day period is calculated with reference to their normal wage and it is covered by the state budget.
5. For this purpose, the employer is required to submit a statement to the Ministry of Labour's electronic system, with reference to the employees whose employment contracts have been suspended by decision of the employer.
6. Employers are also required to include their former employees, whose employment contract has been terminated between 1 March 2020 to 20 March 2020, in the statement.
7. In the event that employers do not submit the above statement, they shall be excluded from their measures of suspension of instalment payments or arrangements or partial payment facilities and any kind of certified debt to the State.
8. Employers are required to forward the above statement in writing or electronically to the employee on the same day.
9. The provision only applies to private sector employers designated by the Ministry of Finance as belonging to sectors affected by the spread of the coronavirus.
10. The amount of the grant shall be EUR 800 for the period from 15 March 2020 until 30 April 2020.

Invalidity of dismissal of employees from undertakings whose operations have been prohibited by State decision

1. Employers whose undertakings have been suspended due to a public authority order and for as long as the measures apply to fight the coronavirus are valid, shall not dismiss their staff members. Such dismissals are void. The effective date of this measure is 18 March 2020.

Invalidity of dismissal of employees of undertakings whose contracts of employment have been suspended due to an employers' decision. Number of staff (Article 11 (2) of Act 20 March 2020)

1. Employers who adopt the measure of suspension of their employees' employment contracts are expressly prohibited from dismissing them. Such dismissals are void.
2. Employers who decide to suspend the employment contracts of their employees shall also, after the expiry of this suspension period, maintain the same number of posts for a period equal to that of the suspension.
3. Employers who opt to continue the operations of their undertaking with a minimum staff shall, after the expiry of the measure, maintain the same number of posts that existed before the application of this measure.

1.1.3 Special leave

1. (a) Employees who are parents and whose children attend kindergarten or school, may take special leave (special purpose leave) as long as those facilities remain closed.



The employee is entitled to a special leave of three (3) days, if he or she uses one (1) day of his or her regular annual leave for every three (3) days of the special purpose leave. The above leave may be taken from 11 March 2020 to 10 April 2020, provided that at least one parent works in the private sector as an employee, even if the other parent is a self-employed.

(b) Where both parents are employees of the same or of different employers, they shall jointly notify either or both of them of the use of the above leave. They may also share such leave at appropriate intervals.

(c) If one parent is a private sector employee, while the other is a public sector employee or civil servant, he or she is required to provide the employer with a statement from the parent working in the public sector that he or she has not used the special leave.

d) If only one of the two parents is employed, then he or she may not use the special leave, unless the non-working parent is hospitalised for any reason or is suffering from coronavirus or is disabled.

(e) In the case of divorced parents, special leave shall be granted to the parent who has custody of the child, unless otherwise agreed, in accordance with their joint declaration.

(f) Two-thirds (2/3) of the days of special leave are paid by the employer, and one-third (1/3) by the regular State budget.

(g) A Ministerial Decision may extend the period of application of the above exceptional and provisional measure, taking into account the development of the coronavirus crisis.

(h) The three days of special leave shall be paid by the employer for employees employed in the public sector.

(i) A similar arrangement is also provided for civil servants

2. Instead of using the special leave referred to in paragraph 1, employees may, at their request, work part time, up to 25 per cent per day, without a reduction in their salaries.

3. A decision by the competent authority is required for the application of the above provisions to employees employed by the Ministry of Health, by health service providers, by the Ministry of Immigration and Asylum and to members of the police and armed forces.

4. In the event of an urgent need to suspend or restrict the operation of a public service, the number of staff who must engage in the provision of services daily may be determined at the discretion of the minister or the body responsible for its administration, with the possibility of rotation or by designating a minimum number of staff. In this case, the necessary measures shall be taken to ensure the possibility of working remotely, depending on the nature of the service to be provided.

5. The above facilities—provided they are approved on the basis of the service requirements of the competent authority—shall also be granted to parents under the same conditions, whose children are under the age of 4 years, but are not attending nursery school.

Special leave of restricted civil servants

If a civil servant is considered "restricted" due to emergency measures introduced to fight the coronavirus, following the National Public Health Organisation's (EODY) instructions, he or she shall be considered absent due to sick leave. This leave is not deducted from the employee's eligible annual sick leave.

Special leave of private sector healthcare providers

The above measures apply accordingly to medical, nursing and all staff of private providers of healthcare services, such as hospitals, clinics, and primary care units. However, for the provision of the above facilities, a motivated decision of the competent private sector healthcare body is required.

1.1.4 Working time organisation

Maximum overtime limits for employees

As long as there is an immediate risk of the spread of coronavirus, and for any period not exceeding six (6) months from the date of entry into force of the Act (14 March 2020), employers who have exceeded the applicable overtime limits of their employees may request them to work overtime. Such overtime may not exceed the maximum daily working time limits provided for in the relevant provisions.

Operation on Sundays and public holidays for undertakings

As long as there is an immediate risk of the spread of coronavirus, and for any period that does not exceed six (6) months, manufacturing companies, transport or supply of foodstuffs, fuels, medicines and paramedics to stores / businesses selling related items may operate on Sundays. In any case, the relevant provisions of the labour legislation on employees' working time limits must be respected.

1.1.5 Lease of main residence

A person whose employment contract has been temporarily suspended shall be exempt from the obligation to pay 40 per cent of the total lease for his or her residence for the months of March and April 2020, notwithstanding the existing lease provisions. The employee is required to have been under an employment relationship at the time of the emergency measures' application, suspending or temporarily prohibiting operations for reasons related to the coronavirus.

1.1.6 Extension of unemployment allowances

The duration of unemployment allowances that have expired or will expire within the first three months of 2020 has been extended until 31 May 2020.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Hungary

Summary

The COVID-19 crisis has revealed numerous practical problems in relation to labour law. New provisions allow for far-reaching derogations from labour rights.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

The pandemic has raised the following labour law issues. The Hungarian Labour Law Society (Steering Committee) and the 'Labour Law' Journal (Board of Editors) issued a summary on the applicable laws and their interpretation. The first part of this report is based primarily on the findings of this summary. The author of this report participated in the elaboration of the summary.

1.1.1 Home office versus telework: applicable rules and differences

There are no labour law rules in the Labour Code for work in the 'home office' (home office). The rules of home office have been gradually elaborated by case law, primarily by defining how 'home office' differs from 'telework'. Telework is an atypical employment relationship, which is regulated in detail in Articles 196-197 of the Labour Code (Act 1 of 2012 on the Labour Code) as well as Article 86/A of the Act on Work Safety (Act 93 of 1993 on Work Safety).

The main difference between home office and telework is that, on the one hand, home office can be ordered unilaterally by the employer, but only for 44 working days per year (Labour Code, Article 53(1)). Telework, on the other hand, can last for a long, indefinite period of time, typically for the entire length of this atypical employment relationship. However, according to Article 6(2)b) of Government Decree 47/2020, during this COVID-19 emergency, the employer may not only order home office for a specified and limited period of time, but also continuously, for an undefined, unlimited period.

Certainly, home office can also be based on an agreement between the parties. The employer may also, if conditions for self-organisation of work exist, lay down a flexible work arrangement for the entire duration of home office or a part thereof.

One important issue is labour safety, namely whether or not telework safety rules in Article 86/A of the Labour Safety Act also apply to home office. According to the first group of opinions, telework safety rules can be enforced in a situation where telework is sustained over the duration of the employment relationship. According to the second group of opinions, there is no significant difference between the contents of home office and telework. Therefore, by analogy, the same labour safety rules (Article 86/A of the Act on Labour Safety) shall apply to both forms of work.

1.1.2 Pay during emergency

The most common question that has been raised during the pandemic is whether the employee is entitled to pay, when:

- the employer is unable to provide the employee with work (no material, closed shop, territorial quarantine etc.), or

- the employee is unable to perform work (taking care of children, infected in quarantine, infected person's kin, etc.).

The applicable rules in the Hungarian Labour Code and in other laws are as follows:

Incapacity for work – e.g. compulsory quarantine ordered by an authority

When the employee is incapacitated for work due to the pandemic (Health Insurance Act No. 83 of 1997, Article 44.1), she is entitled to:

- sickness benefits for 15 days paid by the employer (Article 126 of the Labour Code), and thereafter
- social security benefits for the period of incapacity for work (Act No. 80 of 1997 on social security benefits).

Moreover, the employment rule for this situation is as follows:

Article 55(1) of the Labour Code: *"Employees shall be exempted from the requirement of availability and from work duty:*

a) if incapacitated for work."

The employer is unable to provide work – closed shops, legal restrictions, lack of supplies, etc.

Article 146(1) Labour Code: *"In the event of the employer's inability to provide work as contracted during the scheduled working time (downtime), the employee shall be entitled to his/her base wage, unless this circumstance is due to unavoidable external reasons."*

The main rule is that 'downtime' must be paid (base wage and supplements, if applicable). The only exception is 'force majeure': unavoidable external reasons. Payment thus depends on the given case, whether the employer is able to prove that its inability to provide work is due to unavoidable external reasons (force majeure). There will most probably be litigation on the precise definition of 'force majeure' in relation to the pandemic.

The employee is unable to go to work and be available to perform work – e.g. she must take care of a child due to the closure of schools

Article 55(1) of the Labour Code: *"employees shall be exempted from the requirement of availability and from work duty:*

j) for any duration of absence due to personal or family reasons, or as justified by unavoidable external reasons."

This is an unpaid period of compulsory exemption from work.

The employee and the employer may agree on an exemption from work, its length and payments during this period

Article 146(2) Labour Code: *"If the employee is exempted from work with the employee's consent, remuneration for such lost time shall be paid on the basis of their agreement."*

Therefore, the Labour Code addresses the consequences the pandemic has caused.

1.1.3 Recent amendment of labour law

This second part focusses on the new (and renowned) Government Decree No. 47/2020 aimed at diminishing the negative economic and social effects of the pandemic crisis.

Following the virus outbreak in Hungary, a state of emergency was declared on 11 March, resulting in the entry into force of a special legal order in Hungary. In case of an emergency, the government may issue special 'government decrees', which may suspend the application of certain laws, derogate from statutory provisions and take other emergency measures, as defined by Article 54 'Common rules on the special legal system' of the Fundamental Law of Hungary (Constitution).

Article 53 (1) and (3) of the Fundamental Law (Constitution) separates the government's authority to issue decrees and the temporal scope of the decrees. The temporal scope of the decrees is 15 days, but may be extended by Parliament. It lasts until the cessation of the state of emergency. The first state of emergency lasted until 28 March. Parliament reinitiated the state of emergency as of 31 March. That is, the state of emergency was lifted for two days (29-30 March).

The only new law introduced in the field of labour law (applicable as of 30 March) is Government Decree No. 47/2020, which entered into force on 19 March 2020:

"6(1) Under Government Decree 40/2020 (3/11 of 2020) on the declaration of a state of emergency to comply with the prohibitions and restrictions imposed during the period of emergency ordered by that Decree; Act 1 of 2012 on the Labour Code (hereinafter: Labour Code) shall be applied with the amendments in Subsections 2 to 4 of this Article.

6(2) The Labour Code shall apply for the period of the emergency and 30 days following the cessation of the emergency, with the following amendments:

- a) the employer may derogate from the notification rules laid down in Article 97 (5) of the Labour Code to modify the announced working time schedule,*
- b) the employer can unilaterally assign the employee to work from home and telework,*
- c) the employer may take the necessary and justified measures to control the health of the employee.*

6(3) The provisions of collective agreements contrary to the rules in Subsection 2 shall not apply during the period of application of this Decree.

6(4) the employer and the employee may derogate from the Labour Code by agreement."

Thus, during the period of the emergency, the rules of the hierarchy between the Labour Code, the collective agreement and the agreement between the parties have partly been amended by Article 6 of the Decree. The current rules of the Labour Code on the hierarchy of labour law sources shall, therefore, apply during the period of emergency, with the following modifications. It must be noted that the reason for these changes is the observance of the prohibitions and restrictions imposed during the period of emergency, so the new rules must and can be applied for these purposes. Thus, the following new rules have a declared purpose and a definite duration.

- Article 6(2) of the Government Decree contains the following Labour Code rules, which are modified for the duration of the emergency for a definite period:

- a) The employer may modify the announced working time schedule differently from the notification rules laid down in Article 97(5) of the Labour Code ("*The employer may alter the work schedule for a given day upon the occurrence of unforeseen circumstances in its business or financial affairs, at least four days in advance*"): this means that the employer may modify the announced working time schedule any time, even immediately before the commencement of scheduled work.

b) The employer can unilaterally assign the employee to home office and telework: this means that there is no need for a mutual agreement for telework, and home office may be ordered without a time limit (as opposed to 44 days annually in Article 53.1).

c) The employer may take the necessary and justified measures to monitor the health of the employee: this implies relaxed health protection obligations.

- According to Article 6(3) of the Government Decree, these changing rules are *ius cogens* with regard to collective agreements during the period of emergency, so any derogation is null and void. This means that neither the collective agreement concluded before the entry into force of the emergency nor the collective agreement concluded thereafter may depart from the rules of the Labour Code.

- The most important provision of the Government Decree is Article 6(4), since the employee and the employer may derogate from the provisions of the Labour Code by agreement. This means that any regulation of the Labour Code, whether for the benefit or disadvantage of the employee, may be derogated from by an agreement between the parties. This rule obviously overwrites the pre-emergency rules of the Labour Code, whereby the parties' agreement could only derogate from the Labour Code and collective agreements to the benefit of the employee (in *melius derogations*). However, the agreement between the parties could only derogate from the second part of the Labour Code, while the rest of the Labour Code is *ius cogens* (no derogation is allowed at all).

The question is whether the authority of the parties to deviate from the Labour Code by agreement is truly unlimited, that is, whether any rule can be derogated from or not. The only limit to this, according to Article 6(1) of the Decree, may be the purpose limitation: the reason for the deviation from the Labour Code may only be the observance of the prohibitions and restrictions prescribed during the state of emergency.

However, the Decree states that the agreement of the parties may fully and freely derogate from any provision of the Labour Code, so it may equally derogate to the benefit and disadvantage of the employee. This means that neither the constitutional nor the EU rules restrict the freedom of derogation of the parties. That is, the derogating agreement of the parties may contravene constitutional rights and primary and secondary EU laws. This result may be limited by the interpretation that the parties' agreement must comply with constitutional rights and EU laws. However, this interpretation does not explicitly follow from the text.

The agreement of the parties may equally be made orally or in writing.

It is not settled by the Decree what happens to these agreements after the cessation of the state of emergency. One interpretation is that these agreements will be null and void thereafter. However, the parties may agree upon long standing rules, such as the exclusion of the termination of employment for a year, or a longer reference period (2 years or so). It is an open question what will happen to these agreements after the cessation of the state of emergency.

- The Government Decree does not affect the relationship between the collective agreement and the agreement between the parties. As a result, the agreement of the parties may derogate from any provision of the collective agreement, but only for the benefit of the worker (with one exception, the 400-hour maximum for extraordinary work, Article 109(2) of the Labour Code). It follows that if the agreement of the parties deviates from the Labour Code to the detriment of the employee during the emergency, the agreement may only derogate from the collective agreement to the employee's benefit, even in this case. According to the Labour Code, deviation from collective agreements to the detriment of the employee is invalid. The parties can only settle this if they also expressly deviate from Article 43(1) of Labour Code ("Unless



otherwise provided for by law, the employment contract may derogate from the provisions of Part Two and from employment regulations to the benefit of the employee”).

This analysis is based on the laws already in force on 01 April 2020.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Iceland

Summary

Three new laws in connection with COVID-19 have been published. One amendment to data protection legislation has been introduced on data protection officers. Strikes due to COVID-19 have been postponed and a sympathy strike was deemed illegal by the Labour Court.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

1.1.1 Salary of Employees or Self-employed Persons in Quarantine

On 20 March, legislation was passed with the aim to guarantee employees as well as self-employed persons an income if they have to quarantine on direct orders from the health authorities if he or she has possibly been infected with COVID-19. The [Act](#) on temporary payments for wages of quarantined individuals as ordered by health authorities without being infected applies from 01 February to 30 April 2020.

According to Article 2, the purpose of the Act is to support employers who pay employees a salary while they are quarantined in case other rights, such as sick leave in accordance with collective agreements, do not apply. It aims to allow individuals to follow the orders of health authorities to quarantine without having to worry about their economic situation.

Articles 5 to 8 stipulate the conditions employees or self-employed persons must meet to earn entitlement to such payments and the amount of state reimbursement for such payments.

Articles 5 and 7 state that the individual must be an employee or a self-employed person who has been ordered to quarantine by the authorities or that the individual must care for a child under his or her guardianship, which is under the age of 13 years or a child under the age of 18 years if that child is covered by the Act on Services for Disabled Persons with Long-Term Support Needs. In addition, the employee or self-employed person may not be working while in quarantine, and no other factors may be the reason for that person's incapacity for work. The employee must also have received a salary from his/her employer while in quarantine and the self-employed person must have paid taxes and contributions for at least three of the last four months.

Article 6(2) states that the compensation depends on the salary the employee would have earned for the month that he/she or the employee's child is quarantined. The salary cannot, however, be higher than that earned in the previous month. Article 8(1), however, states that the amount for self-employed persons depends on their average salary for the year 2019. In both cases, the maximum benefit is ISK 21 100 per day or ISK 633 000 as stated in Articles 6(3) and 8(2).

1.1.2 Partial Unemployment Benefits

On 20 March, amendments to [Act No. 54/2006, on Unemployment Benefits](#) were passed. The [amendments](#) allow employers and employees agree on a reduction of working hours by at least 20 per cent to maximum 25 per cent and receive unemployment benefits for the difference. Under the scheme, those who have a monthly salary of ISK 400 000 or less shall retain their full salary and those with higher salaries shall retain a maximum of 90 per cent of their salary, though not less

than ISK 400 000 and not higher than ISK 700 000. Under certain conditions, this scheme also applies to independently employed persons, if there has been a significant contraction in operations.

The period of this scheme applies from 15 March to 1 June 2020 and was extended to groups such as students and third-country foreigners with temporary work permits. On 30 March 2020, it was further extended to [workers in fishery processing](#) (see Articles 18 and 19).

These amendments do not affect employees' rights to unemployment benefits or other rights such as salary in insolvency in accordance with [Act No. 88/2003](#) or to a notice period as stipulated in law, collective agreements and/or employment contracts. The employer can additionally not compel an employee to work under this scheme. An agreement between the employer and employee is necessary.

1.1.3 Civic Duty of Public Sector Employees

A temporary clause was also added to [Act No. 82/2008, on Civil Protection](#) on 30 March, stating that public sector bodies may temporarily reassign employees to other duties and to temporarily transfer employees between establishments and public bodies to carry out priority tasks in crisis situations. Employees shall keep their salaries in such circumstances. Those who cannot be reassigned due to health reasons are exempted. The duration of the provision is until 01 January 2021.

1.2 Other legislative developments

1.2.1 Duty of Confidentiality of Data Protection Officers

Unrelated to COVID-19, amendments were introduced to Act No. 90/2018, on Data Protection and Processing of Personal Data. A clause on data protection officers not being allowed to disclose anything they learn on their job and that is confidential was added to Article 36(1), which previously contained a provision that data protection officers should follow Chapter X of the Administrative Act No. 37/1993. The amendment was considered necessary as not all data protection officers are public sector employees and to clarify any misunderstandings.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

4.1 Postponement of Work Stoppages and Sympathy Strike Declared Illegal

On 24 March, the Efling trade union [postponed strikes](#) on 25 March against a few municipalities around the capital region due to the COVID-19 crisis. In addition, the trade union's privately employed pre-school employees' sympathy strike was deemed illegal by the Labour Court in [Ruling No. 3/2020 on 05 March](#).

Ireland

Summary

Various measures have been taken to deal with the financial impact of the COVID-19 crisis on businesses and workers.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

The government's initial [response](#) of 15 March to the COVID-19 outbreak was to establish a COVID-19 weekly illness benefit of EUR 350 for those who contract the virus or are medically advised to self-isolate, and a fund to maintain employment continuity and an expedited weekly social welfare payment of EUR 203 for employees who have been laid off. By 18 March, around 50 000 applications for the COVID-19 Pandemic Unemployment Payment had been received, although the Irish Congress of Trade Unions (Congress) estimated that 140 000 workers had already been laid off and the main employers' organisation, Ibec, predicted a further 200 000 layoffs over the coming week. As of 27 March, 283 000 workers were [receiving](#) this payment.

Employers who had to stop their operations were asked to keep workers on the payroll and pay them EUR 203 a week, with the employer being refunded by the Revenue Commissioners. Both Congress and Ibec were critical of the fact that employers were not allowed to top up the EUR 203, if they wished to avail of the refund.

Both bodies also urged the government to implement more ambitious measures to try to preserve workers' jobs and uphold their net income in the event of layoffs. Congress proposed a three-month wage subsidy scheme whereby workers laid off due to the outbreak would receive payments up to an equivalent of EUR 40 000 per annum with the cost being shared on a 75:25 per cent basis by the government and the employer. Ibec, however, proposed a state subvention of 70 per cent of the basic wage/salary for impacted workers, with employers continuing to pay salaries, with refunds being made within seven days.

On 25 March, the government announced a new income support scheme designed to help employers retain workers on their books through the duration of the pandemic by paying a subsidy equal to up to 70 per cent of their take-home pay to a maximum of EUR 410 per week. Employers are encouraged to top this up if they can. The scheme is [available](#) to employers whose business activities are adversely affected by the outbreak; the employer must show a loss of at least 25 per cent of turnover. It is clear that the scheme is specifically designed to help those whose annual earnings do not exceed EUR 38 000. Workers whose income is between EUR 38 000 and EUR 76 000 will attract a graduated subsidy. No subsidy is available for those who earn more than EUR 76 000. Self-employed persons who are out of work because of the outbreak, and employees who are made redundant, are eligible for the COVID-19 Pandemic Unemployment Payment rather than the wages subsidy scheme.

This new scheme was, in turn, subject to criticism from the Employment Law Committee of the Law Society (the body representing solicitors) and the Irish Small and Medium Enterprises Association (representing 10 500 employers), with the latter's chief executive warning that participation in the scheme would mean employers effectively admitting that they were insolvent, but continuing to trade contrary to the fraudulent trading provisions of the Companies Act 2014.

The head of insolvency at one of Ireland's top corporate law firms, Arthur Cox, [warned](#) that such criticism was without foundation and was based on misunderstandings of the

law. The Revenue Commissioners also [confirmed](#) that participation in the scheme was not a declaration of insolvency.

As of 30 March, 20 500 employers had [registered](#) for the wage subsidy scheme. As of 6 April, 507,000 payments of the Covid-19 Pandemic Unemployment Payment have been made and 39,000 employers have now registered with the Revenue Commissioners for the temporary Covid-19 Wage subsidy scheme.

On 28 March, the government [decided](#) that everybody should stay at home – other than to shop for essential items or taking brief individual physical exercise – until 12 April, except for travel to and from work, or for purposes of work, only where the work is an essential health, social care or other essential service and cannot be performed from home. All workers in designated [essential retail outlets](#) are permitted to travel to and from work, namely:

- 1) Retail and wholesale sale of food, beverages and newspapers in non-specialised and specialised stores;
- 2) Retail sale of household consumer products necessary to maintain the safety and sanitation of residences and businesses;
- 3) Pharmacies/chemists and retailers providing pharmaceuticals, pharmaceutical or dispensing services;
- 4) Retail sale of selling medical and orthopaedic goods in specialised stores;
- 5) Fuel stations and heating fuel providers;
- 6) Retail sale of essential items for the health and welfare of animals, including animal feed and medicines, animal food, pet food and animal supplies, including bedding;
- 7) Laundries and drycleaners;
- 8) Banks, post offices and credit unions;
- 9) Retail sale of safety supply stores (work clothes, personal protective equipment, for example).

Workers in the following [essential categories](#) are also permitted to travel:

- 1) Agriculture and fishing
 - farmers, farm labourers, farm relief service workers, and others involved directly or indirectly in crop and animal production and related activities (including veterinary services), and workers involved in fishing;
- 2) Manufacturing
 - the manufacture of food and beverage products; prepared animal feeds; work-wear apparel or footwear; pulp, paper and paperboard; wood; printing and reproduction of newspapers and other media services; coke and refined petroleum products; alumina; chemicals and chemical products; pharmaceutical products and pharmaceutical preparations; products necessary for the supply chain of essential services; computer, electronic and optical products including semi-conductors; electrical equipment, machinery and other equipment (including agricultural and forestry machinery); medical devices; and medical and dental equipment and supplies;
- 3) Repair and installation of machinery and equipment
 - the supply, repair and installation of machinery and equipment; industrial machinery and equipment for essential services;

- 4) Electricity, gas and water
 - electric power generation, transmission and distribution; extraction and distribution of gas; water collection, treatment and supply; sewerage; waste collection, remediation activities and other waste management treatment and disposal activities;
- 5) Construction
 - essential health and related projects relevant to the COVID-19 crisis, and supplies necessary for such projects; repair\construction of critical road and utility infrastructure; delivery of emergency services to businesses and homes on an emergency call out basis in areas such as electrical, plumbing, glazing and roofing;
- 6) Wholesale and retail trade
 - retail services in accordance with the separate "Updated Essential Retail Outlets" list; wholesale and distribution services necessary for the sale of food, beverages, fuel, medicines, medical products and devices and essential household products; takeaways and food delivery services;
- 7) Transport storage and communication
 - land transport (e.g. bus, rail and taxi services); road, rail, sea and air freight; sea and air passenger services; ports and airports; warehousing and support activities for transportation, including cargo handling; postal and courier activities; network control and critical maintenance (including roads); and safety related functions;
- 8) Accommodation and food services
 - hotels or similar providing essential accommodation (including for the homeless, direct provision and related services); food and beverage service activities in accordance with the separate "Updated Essential Retail Outlets" list or for supply to a business engaged in an essential service;
- 9) Information and communications
 - publishing of newspapers, journals and periodicals; video, television programme production, sound recording, radio and television broadcasting; wired and satellite and telecommunications activities; internet and cloud providers; data centres and related services;
- 10) Financial and legal activities
 - banking and financial services (including banks, credit unions and post offices); accountancy, legal and insurance services, necessary to support essential services and vulnerable people;
- 11) Professional, scientific and technical activities
 - engineering, technical testing activities and analysis, scientific research and development activities, regulation, inspection and certification services, necessary to support essential services;
- 12) Rental and leasing activities
 - rental and lease of cars, light motor vehicles and trucks, necessary to support the provision of essential services;
- 13) Administrative and support services
 - Where necessary to support other essential services: employment placement and human resources associated with the recruitment and

deployment of workers; security activities to assist in the delivery of essential services and the securing of premises closed to the public; cleaning of buildings and industrial cleaning activities; business support activities which are necessary to support essential services included on this list; payroll and payment services necessary for the operation of businesses; data processing, hosting and related activities;

14) Public administration and defence

- public administration activities necessary to support essential services and provision of social protection benefits (including civil service and local government); An Garda Síochána, Garda Staff and the Garda Reserve; public order, safety, fire service and ambulance activities; the Defence Forces; emergency call answering service; to ensure administration of justice; prison services and child detention services; cybersecurity; regulatory processes and certification required to ensure supply chains, food, medicine and general process safety; operation of botanical gardens, parks, forests and nature reserves; funeral services; religious personnel; office holders and public representatives;

15) Human health and social work activities

- hospital services; paramedical and essential therapy activities; public health activities (including all those deployed to contact tracing and COVID-19 testing services); laboratory services; drug treatment and addiction services; hospice services; pharmacy services; primary care, general and specialist medical practice activities provided by public and private providers; emergency dental practice activities; blood donation service; residential care activities (including nursing care, mental health and substance abuse, elderly and persons with disabilities, children's residential services); homecare, home help and other community services; social work and social care activities (including disability services, mental health, child protection and welfare, domestic, sexual and gender based violence, homeless services including outreach); ambulance/pre-hospital emergency care services; minor injury units; maternity services; health, social work, environmental, food safety regulatory activities; non-centre based childcare for those providing essential services;

16) Community/voluntary services

- community and voluntary workers, working in a publicly commissioned service, not otherwise included on the list, deployed to assist in the delivery of essential services; volunteer services operating under the local authority emergency management framework in accordance with public health guidance;

Part 2 of the Health (Preservation and Other Emergency Measures in the Public Interest) [Act](#) 2020 gives effect to the new social welfare payment discussed above. Section 28 of the Emergency Measures in the Public Interest (COVID-19) [Act](#) 2020 gives legislative effect to the wage subsidy scheme discussed above.

1.2 Other legislative developments

Nothing to report.



2 Court Rulings

2.1 Working Time

Labour Court, ADJ-00019586, 09 March 2020

Another retained firefighter seeking to rely on the CJEU decision in Case C-518/15, *Matzak* has had his complaint under the Organisation of Working Time Act 1997 [dismissed](#) by a Workplace Relations Commission adjudication officer because of the factual differences between the two cases. The complainant was not required during his stand-by time to remain at a specific location predetermined by his employer and was free to partake in other activities and other employment. He could also decline up to 25 per cent of call-outs.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Italy

Summary

The Italian government has adopted several measures aimed at containing the spread of COVID-19. The first restrictive measures only applied to some regions of the country (i.e. "red zones"), and were subsequently extended to a wider area, including a large part of northern Italy. Since 11 March, the measures apply to the entire national territory.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

1.1.1 Law Decree 02 March 2020, No. 9

The Decree extends the "red zone" to a large area of northern Italy. It provides for various measures, including on work and social security, applicable only to the territories where, up to that point, COVID-19 was more widespread.

According to Article 13, the regular period of *Cassa Integrazione* introduced in response to the COVID-19 crisis is not applicable (Legislative Decree 148/15 provides that *Cassa Integrazione* could last up to 24 months).

According to Article 14, companies that were covered by the extraordinary *Cassa Integrazione* before the health emergency can suspend it and replace it with the ordinary one.

Article 15 provides a special *Cassa Integrazione* for private sector employers, including agriculture, who cannot benefit from the current support instruments, for the duration of the suspension of employment relationships and in any case, for a maximum period of three months.

Article 16 provides an allowance of EUR 500 per month for a maximum of three months for workers in coordinated and continuous collaborative relationships, for commercial agents, for professionals and for self-employed persons or for employees who perform their activity in the listed municipalities, based on the effective duration of the suspension of their activity.

These rules had already been provided by the Law Decree of 23 February 2020, No. 6 for initial red zones. Law Decree 9/2020 extends these regulations to a wider area.

Article 19 establishes that the sick leave or quarantine period of public employees due to COVID-19 is equivalent to hospitalisation, and the eligible social security allowances. The period of absence from service of public employees due to measures adopted to contain COVID-19 are considered service times with all legal effects.

1.1.2 Act 5 March 2020, No. 13

Act 5 of March 2020, No. 13 converts the Law Decree of 23 February 2020 No. 6. into law.

1.1.3 Decree of the President of the Council of Ministers 08 March 2020

Schools and universities have been closed and distance learning methods must be activated.

Cinemas, museums and theatres have been closed and sports competitions suspended.

These provisions, initially planned for a limited period, have been subsequently extended.

Smart working can be used in any employment relationship.

1.1.4 Law Decree 09 March 2020, No. 14

The Law Decree of 09 March 2020, No. 14 provides for special recruitment regulations in the health professions.

Self-employment contracts or collaboration contracts can be concluded with doctors who are in their final year of specialisation. These contracts will run for six months and will be extendable.

1.1.5 Decree of the President of the Council of Ministers 09 March 2020

All sports competitions have been suspended. Sports facilities can only be used for training sessions of athletes, professionals and non-professionals, who are recognised by the Italian National Olympic Committee (CONI) and by their respective federations as representing national interests, in view of their participation in the Olympic Games or other national and international events.

The medical staff of sports clubs are required to carry out the appropriate checks to contain the risk of spread of COVID-19 among athletes, trainers and managers.

1.1.6 Decree of the President of the Council of Ministers 11 March 2020

All retail activities have been suspended throughout the entire national territory, apart from grocery stores and other essential activities, listed in the decree. All catering services have also been suspended, except those located on motorways, railway stations, airports and hospitals. All personal care activities, such as hairdressers, barber shops, beauty centres, etc. are closed.

Companies must use smart work to the extent possible. Paid annual leave and other leaves shall be recommended for employees who cannot be engaged in smart work.

Non-essential business departments must be closed.

All company premises must be sanitised.

In each company, anti-contagion protocols must be adopted. They must provide for distances of at least 1 metre between employees. In any case, the movement of people within the plants and access to the common areas should be limited to the maximum permissible. To this end, agreements with trade unions must be concluded.

1.1.7 Law Decree 17 March 2020, No. 18, "Take care Italy"

Law Decree 17 March 2020, No. 18 introduces many new measures on employment relationships, which are applicable nationwide.

Articles 19-22 provide that employers can apply for ordinary *Cassa Integrazione* using a simplified procedure without paying additional contributions; if they are already entitled to an extraordinary *Cassa Integrazione*, they can transform it into an ordinary one. Regions can authorise a special *Cassa Integrazione* for employers to which the ordinary one does not apply.

For self-employed workers and those who are not pensioners or insured by any other compulsory form of social security, an allowance of EUR 600 is payable by the INPS

for the month of March (Articles 27-28). The same allowance is provided for seasonal workers in the tourism and agricultural sector (Articles 29-30) and for artists (Article 38).

The deadline for submitting the application for agricultural unemployment for the year 2019 has been postponed to 01 June 2020 (Article 32).

The deadlines for submitting unemployment applications to NASPI and DISCOLL have been extended from 68 to 128 days (Article 33).

Requests for smart working by private sector employees, who have a serious illness, are given priority. Smart working must also be offered to employees who live with a disabled person in their household as well as for public sector employees (Article 39).

Employees who are parents of children under the age of 12 years are entitled to a special leave of 15 days. They will be paid 50 per cent of their regular remuneration and this leave can be used alternately by each parent. This allowance is also paid to workers enrolled in the separate INPS management. The same leave applies to parents of children with disabilities (without age limits) if they attend school. Instead of this leave, the employee can choose to receive a bonus in the amount of EUR 600 for private child care services. This bonus amounts to EUR 1 000 for public and private health sector employees, e.g. doctors, nurses, biomedical laboratory technicians, medical radiology technicians and health and social workers. The same amount is also paid to employees from the security, defence and public rescue sector whose services are needed during the COVID-19 crisis (Articles 23-25). Parents of children aged between 12 and 16 are entitled to an unpaid leave of 15 days (Art. 23 and 25).

The number of days of paid leave provided in Law No. 104/1992 to assist disabled relatives has been raised by an additional 12 days, which can be taken in the months of March and April 2020 (Article 24).

A bonus of EUR 100 euros, depending on the number of days spent at the workplace in March 2020, is provided for employees who have a total income of no more than EUR 40 000 annually (Article 63).

The start of collective dismissal procedures has been suspended for 60 days from the entry into force of the decree. Procedures that started after 23 February 2020 have also been suspended. In the same period, the employer, regardless of the number of employees, cannot dismiss employees for economic reasons (Article 46).

In the public sector, smart working shall be the standard method to perform work until the end of the state of emergency (Article 87).

1.1.8 Ministry of Health, ordinance 20 March 2020

The ordinance requires the closure of bars and restaurants in railway stations, as well as in fuel service areas. Bars and restaurants located along highways can remain open, but they can only sell take-out to be consumed outside. Those located in hospitals and airports shall remain open, with the obligation to ensure distance of at least one metre between individuals.

1.1.9 Decree of the President of the Council of Ministers 22 March 2020

The Decree establishes additional measures implementing Law Decree 6/2020.

To contain the spread of COVID-19, all industrial and commercial activities have been suspended in the entire national territory, apart from those indicated in the Decree. Essential activities are allowed, including production, transport, marketing and delivery of medicines, healthcare technology and medical-surgical devices as well as agricultural and food products. The activities of the continuous cycle plants and of the

defence industry are permitted, as well as other activities that are of strategic importance for the national economy, under authorisation of the Prefect of the province where the activities are located.

1.1.10 Law Decree 25 March 2020 No. 19

With reference to specific parts of the national territory or its entirety, and for predetermined periods, each lasting no more than 30 days, special measures to contain the spread of COVID-19 can be extended and or modified several times until the end of the state of emergency, currently set until 31 July 2020. The application of the measures may be adjusted upwards or downwards depending on the development of the crisis.

These measures include the closure of schools, universities, theatres, cinemas, bars, restaurants, shops, companies and the possibility of applying smart working to any employment relationship, even in derogation of the current law.

1.1.11 Minister of Labour and Minister of Economy, Decree 28 March 2020

The compensation of EUR 600 provided for in Law Decree 17 March No. 18 shall also be paid to professionals and self-employed workers who are insured by a professional pension fund.

The bonus will be paid for the month of March only upon request to the professional pension fund. It will be paid to those whose income in 2019 was up to EUR 35 000 or between EUR 35 000 and 50 000 and have experienced a drop in activity by at least 33 per cent in the first 3 months of 2020.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Latvia

Summary

The Cabinet of Ministers has announced a state of emergency. The emergency measures have led to the factual closure of businesses. There is no clarity on entitlements to 'idle time allowance'. The maximum weekly working time in the public sector and the transport sector has been extended.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

Due to the spread of COVID-19, the Latvian government and Parliament have introduced a number of legislative measures that are directly and indirectly linked to employment and social security rights.

First, the decision to declare a state of emergency was adopted and announced on 12 March 2020 (Order of the Cabinet of Ministers No. 103 'On announcement of state of emergency' (*Par ārkārtējās situācijas izsludināšanu*), Official Gazette [No. 51A](#), 12 March 2020). It envisages the closure of all educational establishments and the continuation of studies through distance learning and the promotion of social distancing in public places. Respective Order No. 103 'On announcement of a state of emergency' has been amended several times by applying increasingly stricter regulations on business operations, movement and conduct. Persons who legally reside in Latvia can leave their homes whenever they want and for how long they want and businesses may remain open (except cinemas and betting shops), however, the streets are empty. The measures have led to the closure of non-essential businesses (like in the entertainment sector) due to the lack of customers. Employers have started dismissing employees.

On 21 March 2020, Parliament adopted a first legislative act related to the crisis – the Law on actions for the prevention of risks and consequences in relation to the spread of COVID-19 (*Par valsts apdraudējuma un tā seku novēršanas un pārvarēšanas pasākumiem sakarā ar Covid-19 izplatību*), Official Gazette [No. 57B](#), 21 March 2020).

Article 14 of the said law envisages support measures for businesses, specifically, that employers under the conditions established by the Cabinet of Ministers can apply for 'idle time allowances' for their employees in order to avoid mass redundancies. The amount of allowance will be up to 75 per cent of the employee's average income over the last 6 months but no more than EUR 700.

The Cabinet of Ministers has adopted initial measures for entitlement to 'idle time allowance' on 25 March 2020 (The Cabinet of Ministers Regulation No. 152 (*Noteikumi par dīkstāves pabalstu darbiniekiem, kurus skar Covid-19 izplatība*), Official Gazette [No. 60A](#), 25 March 2020). During these 7 days, the criteria has been modified several times (see, for example, the Cabinet of Ministers Regulation No. 165 (*Noteikumi par Covid-19 izraisītās krīzes skartiem darba devējiem, kuri kvalificējas dīkstāves pabalstam un nokavēto nodokļu maksājumu samaksas sadalei termiņos vai atlikšanai uz laiku līdz trim gadiem*), Official Gazette [No. 62B](#), 27 March 2020).

Currently, employers face an uncertain situation and it is unclear whether they should dismiss their employees or not, because dismissal is conditional upon the entitlement criteria for a business to be entitled to 'idle time allowance'.

Because of the need of Latvian citizens and permanent residents who return from high-risk countries to isolate, the legal regulation on the right to sick leave and sickness allowance was amended. Specifically, persons who returned from high-risk

countries were automatically granted sick leave (and thus sickness allowance) (Regulations of the Cabinet of Ministers No. 133 'Amendments to the Cabinet of Ministers Regulation No. 152 adopted on 03 April 2001 'On the procedure of granting sick leave and their annulment' (*Grozījums Ministru kabineta 2001. gada 3. aprīļa noteikumos Nr. 152 "Darbnespējas lapu izsniegšanas un anulēšanas kārtība"*), Official Gazette [No. 52](#), 13 March 2020). Second, the first 10 days of sickness allowance are usually paid by the employer. This rule was repealed and replaced by a norm stating that statutory social insurance shall cover the entire period of sick leave (Amendments to the Law on Maternity and Sickness Insurance (*Grozījums likumā "Par maternitātes un slimības apdrošināšanu"*), Official Gazette [No. 57B](#), 21 March 2020).

Other measures directly related to employment rights include the extension of working time in certain sectors.

On 25 March 2020, the Cabinet of Ministers extended the maximum weekly working time up to 60 hours for employees in the health and defence sectors, foreign affairs and generally for all civil servants and state officials (Order of the Cabinet of Ministers No. 119 'Amendments to the Order of the Cabinet of Ministers No. 103', Official Gazette [No. 60A](#), 25 March 2020).

On 27 March 2020, the Cabinet of Ministers changed the working time and rest period regulations for vehicle drivers (Order of the Cabinet of Ministers No. 132 'Amendments to the Order of the Cabinet of Ministers No. 103', Official Gazette [No. 62B](#), 27 March 2020). Specifically, the maximum daily driving time was extended to 11 hours (instead of 9 hours) and a maximum weekly driving time to 60 hours (instead of 56 hours), the overall driving time within two consecutive weeks may not exceed 96 hours (instead of 90 hours), rest periods must be taken every 5.5 hours of driving (instead of 4.5 hours), regular weekly rest periods of 45 hours can be shortened to 24 hours. Such working and rest periods run counter to Directive 2002/15/EC and Regulation 561/2006. The reasons for these new working times and rest periods for drivers cannot be reasonably explained, because no explanatory note is available to this normative act.

On 29 March 2020, the Cabinet of Ministers extended the maximum 60-hour work week to providers of social services, municipal police, orphans' courts and port employees (Order of the Cabinet of Ministers No. 138 'Amendments to the Order of the Cabinet of Ministers No. 103', Official Gazette [No. 62D](#), 29 March 2020). The same amendments also allow for the employment of persons without the mandatory health check required by normative acts, if such medical services are not available. This does not apply to situations in which a person is employed for the first time in hazardous work.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.



4 Other relevant information

Nothing to report.

Liechtenstein

Summary

The Government of Liechtenstein has adopted a number of measures to fight the coronavirus (COVID-19). These include measures that directly affect labour law, such as restrictions to the prohibition of Sunday work, provisions on hygiene and social distancing, interventions to ensure occupational safety, suspension of the provisions of the Labour Code on working hours and rest periods, home office, provisions on controls, change in working hours in the public sector, and compensation for short-time work.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

During the reporting period, the Government of Liechtenstein adopted a number of measures to fight the coronavirus (COVID-19). These include measures that directly affect labour law, namely:

1.1.1 Restrictions to the prohibition of Sunday work

Postal service providers are authorised to deliver food and items for daily use ordered online to residents seven days a week. An exemption permit from the Office of National Economy for Sunday work and an exemption from the Sunday driving ban for the supply of deliveries are not required.

Article 6a(1) and (2) of the [Ordinance on measures to fight the coronavirus \(Covid-19\)](#) (*Verordnung über Massnahmen zur Bekämpfung des Coronavirus, Covid-19*, LR 818.101.24).

1.1.2 Provisions on hygiene and social distancing

Employers in the main and ancillary construction industry are required to comply with the recommendations of the government and the Office of Health regarding hygiene and social distancing. To this end, the number of persons present on construction sites or in establishments must be limited accordingly, the organisation of construction sites and establishments must be adapted and the use of break rooms and canteens, in particular, must be restricted in an appropriate manner. The competent enforcement authorities may close down individual establishments or construction sites if the obligations mentioned above are not being complied with.

Article 6d(1) and (3) of the Ordinance on measures to fight the coronavirus (Covid-19) (*Verordnung über Massnahmen zur Bekämpfung des Coronavirus, Covid-19*, LR 818.101.24).

1.1.3 Interventions for reasons of occupational safety

Health care facilities may carry out statutory interventions, prescribed for reasons of occupational safety, on persons who are active or intended to be active, in particular, in health care and civil protection services as well as for authorities and organisations for rescue and public safety and order.

Article 7a(4) of the Ordinance on measures to fight the coronavirus (Covid-19) (*Verordnung über Massnahmen zur Bekämpfung des Coronavirus, Covid-19*, LR 818.101.24).

1.1.4 Suspension of the provisions of the Labour Code on working hours and rest periods

In hospital wards, which are experiencing a massive increase in work as a result of COVID-19 diseases, the provisions of the Labour Code concerning working hours and rest periods have been suspended for the duration of the exceptional situation. Temporal or financial compensation must, however, continue to be granted. Employers remain responsible for protecting the health of their employees and must, in particular, ensure that they are provided adequate rest periods.

Article 7a(5) of the Ordinance on measures to fight the coronavirus (Covid-19) (*Verordnung über Massnahmen zur Bekämpfung des Coronavirus, Covid-19*, LR 818.101.24).

1.1.5 Home office

Employers must allow their most vulnerable workers to perform their work duties from home. To this end, they shall take the appropriate organisational and technical measures. If—due to the nature of the work or in the absence of feasible measures—work activities can only be performed at the usual workplace, employers are required to introduce appropriate organisational and technical measures to ensure compliance with the recommendations of the government and the Office of Public Health regarding hygiene and social distancing. If it is not possible for particularly vulnerable employees to perform their work obligations within this framework, the employer shall grant them leave with continued payment of wages. Employees must make a personal declaration about their particular vulnerability. The employer may require a medical certificate.

Article 7c of the Ordinance on measures to fight the coronavirus (Covid-19) (*Verordnung über Massnahmen zur Bekämpfung des Coronavirus, Covid-19*, LR 818.101.24).

1.1.6 Provisions on controls

The competent enforcement authorities may carry out unannounced inspections of establishments and premises at any time. Operators, organisers and employers shall grant access to premises and establishments to the competent enforcement authorities.

Article 7(1) and (2) of the Ordinance on measures to fight the coronavirus (Covid-19) (*Verordnung über Massnahmen zur Bekämpfung des Coronavirus, Covid-19*, LR 818.101.24).

1.1.7 Change in normal working hours in the public sector

Normal working hours shall be deemed to be the times between 5.00 a.m. and 10.00 p.m., notwithstanding the provision in the State Personnel Ordinance. Saturdays, Sundays, public holidays and days off are excluded. This provision has been supplemented by a provision to compensate for a negative balance in working hours.

Articles 2 and 3 of the [Ordinance on temporary measures for public sector employees in connection with the coronavirus \(COVID-19\)](#) (*Verordnung über befristete*



Massnahmen im Bereich des Dienstrechts des Staatsappersonals in Zusammenhang mit dem Coronavirus, Covid-19, LR 174.111.2).

1.1.8 Compensation for short-time work

A special ordinance lays down specific rules for the payment of short-time work compensation to recompense employers for the economic consequences of the coronavirus (COVID-19).

Work loss caused by the coronavirus is, in principle, considered to be chargeable if it relates to a decline in demand for goods and services, to official measures or to other circumstances for which the employer is not responsible.

Articles 1 and 2 of the [Ordinance on the payment of short-time working compensation for the economic consequences of the coronavirus \(Covid-19\)](#) (*Verordnung über die Ausrichtung von Kurzarbeitsentschädigung zum Ausgleich der wirtschaftlichen Folgen des Coronavirus, Covid-19, LR 837.012*)

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Lithuania

Summary

The Lithuanian legislator quickly adopted changes to the Labour Code allowing employers: (1) to suspend the contract of employment with pay (partially compensated by the government) if there is no work due to quarantine measures, and (2) to request employees, whose health condition may endanger others, to work remotely without their prior consent.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

In Lithuania, the first cases of coronavirus were identified on 19 March and the first related death occurred on 20 March 2020. The Lithuanian government initially declared a quarantine from 16 March to 30 March, but the date was later extended until 13 April. On 16 March, the entire country was put under quarantine (in accordance with quarantine rules, all public indoor and outdoor gatherings were prohibited; all shops and businesses excluding grocery shops, pharmacies and veterinary pharmacies were closed; all restaurants and bars were closed, allowing for the option take-away; borders were closed for foreigners, regardless of their means of transport, excluding cargo and special transports; all international outbound passenger travel was prohibited), and on the next day (17 March), Parliament adopted amendments (Law No. XIII-2821, Register of Legal Acts, 2020, No. 5702) to the Labour Code aimed at:

- 1) allowing employers to declare idle time (*prastova* – in Lithuanian), i.e. to suspend the contract of employment, implying that the employee is not given any work but continues to be paid, introduced in response to the officially declared quarantine or extraordinary situation (On 31 March 2020, the legislator adopted another amendment to the new Article 47 (3) of the Labour Code requiring all employers to inform the State Labour Inspectorate about the number of idle employees. The President's signature to this amendment is still pending). In addition, the legislator created the financial framework (subsidies) to compensate private employers for the payment of the officially declared minimum monthly wage for idle employees (new Article 47 (3) of the Labour Code);
- 2) allowing employers to request employees to work remotely (to work from home), where possible, without the employee's prior consent (new Article 49 (3)-1 of the Labour Code) (in accordance with the new Article 49 (3)-1 of the Labour Code, after the Government of the Republic of Lithuania declares an emergency situation or quarantine, in order to ensure the protection of the health of employees and third parties, the employer must propose to an employee, whose health condition threatens the health of other employees, to work remotely. The employee must inform the employer in writing of the consent to work remotely within one working day. If the employee does not agree to work remotely or does not provide the employer with a response to the employer's request to work remotely, the employer can remove the employee from work without paying his or her wages);.

In addition, some other measures were introduced to help employees and employers cope with the quarantine situation:

- 1) extension of paid care leave. If quarantine is announced in schools or kindergartens and there is no access to childcare, parents can receive a



certificate of incapacity for work and sickness benefits. So far, incapacity for work has been imposed for 14 days, but from now on, it can be applied for up to 60 days. The payment of state social insurance benefits will be extended for those additional days as well;

- 2) financial subsidies of 90 per cent and 70 per cent of the employee's salary for employers to help them pay minimum wages for idle employees (see above);
- 3) those self-employed workers, who were forced to cease or partially restrict their activities following the government declaration of quarantine, will be paid a flat rate benefit of EUR 257 per month;
- 4) a special government fund will be created to invest in SMEs that have been successful so far but are facing temporary difficulties due to the current situation caused by COVID-19. The fund's investments will help to ensure sufficient liquidity, additional financing and business continuity for these companies in the event of a crisis.

1.2 Other Legislative Developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Luxembourg

Summary

Legislation on working time in agriculture has been adopted. Furthermore, multiple temporary measures have been implemented to address the economic shutdown due to the Covid-19 pandemic.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

In Luxembourg, a state of emergency (*état de crise*) was declared by the government ([Arrêté ministériel du 16 mars 2020 portant sur diverses mesures relatives à la lutte contre la propagation du virus covid-19](#) and [Règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19](#)) and confirmed by the Chamber of Deputies ([Loi du 24 mars 2020 portant prorogation de l'état de crise déclaré par le règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19](#)), in accordance with Article 32 (4) of the Constitution. The government can thus take any regulatory measures that may derogate from existing laws. These regulations cease to have effect at the end of the state of emergency.

Many measures similar to those of neighbouring countries have been taken, such as the closure of all construction sites and non-essential businesses. Due to the very high number of tests, the official number of infected persons in relation to the population is—with the exception of a few small territories—the highest in the world.

Numerous derogatory rules have been introduced, for example, in medical, tax and business law. A major support plan for businesses and self-employed persons has been established. Eviction from residential and commercial buildings has been suspended.

The regulation of 18 March 2020 defines the following activities:

Authorised economic activities	Activities essential for the maintenance of the vital interests of the population and the country
<ul style="list-style-type: none"> • commercial stores that sell mainly food products, • pharmacies, • opticians, • businesses that sell mainly animal feed, • telecommunications services, • businesses that sell mainly hygiene products, washing and sanitary equipment, • fuel sales services and gas stations, • passenger transport activities, • distributors and shops specialising in 	<ul style="list-style-type: none"> • the public services necessary for the proper functioning of the State, • the health and care sector, including hospital activities and medical analysis laboratories, • the production and distribution of energy and petroleum products, • the power supply sector, • the production and distribution of water, • the collection and treatment of wastewater, • waste removal and management,

<p>medical and health equipment,</p> <ul style="list-style-type: none"> • medical pedicure limited to medical and non-cosmetic care, • press distribution businesses, • financial and insurance institutions, • postal services, • drycleaning and laundry services, • funeral services, • troubleshooting, repair, remediation and maintenance activities required for safety reasons. 	<ul style="list-style-type: none"> • public transport, • systems for the exchange, payment and settlement of instruments, • postal and telecommunications services, • security, cash transportation and cleaning services, • essential activities relating to the functioning of the financial sector and the insurance and reinsurance sector.
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In the context of labour law, the measures taken are listed below.

1.1.1 Impact on employment relationships

Many establishments have been forced to close because of the crisis measures, while others are no longer able to ensure provision of their activity, notably due to the disruption in the supply chain. It is a criminal offence to continue operating in closed sectors.

It can therefore be argued that this is a case of *force majeure* on the part of the employer, so that:

- by application of the general rules of the law of obligations, the employer may no longer be required to pay the salary;
- by virtue of Article L. 124-1 paragraph 3 (which has never been applied to our knowledge), the employer could dismiss employees for economic reasons without having to respect the notice periods.

However, this is hypothetical reasoning. For the time being, the government's aim is to keep employment contracts in place as far as possible, in particular through short-time working (*chômage partiel*).

1.1.2 Short-time work

Luxembourg had a scheme in place to avoid redundancies for cyclical/economic reasons (*chômage conjoncturel*) when undertakings are faced with difficulties of a mainly economic and temporary nature (Article L. 511-1s.). This system proved itself during the economic crisis of 2008/2009. Since then, the scheme has persisted, but on average, only around 30 companies have made use of it.

The scheme has been "reactivated" and adapted to the context of the current crisis caused by COVID-19, on the one hand, because some companies no longer have the right to be open or have had to sharply reduce their activities, and because companies are facing difficulties in transporting supplies and selling their products, on the other.

The central features of this scheme are as follows:

- The obligation to consult the staff and trade union representatives in advance appears to have been maintained (L. 511-6 (1));
- Due to the large volume of requests, such a request can only be made online;

- The duration of the reduction in working time may not exceed 1 022 hours per calendar year (L. 511-5). The hope is that the crisis will not lead to this threshold being applied;
- Applications are to be renewed monthly;
- By way of derogation from the general rules (L. 511-9), apprentices can benefit from statutory unemployment benefits;
- An advance equivalent of 80 per cent of the wage of short-time workers will be paid to companies. The law has been amended to ensure that no partially unemployed employee receives a wage lower than the social minimum wage for low-skilled workers ([Règlement grand-ducal du 27 mars 2020 portant modification temporaire de l'article 2 du règlement grand-ducal modifié du 15 septembre 1975 portant fixation du taux d'indemnisation des chômeurs partiels](#));
- The aid is capped at 250 per cent of the social minimum wage;
- There is a procedural difference depending on the direct or indirect impact of the crisis on the company's activity:
 - Normally, applications are submitted to the Economic Affairs Committee (L. 511-6 (2)). Indirectly impacted companies must follow the standard procedure;
 - Companies that can no longer operate due to the government's decision are automatically eligible for short-time working without the need for agreement from the Economic Conditions Committee. Their application is therefore directly processed by the ADEM.

Staff may be fully or partially placed on short-time work; an employee may be placed on short-time work for the entire month or for a certain portion of working time only.

According to Article L. 511-3, the employer shall undertake to maintain the employees' employment contracts.

For the time being, several thousand companies have submitted requests and the measure is provisionally budgeted at EUR 500 million per month.

1.1.3 Telework

Telework is strongly encouraged by the government. In the civil service, the Grand-Ducal regulation on telework has been repealed ([Règlement grand-ducal du 18 mars 2020 portant abrogation du règlement grand-ducal du 10 octobre 2012 déterminant les conditions générales relatives à l'exercice du télétravail dans la fonction publique](#)). For employees, all the rules laid down in the 2009 Convention (last renewal of the declaration of general obligatio: [Règlement grand-ducal du 15 mars 2016 portant déclaration d'obligation générale d'une convention relative au régime juridique du télétravail conclue entre l'Union des Entreprises Luxembourgeoises, d'une part et les syndicats OGB-L et LCGB, d'autre part](#)) (based on the EU Convention on Telework) are in principle to be respected. In particular, this implies that:

- Telework must be voluntary on the part of both the employer and the employee. Given the crisis situation and the fact that this is a matter of protecting the safety and health of workers, it can be asserted that the employer can impose this form of work. According to the ITM, the employer is entitled to impose telework on its employees to meet its legal obligation to ensure the safety and health of employees. However, the employer can reject an employee's request for telework depending on the company's needs;

- The employment contract must be supplemented by a number of mandatory clauses;
- An adaptation period of between 3 and 12 months is to be agreed. In view of the temporary nature of this crisis, it can be argued that this obligation is not applicable;
- The staff representatives must be informed in advance;
- The employer must respect the employee's privacy and the rules on the protection of personal data;
- etc.

One particular problem arises in Luxembourg because of the large number of cross-border commuters, who represent nearly 50 per cent of the workforce. However, beyond a certain number of teleworking days per year, they are subject to taxation and social security in their country of residence.

An agreement has been reached with France for the duration of the crisis, namely telework days will not be counted towards the regular maximum of 29 days. A similar agreement was reached with Belgium regarding the 24-day limit for Belgian cross-border commuters. Negotiations with Germany are ongoing.

1.1.4 Free movement

At the national level, moving in public spaces is, in principle, prohibited except for certain activities, including travel to the workplace for the exercise of a professional activity (Article 1 of the Grand-Ducal Regulation of 18 March 2020).

It is in principle the responsibility of the employee to arrive at his or her place of work. If the employee was previously accustomed to using his or her individual means of transport, he or she will no longer encounter the problem of traffic jams at peak times. On the other hand, cross-border commuters are subject to border controls. Those who use public transport face a substantial reduction in this service. There is no case law on the subject, but in cases where this is not the fault of the employee (i.e. a situation no far-sighted employee could have avoided), it can be considered a case of *force majeure*. Any lost working hours would not have to be paid, but late arrival at work would not constitute a punishable offence, either.

At the cross-border level, the large number of cross-border commuters, especially in the medical and hospital sector, puts the Grand Duchy in a difficult situation due to the restrictions on the free movement of workers as a result of the closure of borders.

For the time being, agreements have been reached so that frontline workers can travel to and work in Luxembourg. They must be in possession of certificates drawn up by their employer (e.g. for [Germany](#)).

1.1.5 Sickness leave

Medical practices are supposed to limit the physical intake of patients to serious and urgent cases. Regulations have been adapted to allow teleconsultation in the context of the epidemic. Therefore, medical certificates can also be produced in electronic form.

In addition to private platforms offering teleconsultation and document transmission services, a public platform has been set up ([eConsult service](#)).

For others, the regular obligations remain in force, namely that the employee must inform his or her employer on the first day of his or her absence due to sick leave, and

that the certificate must have reached the employer by the third day of absence at the latest.

Reference: [Règlement grand-ducal du 17 mars 2020 modifiant le règlement grand-ducal modifié du 21 décembre 1998 arrêtant la nomenclature des actes et services des médecins pris en charge par l'assurance maladie](#)

1.1.6 Annual leave

Travel restrictions, including the cancellation of vacation departures, raise questions about annual leave (*congé annuel*). Only few questions have been specifically dealt with, and case law does not provide clear answers to all of the open questions. Nevertheless, the standard procedure is that the employee requests annual leave and the employer may reject this request, in particular because the employee's services are needed (L. 233-10 of the Labour Code).

Given the current circumstances, in particular the fact that a number of employees are absent due to illness, quarantine and leave for family reasons, the employer may invoke the need for the employee's services and reject requests for annual leave.

For activities considered "essential for the maintenance of the vital interests of the population and the country" (see list above), it is explicitly stated that the employer may refuse any leave during the state of emergency (Art. 5 of the Grand-Ducal Regulation of 18 March 2020). By mutual agreement, it is always possible to use a leave that has been agreed on.

On the other hand, a unilaterally fixed leave cannot be unilaterally revoked by the other party. Thus, in principle:

- the employer cannot unilaterally cancel an employee's leave based on the company's needs;
- The employee cannot unilaterally cancel his or her leave, for example, on the grounds that he or she cannot go on vacation.

With regard to collective leave in certain sectors, such as construction, voices are being raised and calling for its reduction or cancellation, since all building sites are standing still.

1.1.7 Family leave

Special leave in case of illness of a child (*congé pour raisons familiales*) was introduced in 1999 ([Loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales](#)) and modified in 2017 (see December 2017 Flash Report). This leave is regulated in Articles L. 234-50ff of the Labour Code. For children aged 13 years and older, leave is only due in the event of hospitalisation of the child (L. 234-52). Parents are entitled to a limited number of leave days, calculated by their child's age group, when their presence is certified as necessary by a doctor. An extension of this period could only be granted on the recommendation of the social security bodies, for specific serious illnesses.

Because of the current crisis, the regulations on this leave were adapted in two stages:

- On 12 March, this leave was extended to cases of 'quarantine of a child, decided by the doctor of the Health Directorate' ([Règlement grand-ducal du 12 mars 2020 modifiant le règlement grand-ducal du 10 mai 1999 définissant les maladies ou déficiences d'une gravité exceptionnelle en application de l'article](#)

[15, alinéa 2 de la loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales](#));

- All schools and childcare facilities have been closed since 16 March 2020. According to a regulation of 18 March 2020, with retroactive effect to 14 March, the right to leave is also applicable for: "*measures of isolation, eviction or home support of children for imperative reasons of public health decided by the competent authorities to deal with the spread of an epidemic*" ([Règlement grand-ducal du 18 mars 2020 modifiant le règlement grand-ducal modifié du 10 mai 1999 définissant les maladies ou déficiences d'une gravité exceptionnelle en application de l'article 15, alinéa 2 de la loi du 12 février 1999 portant création d'un congé parental et d'un congé pour raisons familiales](#)).

Thus, an additional right to this leave has been introduced for all parents caring for a child under the age of 13 years.

For children with a permanent condition or disability of at least 50 per cent of physical or mental capacity, the right to leave persists until the age of 18 ([La condition d'hospitalisation a été supprimée à leur égard. Règlement grand-ducal du 25 mars 2020 portant modification de l'article L. 234-52 du Code du travail](#); voir aussi le projet de loi n° 7544).

The government calls for reasoned use of this scheme and to resort to it only if the employee has no other means of ensuring care for his or her the children, while recalling that care should not be provided by vulnerable persons. Such leave can even be taken if the employee has the possibility of teleworking. It can also be taken during school holidays.

Parents may alternate leave for family reasons. However, it is recommended that if one parent holds a strategically important position within the context of the current pandemic, the other parent shall take leave.

To benefit from this leave, the employee must first inform his or her employer either orally or in writing on the day of absence (L. 234-53 of the Labour Code).

The employee must then fill in a special [form](#) and forward it to the employer and to the National Health Fund (*Caisse nationale de santé*).

On the other hand, to avoid abuse, it has just been decided that an employee cannot benefit from this leave if the other parent is on short-time work ([Règlement grand-ducal du 27 mars 2020 portant dérogation à l'article L. 234-51 du Code du travail](#)). The forms have been adapted accordingly.

In the form, the employee signs a declaration of honour as follows: "that neither the applicant employee, nor the other parent, nor any other member of the household in question is on short-time work ... during the period for which the leave is requested and that no other means of childcare are available (including a specific structure made available for childcare)".

The same certificate states that it is "equivalent to a medical certificate" within the meaning of the Labour Code with reference to the employer and the Health Fund.

The government has stated that about 15,000 employees have applied for such and has provisionally budgeted EUR 200 million per month for this measure.

For most of the employees who take this leave, the payment of salaries is the responsibility of the employer and not of the Health Fund. The *Mutualité des Employeurs* in principle reimburses 80 per cent of this amount to employers. To support companies, it is [envisaged](#) for such reimbursement to be made in advance.

1.1.8 Parental leave

Without a precise legal basis, the Family Fund (*Caisse pour l'avenir des enfants*) has decided that, in view of the pandemic, it is exceptionally possible to interrupt parental leave in the event of professional obligations and the need to return to work.

Compensation (*indemnité de congé parental*) does not have to be refunded and the parental leave period not taken may, with the employer's agreement, be taken at the end of the interruption. A special [form](#) has been made available online to request such an interruption. This form must be signed by the employer and the employee.

1.1.9 Special leave for volunteers

The specific rules on leave of absence for rescue volunteers (*volontaires des services de secours*) are also applicable to the employees of approved relief associations and organisations and who are requested by their employer to take part in the mission entrusted to the relief services in the context of the pandemic's management.

Référence: [Règlement grand-ducal du 12 mars 2020 modifiant le règlement grand-ducal du 22 octobre 2009 relatif aux centres de traitement et aux centres de vaccination dans le cadre de la gestion d'une pandémie grippale](#); In fact, the 2009 regulations for influenza pandemics were extended to all pandemics. This special leave was detailed in the ECE report on volunteering.

1.1.10 Durée de travail

According to Article L. 211-12 (1) of the Labour Code, the maximum working time, including overtime or additional hours, may not exceed 10 hours per day or 48 hours per week. The second paragraph of this article provides that a Grand-Ducal regulation may determine a limited number of sectors, branches, activities or professions in which the applicable collective labour agreement or, failing that, the Minister of Labour, may authorise a maximum daily working time of 12 hours, provided, however, that the actual weekly working time does not exceed 40 hours.

A Grand-Ducal regulation has eased these limits ([Règlement grand-ducal du 27 mars 2020 portant introduction d'une dérogation à l'article L. 211-12 du Code du travail](#)). By way of derogation from the aforementioned Article L. 211-12 and from collective agreements, the maximum working time may be extended to 12 hours per day and 60 hours per week. The recitals of this regulation refer explicitly to the European Directive on Working Time and to the case law of the Court of Justice of the Union. A request must be addressed to the Minister of Labour (Article 2) and must contain certain indications, in particular the maximum daily and weekly working time requested, the number of employees concerned, the opinion of the staff delegation, a statement of reasons for the request for derogation and its beneficial effects. Where appropriate, the request shall also indicate the compensatory measures proposed to the employees concerned.

Article 4 of the Regulation further formulates a restriction in rather vague terms: "*The exemptions requested must be clearly limited to what is indispensable and strictly necessary, they must in all cases be adequate and proportionate to the aim pursued, which must be clearly stated by the applicant*".

The period of validity of the ministerial authorisation is limited by the duration of the state of emergency.

More specifically, the weekly working time of fixed-term contracts concluded with students (*étudiants et élèves*), usually limited to 15 hours per week (L. 122-1 in fine), may be up to 40 hours for the activities mentioned in the above table ([Règlement](#)

[grand-ducal du 27 mars 2020 portant dérogation à l'article L. 122-1 du Code du travail](#)).

1.1.11 Recruitment and professional insertion

The problems of absence of employees who are ill or in quarantine should undoubtedly constitute a temporary absence justifying the use of fixed-term contracts (CDD) and temporary work.

Hiring restrictions exist for companies taking advantage of short-time work. These companies are not allowed to recruit employees on fixed-term contracts or temporary workers, nor to renew such contracts. However, it should be noted that if certain parts of the business are being downsized and justify recourse to short-time working, it is possible that in other parts of the business, certain posts may need to be urgently filled and require skills that are not available in-house.

In the case of assisted reintegration contracts (*contrat de réinsertion-emploi*), the employer must normally pay an amount corresponding to 50 per cent of the minimum social wage to the Employment Fund (Article L. 524-5), an obligation that has been suspended for the duration of the crisis (Article 3). For employment support contracts (*contrats d'appui-emploi*) that ADEM may offer to young job seekers in non-commercial businesses, the employer must pay an indemnity corresponding to the minimum social wage and is reimbursed by public funds up to 75 per cent during the first 12 months, and 50 per cent in the event of an extension (Article L. 543-11 (3)). During the state of emergency, these reimbursements have been increased to 100 per cent. In the commercial sector, an employment initiation contract (*contrat d'initiation à l'emploi*) may be offered; during the first 12 months, public funds will reimburse 50 per cent of the indemnity and in the event of an extension, 30 per cent of the indemnity (Article L. 543-20). Here, again, the reimbursement has been increased to 100 per cent (Article 5).

Reference: [Règlement grand-ducal du 27 mars 2020 portant dérogation aux articles L.521-9., L.521-11., L.524-5., L.543-11., L.543-20., L.552-2. du Code du travail et aux articles 8 et 10 du règlement grand-ducal du 14 octobre 2002 concernant le mode de désignation et d'indemnisation des membres, les règles de fonctionnement et les délais de procédure de la commission mixte de reclassement des travailleurs incapables à exercer leur dernier poste de travail](#)

1.1.12 Dismissals and unemployment

There are currently no restrictions on layoffs due to the crisis. However, a restriction on dismissals may result from the fact that the company is resorting to short-time work.

The unemployment benefit scheme has been relaxed in several respects, in particular with regard to the registration and signature of the "individualised collaboration agreement" (*convention de collaboration individualisée*) (Article 1). The period of compensation has been extended in the sense that unemployment benefits cannot expire during a state of crisis but are extended accordingly (Article 2). In addition, to limit travel, jobseekers can register with ADEM using an [online form](#).

Reference: (1) Règlement grand-ducal du 27 mars 2020, op cit.

1.1.13 Occupational health and safety

The legislation has not yet been amended. The authorities thus issue advice based on the general rules of the Labour Code.

Thus, the Labour Inspectorate (ITM) has set down the following [principles](#):

- The employer must assess the risks of exposure of his or her employees;
- The employer must meet its obligations to inform and raise awareness among staff, particularly with regard to barrier gestures and social distancing;
- The employer must limit the risks of exposure, in particular:
 - by using teleworking;
 - by reorganising the work, especially by making it compulsory to keep a distance of at least 2 metres;
 - by putting in place equipment, such as protective screens;
 - by disinfecting and frequently washing the premises, floors and surfaces;
 - by limiting meetings, which should preferably be held by videoconference, to bare necessities. The same applies to any grouping of employees in small spaces;
 - by cancelling or postponing all non-essential travel.

For civil servants and associated agents, the period within which the medical examination for recruitment must be carried out has been suspended for the duration of the state of emergency (Article 9 of the Grand-Ducal Regulation of 18 March 2020). No similar text has yet been introduced for employees under private law contracts.

With regard to the reclassification of persons unfit to occupy their last job, certain procedural deadlines have been suspended (Article 6 du Règlement grand-ducal du 27 mars 2020, op. cit.).

1.1.14 Social security

To help businesses, the social security bodies have decided on [temporary measures](#) from 01 April, including the suspension of interest on arrears and forced enforcement of recoveries, as well as fines for late payment. However, all social security contributions are still due.

1.1.15 Procedure

The courts are operating with reduced service and have limited the number of hearings ([Arrêté ministériel du 16 mars 2020 portant fixation des audiences des juridictions judiciaires pendant la période du 16 mars 2020 au 3 avril 2020](#)). At the level of the first instance labour courts, ordinary hearings have been suspended, and only urgent cases are being dealt with. This notion is not precisely defined, but it can be considered to include summary proceedings and cases before the President of the Labour Court, for example, nullity in case of dismissal of specially protected persons, applications for provisional admission to unemployment benefits or applications for provisional maintenance of remuneration.

The two chambers of the Court of Appeal that deal with labour law have also limited their number of hearings.

As a matter of principle, all time limits prescribed in proceedings before the courts have been suspended ([Règlement grand-ducal du 25 mars 2020 portant suspension des délais en matière juridictionnelle et adaptation temporaire de certaines autres modalités procédurales](#)), which therefore also applies to labour jurisdiction.

From our reading, this text only refers to the time limits once the case is brought before the court. At first instance, the procedure before the Labour Court is oral, and there are no specific time limits. On appeal, the time limits set by the pre-trial procedure (*mise en état*) should be suspended.

The suspension should not affect:

- The time limit for bringing legal proceedings, including the very short 15-day time limit applicable to certain applications for nullity;
- The extra-judicial time limits to be respected, for example:
 - The one-month period within which the employee and employer must invoke serious misconduct to dismiss/resign with immediate effect;
 - The period of one month within which the employee must request the reasons and the period of one month within which the employer must respond to such a request.

1.2 Other legislative developments

1.2.1 Job Centre

Bill No. 7491 mentioned in October 2019 Flash Report has been passed. Its only aim is to modify the Labour Code to implement a third deputy director (*directeur adjoint*) for the Job Administration (ADEM – *Administration pour le développement de l'Emploi*).

Reference : [Loi du 3 mars 2020 portant modification de l'article L. 621-2 du Code du travail concernant l'organisation de l'Agence pour le développement de l'emploi](#)

1.2.2 Working time in agriculture

Bill No. 7289 on working time in agriculture, viticulture and horticulture has been passed. It should be recalled that this bill had been tabled following court rulings that considered that there was no text regulating the working hours in these sectors (see Flash Report 5/2018). A new Chapter VI has thus been introduced in the first title of the second book of the Labour Code.

The legislation is fairly brief. It has undergone some changes required by the State Council (*Conseil d'Etat*). The additional entitlement to annual leave has been modified to avoid any discrimination of ordinary employees. Furthermore, some changes have been necessary to ensure compliance with the Directive on Working Time.

- The normal working time is limited to 8 hours per day and 40 hours per week;
- The employer can introduce a flexible working time schedule by introducing a reference period of up to 6 months. As compensation, the employee is entitled to additional annual leave:

Period of reference	Additional annual leave
> 1 month, <= 2 months	1.5 days
> 2 months, <= 3 months	3 days
> 3 months, <= 4 months	3.5 days
> 4 months, <= 6 months	4 days



- During this reference period, the working time can be increased to 10 hours per day and 48 hours per week. Considering the very seasonal character of the work, during a maximum duration of six weeks per year, the maximum duration may even be increased to 12 hours per day and 60 hours per week. However, over the period of reference, the average working time must be respected;
- Any work exceeding these limits qualifies as overtime (*heures supplémentaires*).

Reference: [Loi du 3 mars 2020 portant modification du Code du travail en ce qui concerne : 1° la durée de travail des salariés occupés dans les secteurs de l'agriculture, de la viticulture et de l'horticulture ; 2° les conditions exigées pour la délivrance aux personnes physiques de l'agrément pour l'exercice de l'activité d'assistance à l'inclusion dans l'emploi pour les salariés handicapés et les salariés en reclassement externe](#)

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Malta

Summary

The measures taken to address the COVID-19 crisis include measures to facilitate teleworking, medical and unemployment benefits, and wage supplements.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

The Government of Malta has responded to the global pandemic by implementing a number of fiscal and social measures to mitigate the effects of the COVID-19 pandemic.

1.1.1 Deferral of payment of taxes

VAT and tax payments due in March and April 2020 have been deferred to a later date as follows:

- VAT dues to be settled in two equal instalments, with the two quarterly returns immediately following the quarter, the dues which would have been deferred;
- All other eligible taxes, which were originally due in March and April, are to be settled between May and August 2020, in four equal monthly instalments.

The eligible taxes include employee taxes, maternity fund payments and social security contributions, social security contributions of self-employed persons, provisional tax and value added tax (VAT).

The deadline to apply for the tax deferral scheme is 15 April 2020.

1.1.2 Facilitating teleworking activities

- All undertakings are eligible, irrespective of size and sector, as long as the teleworking agreement commenced after 15 February 2020 and if the employee holds a job that can be performed via telework.
- The support by Malta Enterprise is limited to EUR 500 per teleworking agreement and EUR 4 000 per undertaking in the form of a cash grant. The total support for individual undertakings is capped at EUR 200 000 over a period of 3 rolling fiscal years and capped at EUR 100 000 for undertakings engaged in road freight transport.
- The grant is to be awarded against 45 per cent of the eligible costs* which must have been incurred after 15 February 2020.

*(i) Purchasing and/or leasing of computer hardware (including operating systems) which are considered portable, including the installation and setting up of connectivity software.

(ii) Communication solutions (hardware and software) that allow different users to connect to their place of work (VPN, point-to-point connection, etc.)

The deadline to apply for the teleworking scheme is 08 May 2020.

1.1.3 Quarantine leave

Employers with a full-time employee on mandatory quarantine leave, including the employer him- or herself, are eligible to a one-off lump sum grant of EUR 350. This benefit extends to those employers who have full-time employees who were under the obligation to quarantine due to possible contact with third party individuals who were directly at risk of having contracted the virus.

1.1.4 Social Measures

Parental Benefits

If both parents work in the private sector and one of the parents is required to stay at home to take care of children under the age of 16 years, he or she is entitled to a direct payment of EUR 166.15 per week, if the parent normally works full time, and EUR 103.85 per week if the parent works part time. Parents are not entitled to this benefit if they are able to work on the basis of teleworking arrangements. Single parents with children under the age of 16 years are also entitled to this benefit.

Person with Disability Benefits

Persons with a disability, who work in the private sector and are registered with Jobsplus and opt to stay at home for health and safety reasons, are entitled to EUR 166.15 per week if they work full time and EUR 103.85 per week if they work part time.

Additional Unemployment Benefits

- Employees who became redundant due to the COVID-19 pandemic after 08 March 2020 are eligible to contributory unemployment benefits and will receive EUR 166.15 per week if they were employed full time and EUR 103.85 per week if they were employed part time;
- The social security contribution will be paid and the contributory pensions rights will be safeguarded;
- Those who are entitled to the in-work benefit will continue to receive it without any deduction;
- Employees who became redundant due to the COVID-19 pandemic after 8 March 2020 and who are entitled to child allowance will see an increase in their rate to EUR 24.08 per week per child;
- Employees who became redundant due to the COVID-19 pandemic after 8 March 2020 and who are entitled to a supplementary allowance will see an increase in their rate to EUR 4.57 per week for single persons and EUR 12.54 per week for couples;
- Those employees whose employment relationship was terminated may also apply to the rent subsidy schemes.

Medical Benefits

- Persons employed in the private sector, who are considered 'vulnerable persons' in accordance with L.N. 111 of 2020 (Public Health Act), who were ordered by the Superintendent of Public Health to not go to work, who are not able to work from home and who are not being paid by their employer, are entitled to a direct payment of EUR 166.15 per week (full-time employees) and EUR 103.85 per week (part-timer employees);
- Social security contributions will be paid and future contributory pension rights are safeguarded;

- 'Vulnerable persons' who are entitled to child allowance will see an increase of the rate to EUR 24.08 per week per child;
- 'Vulnerable persons' who are entitled to in-work benefits will continue to receive it without deductions;
- 'Vulnerable persons' who are entitled to a supplementary allowance will see an increase in the rate to EUR 4.57 per week for single persons and EUR 12.54 per week for couples.

1.1.5 Employment of Third-Country Nationals

- Third-country nationals are to be assisted by Jobsplus to find an alternative job;
- No new third-country national applications will be accepted, with the exception of highly qualified persons;
- Companies that terminate employment contracts may not recruit other third-country nationals.

1.1.6 COVID-19 Wage Supplement

- All self-employed and full-time employees of enterprises operating in sectors that have suffered drastically due to the COVID-19 pandemic, or who had to temporarily suspend their operations on the order of the Superintendent of Public Health** are entitled to five days' of salary, maximum EUR 800 per month. Those who work part time are entitled to EUR 500 per month;
- All full-time employees of enterprises in other adversely affected sectors are entitled to one day of salary per week, namely EUR 160 per month. Those who work part time are entitled to one day of salary per week, i.e. EUR 100 per month. If the enterprise is based in Gozo, the full-time employees are entitled to two days of salary per week, i.e. EUR 320 per month and part-time employees are entitled to EUR 200 per month;
- Self-employed persons of other adversely affected sectors***, who have employees, are entitled to two days of salary per week, namely EUR 320 per month;
- Self-employed persons of other adversely affected sectors*** that are based in Gozo are entitled to EUR 320 per month;
- Self-employed persons of other adversely affected sectors*** that are based in Gozo and who have employees are entitled to EUR 480 per month;
- Employees of self-employed persons of other adversely affected sectors*** that are based in Gozo are entitled to two days of salary calculated on a wage of EUR 800 a month;
- When the employee is asked to refrain from coming to work due to the COVID-19 measures introduced by the government, the employer is required to pay the minimum of EUR 800 wage subsidy (less than the employee's national insurance contribution and government taxes) to the employee.

1.1.7 Further liquidity measures

- Companies and individuals may benefit from a 3-month moratorium from banks on business or personal loans.



- Companies may request operational loans with low interest rates and longer repayment periods.
- Companies affected by the COVID-19 crisis that were to file their annual return and financial statements between 23 March 2020 and 31 May 2020 will be allowed to file them by 31 July 2020 without being subject to any penalties.

More information is available [here](#) and [here](#).

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Netherlands

Summary

Among various measures to respond to the COVID-19 crisis, the government's 'emergency package for jobs and the economy' entails three types of measures: (i) measures aiming to safeguard income and salaries, (ii) postponement of taxpaying, and (iii) relaxation of credit provisions.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

1.1.1 General measures to protect public health

The following measures are valid up to and including 28 April):

- Stay home as much as possible. Leaving the house is allowed, but people are asked to only leave their house to go to work (if work from home is not possible), to buy groceries or to take care of others;
- Always keep at least 1.5 metres from others and avoid all social activities and groups of people;
- In case of cough or a cold, people are urged to stay home. If someone in the household develops a fever, all members of the household are supposed to stay home. This does not apply to key workers in crucial sectors and critical processes, unless they themselves get sick.

Public life

- Events and gatherings for which organisers would normally be required to apply for a permit or notify the authorities are banned until 01 June 2020;
- All other gatherings are banned until 28 April (inclusive), with a small number of exceptions (such as funerals). For the exceptions: not more than 30 people and keeping a 1.5 metre distance;
- Public places such as museums, concert venues, theatres and sports clubs shall stay closed until 28 April (inclusive);
- Shops and markets must close and public transport services must cease if the relevant hygiene measures are not sufficiently complied with or if people are not keeping their distance from others (1.5 metres);
- All those in contact-based roles must stop performing their jobs up to and including 28 April, unless it is possible to maintain a distance of 1.5 metres from clients at all times. This includes masseurs, hairdressers, nail stylists, escorts and driving instructors. An exception has been made for those providing treatment in medical or paramedical roles, but only if there is a specific medical reason and the relevant hygiene measures are taken;
- All bars, cafés and restaurants are closed up to and including 28 April. Meal delivery and takeaway services will remain open. However, people are advised to avoid queues, stand well apart and eat their takeaway meal at home, not at the premises. Coffee shops can stay open to collect orders;
- Casinos, sports clubs, gyms, saunas and sex clubs are closed up to and including 28 April.

Education and children

- Primary and secondary schools, schools for secondary vocational education and childcare centres are closed up to and including 28 April. Teachers will organise distance learning for children at home. Schools and childcare centres will be open for the children of parents working in crucial sectors like healthcare, the police, public transport and the fire brigade, so that their parents can go to work. There will be no extra charge;
- All national exams for this school year have been cancelled. Pupils can obtain their school-leaving certificates based on their results on the school exams;
- Universities and institutions of higher professional education (HBO) are requested to offer online lectures instead of large-scale lectures.

Enforcement

- Places such as holiday parks, camp sites, parks, nature conservation areas and beaches will be closed if the relevant hygiene measures are not sufficiently complied with, if people are not keeping a reasonable distance from others (1.5 metres) or if there is a risk of either of these situations arising;
- There is a ban on gathering in groups in public, regardless of whether or not this is intentional. The government is defining a group as three or more people together, who are not keeping at least a 1.5 metres distance from one another. This rule does not apply to people who are part of the same household;
- Different regulations apply to markets as these play a crucial role in bringing food to consumers in some places. Municipalities and market superintendents will examine ways to ensure that members of the public can stay at least 1.5 metres away from one another;
- Mayors will be able to introduce local emergency legislation so that the measures can be enforced faster and more easily. Mayors can also order specific locations to be closed and fines can be imposed.

Incoming flights - restrictions

- As of 13 March 2020, incoming flights arriving from China, Italy, Iran and South Korea are not allowed, except in case of repatriation. Spain (21 March 2020) and Austria (23 March 2020) were later added. The restrictions are in place until 10 April 2020.

Driving time and rest periods

- The driving time and rest periods regulation has been relaxed to ensure the supply of essential goods (such as food and medication). On the basis of Article 14 of Regulation 561/2006/EC, the following changes have been introduced:
- Daily maximum driving time: 11 hours instead of 9;
- Weekly maximum driving time: 60 instead of 56;
- Two-weekly maximum driving time: 96 instead of 90;
- Weekly rest period: can start 7 days after the last weekly rest period instead of 6 days.

1.1.2 Economic measures including measures aiming at preservation of employment

On 17 March 2020, the government announced a broad 'emergency package for jobs and the economy'. This package entails three types of measures: (i) measures aiming to safeguard income and salaries, (ii) postponement of tax payments, and (iii) relaxation of credit provisions. In the schedule below, the main characteristics of these

measures are outlined. Below, the largest measures in the first category are further elaborated, the postponement of tax payments and the relaxation of credit provisions (realised by credit providers) will only be touched upon below.

(i) Safeguarding income and salaries

	For whom?	Summary
Temporary Emergency Bridging Measure to preserve employment (NOW)	Employers with 20 per cent or more loss of turnover	See below
Temporary support scheme for self employed professionals (TOZO)	Entrepreneurs, including self-employed workers	See below
Compensation for entrepreneurs in affected sectors (TOGS)	SMEs directly affected by government measures such as closure (limited list)	See below
Leniency on premium differentiation for unemployment benefits	Employers	As of 01 January 2020 there is a premium differentiation to stimulate fixed term contracts. The administrative demands for employers to deal with this have been postponed until 01 July 2020. Furthermore, a solution will be found for the expected overtime in certain sectors in this period (such as health care) that could lead to an increase of premiums based on the new rules.

(ii) Postponement of tax payments

Postponement of tax payments	All entrepreneurs including self-employed persons	Payment extension of 3 months for all income taxes, corporate taxes, payroll taxes, and turnover taxes (VAT)
Decrease of collection interest rate	All entrepreneurs including self-employed persons	The collection of interest rate on overdue taxes has been decreased temporarily from 4 per cent to 0.01 per cent as of 24 March 2020
Decrease of tax interest rate	All entrepreneurs including self-employed persons	The tax interest rate on underpaid taxes will be temporarily set at 0.01 per

		cent as of 01 July 2020 for income tax and as of 01 June 2020 for all other taxes
Reduction on provisional assessment	All entrepreneurs including self-employed persons	If lower income is expected the provisional assessment can be lowered upon request
Tourist tax	Businesses in hospitality	No or less collection of tourist taxes (at the level of municipalities)
(iii) Relaxation of credit provisions (realized by credit providers)		
Extension of SME credit guarantee scheme (BMKB)	SME and self-employed persons	The existing BMKB scheme provides a state guarantee for loans. This can be used as a bridge loan, or to increase the overdraft limit the current account. The guarantee runs to 75 per cent of the credit provided by the financing party
Credit Guarantee Scheme for Agriculture (BL-C).	Agricultural enterprises	See above
Business Loan Guarantee Scheme (GO)	SMEs and large enterprises	This loan scheme for companies that have difficulties getting loans from traditional credit providers has been extended. State guarantees loans up to EUR 150 000 instead of EUR 50 000
Qredits	SMEs and self-employed persons	Entrepreneurs who have a loan from a microcredit provider Qredits (targeting start-ups) do not have to repay their loan for a period of 6 months. During this period, the interest will be reduced to 2 per cent

Temporary Emergency Bridging Measure to preserve employment (hereinafter NOW)

Regulation by the Minister of Social Affairs and Employment dated 31 March 2020 establishing a temporary subsidy scheme as a contribution towards wage costs in order to retain jobs in exceptional circumstances, Stcrt. 2020, 19874.



NOW offers employers the possibility to obtain compensation for wage costs. It is a subsidy, not a loan. The scheme is carried out by UWV (the Dutch public employment service). On 01 April 2020, the scheme was officially published. The scheme will be opened for application on 14 April 2020 in any event, but the aim is to bring this forward to 6 April 2020. Before 01 June 2020, a decision will be made on the extension of the scheme.

Eligibility: all employers that suffer a decrease of at least 20 per cent of their turnover. The decrease will be established by comparing the turnover in 2019 (divided by 4) with the turnover in any 3-calendar month period between 01 March 2020 and 31 July 2020. In case of a group of companies, the decrease in turnover will be calculated on an aggregated level.

Entitlement final subsidy: in case of a 100 per cent decrease of turnover, the employer is entitled to a subsidy of 90 per cent of the wage sum over the months 01 March 2020 - 31 May 2020 (the decrease in turnover can occur in a different period, see Eligibility). If the decrease in turnover is lower, the subsidy will be diminished accordingly (so in case of a 50 per cent decrease in turnover, the subsidy will amount up to 90 per cent of 45 per cent of the wage sum).

The wage sum is the wage for social insurance purposes that is known by UWV, and a maximum of EUR 9 538 per employee per month is taken into account. To this wage sum, 30 per cent is added for pension premiums, holiday allowances and other costs/benefits.

Advance payment: Based on the *expected* decrease in turnover and on the wage sum over January 2020, the employer can receive an advance payment that amounts up to 80 per cent of the expected final subsidy. UWV strives to pay the advance payment within 2 or 3 weeks after receiving the application.

Conditions:

- 20 per cent or more in loss of turnover;
- No requests for dismissal on economic grounds as of 18 March 2020 (the day after the announcement that NOW will be put in place). A sanction is a rebate on the final subsidy);
- Obligation to keep the total wage sum as much as possible at the same level (mainly to stimulate employers to continue flexible forms of employment and to continue to pay on-call employees);
- Use the subsidy only for paying the wages;
- Inform the works council, or if there is no works council, the employees on the subsidy received;
- Provide an audit certificate (after the period of subsidy);
- Several conditions aimed at control and prevention of fraud (mainly, the obligation to keep books and to keep data for 5 years).

NOW is explicitly also covering wage costs of flexible contracts. In case of temporary agency work, it is the temporary work agency that is the employer and can apply for the subsidy. Employers are called to continue employment as much as possible and to keep on-call workers on the payroll.

Temporary benefits for self-employed professionals (hereinafter TOZO)

No official documents available yet, outline can be derived from the letters of the Secretary of State for Social Affairs and Employment to the Parliament dated 17 March 2020 and 27 March 2020.

The regulation will be established along the lines of the existing Social Assistance for Self-Employed Decree 2004. Self-employed persons can apply for social assistance without the usual asset test, partner income test or the condition that the business must be viable.

Entitlement

Conditions:

- Open for established self-employed professionals, aged between 18 and retirement age;
- Legitimately living and residing in the Netherlands;
- Dutch nationality or equalled;
- Business or profession is practiced in the Netherlands;
- Legal requirements for being a business owner are met, for instance, registration in the Commercial Register;
- Company was established before 17 March 2020, 18.45 hours (announcement of this regulation);
- The hours criterion is met (a minimum of 1 225 hours per year have been put into the company or the professional activities);
- The applicant lives in the municipality where he or she applies.

Compensations for entrepreneurs in affected sectors (hereinafter TOGS)

Policy regulation on compensation of entrepreneurs in affected sectors COVID-19, dated 27 March 2020, Stcrt. 2020, 19159

The government awards entrepreneurs in a number of specific sectors, which have been affected by the corona measures, a one-time set compensation of EUR 4 000. The compensation is for those SMEs, with or without staff, that suffer a loss because of the necessary closure of their enterprise, restriction of meetings and/or curtailment of travel.

Eligible sectors, for instance, are: food and beverages, cinemas, hair salons, nail and beauty care, travel agent or tour operator, driving schools, saunas, solariums, swimming pools, fitness centres, sports clubs and sporting events, certain private cultural organisations such as museums, circuses, theatres and music schools, event locations and organisers, casinos. All sectors were defined on 27 March 2020 and the list was extended on 30 March 2020.

Conditions:

- Activities of the company must equal one of the activities in the aforementioned list;
- The company cannot be established at the home address of the owner;
- Expectation of loss of turnover of at least EUR 4 000 between 16 March 2020 and 15 June 2020;
- Have overhead costs of at least EUR 4 000 between 16 March and 15 June 2020;
- The company employs no more than 250 employees;
- The company is established and registered at the Chamber of Commerce on or before 15 March 2020 (a day before the regulation was announced);
- The company cannot be a public company;



- The company cannot be in bankruptcy.

1.2 Other Legislative Developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Norway

Summary

Measures to respond to the COVID-19 crisis include changes in the rules for temporary layoffs, deferred payment and reduction of various taxes and employer costs, cash allowance to companies with a significant drop in turnover, and changes benefitting employees who are temporarily laid off or in other ways.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

1.1.1 Changes in the rules for temporary layoffs of employees

It is possible under Norwegian law to temporarily lay off employees if certain conditions are met. In effect, the employment relationship is maintained, but the employer's obligation to pay the employees' salary and the employees' obligation to work is suspended. To make use of this possibility, the employer must notify the employee with a 14 days' notice (2 days in certain cases), during which the employee continues to work and receive a full salary. The employer continues to pay the employee for a certain period of time while he or she is laid off. This period is referred to as the employer's period.

- *The employer's period has been reduced from 15 days to 2 days:* previously, the employer's period was 15 days. One of the [measures](#) has been to reduce this period to 2 days;
- *Employees are entitled to unemployment benefits if their working hours are reduced to 40 per cent:* if the employer's period has expired, the state takes over and pays unemployment benefits to the employee. Previously, the requirement for entitlement to unemployment benefits was that the employee's working hours had been reduced to 50 per cent. Another condition was if the employee's working hours had been reduced to 40 per cent.

1.1.2 Deferred payment and reduction of various taxes and employer costs

- *Sick leave payments:* usually, the employer pays for the first 14 days of an employee's sick leave. For corona-related sicknesses, the employer now only pays for the first three days;
- *Payments related to child care:* usually, the employer pays for 10 days if the employee needs to stay at home to care for a sick child under the age of 12 years. The employer now only pays for the first three days;
- *Temporary reduction of VAT rate for certain industries:* for certain industries (transportation of people, accommodation, national broadcasting and access to movies, sport, amusement parks and entertainment centres), the VAT rate has been reduced from 12 per cent to 7 per cent;
- *Temporary reduction of employer's taxes:* it is proposed for the employer's tax rate to be reduced by 4 per cent for a period of two months;
- *Deferred payment of advance tax:* the deadline for paying advance tax has been postponed from 15 April to 01 September 2020;
- *Deferred payment of VAT:* the deadline for paying the first annual VAT payment has been postponed from 14 April to 10 June 2020;



- *Deferred payment of employer's taxed:* the deadline for paying employer's taxes has been postponed from 15 May to 15 August 2020;
- *Tax losses:* companies that have a net loss in 2020 can carry that loss back against taxed profits for 2018/2019. Owners of companies that have a net loss in 2020 can defer payment of the wealth tax.

1.1.3 Cash allowance to companies with a significant drop in turnover

Companies whose turnover dropped 30 per cent or more in March, April and May can apply for a cash allowance. The details are currently being elaborated, and the proposed scheme must be approved by Parliament and the EFTA Surveillance Authority.

1.1.4 Changes benefitting employees who are temporarily laid off or in other ways affected by the Covid-19 outbreak

- *Increased unemployment benefits:* employees who are temporarily laid off would be negatively impacted by the reduction of the employer's period from 15 days to 2 days, as they would go from earning their full salary for 15 days to only receiving their full salary for 2 days. To reduce this negative impact, the state will cover the employees' full salary (up to around NOK 600 000) for a period of 18 days. Furthermore, whereas unemployment compensation was previously 62.4 per cent of the employee's annual salary (up to around NOK 600 000), it is now 80 per cent of the employee's salary, up to around NOK 300 000 and 62.4 per cent between NOK 300 000 and NOK 600 000. While employees previously had to wait three days from the time the employer's payment ended to be eligible for unemployment benefits, they are now entitled to unemployment benefits from the first day after the employer's payment ends. Some additional minor changes to increase unemployment benefits have also been implemented;
- *Payment to care for children:* the government has closed kindergartens and schools. Parents who need to stay at home to care for children under the age of 12 years are entitled to their full salary for a period of 20 days each (previously, it was 10 days when staying at home to care for sick children). The days can be transferred from one parent to another. Parents with three children or more are entitled to a full salary for 30 days each, and single parents are entitled to 40 days. Parents with chronically ill children are entitled 40 days each;
- *Self-certificate for 16 days:* sick employees could previously provide self-certificates for their first three days of sickness. Absence due to sickness beyond the first three days had to be documented in the form of a doctor's certificate. Sick employees can now provide self-certificates for the first 16 days of sickness;
- *Advance payment of unemployment benefits:* NAV can advance payments of unemployment benefits before the application for such benefits has been processed.

Other Legislative Developments

Nothing to report.



2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Poland

Summary

The Law of 02 March 2020 on specific measures to prevent, counteract and fight COVID-19, other infectious diseases and crisis situations caused by them, and its substantial amendment of 31 March 2020, constitute the basis of the “anti-crisis protection package”, and introduce labour law and job protection measures.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

Solutions and policies intended to counteract the economic crisis caused by the coronavirus pandemic have been introduced by the [Law of 02 March 2020 on specific measures to prevent, counteract and fight COVID-19, other infectious diseases and crisis situations caused by them](#) (*Ustawa o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych*). This law took effect on 08 March 2020.

Sources:

Information on the legislative process is available [here](#).

The substantiation of the draft is available [here](#).

Substantial changes to the original regulations have been introduced by the [Law of 31 March 2020 on the amendment to the Law on specific measures to prevent, counteract and fight COVID-19, other infectious diseases and crisis situations caused by them, and some other laws](#) (*Ustawa o zmianie ustawy o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych oraz niektórych innych ustaw*). These amendments took effect on the day of its enactment, i.e. on 31 March 2020.

Sources:

Information on the legislative process is available [here](#).

The substantiation of the draft is available [here](#).

The abovementioned legal acts are described by the government as the “anti-crisis protection” package (other legal regulations concern amendments to the functioning of the health care system). The Law on specific measures to prevent, counteract and fight COVID-19, as amended, (hereinafter: “the Law”) will be addressed in this report, unless indicated otherwise.

Some of the anti-crisis solutions refer to labour law. In general, they are intended to protect employment and to provide assistance to enterprises and workers affected by the crisis. The majority of special labour law regulations have been introduced by the abovementioned Laws of 02 March and 31 March. The statutes in force have been amended to a lesser extent.

Sources:

The consolidated text of the Law on specific measures to prevent, counteract and fight COVID-19, other infectious diseases and crisis situations caused by them is available [here](#).

General information on the “anti-crisis protection” measures, as provided by the Ministry for Family, Labour and Social Policy is available [here](#).

1.1.1 The special “anti-crisis protection” measures

a. Remote work

Article 3 of the Law provides that to counteract COVID-19, the employer can order employees to perform the work agreed in the employment contract outside the place of usual performance of work (remote work, pol. *praca zdalna*) for a limited time.

In practice, the abovementioned regulation allows employers to request employees to work from home if a specific type of work can be performed outside the standard workplace. There are no further statutory restrictions for introducing remote working. This type of work performance is commonly referred to as “home office”.

Remote working should be distinguished from “regular” teleworking, as regulated in Articles 67⁵ – 67¹⁷ of the [Labour Code](#).

This was the only measure related to labour law in the original Law of 02 March 2020. The major difference to teleworking is that remote working (“home office”) can be ordered by the employer without the participation of trade unions and without requesting the employee’s prior consent.

b. Medical examinations of employees

According to Article 12a item 1. of the Law, in case of a declared state of epidemic threat or pandemic, the application of Article 229 § 2, § 4a and § 5 of Labour Code is suspended.

The indicated provisions relate to periodic medical examinations of employees. In practice, they do not have to be carried out (the duty to carry out such examinations has been suspended for the period of the state of epidemic treat). Under Article 12a item 2. of the Law, such examinations should be conducted within 60 days after the state of epidemic threat has been called off.

Only periodic medical examinations of employees are covered by this exception. These special measures do not refer to initial examinations of new employees.

c. Minor workers

Article 15f item 1 of the Law provides that where school activities are reduced or suspended, the employer who employs minor workers (i.e. between the ages of 15 and 18) for the purpose of vocational training, should release them from the duty of work performance.

d. Public subsidies to finance employee remuneration for periods of economic work stoppage or reduction of working time

Article 15g of the Law grants employers financial subsidies to cover part of their employees’ remuneration in two situations, i.e. economic work stoppage or reduction of working time. Financial assistance can be granted to those employers who are experiencing a reduction in economic turnover as a result of the COVID-19 crisis. Financial assistance will be provided by the Fund of Guaranteed Employee Benefits (item 1). Employers can also receive financial assistance to cover social security contributions (item 2).

Employers who apply for public subsidies must meet the criteria provided by the [Law of 11 October 2013 on special solutions connected to job protection](#) (pol. *ustawa o szczególnych rozwiązaniach związanych z ochroną miejsc pracy*), and should not have

delays in terms of tax payments or social security contributions, and should not have entered bankruptcy proceedings.

This so-called “anti-crisis law” was presented in Flash Report Poland 10/2013, section 1.

The personal scope of application of the Law refers not only to employees employed on the basis of employment contracts, but also to certain civil law contractors, if they are covered by retirement and invalidity social security schemes (item 4).

The subsidies should be paid for the period of economic work stoppage or reduction of working time, as defined in Article 2 item 11 of the “anti-crisis law” of 11 October 2013 (item 5), i.e. “economic stoppage” is the period of non-performance of work due to reasons not relating to the employee, who is available for work; “reduced working time” refers to reduced working hours introduced by the employer for reasons not concerning the employee, but no more than up to half of his or her regular working time.

During an economic work stoppage, the employer must pay the employee’s remuneration reduced by no more than 50 per cent, but also not less than the minimum statutory wage (item 6). Such remuneration shall be co-financed by the Fund of Guaranteed Employee Claims in the amount of 50 per cent of minimum statutory wage. There is no co-financing from public subsidies, if the remuneration of the employee exceeded 300 per cent of the average monthly wage in the previous month, as determined by the Central Statistical Office (item 7).

The employer can reduce the working time by up to 20 per cent, but no more than by half of the employee’s regular working time. In such a situation, remuneration cannot be lower than the minimum statutory wage (item 8).

The decline in economic turnover is a 15 per cent or more reduction of sales in goods or service, but no more than 15 per cent within two months after 01 January 2020 in comparison with two equivalent months in the previous year; or 25 per cent within a specific month after 01 January 2020 in comparison to an equivalent month in the previous year (item 9).

In case of reduction of working time, the remuneration can be co-financed by the Fund of Guaranteed Employee Benefits by up to 50 per cent of the minimum statutory wage, but no more than up to 40 per cent of the average monthly remuneration as determined by the Central Statistical Office (item 10).

The conditions and mode of work performance during the economic work stoppage or reduced working time should be agreed between the employer and trade union or, if there is no trade union at the establishment, by other employee representatives elected in the standard manner established at the employer that concludes the agreement (item 11). The employer should submit the copy of the agreement to the regional labour inspectorate within 5 days (item 12). As long as the agreement is in force, the conditions provided by the “regular” collective labour agreements do not apply (item 13).

The agreement should determine the employee groups that are covered by the economic work stoppage or reduced working time, the amount of working time reduction, and the period of economic stoppage or reduced working time (item 14). In case of economic work stoppage or reduced working time, the changing notice to determine working conditions (Article 42 § 1-3 LC) is not required (item 15).

The subsidies established in Article 15g should be provided for the total period of 3 months (item 15), but this period can be extended by Government Ordinance (item 19). The entrepreneur can receive the assistance provided in Article 15g of the Law only if the employer did not receive any other public assistance for the employees concerned (item 17).

The entrepreneur who has been granted public subsidies to retain employees cannot dismiss employees for reasons not related to the person of the employee during the period of receipt of such subsidies, and within the subsequent three months.

To sum up: employers who are experiencing economic difficulties as a result of the coronavirus crisis may conclude a collective agreement on economic work stoppage or reduced working time with employee representatives. On this basis, employers can conclude a contract with regional employment offices in charge of the Fund of Guaranteed Employee Benefits. In return for subsidies for remuneration and social security contributions, the employer may not carry out economic redundancies.

e. Exception to ban on Sunday work in commercial establishments

Since January 2020, Sunday work in shops has been prohibited (with some exceptions). The legal basis for this regulation is the [Law of 10 January 2018 on limiting trade on Sundays, public holidays and some other days](#) (consolidated text, Journal of Laws 2019, item 466).

Article 15i of the Law introduces further exceptions to the general ban on Sunday work in commercial establishments. According to this provision, during an epidemic threat or state of emergency and the period of 30 days after such a state of emergency has been rescinded, the prohibition to work on Sundays does not cover activities that relate to receiving essential goods and preparing them for sale. The exception does not cover those Sundays that fall on public holidays.

In other words, employees can be ordered to work on Sundays to prepare grocery stores for Monday trade activities.

f. Working time in critical infrastructure objects.

Article 15x of the Law introduces special regulations on working time in critical infrastructure objects, i.e. those entities that are essential for the maintenance of vital societal functions, such as health, safety, security, etc.

During the period of epidemic threat or state of emergency, the employer can modify the system and schedule of working time to ensure the continued functioning of critical infrastructure, or to instruct employees to perform overtime work that is necessary to secure the continued functioning of such infrastructure. The employer should provide accommodation and meals for the employees concerned (item 1).

Employers should reject any requests for annual leave by employees, unpaid leave or any other type of leave, and to postpone such leaves or to recall employees to return to work from leave if it had been granted earlier (item 2.)

g. Modifying working time at the establishment

Article 15zf of the Law allows the employer to modify working time regulations, as provided by the Labour Code.

An employer who is experiencing a decline in economic turnover as a consequence of the COVID-19 pandemic, and who has not delayed the payment of taxes and social security contributions may:

1. Reduce uninterrupted rest as determined in Article 132 § 1 LC (i.e. at least 11 hours within a 24-hour period), but no more than up to 8 hours; and uninterrupted rest as determined in Article 133 § 1 LC (i.e. at least 35 hours per week, but no more than 32 hours, including at least 8 hours of uninterrupted daily rest);

2. conclude an agreement on balanced working time, where it is admissible to extend daily working time, but no more than up to 12 hours, within a reference period that is no longer than 12 months. Extended daily working time should be balanced by shorter work working hours on other days, or by granting days off;

3. conclude an agreement on applying conditions of employment that are less advantageous than those determined in the employment contract for the period and within the scope determined in such an agreement (item 1).

The decline in economic turnover shall reflect a 15 per cent reduction in the sale of goods or services, by no more than 15 per cent within two months after 01 January 2020 in comparison with two equivalent months in the previous year; or 25 per cent within a specific month after 01 January 2020 in comparison with an equivalent month in the previous year (item 2).

In cases in item 1 section 1 (i.e. reducing daily or weekly rest periods), the employee has the right to an equivalent rest period that amounts to a difference between 11 hours and shorter rest periods used by the employer. The equivalent rest period should be granted by the employer within a period that is no longer than 8 weeks (item 3).

The agreement on balanced working time should be concluded between the employer and trade union(s), or another employee representative elected in a manner adopted at the given employer (item 4). The employer should submit the copy of the agreement to the regional labour inspectorate within 5 working days (item 5).

Within the period and scope determined in the agreement on balanced working time or applying less advantageous employment conditions than those provided by the employment contract, the "regular" collective labour agreement does not apply (item 6).

To sum up: employers hit by the economic crisis can modify—upon the consent of the employee representatives—working time systems and schedules to make them more flexible. It is also admissible to reduce employees' rest periods.

h. Work stoppage benefits

Article 15zq introduces work stoppage benefits (pol. *świadczenie postojowe*) for certain workers who perform work outside an employment contract.

Such benefits can be granted to self-employed persons, i.e. entrepreneurs who carry out their activities outside the agriculture sector, and civil law contractors, provided that they are not covered by social security insurance on another basis (item 1). Both Polish nationals and aliens who legally reside in Poland are entitled to this benefit (item 2). The work stoppage benefit can be granted if, as a consequence of the COVID-19 pandemic, there is a stoppage in work performed by self-employed persons, or when a contract has been terminated by a party who hired a civil law contractor (item 3).

Self-employed persons have the right to the benefit, if they started their activities before 01 February 2020, and:

- have not suspended their activities, and the turnover was reduced by at least 15 per cent in comparison to the previous month, or if he or she suspended his or her activities after 31 January 2020, and turnover was not higher than 300 per cent of the average monthly remuneration, as announced by the Central Statistical Office; or

- suspended his or her activities after 31 January 2020, and his or her income for the previous month was not higher than 300 per cent of the average monthly remuneration, as announced by the Central Statistical Office (item 4).

Civil law contractors have the right to work stoppage benefits if their contract was concluded before 01 February 2020, and their income for the previous month was not higher than 300 per cent of the average monthly remuneration, as announced by the Central Statistical Office (item 5).

The work stoppage benefit amounts in principle to 80 per cent of the minimum statutory wage (Article 15zr). It is provided by the Social Security Institution (the formalities are regulated in Articles 15zs and following).

The benefit is reserved for persons other than employees, i.e. to self-employed persons and civil law contractors. In practice, it is a one-time financial benefit for persons who suffered losses due to the coronavirus crisis. The benefit amounts to PLN 2 080 or 1 300 (i.e. around EUR 500 or 325).

i. Financial subsidies for micro-enterprises, small and medium enterprises

Specific measures are dedicated to medium and small enterprises, as defined in the [Enterprises](#) (pol. *Prawo przedsiębiorców*) (consolidated text, Journal of Laws 2019, item 1292).

Article 7 of the Law on Enterprises provides that “micro-enterprise” refers to an enterprise that employs less than 10 employees; a small enterprise is one that employs less than 50 employees; and medium enterprises that employ less than 250 employees.

Article 15zzb of the Law provides that district heads (pol. *starosta*, i.e. local government representatives) can provide small enterprises with a financial subsidy to cover part of the workers’ remuneration, as well as social security contributions. Such enterprises that experienced a decline in turnover within two months after 01 January 2020 in comparison with two months of the previous year are eligible. The contract between *starosta* and the enterprise on this matter should be concluded (item 1 and item 3).

The amount of the subsidy depends on the decline in turnover, and can amount to 50 per cent, 70 per cent or 90 per cent of a particular worker’s remuneration (item 4). The subsidy can be granted for a period of no longer than three months (item 5). This statutory period can be extended by Government Ordinance (item 6). Subsidies are paid in monthly instalments (item 7). The enterprise may not reduce the level of employment for the period of the subsidy and for an equivalent period following the crisis.

Micro-enterprises, small and medium enterprises are eligible for the abovementioned subsidies.

Under Article 15zzc of the Law, *starosta* can grant the financial subsidy to cover part of the costs of the economic activities of those entrepreneurs who are natural persons, who do not employ employees and who experienced a decline in economic turnover. An agreement between *starosta* and the entrepreneur is necessary (item 1). The decline in economic turnover within 2 months after 01 January 2020 is compared with two months of the previous year (item 2). The subsidy can amount up to 50 per cent, 70 per cent or 90 per cent of the minimum statutory wage, for a period of no longer than three months (item 3). This statutory period can be extended by Government Ordinance (item 4). Subsidies are paid in monthly instalments (item 5). The entrepreneur must carry out his or her activities for the stipulated period, and, subsequently, for the same period after the subsidies have expired (item 6). If this

condition is not met, the entrepreneur will be required to pay back the subsidies (item 7).

Article 15zzd of the Law refers to subsidies that can be granted to micro-enterprises. This provision gives *starosta* the right to conclude an agreement with the entrepreneur on a one-time loan to cover the current costs of economic activities. Those enterprises that employ less than 10 workers and that carried out their activities before 1 March 2020 are eligible (item 1). The employer shall inform the competent body about the employment level in the company on 29 February 2020, calculated on the basis of full-time employment (item 2). The loan can amount up to PLN 5 000 (i.e. around EUR 1 200) (item 3). The loan must be paid back within a period of no longer than 12 months (item 5). The government can extend this period by issuing an ordinance (item 6). The loan can be cancelled if the enterprise, within a three month period after having been granted the loan, will not reduce the level of employment, as calculated on the basis of full-time employment (item 7).

j. Composition of the Social Dialogue Council

Article 46 of the Law of 31 March 2020 amends Article 27 of the [Law of 24 July 2015 on Social Dialogue Council](#) (consolidated text: Journal of Laws 2018, item 2232).

The new Article 27 item 2a gives the Prime Minister the right to dismiss a member of the Social Dialogue Council in case of loss of trust in him or her, as a result of (1) the information on work or collaboration with the state security services in the period 1944–1990; or (2) betrayal of the Council’s activities that result in a lack of clear, essential and regular dialogues of organizations of employees and employers and the government.

The new Article 27 item 2b provides that Council membership expires in case of submitting a false statement on the lack of cooperation with the state security services in the years 1944–1990, as determined by a court judgment.

In practice, the Prime Minister can dismiss any member of the Council appointed by a trade union or employers’ organisation.

k. Determining minimum wage for 2021

According to Article 2 of the [Law of 10 October 2002 on Minimum wage for work](#) (consolidated text, Journal of Laws 2018, item 2177), the government should submit a proposal on the amount of minimum wage for the following year by 15 June. If no consensus on this matter is reached within the framework of the Social Dialogue Council, the government can issue an ordinance on minimum wage by 15 September.

Article 79 item 1 of the Law of 31 March 2020 determines that the government shall submit a proposal on minimum wage in 2021 until 31 July 2020 (this schedule can be modified by Government Ordinance). If there is no consensus in the Social Dialogue Council, the government should enact an ordinance on minimum wage in 2021 by 15 September 2020.

Article 79 item 6 of the Law provides that minimum wage in 2021 cannot be lower than minimum wage in 2020.

It should be emphasised that the “anti-crisis protection” expressly provides that the minimum wage for 2021 cannot be reduced compared to 2020.

1.2 Other Legislative Developments

Nothing to report.



2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Portugal

Summary

- (I) Order No. 2875-A/2020 approves social security measures for the protection of workers who are unable to work due to the risk of infection with COVID-19;
- (II) Decree-law No. 10-A/2020 establishes several exceptional and temporary measures related to the COVID-19 virus;
- (III) Decree of the Republic President No. 14-A/2020 and Decree of the Council of Ministers No. 2-A/2020 declare a state of emergency and establish exceptional measures to be implemented during the crisis;
- (IV) Decree Law No. 10-G/2020 regulates exceptional and temporary support to workers and employers affected by COVID-19;
- (V) Decree Law No. 10-K/2020 establishes an exceptional regime of justified absences to provide family assistance in the context of the COVID-19 pandemic;
- (VI) Decree Law No. 10-F/2020 establishes the possibility of payment of social security contributions in instalments.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

1.1.1 Order No. 2875-A/2020, of 03 March 2020

The government has approved [Order No. 2875-A/2020](#) which regulates the social protection of workers who are temporarily unable to work as a result of an order issued by the health authorities relating to the risk of infection with the COVID-19 virus.

According to this Order, the temporary disruption to the exercise of professional activities will be treated as equivalent to a disease with hospitalisation, and workers will be entitled to receive benefits from social security corresponding to 100 per cent of their remuneration for a maximum of 14 days.

This scheme does not apply to workers who have alternative forms of work, such as employees who can perform their work remotely.

This Order entered into force on 03 March 2020.

1.1.2 Decree Law No. 10-A/2020, of 13 March 2020

The [Decree Law No. 10-A/2020](#) establishes several exceptional and temporary measures related to the COVID-19 virus.

This decree approves the following measures that have an impact on employment relationships:

Suspension of school activities

Academic and non-academic activities in public and private schools for all levels of education have been suspended from 16 March 2020. This measure will be reassessed on 09 April 2020 and may be extended after the reassessment (Article 9).

Measures on social protection in periods of sickness and parenthood

- **Prophylactic isolation**

The prophylactic isolation of subordinate or self-employed workers due to representing a serious risk to the public health determined by the health authorities is treated as a case of sickness for 14 days and is paid from the first day onwards (Article 19).

In this situation, workers are entitled to receive an allowance corresponding to 100 per cent of their remuneration.

- **Sickness allowance**

In case of sickness of subordinate or self-employed workers due to a disease caused by a COVID-19 infection, they are entitled to a sickness allowance in the amount defined in the general social security regulations, paid from the first day onwards (Article 20).

- **Allowance for assistance for children or grandchildren**

Absence from work due to the prophylactic isolation of a child or other dependent as determined by a health authority is deemed justified (Article 21).

In the case of prophylactic isolation of a child under the age of 12 years or, regardless the age, of a child with a disability or chronic disease, the worker has the right to an allowance for assistance for children/grandchildren paid by social security in the amount defined in the general social security rules (Article 21).

- **Absence from work due to the closure of schools**

Excluding periods of school vacation (according to Order No. 5754-A/2019, Easter school vacation is between 30 March 2020 and 13 April 2020), absence from work is deemed justified, without a loss of rights, except those relating to remuneration, when the worker needs to take care of (i) children or other dependents under the age of 12 years or (ii) regardless of age, of a child with a disability or chronic illness, due to the suspension of academic and non-academic activities of schools, if they are unable to work remotely (Article 22).

In this case, workers are entitled to exceptional monthly financial support equal to 2/3 of their base remuneration, paid in equal parts by the employer and social security), with a minimum limit of the national minimum wage (EUR 635) and a maximum limit of three times the national minimum wage (EUR 1 905) [Article 23 (1) and (2)].

The share to be paid by social security is transferred to the employer who pays the total amount of the assistance to its employees [Article 23 (4)].

This financial support is subject to the worker's social security contributions and the employer's social security contributions are reduced to 50 per cent [Article 23 (5)].

Only one of the parents may take leave of absence from work for the above-stated reasons and receive such financial assistance (which is granted once, regardless of the number of children or dependents) [Article 23 (6)].

The rules on the benefits/allowances referred to above have taken effect as of 3 March 2020.

Self-employed workers

- **Exceptional support in case of need for family assistance:**

Self-employed workers who paid social security contributions for at least 3 consecutive months in the last 12 months, and who cannot perform

their activity for the reason referred to above in b., have the right to exceptional support, corresponding to 1/3 of their declared remuneration for the purposes of calculating social security contributions for the first quarter of 2020, with the minimum limit of the social support index (EUR 438.81) and the maximum limit of 2.5 times the social support index (EUR 1 097) [Article 24 (1) to (3)].

This support is only granted if there are no alternative ways of performing work, such as remote work (Article 24 (5)), and only one of the parents is eligible for this benefit, which is paid once, regardless of the number of children and dependents [Article 24 (6)].

This rule has taken effect as of 03 March 2020.

- **Exceptional support in case of reduction of economic activity**

Self-employed workers who (i) are exclusively covered by the social security scheme for self-employed workers (excluding pensioners and workers who do not exclusively perform independent activity) and (ii) have been subject to contribution obligations for at least 3 consecutive months in the last 12 months, and (iii) are in a proven situation of total halt of their activity or of the activity of their sector as a consequence of the outbreak of COVID-19, are entitled to financial assistance paid by the Portuguese social security [Article 26 (1)].

This financial support corresponds to the amount of remuneration declared for the purposes of calculation of social security contributions, with the limit of the social support index (EUR 438,81). This measure applies for 1 month and may be extended monthly up to a maximum of 6 months [Article 26 (3)].

Self-employed workers covered by this measure are entitled to the deferral of social security contributions during the months they receive extraordinary financial assistance. Those contributions shall be paid from the second month onwards after the end of this support measure and can be paid within a maximum of 12 months [Article 28].

These rules have taken effect as of 13 March 2020.

Remote work

During the duration of this Decree Law, remote work may be unilaterally imposed by the employer or may be requested by the worker, if he or she can perform his or her functions remotely, i.e. such work does not have to be based on an agreement between the parties [Article 29 (1)].

This scheme does not apply to workers of essential services [Article 29 (2)] and has taken effect as of 13 March 2020.

1.1.3 State of emergency

The state of emergency that was declared in Portugal on 18 March 2020 by [Decree of the President of the Republic No. 14-A/2020](#) covers the entire national territory, and is based on the public catastrophe caused by the COVID-19 pandemic and requires exceptional measures to be taken to protect the health of citizens and the country's public health services.

The specific measures for its implementation were taken by the government, through the [Decree of the Council of Ministers No. 2-A/2020, of 20 March 2020](#).

Legal framework of the state of emergency



- The state of emergency is an exceptional state that allows for the partial suspension of the exercise of certain rights, freedoms and guarantees insofar as these are strictly necessary, subject to the principle of proportionality;
- It holds only for as long as there is a need to safeguard the rights and interests to be protected, and lasts for up to 15 days with possible renewals;
- Anyone who fails to comply with the measures set out in the declaration of the state of emergency shall be charged for the crime of disobedience, punishable by imprisonment for up to 1 year or a fine of up to 120 days, which will be doubled in case of qualified disobedience;
- The rights to life, personal integrity, personal identity, civil capacity and citizenship, the non-retroactivity of criminal law, the defendants' right of defence and freedom of conscience and religion shall not be suspended and shall remain untouched in any state of exception;
- Citizens shall also retain their full rights of access to the courts to defend their rights, freedoms and guarantees, which have been damaged or threatened by any unconstitutional or illegal measures.

Decree of the President of the Republic No. 14-A/2020

The Declaration of the State of Emergency sets out the following:

- a) The State of Emergency shall have a planned duration of 15 days, starting at 00:00 on 19 March 2020 and ending at 23:59 on 2 April 2020, without prejudice of possible renewals;
- b) It provides for the possibility of partial suspension of certain rights, freedoms and guarantees, with special emphasis on the following:
 - (i) Right of movement and settlement in any part of the national territory - possibility to adopt compulsory confinement, the establishment of sanitary fences and the prohibition of unjustified movement and stay on public highways;
 - (ii) Right of assembly and demonstration - measures may be imposed to limit or prohibit meetings or demonstrations that enhance the transmission of the virus;
 - (iii) Right to international movement - with the introduction of border controls on persons and goods, without prejudice of measures necessary for the international movement of essential goods and services;
 - (iv) Right of ownership and private economic initiative - possible requisition order of services and use of movable and immovable property, mandatory opening, operation and functioning of companies and establishments or, on the contrary, their closure or limitations of activity (e.g. changes to quantities, prices and nature of the goods);
 - (v) Workers' rights - the possibility to require workers of public or private entities to perform services, regardless of place, time and other conditions of their employment, in the areas of health, civil protection, security and defence, treatment of patients, prevention and fight against the spread of the epidemic, as well as those necessary for the production, distribution and supply of essential goods and services, for the functioning of sectors essential to the

economy and for the operation of the necessary infrastructure; immediate suspension of the right to strike insofar as such strikes may jeopardise the functioning of vital infrastructure, such as health care and the supply of goods and services essential to the population.

Decree of the Council of Ministers No. 2-A/2020

With entry into force on 22 March 2020, this Decree of the Council of Ministers establishes the terms of the exceptional measures to be implemented during the period of the declared state of emergency, the following being those we consider more relevant:

- (i) Only patients infected with the COVID 19 virus, as well as citizens being actively monitored by the health authorities, are subject to mandatory confinement under penalty of the crime of disobedience;
- (ii) All other citizens (with the exception of those aged 70 years and older, those who are immuno-compromised and those suffering from a chronic illness, to whom a special duty of protection applies) are subject to a general duty of home confinement, and may only access public spaces and streets, or similar, for specific purposes, of which the following stand out:
 - Purchase of goods and services;
 - Travel for the purpose of performing professional activities or similar;
 - Job search or replying to a job offer;
 - Travel to post offices, bank branches and insurance brokers or insurance companies;
 - Return to personal home;
 - Other activities of a similar nature or for other reasons of force majeure or imperative need, provided they are duly justified;
 - Private vehicles may travel on public roads to carry out all of the above activities or to refuel at gas stations.
- (iii) Obligation for all employers to adopt remote working from home, where this is compatible with the worker's functions;
- (iv) Obligation to close facilities and establishments referred to in Annex I of the decree;
- (v) Obligation to suspend all retail trade activities, with the exception of those providing basic necessities or other goods considered essential in the present circumstances, which are listed in Annex II of the decree;
- (vi) An exception is also made for establishments that maintain their activity solely for the purposes of home delivery or making goods available at the entrance of the establishment or at the gate, with a prohibition of access to the interior;
- (vii) Non-suspension of wholesale establishments;
- (viii) Mandatory suspension of service activities in establishments open to the public, except those listed in Annex II of the decree;
- (ix) The closure of premises and establishments determined by this legal framework does not constitute a basis for terminating non-residential rental contracts or other forms of exploitation of property;

- (x) There is no obligation of suspension for the following services or activities:
 - catering in canteens or cafeterias in regular operation and other collective catering units in operation under a contract of continuous performance;
 - restaurants and similar establishments that exclusively cook for off premise consumption or for home delivery;
 - e-commerce or service activities that are provided remotely, without contact with the public or provided through an electronic platform;
 - retail trade or service activities located along the highway network and inside airports and hospitals;
- (xi) The possibility of adapting the above mentioned measures and the opening of establishments referred to in Annex may be determined; allowing other retail trade activities or the provision of services, including catering, in addition to those provided for in Annex II; or, on the contrary, limiting or suspending the exercise of the activities provided for in Annex II, if they are dispensable or undesirable in the context of fighting the contagion;
- (xii) Small retail establishments and those that provide local services may exceptionally apply before the local civil protection authority for permission to function, upon reasoned request;
- (xiii) Retail trade establishments or those providing services that maintain their activity shall comply with the following safety and hygiene rules:
 - In physical establishments, ensure a minimum distance of two metres between people, a stay for as long as strictly necessary and the prohibition of consumption inside the establishment, without prejudice to the rules laid down in Order No. 71-A/2020 of 15 March;
 - The service must be provided, and the products transported, in compliance with the necessary hygiene and health rules laid down by the Directorate-General for Health.

1.1.4 Decree Law No. 10-G/2020, of 26 March 2020

[Decree Law No. 10-G/2020](#) (amended by the [Declaration of Rectification No. 14/2020, of 28 March 2020](#)) sets forth the terms and conditions for immediate support of an exceptional, temporary and transitory nature, to benefit workers and employers affected by the outbreak of the COVID-19 virus, aimed at maintaining employment and mitigating business crisis situations.

The measures cover the following cumulative modalities:

- (i) Extraordinary support for the maintenance of employment, with or without training, in case of reductions of the normal working time or suspension of the employment contract;
- (ii) Extraordinary plan of training;
- (iii) Extraordinary financial support for the normalisation of the company's activity;
- (iv) Temporary exemption from social security contributions due by the employer (workers' contributions do not benefit from any exemption).

Access to such measures depends on employers being qualified as facing a “business crisis situation” caused by the current pandemic outbreak. Companies considered to be in a business crisis situation can resort to these measures in case of:

- a) Total or partial closure of the company or undertaking, resulting from the legal provisions introduced by the emergency declaration or resulting from a legal or administrative order of the health authorities, in relation to the company or undertaking effectively closed and only covers workers directly affected;
- b) complete or partial shutdown of a company or undertaking’s activity resulting from (i) global supply chain interruption, or (ii) suspension or cancellation of orders or reservations causing a 40 per cent or higher reduction in the occupation or production capacity of the company or of the undertaking in the month following the date on which the layoff measure is executed;
- c) abrupt and sharp drop of at least 40 per cent of the company’s turnover within the period of 30 days prior to the application to the competent social security services, with reference to the monthly average of the two months prior to that period, or compared to the same period of the previous year or, for those who started the activity less than 12 months ago, to the average of that period.

The grounds referred to above in b) and c) require a declaration of the employer together with a certificate from the certified accountant of the company.

This support is granted to companies that have regularised their contributory situation with the tax administration and social security bodies.

During the period of application of the support measures and for the following 60 days, the company cannot terminate any employment contracts either by collective dismissal or by declaring redundancies (that is, either for the workers covered by this support scheme or for any other company workers).

The support addresses:

1) Layoff (reduction of normal working period or suspension of employment contracts):

The financial support depends on the suspension or reduction of the normal working hours established in the employment contract, as its purpose is to support the payment of compensation due to employees for inactivity.

In case of suspension of employment contracts, the workers covered are entitled to receive compensation corresponding to 2/3 of their gross normal remuneration during the suspension period, with the minimum limit of the national minimum wage (EUR 635) and the maximum limit of three national minimum wages (EUR 1 905); 70 per cent of the compensation is carried by the social security administration and 30 per cent by the employer (the employer must pay the full amount (66.66 per cent) to the worker and receives 70 per cent of the amount from the social security administration).

In case of reduction of the normal working hours, the workers covered are entitled to receive compensation to the extent necessary during the period of reduced working time, which together with the remuneration for work provided in or outside the company shall ensure the aforementioned monthly amount of 2/3 of their gross normal remuneration, with the same minimum and maximum limits mentioned above. If such compensation exists, it is carried by both the social security administration and the employer at a ratio of 70 per cent - 30 per cent.

2) Exemption from payment of contributions

During the period in which support is granted, the employer is exempt from paying social security contributions for the remuneration paid to workers covered by the support.

Employee contributions do not benefit from any exemption and should be subject to retention and delivery to social security.

3) Financial incentive for the recovery of the company's activity

Companies that benefit from the measures mentioned above may request an extraordinary financial incentive to support the recovery of their activity, which will be granted by the Institute of Employment and Professional Training ("IEFP"), is paid once and corresponds to the amount of the national minimum wage (EUR 635) per worker.

The measures described above will apply for one month and may be exceptionally extended monthly, up to a maximum of three months.

Failure by the company or the employee to comply with the obligations related to the support measures implies their immediate termination and the refund or payment, total or proportional, of the amounts already received or exempted, when any of the following situations occurs:

- a) Dismissal, except for reasons attributable to the employee;
- b) Non-compliance with the remuneration due to workers;
- c) Failure by the employer to comply with its legal, tax or contributory obligations;
- d) Distribution of profits during the term of the obligations arising from the granting of the incentive, in any form, namely by way of withdrawal on account;
- e) Non-compliance, attributable to the employer, of the obligations assumed, within the established deadlines;
- f) False statements;
- g) Provision of work to the employer itself by a worker covered by the extraordinary support measure for the maintenance of an employment contract in the modality of suspension of the contract, or beyond the established schedule, in the modality of temporary reduction of the normal period of work.

1.1.5 Decree Law No. 10-K/2020, of 26 March 2020

This [Decree Law](#) establishes an exceptional scheme of justified absences due to the need to provide family assistance in the context of the COVID-19 pandemic.

According to this decree, during the period of school vacation, the absences from work due to the need to provide assistance to a child or other dependent under the age of 12 or, regardless the age, to a child with a disability or chronic disease, are considered justified, with loss of remuneration.

To provide the assistance mentioned above, the worker may schedule annual leave without the employer's agreement, by written communication, giving two days of prior notice. During such an annual leave period, the employee is entitled to full pay as he or she would normally be during his or her effective service. However, annual leave allowance may be paid later, up to the fourth month following the beginning of the vacation period.

This decree entered into force on 27 March 2020.

1.1.6 Decree Law No. 10-F/2020, of 26 March 2020

According to [Decree Law No. 10-F/2020](#), employers with (i) less than 50 workers, (ii) 50 to 249 workers that have had a decrease in invoicing of at least 20 per cent in March, April and May 2020, compared with the same period of the preceding year, or (iii) 250 workers or more, provided they operate in designated sectors (specifically, those closed by virtue of the law and in the aviation and tourism sectors), and show the same decrease in invoicing, may pay their social security contributions for the months of March, April and May 2020 in accordance with the following terms:

- (i) One-third of the contributions due is to be paid in the relevant month (for employers that have already paid the social security contributions for March 2020, the relevant postponement begins in April and ends in June 2020);
- (ii) The remaining two-thirds shall be paid in equal successive instalments in the months of July, August and September 2020 or in the months of July to December 2020, without interest. The employer must declare in July 2020 which schedule of payment it wishes to implement.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Romania

Summary

As a result of the state of emergency declared on 16 March, a series of measures were adopted in Romania aimed at limiting the impact of the crisis on labour relations. They include new leaves, rules on remote work and state assistance to those whose employment contract was suspended.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

In Romania, the state of emergency was declared by the President's [Decree No. 195/2020](#) (published in the Official Gazette No. 212 of 16 March 2020). Since then, a series of Military Ordinances and Emergency Ordinances have been adopted, which also include provisions on employment relationships. The rules on decision-making transparency and social dialogue no longer apply in the case of draft laws establishing measures applicable during the state of emergency (Emergency Ordinance [No. 34/2020](#), published in the Official Gazette No. 268 of 31 March 2020).

1.1.1 Leave days for parents

[Law No. 19/2020](#) on the granting of leave to parents for the supervision of children in case of temporary closure of educational facilities (published in the Official Gazette No. 209 of 14 March 2020), provides the right of the parent-employee to leave as a result of the closure of schools.

The employer has the obligation to grant leave to one of the parents for the supervision of his or her children as a result of the temporary closure of the schools they are enrolled in. The law covers employees who cannot fulfil their job duties by teleworking and who have children under the age of 12 years or have a child with a disability up to the age of 18 years and who are enrolled in a school that is closed.

Both parents cannot benefit from such leave days at the same time.

The allowance for each day is initially paid by the employer and amounts to 75 per cent of the employee's salary on a given work day, but no more than the daily equivalent of 75 per cent of the national average gross wage. The allowance is to be reimbursed from the Guarantee Fund for the payment of salary claims.

Emergency Ordinance [No. 30/2020](#) on the amendment and completion of certain normative acts, as well as on establishing measures in the area of social protection in the context of the SARS-CoV-2 coronavirus crisis (published in the Official Gazette No. 231 of 21 March 2020), supplements these provisions. Thus, the notion of "parent" was defined as including the natural parent, the foster parent, the person who has a child/children in foster care for adoption, a person who has a child under his or her care or guardianship; a maternal assistant, the parent or legal representative of an adult with a disability enrolled in an education facility.

The law does not apply if the parent is on annual leave or if her employment contract has been suspended.

The provisions of this law apply to all public and private employees. Some derogating rules apply to employees who carry out their activity in the essential services that cannot benefit from such leave days, but are entitled to additional wage allowances.

1.1.2 Teleworking

In Romania, teleworking is regulated in [Law No. 81/2018](#) (published in the Official Gazette No. 296 of 2 April 2018). According to this law, telework is based on the agreement of the parties.

By way of derogation, the decree establishing the state of emergency No. 195/2020 provides in Art. 33 that public and private employers can introduce by unilateral decision, where possible, work from home or teleworking for the period of emergency. Therefore, the employee's consent is no longer necessary to make such a decision.

In practice, the question has arisen whether the employer has the right or obligation in this case to decide on remote working by means of teleworking. The absence of any sanction, as well as the wording of the text ("where possible") could lead to the conclusion that the rule only provides for a right, and not an obligation for the employer. However, according to Article 6 (1) of Law No. 319/2006 (published in the Official Gazette No. 646 of 26 July 2006) on occupational safety and health, the employer has the obligation to ensure the safety and health of workers in all aspects of work. Therefore, the employer, in fact, has the obligation to arrange work by means of teleworking, if the job duties can be performed from home.

1.1.3 Technological unemployment

According to Article 52 (1) c) of the Labour Code, the individual employment contract may be suspended at the initiative of the employer in case of temporary interruption or reduction of the activity, without terminating the employment relationship, for economic, technological, structural or similar reasons. In this case, the employees do not work, but are available to the employer, ready to resume work on the date the cause that led to the suspension of the employment contract ceases. They receive compensation in the amount of 75 per cent of their salary.

According to Article XI of Emergency Ordinance No. 30/2020, during the period of emergency and in case of suspension of the employment contract, the worker's compensation allowance is set at 75 per cent of her salary, paid from the unemployment insurance fund, but not more than 75 per cent of the national average gross wage.

Emergency Ordinance No. 32/2020, published in the Official Gazette No. 260 of 30 March 2020, has simplified the payment procedure. The amounts are paid to the employers from the unemployment insurance fund, based on a declaration on their own responsibility. The employer must pay the compensation to the employees within 3 working days of receiving the required amounts.

1.1.4 Quarantine leave

As regards quarantined employees, quarantine leave will be automatically granted. Such leave shall only be granted to employees who present a certain risk of contamination, on the basis of a certificate issued by the Public Health Directorate. The same rules also apply if the employee is quarantined in specially designated spaces, and if isolation at home has been ordered.

According to Government Emergency Ordinance No. 158/2005, during the period of quarantine leave, the employee is entitled to an allowance representing 75 per cent of his or her average monthly gross income for the last 6 months over a 12-month period, which the contribution period is based on.

According to Emergency Ordinance No. 30/2020, for the purpose of preventing employees from getting sick, employees are entitled to leave and an allowance if they



are quarantined, without fulfilling the conditions related to the contribution period. Quarantine leave may be granted retroactively.

1.1.5 Travelling to work

Military Ordinance [No. 3/2020](#), published in the Official Gazette No. 242 of 24 March 2020, limits the right of persons to travel outside their home/household, with a number of exceptions. This includes travel for professional purposes.

Employees' travel to the workplace is only possible if she holds a certificate issued by the employer, attesting that the person's presence is essential for the activity of the organisation and cannot be organised by teleworking. The certificate is issued to the employer by the authorities by telephone, tablet or similar electronic device.

1.1.6 The insertion incentive

The insertion incentive is a monthly allowance that a parent who is on child rearing leave receives if she returns to work earlier and ceases the suspension of the employment contract. It is provided in Government Emergency Ordinance No. 111/2010.

According to Emergency Ordinance No. 30/2020, the payment of this incentive is extended for a period of 90 days, also covering persons who are on medical leave, who are unemployed or on leave to supervise their children during the closure of the education facility. The persons whose employment contracts have been suspended or terminated as a result of the state of emergency shall also benefit from this incentive.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Slovakia

Summary

(I) During the reporting period, there was a change in government. The new government already discussed and proposed the adoption of amendments of several acts, particularly the Labour Code, Act No. 461/2003 Coll. on Social Insurance and Act No. 5/2004 Coll. on Employment Services. These proposals have been approved by Parliament.

(II) No important court decisions were published.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

The situation in Slovakia was complicated by the fact that parliamentary elections took place on 29 February 2020 and there was a change in government. The new government, consists of 4 coalition parties, and was appointed by the President of the Republic on 21 March 2020.

The previous government had already introduced certain measures. However, these did not directly aim to change labour law regulations.

1.1.1 Acts on Social Insurance, the Labour Code and Employment Services

On 25 March 2020, the new government discussed and approved the proposal to amend Act No. 461/2003 Coll. (Collection of Laws - "Coll.") on Social Insurance, as amended, Labour Code, as amended (Act No. 311/2001 Coll.) and Act No. 5/2004 Coll. on Employment Services, as amended.

On the same day, 25 March 2020, the National Council of the Slovak Republic (Parliament) approved the submitted proposal of the government.

a) Act No. 461/2003 Coll. on Social Insurance

In response to the current situation on the spread of COVID-19, the **conditions of entitlement to care and sickness benefits** have been newly regulated. The aim of the proposed legislation is to improve the financial situation of those who receive sickness and care benefits and to help partially mitigate the negative financial impact on employers.

Entitlements to sickness benefits were adopted for those in quarantine and isolation ordered in connection with COVID-19, to provide for an employee's entitlement to sickness benefits paid by the Social Insurance Agency from day 1 onwards of a temporary incapacity for work. According to the cancelled legal regulation, entitlement to sickness benefits only arose on the 11th day, while for the first 10 days, the employee was entitled to compensation of income, which was paid by the employer. The proposal is therefore to relieve employers from paying compensation for remuneration. At the same time, in cases where the policyholder is in quarantine or isolation, the amount of sickness benefit should be 55 per cent of the daily assessment base from the first day for the duration of the COVID-19 crisis. Until now, income compensation for the first three days of sick leave was only 25 per cent.

b) Labour Code

The definitions of obstacles to work in the Labour Code and the conditions of entitlement to care have been harmonised.

- **Repealed text** of Article 141 paragraph 1 of the Labour Code:

An employer shall excuse an employee's absence from work for temporary incapacity for work due to a disease or accident, periods of maternity and parental leave (§ 166), quarantine, **attending to a sick family member and during periods of caring for a child under the age of ten years who, for substantive reasons, may not be in the care of an educational facility or school which the child is otherwise in the care of, or if the person who otherwise cares for the child has fallen ill or was ordered to quarantine (quarantine measures), or who has undergone an examination or treatment in a medical facility**, which it was not possible to arrange outside of the employee's working time. During such periods, an employee shall not be entitled to wage compensation, unless a special regulation stipulates otherwise.

- **New approved text** of Article 141 paragraph 1 of the Labour Code:

An employer shall excuse the absence from work of an employee for periods of the employee's temporary incapacity for work due to disease or accident, periods of maternity and parental leave (§ 166), quarantine, **personal and full day care of a sick family member under a special regulation, personal and full day care for a natural person under a special regulation and during a period when the person who otherwise cares for the child under the age of 10 years has undergone an examination or treatment in a health care facility**, which it was not possible to arrange outside of the employee's working time. During such periods, an employee shall not be entitled to wage compensation unless special regulation stipulates otherwise.

c) Act No. 5/2004 Coll. on Employment Services

The basic objective of the amendment to Act No. 5/2004 Coll. on Employment Services is to **strengthen the tools of employment services**, which will enable mitigation of the negative impacts of quarantine measures, especially as regards employees, employers and self-employed persons in connection with the declaration of the state of emergency by Government Resolution No. 111 of 11 March 2020 pursuant to Section 8 of the Act of the National Council of the Slovak Republic No. 42/1994 Coll. on civil protection of the population, as amended, and the declaration of an emergency by Government Resolution No. 114 of 15 March 2020 due to coronary disease COVID-19 caused by the SARS-CoV-2 virus in the Slovak Republic.

In this context, to support the mitigation of the effects of this crisis on employment and the labour market, it is proposed **to include measures to promote the retention of employment**, including for self-employed persons who were working at the time the state of emergency was declared, and for the post-emergency period. Through this tool, it will be possible to implement measures to compensate employers, and self-employed persons to retain employment, despite the obligation to interrupt or limit their operational activities based on the resolution of the Central Crisis Staff, or if they had to do so to protect their employees' health, due to a decline in orders or interruptions in supplies.

Article 54 of Act No. 5/2004 Coll. on Employment Services regulates "Projects and programmes". In Article 54 paragraph 1 after letter d), the following letter e) was inserted:

"1) **Active labour market measures** shall also include

e) **projects to support the retention of jobs**, including those carried out or involving self-employed persons, and to support the retention of employees in employment in the context of a declaration of a state of emergency and the mitigation of consequences, approved by the Ministry (of Labour, Social Affairs

and Family of the Slovak Republic) or the Headquarters (of Labour, Social Affairs and Family) and executed by the Headquarters or Labour Office,".

At the same time, the deadline for fulfilling certain obligations of natural and legal persons under the Employment Services Act was postponed and allows citizens to file an application for registration as job seekers by electronic means without a qualified electronic signature (new Article 72aI of Act No. 5/2004 Coll. on Employment Services).

This Act entered into force on the day of its announcement in the Collection of Laws on 27 March 2020 - Act No. 63/2020 Coll.

1.1.2 Ban on right to strike

On 27 March 2020, the new government discussed and approved

"The Resolution of the Government of the Slovak Republic No. 169 of 27 March 2020 on the proposal to extend the state of emergency pursuant to Article 5 of the Constitutional Act No. 227/2002 Coll. on state security in times of war, state of war, state of emergency, as amended, to impose a duty to provide health care within the scope of nursing care in residential social service facilities, which are facilities for seniors, nursing facilities, homes of social services, specialised facilities, facilities of social and legal protection for children and social guardians, which are centres for children and families and the extension of the ban on exercising the right to strike by some workers declared by the Government of the Slovak Republic No. 114 of 15 March 2020."

The government in Item B.1. of the Resolution **imposes** with effect from 28 March 2020 pursuant to Article 5 paragraph 3 letter b) of the Constitutional Act No. 227/2002 Coll. A **work obligation for employees** of residential social services facilities, which are facilities for seniors, nursing facilities, homes of social services, specialised facilities and employees of social protection facilities for children and social guardians, which are centres for children and families.

The government in Item E of the Resolution **prohibits** with effect from 28 March 2020 **the exercise of the right to strike** by persons who were placed under an obligation to work under Item B.1. of this resolution.

This Resolution entered into force on 28 March 2020 and was published in the Collection of Laws on 28 March 2020 – No. 64 /2020 Coll.

1.1.3 Measures to preserve jobs

On 31 March 2020, the government approved (with notes) a proposal of the Act amending Act No. 311/2001 Coll. the Labour Code, as amended, and amending certain acts submitted as an initiative proposal to Parliament.

With the exception of the Labour Code, changes are also proposed for the Act No. 461/2003 Coll. on Social Insurance, as amended, Act No. 5/2004 Coll. on Employment Services, as amended, Act No. 124/2006 Coll. on Health and Safety at Work, as amended and Act No. 448/2008 Coll. on Social Services, as amended.

The Act amending the Labour Code and some other Acts has been submitted to Parliament as an initiative proposal.

As regards the provisions of the Labour Code, they should be amended if, in order **to preserve jobs**, employers' opportunities to respond more flexibly to dynamic changes affecting work organisation are expanded. To protect employees, some changes are proposed in the areas of working time (in terms of organisation of working time),



leave (in terms of determining its use) and obstacles to work (in terms of pay compensation in case of work on the protection of workers who have faced an obstacle to work on their part).

Parliament will discuss the proposed Act in April. Since the government has already approved its proposal with comments, it is premature to look into the proposal in more detail.

1.2 Other Legislative Developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Slovenia

Summary

The report focusses on the government's activities related to the social status of workers and citizens at large as well as the financial aid intended for businesses during the fight against the consequences of COVID-19.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

Act on emergency (intervention) measures relating to wages and contributions ("Zakon o interventnih ukrepih na področju plač in prispevkov"), Official Gazette of the RS, No. 36/2020- ZIU PPP, 28 March 2020

The Act applies since 29 March 2020.

The Act has introduced the possibility of partial reimbursement of wage compensation. Employers shall be entitled to such reimbursement in two cases:

1. when workers, under the conditions provided for by the Act (for example, if at least 30 per cent of employees are made redundant) must stay at home, they will be considered unable to work for business reasons;
2. where individual workers are in quarantine.

The payment of contributions to self-employed persons has also been extended by the Act.

The Act defines cases where the employer cannot enforce the right to reimbursement of wage compensation (for example, the employer has initiated a procedure of insolvency, non-payment of wages in case of layoffs) and provides for obligations that must be fulfilled by the employer (prohibition of terminations of the employment contract for business reasons, prohibition of the dismissal of redundant workers during the period of the intervention measures applied to employers, etc.).

Draft Act on the intervention measures to stem and mitigate the consequences of the SARS-CoV-2 (COVID-19) communicable disease epidemic for citizens and the economy ("Predlog zakona o interventnih ukrepih za zaježitev in omilitev posledic epidemije COVID-19 za državljane in gospodarstvo")

In its regular session on 28 March 2020, the Government of the RS adopted the text of the above mentioned draft act and submitted it to Parliament. The draft act shall be included on the agenda of the National Assembly on 01 April 2020. The act shall be considered and adopted under the emergency procedure.

It provides for the act to apply from 13 March to 31 May 2020 (with retroactive effect of the law), but it might be extended, if necessary, until the end of June 2020.

The act intends to mitigate the negative consequences of the epidemic disease for citizens and the economy and to preserve jobs and enable businesses to continue their activity. It aims to introduce *mitigating measures* for self-employed persons, religious employees, farmers, regular students, large families, pensioners, persons entitled to social assistance, workers employed in the private sector and state officials. The measures provided for in the draft act are as follows:



- Eighty per cent of wage compensation for laid-off workers (workers waiting at home to be called to work) and social security contributions shall be covered by the State.
- The State shall cover the contributions of workers who continue to perform their work.
- Workers exposed to health hazards and/or overloaded by work and earning wages lower than triple gross minimum wage shall be entitled to a so-called risk allowance, a reward in the amount of EUR 200, which shall not be subject to taxation and to the payment of contributions.
- Civil servants may be paid a risk allowance (work under conditions endangering health) in the amount of EUR 100.
- Self-employed persons and farmers shall be entitled to EUR 350 for March and EUR 700 for April and May under the condition that they cannot perform their activity or when the performance of their activity is significantly reduced.
- A family with three children shall obtain an additional payment of EUR 100. A family with four or more children shall be entitled to an additional payment of EUR 200.
- Pensioners shall be entitled to a unique additional solidarity payment in the amount of EUR 300 (pension up to EUR 500), EUR 230 (pension up to EUR 601) or EUR 130 (pension up to EUR 700).
- Regular students shall be entitled to unique solidarity assistance in the amount of EUR 150 (the government's argument in this case: students cannot carry out student work).
- According to the draft act, the banks shall be ensured guarantees by the State in case of deferment of payments by businesses.
- The draft act provides for an exemption of previous instalments of income tax and instalments of income tax of legal entities.
- Reduction of wages of officials in the government, National Assembly and other State bodies (for example, public prosecutors, counsellors of the President of RS).

It is assessed that the implementation of the package of the above measures will require EUR 3 billion.

There is a possibility that the draft act will be amended by Parliament, as the proposed measures are object to observations of civil society and legal experts (the government supplemented the draft act by adding a provision extending the powers of the police during the period of the intervention measures shortly before submitting the draft act to the National Assembly. The draft act has been expanded to include certain issues that are not related to either the protection of jobs and the social situation of people or the maintenance or functioning of the economy). Nevertheless, the coalition and opposition parties in Parliament share the opinion that the act provides the necessary/positive measures related to the liquidity of businesses and the social situation of people to mitigate the consequences of the coronavirus pandemic.

It must be pointed out that the government is not exclusively concerned with the economic sector. It has issued guidelines relating to the rights and obligations of public servants. According to these guidelines, public sector employers are expected to ensure that 1) 80 per cent of the average wage that has been paid over the last 3 months shall be paid to public servants who have been ordered to wait at home to be called for work, 2) 50 per cent of the civil servant's wage shall be paid as compensation to those who have to stay at home to care for a child and when he or



she does not have the possibility to perform work from home, 3) 50 per cent of the civil servant's wage shall be paid as wage compensation if the employee is incapacitated for work, 4) wage compensation in the amount of 90 per cent shall be paid for the first 90 days of absence from work due to illness or injury at work, 5) 100 per cent of wage compensation for civil servants performing work from home.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Spain

Summary

The government has declared a state of emergency to prevent the spread of COVID-19. On 14 March, the government decided to initiate a lockdown for 15 days, which has been extended to April 12. Economic activity in non-essential sectors has come to a complete halt since March 30. The government has approved various measures to deal with this situation; some of them aim to minimise the impact on employment relationships.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

1.1.1 Labour measures during the state of emergency

The government has declared a state of emergency (Article 116 of the Spanish [Constitution](#)). Among other consequences, all recreational, cultural, sports and commercial activities were suspended on 14 March, as well as hospitality and educational activities that are carried out on-site (Royal Decree [463/2020](#), 14 March). On 30 March, Royal Decree Law [10/2020](#) suspended all non-essential activities until 9 April.

Economic activity has decreased during the state of emergency, either due to the suspension issued by the government, or due to consequences of the limitations on the freedom of movement (lockdown). Many undertakings have taken measures to reduce or modify employees' working time, and temporary layoffs or dismissals have affected more than 1.5 million workers so far. On 17 March, the government adopted Royal Decree Law [8/2020](#) with specific measures for this period, some of these in the field of labour law. These measures have been supplemented by the measures included in Royal Decree Law [9/2020](#), 27 March, which does not permit dismissals during the state of emergency.

1.1.2 Telework

Royal Decree Law [8/2020](#) prioritises the continuity of employment contracts through telework where possible. Article 13 of the Labour Code provides the general rules for telework and requires a written agreement between the employer and the worker. It also contains specific provisions to guarantee the employee's rights. It is likely that these requirements are not being fully respected, because this is an exceptional situation, there has been no prior and proper planning to implement these provisions, and telework is not exactly a voluntary decision at present, but the only option for many businesses to continue their operations.

Article 5 of Royal Decree Law [8/2020](#) supports such flexibility, as telework is a better alternative than layoffs. The goal is to ensure that businesses and employment relationships can resume normally as soon as possible. Precisely for this reason, the employer's obligations regarding the prevention of occupational hazards are considered as having been fulfilled with a voluntary self-assessment carried out by the teleworker him- and herself.

1.1.3 Working time

Article 37 of the Labour Code entitles the worker the right to certain adaptations or modifications of his or her working time in case she must assume family responsibilities. Article 6 of Royal Decree Law 8/2020 provides for special rules if such family responsibilities are caused by COVID-19. These special rules require evidence to be presented that the worker's family member needs care due to circumstance directly related to the coronavirus, such as the closure of child care facilities and schools (in the case of children), or that the (professional) caregiver of an elderly or dependant family member can no longer perform this task and the worker him- or herself must now take care of that family member.

Under these circumstances, the employer and the worker must find an agreement to adopt proportional measures that allow the worker to assume his or her family responsibilities. The law provides a large range of measures: telework, shift changes, split shifts, continuous shifts, change of workplace, different functions or any other reasonable and proportionate change in the employee's working conditions.

Another measure is a reduction in working time, with a proportional decrease in wages. This reduction in working time can exceptionally reach 100 per cent.

1.1.4 Temporary layoffs and working time reductions

The measures adopted to halt the expansion of COVID-19 affect many businesses, which can no longer perform their activities, or cannot continue their operations. When this happens, or when there is no possibility to continue the activities due to the sickness or confinement of the workers or lack of supplies, Article 22 of Royal Decree Law 8/2020 allows the employer to introduce adjustment measures involving the workforce. This is a specific cause of force majeure. It is worth noting that Article 47 of the Labour Code already allowed for this type of measure in case of force majeure, but it was not clear whether all of the situations arising from the COVID-19 pandemic are covered by this Article. Royal Decree Law 8/2020 has clarified this question.

Through this procedure, the employer can adopt measures such as temporary layoffs or the reduction in employees' working hours, but the employer must provide evidence for the relevance of the problems the firm is facing and their relationship with COVID-19. The public administration (the Ministry of Employment or the relevant regional body is involved in terms of the territorial scope of the undertaking) must verify the existence of such force majeure within five days following the undertaking's request to implement the special provisions. While these situations are ongoing, undertakings with less than 50 workers do not contribute to social security, and larger ones only need to pay 25 per cent of total contributions.

The undertaking can also introduce these measures based on economic, organisational, technical or production grounds. In that case, the general rules apply, but problems may arise to fully comply with the information and consultation rights. When this occurs (mainly in undertakings with less than 10 workers), Article 23 of Royal Decree Law allows this negotiation procedure to be held with the most representative unions in the sector. In addition, the duration of these negotiations in ordinary situations (15 or 30 days, depending on the size of the undertaking) has been reduced to 7 days to speed up the procedure in the face of COVID-19.

All of these more flexible measures are based on the undertaking's commitment to maintain employment for a period of six months from the date the activity resumes.

The absence of proper grounds or non-compliance with the relevant requirements are reasons to issue an administrative penalty.

Temporary layoffs are not allowed in private healthcare establishments, because they are essential services during this state of emergency.

1.1.5 Prohibition of dismissals

As already mentioned, Royal Decree Law 8/2020 aims to ensure that business activities and employment relationships can resume normally as soon as possible. For this purpose, Article 2 of Royal Decree Law [9/2020](#), 27 March, prohibits dismissals related to force majeure or to economic, technical, organisational or production grounds. The employer is allowed to introduce temporary layoffs, but not to terminate employment contracts.

These measures also affect fixed-term contracts whose duration might end during the temporary layoff. Therefore, the Royal Decree Law has included a measure on the duration of fixed-term contracts, which may now not end during a period of temporary layoff. The duration of the fixed-term contract is put on hold when the temporary layoff begins and will resume again after the period of temporary layoff.

1.1.6 Paid leave

On 30 March, all non-essential activities were suspended until 09 April by Royal Decree Law [10/2020](#), with the exception of tasks that are essential during the state of emergency, for example, in industries with blast furnaces. However, the list of essential activities is long (over 25 sectors): agriculture, food transport, food shops, healthcare, law enforcement bodies, transport of passengers and goods, production and distribution of electricity, distribution of gas and water, gas stations, telecommunications, ports, airports and the media. The government is authorised to modify this list.

Telework is allowed, while on-site work is prohibited. Workers who carry out non-essential activities and are affected by this measure can take paid leave until the suspension ends, but must make up the hours missed during the year 2020. The employer and workers must negotiate how to allocate those hours. How to make up the missing hours before 31 December must be negotiated between the undertaking and the workers' representatives. If the undertaking does not have workers' representatives (undertakings with less than 10 workers), the most representative unions, or even three workers chosen by colleagues may assume the representation of the workers.

1.1.7 Unemployment benefits

Workers affected by temporary layoffs or the reduction in working hours due to COVID-19 (force majeure) are eligible to special unemployment [benefits](#), because no minimum contribution period is required. Regular unemployment benefits require at least 360 days of contributions over the last six years.

These special benefits also require a special procedure, i.e. they must be requested directly by the undertaking to facilitate processing.

1.1.8 Sick leave due to COVID-19

Spanish social security provides better [protection](#) against illnesses related to the workplace than to "common" illnesses (not work-related). COVID-19 should be considered a "common" illness, but both the illness itself and the preventive confinement in case of suspicion have been qualified as belonging to the professional

sphere for the purpose of temporary disability benefits. That means the worker does not have to prove that he or she has made a minimum amount of social security contributions. The amount of the benefits are equal to 75 per cent of the employee's last wage (and not 60 per cent during the first 20 days, as is the case for "common" illnesses).

1.1.9 Workers in social service centres

An [Order](#) of 26 March provides specific rules for workers in social service centres, allowing the imposition of extraordinary measures (different functions, change of work centre, etc.) to meet the needs of people who reside in such centres (elderly, victims of gender violence, disabled people, etc.). This kind of extraordinary work cannot be imposed on pregnant workers. The rules on breaks, working time and leave (including annual leave) can be modified and teleworkers can be required to perform on-site work.

In addition, and due to the lack of qualified personnel, it is exceptionally allowed to hire students who are in the final year of their degree, giving them access to the relevant professions.

1.1.10 Transport of goods by road

The government has decided to temporarily exempt the application of the following rules of Regulation [No. 561/2006](#):

- Article 6.1: The maximum daily driving time can be extended, but the requirements established for breaks and for daily and weekly rest periods must be respected;
- Article 8.6: The 45-hour weekly rest period can be replaced by a continuous rest period of at least 24 hours, without the need for compensation;
- Article 8.8: The weekly rest period can be enjoyed in the vehicle itself, as long as it is parked and adequately equipped for rest.

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

Sweden

Summary

The Swedish government has taken numerous steps to address the enormous impact of the coronavirus on the labour market, not least the temporary reform of sickness pay, sick leave provisions and massive subsidies in relation to social security contributions, but also in relation to short-time reduced working hour subsidies.

1 National Legislation

1.1 Measures to respond to COVID-19 crisis

Swedish society is still (01 April) less locked down than most western European countries following the advice of the national health authorities. Those who can are recommended to work from home, and to only travel for necessary trips, but no strict, compulsory restrictions are yet in place, though there is a 50-person limitation in public spaces. A significant number of people are working from home (high schools and universities have all moved online for the last two weeks, but primary and secondary schools are still open). All sectors of industry will be affected by the crisis, particularly cultural sectors (concerts, theatres), restaurants, shops, and hotels. The impact on the labour market and businesses cannot be estimated, though the latest estimates from the Minister of Finance (31 March) indicate a 9 per cent unemployment rate and a recovery stretching for at least two years. In comparison with other EU Member States, Sweden's figures indicate a less desperate situation, but the crisis is still unfolding and the worst is yet to come.

1.1.1 Release in relation to sick leave

The ordinary legislation on sick leave and sickness pay has been temporarily amended to lessen the burden on the health care sector and to encourage employees to stay home upon any, even only minor, signs of infection. The first day of sick leave is usually, a qualifying day to which no entitlements apply. If the employee is still on sick leave, the subsequent 13 days are paid by the employer at 80 per cent of the employee's salary (section 6-11 *The Act on Sick pay, lagen 1991:1047 om sjuklön*). The qualifying day, along with the obligation to provide a certificate from a medical doctor after one week of sick leave, has been or will be temporarily cancelled during the corona crisis (the final [legislation](#) has not yet passed Parliament, but will likely be approved within a few days and apply retroactively from mid-March until the end of May).

Furthermore, the government has indicated the introduction of temporary [changes](#) to unemployment insurance, including increasing the ceiling (from the current maximum of approx. EUR 2 000 per month to a maximum of approx. EUR 2 600 per month) and lowering the thresholds to enter into the insurance (which is completely separate from the public sickness, parental and old-age insurances). The aim is to include more groups and support unemployed persons at a higher level during the crisis.

1.1.2 Short-term layoffs and redundancies

The Swedish Employment Protection Act allows for short-term layoffs (section 21, *lagen 1982:80 om anställningsskydd*), but the employer will still be required to pay the employees' full salaries during the layoff period. To manage the significant, but estimated short-term disruption of industry, the government has proposed an

improved [structure](#) to provide for reduced working hours (korttidsarbete) during which the “burden” of the reduced working hours is shared between the employer, the State and the employee. While a similar structure was introduced in 2013, (the Act on Support for Reduced Working Hours, [lagen 2013:948 om stöd vid korttidsarbete](#)) after the financial crisis and pointed to an “exceptionally low cyclical economic situation”, the current reform broadens the scope. However, the financial support is (still) dependent on a crisis collective agreement at central level between the industrial partners in the specific sector. As of today, it has been reported that nearly all industrial partners have concluded such agreements, which are estimated to cover the majority of the private workforce.

The support, which will be applied for and distributed by the Swedish Agency for Economic and Regional Growth (*Tillväxtverket*) will result in reduced costs for the employers during a short-term, reduced hour arrangement.

Level	Reduced working time	Reduced salary (capped at EUR 4 400 /month)	Employers' burden	Government	Reduced cost for the employer
Level 1	20 per cent	4 per cent	1 per cent	15 per cent	-19 per cent
Level 2	40 per cent	6 per cent	4 per cent	30 per cent	-36 per cent
Level 3	60 per cent	7.5 per cent	7.5 per cent	45 per cent	- 53 per cent

Further information is available [here](#).

Since many companies, especially in the services sector, suffer from an instant lack of cash-flow, these measures are particularly welcome and might improve the possibility for many employers to survive the crisis. Employment protection legislation otherwise stipulates a (paid) notice period of 1-6 months for redundancies (section 11 Employment Protection [Act](#)).

1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

United Kingdom

Summary

Measures to respond to the COVID-19 crisis include an extension of the sick pay scheme, a new Coronavirus Job Retention Scheme, and an extended possibility of carrying over annual leave entitlements up to two years.

1 National Legislation

1.1 Measures to respond to the COVID-19 crisis

1.1.1 Introduction: Key documents

- The [relevant government web page](#);
- The [self-isolation guidance](#);
- [Specific advice for employees, employers and businesses](#);
- [Guidance on social distancing](#);

On 23 March, the government announced a nationwide lockdown and various pieces of legislation were adopted:

- Emergency legislation has been passed: [Coronavirus Act2020](#) (Royal Assent on 25 March 2020); this covers emergency registration of health professionals, social workers and emergency volunteering leave, as well as powers to deliver statutory sick pay (see below), video technology in courts and tribunals and powers to postpone elections;
- Secondary legislation has also been passed imposing restrictions on most businesses and individuals' rights of movement: see e.g. [Health Protection \(Coronavirus, Restrictions\) \(England\) Regulations 2020 \(SI 2020/350\)](#); an [explanatory note](#) states: "*These Regulations require the closure of businesses selling food or drink for consumption on the premises, and businesses listed in Part 2 of Schedule 2, to protect against the risks to public health arising from coronavirus, except for limited permitted uses. Restrictions are imposed on businesses listed in Part 3 of Schedule 2, which are permitted to remain open. The Regulations also prohibit anyone leaving the place where they live without reasonable excuse, and ban public gatherings of more than two people. The closures and restrictions last until they are terminated by a direction given by the Secretary of State. The need for these restrictions must be reviewed by the Secretary of State every 21 days, with the first review taking place by 15th April 2020.*"

1.1.2 Sick pay

According to the government:

- Employees who are too ill to work are entitled to [GBP 94.25](#) per week of statutory sick pay (hereinafter SSP). It is paid by the employer for up to 28 weeks;
- If an employee cannot work while [self-isolating because of coronavirus \(COVID-19\)](#), he or she is eligible for SSP for every day spent in isolation. The employee must self-isolate for at least 4 days to be eligible;

- If the employee's illness is not related to coronavirus (COVID-19), he or she must have been [eligible for SSP](#) and have been off work sick for 4 or more days in a row (including non-working days) to be eligible for SSP.

If the individual is not eligible (because he or she is not an employee or earns less than GBP 118 a week) or his or her SSP ends, then:

- He or she may be able to apply for [Universal Credit or Employment and Support Allowance \(hereinafter ESA\)](#). The [form SSP1](#) can be used to support the application;
- If the individual's SSP is ending, his or her employer must send the form SSP1 to the employee either:
 - within 7 days of the end date of the SSP, if it ends unexpectedly while the employee is still sick;
 - on or before the beginning of the 23rd week, if the employee's SSP is expected to end before his or her sickness does.
- If the person does not qualify for SSP, the employer must forward the form SSP1 to the employee within 7 days from the commencement of his or her sick leave.

Small and medium employers will be able to recover up to two weeks' SSP from HMRC.

1.1.3 Job retention scheme

Most dramatically, the Chancellor announced the [Coronavirus Job Retention Scheme](#). In summary,

- [This] is a temporary scheme open to all UK employers for at least three months starting from 01 March 2020. It is designed to support employers whose operations have been severely affected by coronavirus (COVID-19);
- Employers can use a portal to claim for 80 per cent of furloughed employees' (employees on a leave of absence) usual monthly wage costs, up to GBP 2 500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage. Employers can use this scheme anytime during this period.

The scheme is open to all UK employers that had created and started a PAYE payroll scheme on 28 February 2020. A useful discussion of the scheme is available [here](#).

A [separate scheme has been introduced for the self-employed](#). In summary, this will allow self-employed workers to claim a taxable grant worth 80 per cent of their trading profits up to a maximum of GBP 2 500 per month for the next 3 months. This may be extended if needed.

1.1.4 Carrying over of annual leave

According to [SI 2020/365 The Working Time \(Coronavirus\) \(Amendment\) Regulations 2020](#), workers can carry over up to 4 weeks (not the more generous 5.6 weeks under UK law) annual leave for 2 years.



1.2 Other legislative developments

Nothing to report.

2 Court Rulings

Nothing to report.

3 Implications of CJEU rulings and ECHR

Nothing to report.

4 Other relevant information

Nothing to report.

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