

BRANDI

RECHTSANWÄLTE

COVID-19



PANGANET

MEASURES TAKEN IN EUROPE

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In the attached overview you can read how different European governments have responded to the Corona crisis and which measures they have implemented to mitigate the (economic) consequences of this crisis. Please bear in mind that such measures can change on a daily base! Use this overview therefor mainly to get a basic understanding of the steps that have been taken. In case you have any specific questions related to one or more of the jurisdictions included in this overview, please reach out to us.

The Netherlands

The Dutch government announced a **temporary emergency measure for work retention (NOW)**.

This wage cost subsidy subsidizes up to 90% of the wage costs for 3 months (with the possibility of extension).

Conditions mentioned are:

- The employer commits in advance to the obligation not to apply for dismissal on grounds of economic reasons for its employees during the period for which the allowance is received.
- The employer expects at least a 20% loss of turnover.
- The application is valid for a period of three months, which can be extended once by another three months (further conditions may be imposed on the extension).
- The scheme targets turnover decreases from 1 March 2020.

The amount of the wage costs allowance depends on the drop in turnover, which can amount up to 90% of the total wage costs. Below are some examples of how the relationship between the decrease in turnover and the amount of the allowance works out:

- If 100% of the turnover is lost, the allowance amounts to 90% of the total wage costs;
- If 50% of the turnover is lost, the allowance amounts to 45% of the total wage costs;
- If 25% of the turnover is lost, the allowance will amount to 22.5% of the total wage costs.

An advance of 80% of the expected contribution can be made available. Corrections will follow later and will be based on actual drop in turnover.

United Kingdom

All UK businesses are eligible

- To access the scheme, employers will need to designate employees as “furloughed workers” and notify affected employees of this
- Information about the furloughed employees and their earnings will be submitted to HMRC by the employer through an online portal
- HMRC will then reimburse up to 80% of the wage costs for each furloughed worker up to a cap of £2,500 a month per worker
- Employees will remain employed whilst furloughed
- Employers can choose to pay the remaining 20% of the furloughed employees’ wages (or top up wages where the cap applies) but they do not have to
- To qualify for the scheme, employees should not undertake work for their employer whilst they are furloughed and receiving pay under the scheme
- The scheme is initially intended to run for 3 months from 1 March 2020 but will extend if necessary

Whilst the full details of the scheme are yet to be announced, there are a number of practical considerations for employers who wish to take advantage of the scheme due to financial difficulties caused by the coronavirus pandemic. These considerations are set out below:

- There are a number of different definitions of “employee” that are used within employment law and it is unclear what definition is proposed for this scheme. In particular, it is unclear whether the scheme is intended to be wide enough to cover workers (who are treated as employed earners for tax purposes) or a more restrictive definition of employees. Until clarity is provided, particular care should be taken in respect of workers as reimbursement under the scheme may not be available;
- It is unclear how the scheme is intended to operate for those employees who have already been made redundant since 1 March as a result of the coronavirus crisis and the steps employers should take. Further guidance will therefore be required but employers may wish to update their former employees that they are looking into this issue;
- We are also awaiting further clarity from the scheme as to how it will relate to redundancy consultation, and in particular the statutory obligations on employers to notify the Secretary of State and carry out collective consultation;
- Whilst there is no definitive guidance on how employers should identify which employees will need to be furloughed, employers can begin to give thought to this and decide on the criteria to be used to identify these employees. Whilst the job retention scheme is different from a redundancy situation, it is likely that a similar identification process can be followed i.e. by identifying those parts of the business which are at risk and those employees who work within those affected areas;

- Employers should consider how they will communicate with employees during any period of furlough and ensure that they have up to date contact details for all relevant employees;
- Although it is for employers to decide which employees will be furloughed, this change in status still remains subject to normal employment law principles and the employee's contract. In most cases, it is highly likely that the employees' agreement will be required before they can be signed up to the scheme, particularly if pay is to drop to 80%. In order to show that this consent has been obtained, a written variation to the employment contract will need to be put in place and signed by the employee;
- It is still unclear precisely what costs will be capable of recovery under the scheme (i.e. for example, whether pension contributions will be included), and how the cap will be applied in respect of tax and national insurance contributions.
- Given the fast-moving nature of the coronavirus crisis, it is unclear how the government will police the scheme and prevent it being misused by employers i.e. to assist with cashflow issues or avoid redundancies where the difficulties the business faces are not caused by the pandemic. Our view is that monitoring of compliance with scheme rules may be done retrospectively, and employers should therefore be sure to keep an audit trail that shows that the use of the scheme was appropriate and necessary to prevent redundancies attributable to this crisis.

Also, some of our recent Coronavirus resources include our thoughts on:

- [Employee/Job Retention Scheme](#)
- [Government financial support for business in response to COVID-19](#)
- [M&A Transactions and COVID-19](#)

Bulgaria

The Parliament adopted (with validity as of 13. March 2020 until the end of the State of Emergency) a special Act on the State of Emergency (Emergency Act), trying to summarise all the temporary measures as a result of the COVID-19 and thus also introducing respective amendments in various other acts (such as Labour Code, Personal Income Tax Act, etc.). Most significant measures are as follows:

Labour law/State encouragements:

- The employers are entitled (upon an employer's internal ordinance) to stop the work at the company's premises entirely or partially and to send the employees to work from home without the employee's consent. In this case only the place of work is changed, all other terms and conditions of the employment contract shall remain the same;
- The employer is entitled to oblige the employee to use up to one half of his/her annual paid leave without the employee's consent;
- Upon an ordinance of the employer a reduced working time for employees employed on a full-time basis could be implemented for the duration of the State of Emergency of for a part of this term;
- The employer is obliged to release in paid/unpaid leave after request of the employee some specific categories of employees (e.g. pregnant women, mother of a child under 12 years of age, employees with disability 50% or over 50%, employees under 18 years of age);
- The time of use of paid or unpaid leave due to the State of Emergency shall be considered as a work experience;
- The employer is entitled to close the working premises or part of the working premises without ordering the employees to use half of their paid annual leave – in this case the employer must pay full remuneration for the days during which the premises are closed. This does not affect the labor law relationship with the employees;
- The employees are also entitled to receive their full remuneration If the work premises have been closed due to State of Emergency upon an ordinance of the competent state authorities (concerning restaurants, shops in malls, hotels, etc.);
- Special measure for every employer (in the economic spheres which are directly impacted by the Government Restrictions - restaurants, shops in malls, hotels, etc.) who chooses not to terminate labor contracts with employees during the State of Emergency: For the duration of the Emergency Act but for not more than 3 months the National Insurance Institute shall transfer onto the bank account of employers 60% of the social insurance income for January 2020 of their employees, under the prerequisite that: the employer meets certain criteria to be established by the Bulgarian Council of Ministers, the employer has fully paid the remuneration of the respective employees for which the compensation has been paid, or otherwise the employer should pay back the compensation received.

Other procedural measures:

- Any pending judicial terms under civil, commercial, forcible execution and administrative court cases shall be seized for the duration of the State of Emergency (excl. criminal court cases);

- Injunctions are not imposed over bank accounts of natural persons and medical centers, over employment remunerations and pensions except for the cases when this is necessary for repayment of debt arising out of maintenance obligation, tort or employment relationship;
- The term of validity of the identification cards and driving licenses of Bulgarian citizens as the term of validity of residence permits of foreigners allowing them to reside permanently in Bulgaria which expires in the period 13.03.2020 – 31.10.2020 shall be extended with 6 months;
- For the duration of the State of Emergency the consequences of the late payment including penalty and default interest, advanced chargeability, cancellation of a contract shall not be applied.

Taxes and tax related measures:

The term for filing of Corporate Tax Return, payment of Corporate Income Tax (CIT) and tax on expenses for 2019 shall be extended from 31.03.2020 to 30.06.2020.

- Advance payment of CIT due for 2020 for the period January – June 2020: Based on the estimated and declared advance tax for 2020 - provided the CIT return has been filed prior to the entering into force of Emergency Act and provided the CIT return is filed till 15.04.2020
Based on the estimated and declared advance tax for 2020 with the section of advance tax completed only – provided the CIT return will be filed after 15.04.2020
- The term for filing of yearly financial statements shall be extended to 30.09.2020.
- The tax on real estate and tax on vehicles for 2020 shall be reduced with 5% if paid in full by 30.06.2020.
- The Personal Income Tax return of individuals performing commercial activity as Sole proprietorship and agriculture producers shall be extended to 30.06.2020
- For the period of the State of Emergency the absolute limitation term for collection of public liabilities of 10 years shall not be applicable.
- For the period of the State of Emergency the limitation of 1 year for completion of already started procedures of assessment of public liabilities shall not be applicable.
- For the period of the State of Emergency execution proceedings under the Tax Insurance Procedure Code shall not be initiated; Enforced collection of public liabilities shall be put on hold.

France

Under French law, the employer may place his employees in a position of partial unemployment when the company is forced to reduce or temporarily suspend its activity for one of the following reasons:

1. The economic situation;
2. Difficulties in the supply of raw materials or energy;
3. A disaster or bad weather of an exceptional nature;
4. The transformation, restructuring or modernization of the company;
5. Any other circumstances of an exceptional nature.

The use of partial unemployment can take several forms:

- reduction in weekly working hours;
- temporary closure of all or part of the establishment.

In undertakings with more than 50 employees, the employer must first consult the works council (in the language of the law: the Social and Economic Committee) in order to give an opinion on:

- the justification for the partial unemployment;
- the professional categories and activities concerned;
- the level and criteria for the working time reductions;
- the training measures envisaged, or any other commitment made by the employer.

Before the implementation of the partial unemployment, the employer must request authorization by the Regional Directorate for Enterprises, Competition, Consumer Affairs, Labor and Employment (DIRECCTE) in the department where the concerned establishment is located.

The application must specify:

- the reasons justifying the use of the partial unemployment ;
- the foreseeable period of the partial unemployment ;
- the number of employees concerned.

It must be accompanied by the prior opinion of the Social and Economic Committee (SEC), if required.

The decision of the DIRECCTE must be notified to the employer within 15 days.

In the absence of a reply within 15 days, the authorization shall be deemed to have been granted.

Once the administrative authorization has been obtained, whether express or tacit, the employer may put in place the partial unemployment. It is this authorization that enables him to obtain (a partial) reimbursement of the allowances paid to employees.

The partial unemployment permit is granted for a **maximum period of 6 months, which may be renewed**. In addition, the employer may receive the partial unemployment allowance up to a maximum of 1,000 hours per year and per employee, regardless of the professional branch.

An employee placed in partial employment receives an hourly allowance, paid by his employer at the usual pay due date, corresponding to 70% of his gross hourly pay (i.e. approximately 84% of the net hourly wage) or 100% of the net hourly wage if he is on training during off-hours.

Confronted with an exceptional situation linked to the COVID 19 pandemic, the French state has communicated its intention to considerably improve these measures, in order to facilitate access to partial unemployment and improve its financial coverage by the state. We are currently awaiting confirmation of this position through concrete measures. The relevant decrees will be published in the very near future.

Spain

In the BOE (Spanish official gazette) of March 18, 2020, Royal Decree Law 8/2020 of March 17 of urgent measures to deal with the economic and social impact of COVID-19 has been published.

The most important measures adopted in labor matters are the following:

1. Promotion of remote work
2. Right to adapt the schedule and reduce working hours
3. Allowance for cessation of activity for the self-employed
4. Procedures for suspension of contracts and reduction of working hours
5. Unemployment protection
6. Business commitment

1. Promotion of remote work.

The Government to guarantee that the labor activity continues and avoid the dismissals, temporary cession or reduction of activity, establishes that the obligation to carry out the risk assessment will be understood to have been fulfilled, in the terms provided in the Occupational Risk Prevention Law, with character exceptional, through a self-assessment carried out voluntarily by the worker himself.

2. Right to adapt the schedule and reduce working hours.

- Adaptation of the working day:

In order to avoid the transmission of COVID-19 due to its contagion or for causes related to it, or due to the closure of educational centers or of any other nature, employed workers who prove duties of care with respect to the spouse or unmarried partner, as well as with respect to relatives by blood relationship up to the second degree of the working person, will have the right to access the adaptation of their working day and/or the reduction of it.

It is an individual right of each of the parents or caregivers, who has to justify it. The company and the worker must reach an agreement to adapt to the situation, and may be:

- Distribution of working time
- Shift change
- Alteration of hours and flexible hours
- Split or continuous day
- Change of workplace
- Change of functions
- Change in the form of work provision, including remote work provision

Any change that allows the worker to adapt to this temporary situation may be adopted.

- Reduction of working hours:

Working people will be entitled to a special reduction in the working day as legal guardian of a minor under 12 years old or a person with a disability who does not carry out a paid activity, with a reduction proportional to their working day.

The reduction of the special working day must be communicated to the company 24 hours in advance, and may reach one 100% of the working day if necessary, provided it is justified and reasonable and proportionate to the situation of the company.

Likewise, whoever has already granted this reduction may cancel it or change the terms of it temporarily during this situation.

3. Allowance for cessation of activity for the self-employed.

Exceptionally and limited to one month, counting from the date of alarm status (March

14) or until the last day of the month in which said alarm status ends for self-employed or self-employed workers, whose activities are suspended, by virtue of the provisions of the aforementioned Royal Decree, or, in another case, when their billing in the month prior to which the benefit is requested is reduced by at least 75% in relation to the average billing of the previous semester, they will be entitled to the extraordinary benefit for cessation of activity.

The time of receipt will be understood as listed and will not reduce the periods of benefit for cessation of activity to which the beneficiary may be entitled in the future.

The amount of the benefit regulated in this article will be determined by applying 70% to the regulatory base, when the minimum contribution period to be entitled to the benefit is not accredited, the amount of the benefit will be equivalent to 70% of the minimum contribution base of the Self-Employed Regime.

4. Procedures for suspension of contracts and reduction of working hours.

- By force majeure:

For companies that take advantage of these measures because they have activities included in the declaration of alarm status or because, due to the contagion of the workforce or the adoption of preventive isolation measures decreed by the health authority, the procedure for their request will be as follows:

- It begins at the request of the company that will be accompanied by a report regarding the link of the loss of activity as a result of COVID-19, with the corresponding supporting documentation.
- You must communicate said request to the workers or their representatives.
- The labor authority will verify the cause of force majeure for which the measures are adopted, which will resolve within 5 days from the request, after a report, where appropriate, from the Labor and Social Security Inspection and must limit itself to verifying the existence, when appropriate, of the alleged force majeure and an effect will arise from that causal event.

In the files of suspension of contracts and reduction of working hours authorized on the basis of temporary force majeure linked to COVID-19, the General Treasury of Social Security will exonerate the company from the payment of the business contribution as well as from the quotas for concepts of joint collection, while the period of suspension of contracts or reduction of working hours authorized based on said cause lasts when the company, on February 29, 2020, had less than 50 workers registered in Social Security. If the company had 50 workers or more, registered with Social Security, the exemption from the obligation to contribute will reach 75% of the business contribution.

Said exemption will have no effect for the worker.

- For causes for economic, technical, organizational or production causes

In this case, the following measures will be applied:

- In the event that there are no workers' representatives, it will be made up of the most representative unions in the sector, if this is not possible for 3 company workers, and it must be established within 5 days.
- The consultation period will not exceed a period of 7 days.
- The report of the Labor and Social Security Inspection, whose request will be optional for the labor authority, will be evacuated within the non-extendable period of seven days.

5. Unemployment protection.

In the event that the worker is affected by these measures, all workers will have the right to unemployment, even if they lack the minimum period of paid employment necessary for it.

The time in which the contributory level unemployment benefit is received that brings its immediate cause of the aforementioned extraordinary circumstances will not be computed.

Those workers who have the status of working members and associates of labor companies and associated work cooperatives, who plan to contribute due to the unemployment contingency, will be eligible for the measures.

- Limitation on application to employment regulation files

- 1) The specialties provided for in the employment regulation files will not be applied to the suspension of employment contracts or to the reduction of working hours initiated or communicated before its entry into force and based on the causes set forth therein.
- 2) The extraordinary measures in terms of contributions and unemployment protection will be applied to those affected by the procedures for suspension of contracts and reduction of working hours communicated, authorized or initiated prior to the entry into force of this royal decree-law, provided that are derived directly from COVID-19.

6. Business commitment.

The extraordinary labor measures provided by the Royal Decree-Law will be subject to the company's commitment to maintain employment for a period of six months from the date of resumption of activity.

Legislation and other information

1. ASPECTOS LABORALES Y DE SEGURIDAD SOCIAL DEL Real Decreto-ley 8/2020, de 17 de marzo, de medidas urgentes extraordinarias para hacer frente al impacto económico y social del COVID-19 del Magistrado del Social del TSJC, Carlos Hugo Preciado.
2. Instrucciones de la TGSS.
3. Prestaciones extraordinarias autónomas – Comunicado Ministerio de Inclusión, Seguridad Social y Migración.
4. Informe Abogacía del Estado sobre reanudación de plazos suspendidos
5. Finestreta única Generalitat de Catalunya - Nou servei d'atenció digital per informar de les mesures econòmiques per fer front al COVID-19
6. Certificat autoresponsable de desplaçament de la Generalitat de Catalunya
7. Nota informativa - Autorizaciones de trabajo para personas nacionales de estados no pertenecientes a la Unió Europea.
8. Código electrónico de normativa estatal y autonómica de la “Crisis Sanitaria Covid-19”
9. Apertura de talleres de reparación de vehículos durante la situación de estado de alarma acordada por el Real Decreto 463/2020, modificado por Real Decreto 465/2020

Czech Republic

1. Program Antivirus (support for affected Employers)

The government decided that employers, whose economic activity is affected as the result of spread of the coronavirus will be granted a contribution to the full or partial reimbursement of salaries to be paid to employees, whether due to an obstacle on the side of the employee or the employer, if proven that this obstacle was caused as consequence of the infection COVID-19. Currently the Ministry of Labour and Social Affairs was assigned by the government a task to prepare respective legislation to enable to ask for government support for employers falling into one of the following case groups:

- Individual employees are in mandatory quarantine. In this case, the employer obtains state aid in the full amount of the paid out substitute salary, which should be at least 60% of their average salary.
- Employer cannot assign work to employees in consequence of extraordinary emergency measures. In this case, employees obtain substitute salary amounting to 100% of their average salary and the employer may apply for a state aid amounting to 80% of the paid out substitute salary.
- Employer cannot assign work to employees in consequence of their mandatory quarantine or need to take care of their children - It applies to those employers whose significant part of employees have been quarantined or has to take care of their children because of closed schools. In this case, employees are entitled to salary compensation amounting to 100% of their average salary, while the employer may apply for a contribution amounting to 80% of the paid out substitute salary.
- Restricted availability of inputs necessary for the employer's activity because of quarantine measures) at the supplier. Such employees are entitled to salary compensation of 80 % of their average salary and employers may apply for a state aid amounting to 50 % of the paid out substitute salary.
- Decline in demand for employer's services, products and other products as a result of quarantine measures at the employer's place of sale (Czech Republic and abroad) - partial unemployment workers who are entitled to salary compensation of at least 60% of their average salary. In this case, the employer may apply for a contribution amounting to 50% of the paid out substitute salary.

2. Support of employees and self-employed persons.

The changes in respective legislation are under way to react to financial situation of endangered employees and self-employed persons beyond scope of general legislation.

- Care giver's allowance - The age limit of child to receive care giver's allowance shifts up to 10 years, in case of disabled children up to 13 years. The period of support is also prolonged for the additional time in the length of respective educational facility being closed. The care giver's allowance will be also granted to self-employed persons.
- Advanced Instalments of social and health insurances. For the period from March to August 2020, all payers are remised from payments for mandatory social and health insurance in the amount corresponding with the prescribed minimal monthly payments. It also possible not to pay any advanced instalments therefor within this period at all under condition that respective instalments above the

remised amount will be paid in the next year as balance. In any case, all remised payments will be counted as paid for purposes of social and health insurance.

3. Extraordinary measures in tax law

The Ministry of Finance applied the following “Waiving Package” to mitigate the economic impact of the corona virus pandemic:

- Effective postponement of the deadline for submitting the income tax declaration for 2019 for all taxpayers to 1. 7. 2020 by a waiver of interests and fines.

The waiving of the advance income tax payment due in June for all tax

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- The waiving of the advance income tax payment due in June for all taxpayers.
- The waiving of administrative fees for applications to the tax authorities up to 31. 7. 2020 regarding changes in tax payments.
- The waiving of fines for the late submission of monthly VAT reports (automatic waiving of fines up to CZK 1.000), which arise from 1. 3. 2020 until 31. 7. 2020. The waiving of higher fines that arise within this period is also possible, if the connection between the late submission and the corona virus pandemic is proven.
- The waiving of fines for late submission of real estate transfer tax declarations or late payment of real estate transfer tax for the period from 31. 3. 2020 until 31. 7. 2020

under the condition of the proper fulfilment of such obligations until 31. 8. 2020.

- The temporary suspension of obligations under the Act on electronic registration of sales (EET). This would suspend the obligations of all taxpayers, irrespective into which of the phases of the introduction of the EET system they fall

Also a legislation is in preparation, which should enable to apply the tax loss in 2020 retrospectively also in the income tax declarations for 2018 and 2019 by submitting an amended tax declaration, in which case the thereby arising tax overpayments for 2018 and 2019 would be returned to the tax payers.

5. COVID credit system for directly affected enterprises

- The waiving of administrative fees for applications to the tax authorities up to 31. 2020 regarding changes in tax payments.
- The waiving of fines for the late submission of monthly VAT reports (automatic waiving of fines up to CZK 1.000), which arise from 1. 3. 2020 until 31. 7. 2020. The waiving of higher fines that arise within this period is also possible, if the connection between the late submission and the corona virus pandemic is proven.
- The waiving of fines for late submission of real estate transfer tax declarations or late payment of real estate transfer tax for the period from 31. 3. 2020 until 31. 8. 2020.

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6. COVID credit system for directly affected enterprises

The Ministry of Industry and Trade in cooperation with the Czech-Moravian Guarantee and Development Bank (ČMZRB) offered a special interest-free loan for micro, small and medium-sized enterprises, whose business contracts were delayed, suspended or cancelled due to measures to prevent the spread of coronavirus infection.

The program is being transformed now in cooperation with the bank sector in the way, that the Czech-Moravian Guarantee and Development Bank will provide guarantee only for credits provided by commercial banks together with contribution to the payment of interest.

These enterprises are likely to be allowed to apply for a loan of CZK 100,000 up to CZK 15,000,000 (similar to COVID I), which can be used for up to 90% of eligible project costs. The loan should be used to cover rent, service charges, personnel costs, energy, but not credit and lease payments.

Germany

To ensure that the effects of the corona pandemic on companies and the labour market are kept to a minimum, the German government has initiated extensive aid measures. Some of the following measures have already been adopted; some are to be put in force most probably as described below within the next few days:

1. Labour market

The statutory requirements for employers to apply for financial support in case the employer reduces the working hours of the staff (*Kurzarbeitergeld*) due to temporary closure of production or administration facilities has been loosened. That financial support should, accordingly, be made if only 10%, instead of 30%, of the work force is to reduce their working hours due to significant down time in the company. The employer must notify the short-time work to the Employment Agency (*Agentur für Arbeit*).

This applies regardless of any balance of the staff's flextime wage records and should apply to contract workers (*Leiharbeiter*) as well. The employer's over-payments for social security obligations are refunded in full during the time short-time work is in place.

This financial support covers 60% or 67% of the respective employee's net difference between the actual net monthly salary and the reduced net monthly salary due to the reduction of working hours. However, please note, the exact calculation and requirements are subject to scrutiny of the Employment Agency.

2. Tax related measure to enhance liquidity

The granting of deferrals is facilitated. The tax authorities can defer taxes if collection would be a considerable burden for the taxpayer. The tax authorities are instructed not to impose strict requirements with this regard. This supports the liquidity of taxpayers by postponing the date of tax payment.

Advance payments can be adjusted more easily. As soon as it is clear that taxpayers' income is likely to be lower in the current year, the tax pre-payments should be reduced quickly and without complications. The liquidity situation is thus improved immediately.

Enforcement measures (e.g. account seizures) or default surcharges will be waived until 31. December 2020 as long as the debtor of a tax payment due is directly affected by the effects of the corona pandemic.

3. Measures to avoid insolvency filings and to enhance continue trading

Generally, managing directors are obliged to file for insolvency without undue delay - within three weeks at the latest - if the company is insolvent or over-indebted. If the managing director does not comply with such obligation, he is personally liable without limitation for all payments of the company, which are still being made after the reason for insolvency has arisen, and is liable to prosecution.

The suspension of the obligation to file for insolvency is to apply until 30 September 2020, whereas an extension might apply. This amendment to the obligation to file for insolvency is intended to prevent companies from going into insolvency only due to the Corona pandemic, because they cannot obtain governmental financial support in time or because other restructuring efforts are not taking effect quickly enough.

Facilitation of burden of proof shall apply to the managing director's benefit in this context: If the company was not insolvent on 31 December 2019, it is assumed that the insolvency grounds, which occurred after that date, are due to the effects of the Corona pandemic. The legislator is therefore concerned to protect economically sound companies.

However, please note, it is not intended that save every company from filing for insolvency. Accordingly, such suspension does not apply under the intended new regulation if

- the reason for insolvency is not based on the corona epidemic, or
- there is no prospect of eliminating the reasons for insolvency anyway.

In addition, the insolvency administrator's rights of challenge are restricted and regulations on the legal subordination of shareholder loans are suspended. This is intended to create an incentive for business partners and potential lenders to maintain the business operations of a fundamentally economically sound company during the corona pandemic.

4. Measures to obtain immediate additional funding

The state owned bank Development Loan Corporation (*KfW*) Special Programs 2020 are now available. The funds provided for the KfW Special Programme are unlimited. It is available to both medium-sized enterprises and large enterprises. To cover short-term liquidity needs, the Special Programme is available for commercial enterprises and the liberal professions to facilitate their access to favorable loans as well. In this way, it is possible to mobilize a considerable amount of liquidity strengthening loans from the house banks. Applications can be filed with the company's bank.

In addition, immediate financial support is available for small companies and freelancers of any kind in order to cover their operational costs and to compensate and shortfall of revenue. That financial support varies from EUR 5,000.00 (0 up to 3 employees) to

EUR 15,000.00 (4 up to 10 employees) per month for three months.

Belgium

1. Labour Market

- 1) Telework is compulsory in all non-essential companies, irrespective of their size, and this applies to all employees whose jobs are suitable therefore.
- 2) All temporary unemployment due to the coronavirus can be regarded as

“temporary unemployment due to force majeure”.

Employers who have had to close their undertaking can introduce a request for “temporary unemployment for force majeure” in which case the employees can benefit from an unemployment allowance.

Employers who suffer a partial closure can put their affected employees in “temporary unemployment for force majeure” as well. The conditions for application have been relaxed and there is a reduced administrative burden. Moreover, exceptionally, alternated days of work and days of unemployment can apply and until June 30, 2020.

The amount of the allowance for “temporary unemployment for force majeure” has been increased to 70% (instead of 65%) of the remuneration capped at 2.754,76 Eur gross / month).

Employers who are not closed or partially closed but whose activity has been affected by the corona crisis (e.g. reduction of clientele, production, turnover or orders...) can apply for “temporary unemployment for economic reasons” pursuant to which, subject to conditions, the employees will be entitled to unemployment allowances.

Until June 30, 2020, (until further notice) the amount of the allowance for temporary unemployment for economic reasons has also been increased to 70% (instead of 65%) of the remuneration capped at 2.754,76 Eur gross / month) and the concerned employees will be entitled to a supplement equal to at least 2 euro per day of economic unemployment payable by the employer (or in some cases by the social fund of the JLC to which the employer belongs).

- 3) Self-employed as a main profession and assisting spouses who are forced to interrupt or temporarily terminate their self-employed activity due to the corona crisis can invoke a replacement income (overbruggingsrecht).

The discontinuation must last longer than a week. The financial support amounts to 1.266,37 euros per month without family expenses and 1.582,46 with family expenses.

2. Tax related measures

The deadline for the compliance of the income tax returns (corporate income tax, personal income tax, legal entity tax and non-resident income tax) is automatically extended

The payment deadlines for all income taxes have automatically been deferred, without any penalty interest or fines becoming due by the tax payers. Due dates for the payment of the wage withholding tax have also been postponed, without penalty interest or fines becoming due.

Every company experiencing temporary financial difficulties can also request for additional measures, such as payment of taxes in several instalments, waiver of interest for late payment and discount on fines. These measures are available upon a motivated request for income taxes, wage withholding taxes and VAT.

Ireland

Temporary measures introduced by the Irish Government to combat the threat to unemployment in times of COVID-19

General

The Irish government has announced, as recently as 24 March 2020, new measures to combat the strain that the public health demands have put on employment. The lockdown announced in Washington DC by Taoiseach (Prime minister) Leo Varadkar, has now been extended a further 2 weeks, until 19th April 2020, during which time employees who are in a position to work from home are requested to do so, while many others face reduced working hours, temporary lay-off or indeed redundancy as a result of the pandemic and the isolation it necessitates/demands.

The Irish Government also announced on 24th March 2020 a national Covid-19 income support scheme. This scheme has been set up to provide financial support to Irish workers *and* companies affected by the crisis.

The Temporary COVID-19 Wage Subsidy Scheme:

This scheme is available to all private sector employers who retain staff on payroll and are now struggling as a result of the pandemic and the restrictions which have been put in place. The scheme maintains the link between employers and employees by virtue of the reimbursement system it mandates.

Eligibility under the Income Support Scheme:

Employers who satisfy the Revenue that:

- they have incurred (at a minimum) a 25% decrease in turnover, and
- they are unable to pay normal wages and other outgoings

can apply for support under this scheme. This scheme is in its infancy and further details and guidance are expected in the coming days.

The Support Provided:

An eligible employer will be supported up to 70% of an employee's take home income up to a maximum weekly tax free payment of €410 (that is, 70% of take home weekly income of €38,000 per annum). The scheme will provide support on incomes up to €76,000 or twice average earnings and it will be capped at net €350 for incomes between €38,000 and €76,000. Any employees earning more than €76,000 are excluded from the scheme.

The subsidy is only available for employees that were on the payroll as at 29th February 2020 and for whom a payroll submission was made to Irish Revenue in the period from 1st February to 15th March 2020.

The Subsidised Period:

It is noteworthy to point out that the employer is expected to make best efforts to maintain as close to 100% of normal income as possible for the subsidised period.

The scheme will run for 12 weeks from Thursday 26 March 2020 and draft legislation governing the scheme is expected to be published shortly.

The Procedure:

The procedure for applying under this scheme involves an online process made available on the Revenue website. Employers or their agents wishing to register for the scheme can apply to Revenue by carrying out the following steps:

- Log on to ROS myEnquiries and select the category 'Covid-19: Temporary Wage Subsidy'.
- Read the "Covid-19: Temporary Wage Subsidy Self-Declaration" and press the 'Submit' button.
- Ensure bank account details on Revenue record are correct. These can be checked in ROS and in 'Manage bank accounts', 'Manage EFT', enter the refund bank account that the refund is to be made to.

The scheme will be administered by the Revenue Commissioners.

The Covid-19 Pandemic Unemployment Payment:

The rate of payment under this scheme is €350 per week.

Eligibility under the Covid-19 Pandemic Unemployment Payment:

- Those who have lost their job due to the pandemic are eligible. This includes those who are self-employed who will receive the Unemployment Payment of €350 directly from the Department of Employment Affairs and Social Protection.

The Revenue website provides the following criterion one must satisfy before applying under the scheme:

- be an employee or self-employed
- be aged between 18 and 66 years old
- live in the Republic of Ireland
- have lost their job due to the COVID-19 (Coronavirus) pandemic
- have ceased trading due to the pandemic if you are self-employed The payment also applies to:
 - non EU/EEA workers who have lost employment due to the COVID-19 (Coronavirus) pandemic
 - students (and non-EU/EEA students) who have lost employment due to the COVID-19 (Coronavirus) pandemic
 - part-time workers

Those who wish to apply may do so at the following site: mywelfare.ie.

The Illness Benefit:

The Irish Government has also made Illness Benefit available to those who have contracted the coronavirus or are medically requested to self-isolate. This benefit is also available to self-employed workers.

Eligibility:

- To be eligible for this payment a person must be confined to their home or a medical facility.

The Support:

The rate of payment under this scheme has recently been increased to €350 per week for a duration of 2 weeks where a person is self-isolating and for a maximum of 10 weeks if a person has been diagnosed with COVID-19 (Coronavirus). If a person has been certified for less than 10 weeks, they will be paid for the duration of their certification.

Italy

1. Wage guarantees funds: “Cassa Integrazione Ordinaria”, “Assegno Ordinario”, “Cassa Integrazione in deroga”

“Cassa integrazione” (i.e. wage guarantee fund) is a measure aimed at reducing the personnel cost for employers in case of suspension/reduction of the company’s activities due to exceptional circumstances (e.g. the health emergency caused by the spreading of the COVID-19). In this moment, the companies can apply for 2 different types of Cassa Integrazione: the so called “Cassa Integrazione Ordinaria” (CIGO) and the so called “Cassa Integrazione in Deroga” (CIGD) on the basis of the company’s field of activity and others very specific parameters. Moreover, companies that do not meet the requirements for the CIGO nor for the CIGD can apply for the “Assegno Ordinario”, another measure aimed at supporting companies during the health emergency. The regulation of the abovementioned measure is now provided by Law Decree no. 18 of March 17, 2020.

“Cassa integrazione Ordinaria” (CIGO)

The access to the CIGO is reserved to the following companies:

- enterprises working in the industrial manufacturing, transport, mining, system installation, production and distribution of energy, water and gas fields;
- production and work cooperatives that carry out work activities similar to those of workers in industrial enterprises, except for cooperatives listed in Presidential Decree no. 602 of 30 April 1970;
- enterprises working in the forest, forestry and tobacco industry;
- agricultural cooperatives, zootechnics and their consortia that carry out the processing, handling and marketing activities of their own agricultural products only for their own employees with permanent employment contracts;
- film rental and distribution companies and film development and printing companies;
- industrial companies for the pressing of olives;
- companies producing ready-mixed concrete;
- electrical and telephone companies;
- railway equipment companies;
- industrial enterprises of public entities;
- industrial and craft enterprises operating in the building industry and related sectors;
- industrial enterprises engaged in the excavation and/or processing of stone material;
- craft enterprises engaged in the excavation and processing of stone materials, except for those which carry out such activity in laboratories with facilities and organization separate from the excavation activity.

The CIGO can last for a maximum of 9 weeks, up to August 31, 2020; during such period, the INPS (i.e. national social welfare institution) pays to the employees hired before February 23, 2020, a wage supplement for non-worked hours equal to 80% of their ordinary salary (but, in any case, the wage supplement cannot be higher than a monthly ceiling established by the government). The CIGO is a retroactive measure, which implies that the wage supplement can be paid as from February 23, 2020.

Only operai (i.e. blue collars workers), impiegati (i.e. white collars workers) and quadri (i.e. middle managers) are entitled to receive the abovementioned wage supplement, as dirigenti (i.e. executives) are excluded from the CIGO.

The CIGO is managed directly by INPS and, from a general point of view, can be activated by sending a request (containing the number of employees affected by the suspension) that shall be filed online on the INPS website.

In order to access to the CIGO, companies shall file a request on the INPS' website (www.inps.it), indicating i) the name and number of employees affected by the suspension; ii) the duration of the suspension; iii) how many hours the employees will keep on working (which also might be 0 hours).

The application shall be submitted by the end of the fourth month after the one in which the suspension or reduction of the company's working activity began. Within three days from the submission of the application for the CIGO, the Company shall have a meeting with the Trade Unions (also via Skype or similar apps), in order to inform them on the measures required to the INPS.

Assegno ordinario

Companies that do not meet the abovementioned requirements for the CIGO but pay contributions to the FIS ("Fondo di integrazione salariale", i.e. "fund for the integration of the remuneration") or to the "Fondi di Solidarietà Bilaterali" (i.e. "bilateral solidarity funds") and have more than 5 employees can access to the "Assegno ordinario", another wage guarantee fund similar to the CIGO

The Assegno Ordinario can last for a maximum of 9 weeks, up to August 31, 2020; during such period, the INPS (i.e. national social welfare institution) pays to the employees hired before February 23, 2020, a wage supplement for non-worked hours equal to 80% of their ordinary salary (but, in any case, the wage supplement cannot be higher than a monthly ceiling established by the government). The Assegno Ordinario is a retroactive measure, which implies that the wage supplement can be paid as from February 23, 2020.

The application for the Assegno Ordinario shall be submitted by the end of the fourth month after the one in which the suspension or reduction of the company's working activity began. The application shall be submitted by the employer exclusively online on the website www.inps.it, using the services for "Companies, consultants and professionals", under "Services for companies and consultants", option "CIG and Solidarity Funds", selecting the causal "COVID-19 national emergency". The Company shall indicate i) the name and number of employees affected by the suspension; ii) the duration of the suspension; iii) how many hours the employees will keep on working (which also might be 0 hours). Within three days from the submission of the application for the Assegno Ordinario, the Company shall have a meeting with the Trade Unions (also via Skype or similar apps), in order to inform them on the measures required to the INPS. Such step is not necessary for companies employing less than 5 workers.

Cassa integrazione straordinaria

Companies that do not meet the abovementioned requirements for the CIGO and the Assegno Ordinario can send an application for the CIGD.

The CIGD can last for a maximum of 9 weeks, up to August 31, 2020; during such period, the INPS (i.e. national social welfare institution) pays to the employees hired before February 23, 2020, a wage supplement for non-worked hours equal to 80% of their ordinary salary (but, in any case, the wage supplement cannot be higher than a monthly ceiling established by the government). The CIGD is a retroactive measure, which implies that the wage supplement can be paid as from February 23, 2020.

The CIGD is generally managed by the single Italian Regions: in general, the company shall send a formal application to the Region, following the procedure indicated on the Region's website. However, companies operating in more than 5 regions shall send their application to the Italian Ministry of Labour.

The application shall be submitted by the end of the fourth month after the one in which the suspension or reduction of the company's working activity began. The Company shall indicate i) the name and number of employees affected by the suspension; ii) the duration of the suspension; iii) how many hours the employees will keep on working (which also might be 0 hours).

Within three days from the submission of the application for the CIGO, the Company shall have a meeting with the Trade Unions (also via Skype or similar apps), in order to inform them on the measures required to the INPS. Such step is not necessary for companies employing less than 5 workers.

2. Special paid leaves for workers with children

For the year 2020, from March 5th, 2020, during the period of suspension of childcare services and educational activities in schools of all levels, parents of children up to 12 years old (or children of any age with serious illnesses, certified according to the disposition of Law 104/1992) will be able to take a leave of absence, for a continuous or fractioned period not exceeding 15 days, during which they will be guaranteed an allowance equal to 50 per cent of their salary. The allowance will be paid by the INPS (the modalities will be specified in the upcoming days).

Parents of children between 12 and 16 years old will be entitled to an unpaid leave of absence (continuous or fractionated) of fifteen days. In both cases, the 15 days of leave of absence shall be divided between both parents. Parent workers will be entitled to take such leave of absence as long as the other parent in the household i) does not receive any income support (for the suspension or cessation of his/her employment) or; ii) is not unemployed.

Please note that the abovementioned leaves can also be fractionated in hours.

The leave of absence is an alternative to the so called "babysitter bonus" that can be required by the employee to the INPS.

3. Increased the number of the so-called "104 paid leaves"

Workers entitled to the so-called "104 paid leaves" (i.e. 3 days of paid leaves each month for providing care to relatives with disabilities) will be allowed to take 12 additional days of paid leaves, to be taken between March and April 2020.

Please note that the abovementioned leaves can also be fractionated in hours.

Romania

CORONAVIRUS – UN CAS DE FORCE MAJEURE?

Les entreprises disposent d'un cadre législatif qui leur permet de se protéger contre la responsabilité si elles se trouvent en impossibilité d'exécuter leurs obligations contractuelles. Le mécanisme juridique que les parties peuvent utiliser dans le contexte de la pandémie de COVID-19 est la « **force majeure** ».

LA CARACTÉRISATION DE LA FORCE MAJEURE DANS LE CODE CIVIL

Selon l'article 1.351 du Code civil, "la force majeure est tout événement extérieur, imprévisible, absolument invincible et inévitable". Pour qu'un événement soit considéré comme un cas de force majeure, il doit remplir les conditions suivantes:

- **Extérieur:** Les événements de force majeure sont des phénomènes naturels extraordinaires étrangers à l'activité et à la volonté humaine (comme la pandémie);
- **Imprévisible: la responsabilité** du débiteur ne peut être engagée qu'en cas d'impossibilité objective de prévoir à la fois la survenance de l'événement mais aussi les effets préjudiciables qu'il aurait pu causer ;
- **Absolument invincible et inévitable:** La pandémie de COVID-19 peut répondre à cette condition tant qu'elle n'a pas encore de traitement, les conséquences sur la santé humaine sont inconnues et les mesures prises pour éviter la maladie sont susceptibles d'entraîner l'impossibilité de remplir les obligations contractuellement assumées.

En ce qui concerne les pandémies, elles ont été considérées, du point de vue jurisprudentiel, dans certains cas, comme des causes exonératoires de responsabilité sous la forme de cas de force majeure;

LE PRINCIPE DE LA LIBERTÉ CONTRACTUELLE

Les parties ont la liberté, lors de la rédaction du contrat, de modifier à la fois la définition de force majeure et le contenu de cette cause exonératoire de responsabilité. Ainsi, dans certains cas, la possibilité des parties de se prévaloir de la force majeure est limitée.

Dans la mesure où le contrat ne prévoit pas une clause de force majeure, les dispositions du Code civil deviennent applicables. Ainsi, pour invoquer la force majeure, les dispositions du Code civil doivent être analysées, à commencer par la définition de la force majeure, les conditions d'invocation et ses effets.

CONSÉQUENCES DE LA FORCE MAJEURE : L'ABSENCE DE RESPONSABILITÉ ET LIBÉRATION DU DÉBITEUR DE SES OBLIGATIONS

Conformément à l'article 1351 paragraphe (1) du Code civil, « À moins que la loi ou les parties n'en disposent autrement, la responsabilité est supprimée lorsque le dommage est causé par un cas de force majeure ou par des cas fortuits. »

Ainsi, la force majeure, une fois prouvée, entraîne l'impossibilité juridique d'exécuter l'obligation assumée, empêchant le débiteur de devenir responsable en vertu du contrat.

LES DOCUMENTS NÉCESSAIRES POUR JUSTIFIER LE CAS DE FORCE MAJEURE;

L'approbation de l'existence des cas de force majeure et de leurs effets sur l'exécution des obligations contractuelles appartient à la Chambre de commerce et d'industrie de Roumanie (CCIR), respectivement aux chambres des comptés.

Pour aviser le cas de force majeure, la Chambre de Commerce et d'Industrie exige l'existence d'un contrat écrit et aussi que la clause de force majeure soit stipulée dans le contrat, sinon, il serait possible de saisir les tribunaux pour la constatation du cas de force majeure.

Luxembourg

1. Tax measures and Social Security measures

- Deferral for filing of tax returns

For business undertakings (companies and individuals) which are subject to Luxembourg income taxes (including corporate income tax and municipal business tax), the deadline for submitting income tax returns is postponed to 30 June 2020.

- **Deferral of payments for income taxes**

Upon request, companies that are subject to Luxembourg income taxes and taxpayers realizing business profits, agricultural and forestry profits, and/or earnings from self-employment may (if experiencing liquidity difficulties) may benefit from:

- a cancellation of their quarterly income tax advances (as set by the tax authorities) for the first and second quarters of 2020; this measure is limited to income taxes (excluding net wealth tax).
- a 4-month extension for the payment of income taxes and net wealth tax due after 29 February 2020, without application of a late payment penalty.

- **VAT Measures**

Until further notice, no penalties will be imposed for the late filing of VAT returns.

In addition, the AED is currently reimbursing all VAT credit balances below EUR 10,000.

- **Cross-border commuters**

Further to agreements with Belgium, France and Germany regarding the tax treatment of cross-border commuters, it was agreed that for employees employed in Luxembourg and who are resident in Belgium and France, the number of days worked from home as a result of the Covid-19 pandemic will not be taken into account in order not to jeopardise the rule pursuant to which Luxembourg is the taxable jurisdiction for this employees. No agreement has been reached with Germany yet.

- **Social Contributions: suspension of financial penalties and enforcement measures contributions**

As of 1st April 2020 and until further notice, the Luxembourg social security has taken the following measures:

- suspension of accrual of all interest for late payment of social contributions;
- suspension of measures for recovery and enforcement measures for recovery of social contributions; and
- suspension of fines for late declarations against employers.

Nevertheless, social contributions due in March remain payable.

2. Labour law measures

- Extraordinary family leave

An extraordinary family leave may be taken at the discretion of the employee, subject to notifying the employer and the social security fund. This extraordinary leave will lapse at the day when schools will be reopened in Luxembourg. The employer shall still pay the wages of those employees and the State will thereafter reimburse the employer. The State should make some advance payment to employers to avoid facing liquidity difficulties.

This extraordinary family leave is subject to the following conditions:

- the employee shall be parent of at least one child below 13 years old;
- the employee has no alternative way of looking after the child;
- only one parent is entitled to take this extraordinary family leave;
- the other parent shall not benefit from the a measure of short-time working (see below); and
- the employee shall not work remotely.
- **Short-time working scheme**

Businesses in all economic sectors (including non-profit organizations) that have to fully or partially cease their activities which is directly linked to the coronavirus (considered as a *force majeure* event) may have recourse to short-time working scheme for some or all of their employees, subject to approval of their application by the Economic Committee (*Comité de conjuncture*).

Application shall be filed with the Secrétariat of the Economic Committee (Ministry of Economy) and, shall include, *inter alia*, the number of employees for which the application is made and the gross annual wage burden. Please note that business undertakings compelled to fully cease their activities in application of a Grand-Ducal Regulation are automatically authorize to have recourse to the short-time working scheme upon filing of the application without being required to obtain the prior authorization of the Economic Committee.

Once the application is approved (when needed), the relevant business undertaking will receive advances from the Employment Fund (*ADEM*), equivalent to 80 % of the average salary in this business undertaking. The business undertaking can freely decide to paid the remaining 20% to the employees to avoid any financial consequences for the latter.

The application shall be renewed on a month-to-month basis. In this context, at the end of each month, the business undertaking shall draw up a detailed statement showing the actual inactive work hours and the sums actually owed by the state. In case the advance is higher the sum actually due to the employer, the employer shall reimburse the overpaid amount.

The short-time working scheme is subject to the following conditions:

- Only employees (and not independent workers) under a permanent or fixed-term employment contract in force at the time of the event of force majeure may be covered by this scheme;
- The employees shall not be otherwise covered by a certificate of incapacity for work;
- The 2019 holiday entitlement for each relevant employee shall have lapsed and the business undertaking shall not have further recourse to interim or fixed-term employment contract;
- The relevant employees can no longer be employed at all or can no longer be employed on a full-time basis when the company can no longer ensure the normal operation of its activity, and
- The business commits not to dismiss employees for economic reasons as long as the relevant government decisions remain in force.

Please note that while the employee shall not work during the non-working hours covered by this scheme, they shall remain available to the employer in case of a regain of activity.

- **Increase of working hours in core sectors of the economy**

For the duration of the crisis linked to Covid-19 and because of the increase in activity in activities qualified as essential and strictly necessary for the vital interests of the country (as determined by the government), the companies in the relevant sector may, under certain conditions, request the Ministry of Labour, Employment and the Social and Solidarity Economy to increase the working hours of their employees to a maximum of:

- **12 hours per day; and**
- **60 hours per week.**

The list of activities that are qualified essential and strictly necessary for the vital interests of the country includes, *inter alia*, the health and care sector, food industry, public transportation, payment services, postal and telecommunication services, essential activities for the functioning of the financial and insurance sector.

The increase of working hours is subject to the following conditions:

- it shall be limited to what is essential and strictly necessary; and
- it shall be adequate and proportionate to the aim pursued. This purpose must be clearly stated by the employer in the application.

The application shall include, *inter alia* (i) the maximum number of daily and, potentially, weekly working hours applied for, (ii) the staff delegation's opinion, (iii) the reason for resorting to these derogations in the context of the sanitary crisis and (iv) the beneficial effects of the derogation.

Please note that there are other measures taken with respect to corporate law for example to allow on a broader scale board or shareholders meetings to be held by distance means (visioconference, conf. call etc.) and to postpone the registration of annual accounts. The regulator of the financial sector has also taken specific measures.