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## NEWSLETTER 31.3.2020

Coronavirus – first aid legal guidebook (4) – Employers / Employees / Self-employed / Execution / Insolvency / Corporate Governance

**Following the extraordinary measures adopted by the Government of the Czech Republic and the Ministry of Health associated with the occurrence of the coronavirus pandemic COVID-19, many businesses have met with major restriction.**

**Businesses, as employers, are in a situation where they cannot allocate work to their employees and are forced to quickly take on appropriate work measures. They are often exposed to the risk of insolvency. Moreover, corporate governance can be affected as well, as it encounters restrictions on the movement of persons and the closure of borders.**

**The purpose of this Newsletter is to provide you with a basic overview of the options provided by the Labour Code in combination with appropriate state support under the Antivirus program, about which we have informed you in the last newsletter and which was since then significantly amended by the Government on 31 March 2020.the**

**Furthermore, we would like to inform you of other important decisions made by the Government (department of Ministry of Justice) and adopted at its meeting on 31.3.2020.**

### 1) Employers / employees

<b>Procedure under the Labour Code (“LC”)</b>	<b>Wage / wage compensation (% of average earnings)</b>	<b>Support under the Antivirus program *)</b>
Downtime - shortages in supplies of raw materials and other inputs = obstacles to work on the part of the employer according to § 207 a) LC	min. 80 %	60 % of 80 %
Other obstacles to work according to § 208 of the LC (as a direct result of government measures (especially extraordinary measures of the Ministry of Health no.: MZDR 12746/2020-1/MIN/KAN, resp. MZDR 13361/2020-1/MIN/KAN, MZDR 13361/2020-2/MIN/KAN)	100 %	80 % of 100 %
Partial Unemployment - Restrictions on Sales of Products or Demand for Services According to § 209 LC	min.60 % The amount of compensation must be subject of an agreement with the trade union and, if it does not operate with the employer, it must be subject of an internal regulation.	60 % of min.60 %

<b>Procedure under the Labour Code (“LC”)</b>	<b>Wage / wage compensation (% of average earnings)</b>	<b>Support under the Antivirus program *)</b>
Agreement on reducing the working hours (pursuant to Section 40 of the LC) in the form of a written amendment to the employment contract	Reduced wage agreed in the amendment or agreement on wage or wage regulation	0 %
Agreement on uneven distribution of working hours pursuant to Section 78 m) LC - working hours are calculated on average for 26 weeks (up to 52 weeks can be negotiated in a collective agreement), so employees working in the current situation less than agreed will be able to work longer after the measures are relaxed.	Negotiated wage	0 %
Ordinance of vacation under section 217 LC - in writing at least 14 days in advance; collective vacation according to Section § 220 of the LC can be ordered in agreement with the trade union organization or with the consent of the work council, it must not be longer than 2 weeks	Wage compensation of 100% of average earnings	0 %
Termination of employment by dismissal (by agreement) for redundancy according to Section § 52 c) LC - notice period of 2 months (can be excluded by agreement)	During the notice period - wage + severance payments of 1 to 3 times of the average earnings (according to the duration of employment)	0 %

As we have already mentioned, on 31 March 2020 the government changed the published form of the program "Antivirus". The current ABCDE regimes are divided into two regimes; A+B → A; C+D+E→B.

**Regime A** is referred to by the Government as "**Forced Operation Restriction**" and covers situations where the employee is in the quarantine or the employer had to close or restrict operations due to extraordinary measures adopted by the government or later by Ministry of Health (shops, restaurants, hotels,...).

**Regime B** includes "**Related Economic Difficulties**" (reduced sales, staff shortages, missing subcontracting).

In addition, the Government stated that the contribution granted by the Government will be calculated from the super-gross wage, and it also set the upper limit of the contribution per one employee.

**We summarize the basic conditions of the Antivirus program as approved by the Government on 31 March 2020:**

- a) The period during which the support may be drawn: 12.3. - 30.4. 2020 - with event. extension;
- b) the employer strictly adheres to the Labour Code;
- c) the employee must not be in a notice period and must not be dismissed;
- d) the aid relates to the business sector, employees must be in an employment relationship and they must participate in sickness and pension insurance;
- e) the employer must pay wage compensation and pay the levy.

Max. amounts of support – upper limit:                      CZK 39.000,- for regime A  
   CZK 29.000,- for regime B

The request for the support for the month of March **can be submitted on 6.4. 2020 through a special application** of the Ministry of Labour and Social Affairs. Application and subsequent communication with the Labour Office should be exclusively in electronic form. Support will be drawn on the basis of a framework agreement between the Labor Office and the employer, which will regulate the conditions for drawing the support.

We add that the Government also plans to discuss and approve regime C, which should represent an "incentive" contribution for employers, whose detailed conditions are to be published.

## **2) Entrepreneurs / Self-employed**

The Government also approved a proposal of an Act on compensatory bonus in connection with crisis measures - the occurrence of coronavirus SARS CoV-2, which is intended as **temporary support for entrepreneurs**. The subject of this support should be mainly self-employed persons, performing the activity as main or secondary.

**The conditions** for granting this contribution are:

- the entrepreneur has closed his/her establishment or it has been made more difficult to do business as a result of the adopted measures in relation with the occurrence of the coronavirus COVID – 19;
- the income has fallen in the last three months: January, February, March 2020 compared with the same period in 2019 by at least 10%;
- mainly, it applies to persons who operated in 2019 and their gross sales on average were at least CZK 15.000 per month (180.000, - CZK / year);
- the support period should be from 12.3.2020 until the end of April 2020,

- the support should be equal to CZK 500 per day (approx. CZK 25,000 for the relevant period).

Applications are to be submitted through the tax authorities. The Act will be discussed at the meeting of the Chamber of Deputies on 7.4.2020.

### **3) Legal proceedings, insolvency, execution**

The Ministry of Justice has submitted a proposal of the **Act on some mitigation measures related to coronavirus epidemic on persons involved in legal proceedings, victims and legal entities and on the amendment of the Insolvency Act and the Enforcement Code**. The purpose of this Act is to **waive the deadlines**, where it is not possible today. Individual waivers are to be assessed on an individual basis. This should apply to Civil Proceedings Code, Insolvency Act, Enforcement Procedure, Code of Administrative Justice, Criminal Procedure Code, in proceedings before the Constitutional Court or the Ministry of Justice.



**In the case of insolvency proceedings**, the Government proposes in particular:

- deferral of the debtor's obligation to file an insolvency petition in case of bankruptcy, until the expiry of 6 months from the end of the respective emergency measures;
- creditor's petition, which was filed from the date of entry into force of the proposed law until 31.8. 2020 shall be disregarded;
- institute of extraordinary moratorium.

**In the case of execution proceedings**, the Government proposes, in particular, to suspend (without petition and without prior consent of the authorized) unsuccessful executions, i.e. executions, where for the last 3 years the enforced duty has not been partially satisfied or executable property has not been secured (postponement could be achieved only by the creditor, if he filed a petition and provided another advance payment for execution costs).

#### **4) Corporate governance**

To conclude, the Government adopted a proposal of an Act that, once passed, shall have **repercussions on the functioning of business corporations**:

- The bodies of the corporations will be able to take decisions without participating on a meeting, i.e. in writing or using technical means, even if the founding legal act of the corporation does not allow it.
- If the term of office of a member of an elected body of the corporation should expire, it shall be extended by 3 months from the day following the date of termination of the extraordinary measures related to the epidemic.
- The statutory deadline for discussing and approving regular financial statement shall expire 3 months after the end of the extraordinary epidemic measures, but not later than 31 December 2020.

We remain at your full disposal for any additional information and we wish you a lot of strength and good health.

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