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CORONA & COVID-19
Legal Handbook SLOVAKIA

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CORONA & COVID-19 Legal Handbook

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Content

A. General advice ... 5

Workplace (published on 17.3.2020) ... 5

Coronavirus and employees' representatives (published on 17.3.2020) ... 8

60% - Serious operational reasons agreement (published on 18.3.2020) ... 9

Contractual obligations (published on 19.3.2020) ... 10

GDPR (published on 23.3.2020) ... 13

Real estate lease (published on 24.3.2020) ... 14

Collective redundancies (published on 1.4.2020) ... 17

B. Current corona related legislation ... 19

Temporary assigned employees (published on 26.3.2020) ... 19

First measures – “LEX CORONA package” (published on 27.3.2020) ... 21

Amendment to the Social Insurance Act (published on 28.3.2020) ... 24

Financial measures (published on 3.4.2020) ... 25

The second important amendment to the Labour Code (published on 3.4.2020) ... 29

Postponement of loans repayment (published on 6.4.2020) ... 30

First aid to SME (published on 7.4.2020) ... 31

Postponement of contributions for entrepreneurs and self-employed persons (published on 7.4.2020) ... 34

Legislative changes in occupational health and safety and assessments of medical fitness for work (published on 8.4.2020) ... 34

Home office as the right of the employees (published on 9.4.2020) ... 37

Changes of time limits governed by Ministry of Interior (incl. residence permits; published on 15.4.2020) ... 38

Second aid to employees, all employers, sole traders (self-employed persons; published on 16.4.2020) ... 40

How to apply for the measure No. 2 - contribution for sole traders (self-employed persons; published on 20.4.2020) ... 42

Temporary business protection from the creditors as a result of the COVID pandemic (published on 20.4.2020) ... 47

Further amendment to Social Insurance Act (published on 21.4.2020) ... 50

Further financial measures (published on 22.4.2020) ... 51

Protection of lessees, temporary protection of entrepreneurs (published on 24.4.2020) ... 55

State aid to employers 3A and 3B (published on 28.4.2020) ... 58

Parental contribution, unemployment support, substitute alimony and other social benefits and COVID-19 (published on 5.5.2020) ... 61

Resumption of temporarily suspended time limits (published on 6.5.2020) 64
Meal vouchers (allowance) and COVID-19 (published on 14.5.2020) 65
Another amendment to the Social Insurance Act: Establishment and termination of compulsory sickness and pension savings of self-employed person (published on 20.5.2020) 66
Extension of the "First Aid" project for further months (published on 21.5.2020) 67
C. Contact us 69

A. General advice

Workplace (published on 17.3.2020)

Nowadays, when the world is fighting a pandemic of coronavirus, each of us is trying to take appropriate measures to prevent or at least eliminate it. The workplace is one of the places with the greatest probability of its spreading and that is why employers are looking for the most effective ways of dealing with the situation. Below is an overview of the measures the employer can take these days, as well as answers to the most frequently asked questions.

Which measures should the employer take?

Employers are obliged to ensure working conditions so as not to endanger the health and safety of employees. Therefore, most employers are concerned about the spreading of coronavirus in the workplace, as it is a place with increased concentration of people. The employer is obliged to apply the general principles of prevention in the implementation of measures necessary to ensure safety and health at work, the general principles of prevention also include the elimination of hazards and the resulting risks, as well as risk assessment. Accordingly, the employer is obliged to assess the risk and, based on this assessment, is authorized to take the necessary measures to ensure the protection of employees' health. Employers should therefore take all appropriate measures to detect the presence and avoid spreading of this virus. Suitable measures are for example: reduction or cancellation of business trips, agreement on work from home, reduction of personal meetings, provision of available sanitary facilities, appropriate training of employees, minimization of visits to the workplace, isolation of the risk employees.

Does the employer have the right to ascertain whether the employee or his family member has arrived from abroad or whether he or she has met a person diagnosed with coronavirus?

Although it is information related to the private life of an employee, we believe that in this case the employer's interest in ensuring health protection at work exceeds the right of employee for a privacy. In this situation, the employer is entitled to request such information from the employee.

Can the employer restrict the employee from entering the workplace?

Given the nature of the coronavirus and the potential for its spreading, it is the most appropriate measure to ensure that an employee who might be potentially at risk or who are the threat themselves "stays at home". For this purpose, the following options may be considered:

"Impediments at work on side of employers may result in his obligation to pay compensation equal to 100% of the employee's average wage."

-Ordering leave

The employer may authoritatively order the employee to take leave, but not later than 14 days before the commencement of leave. This measure is therefore not very flexible and effective solution to the situation. However, if there is an agreement between the employee and the employer, the employee can start taking leave immediately.

- Work from home or so called „home office"

For kind of work, which can also be performed from home, not only at the workplace, the proper solution may be so-called "home office".

WARNING! The employer is

not entitled to order the employee to work from home in the form of a "home office", unless such a method of work has been agreed upon, for example, in the employer's internal regulations or in the employment agreement. For this purpose, in order to perform work in the form of "home office", an agreement between the employee and the employer is needed, as it is a change in the working conditions.

- **Using extra(compensatory) leave**

If the employee has unused compensatory leave for the overtime work or work on holiday, taking of this leave may also be considered. The compensatory leave should be agreed between employer and employee. The employer shall provide leave to the employee upon an agreed date. If the employer and the employee do not agree on the date for taking extra leave, the employer is obliged to provide the employee with the extra leave at the latest within the four calendar months(in case of overtime)/ or three calendar months(in case of work on holiday)following the month in which the work was performed(§ 121 and § 122 of the Labor Code).

-Impediments at work on the part of the employer

If there is a need for a general solution to the situation with coronavirus in relation to employees who have not been ordered or agreed to have leave, or agreed otherwise on their absence at work and who are unable to work from home, impediments at work on the part of the employer come into consideration.

WARNING! In the case of employers' impediments at work, the employer does not assign work to the employee, does not allow him to enter the workplace, but is obliged to provide the employee with the wage compensation equal to 100% of the employee's average wage.

-Agreement on serious operational reasons

If the employer has employees' representatives, it is possible to conclude an agreement on serious operational reasons. Under this agreement, if there are serious operational reasons (including the risk of coronavirus spreading), the employer does not assign work to the employees, does not allow them to enter the workplace and the employee is entitled to a wage compensation of at least 60% of the average wage.

WARNING! An agreement on serious operational reasons may only be concluded with employees' representatives.

What to do in the case of employees who have returned from abroad?

Due to the declaration of an emergency situation in the territory of the Slovak Republic, the Public Health Authority of the Slovak Republic ordered a measures pursuant to which all persons with permanent and temporary residence in the Slovak Republic who returned from abroad after 7 a.m. on March 13 (before this date only people arriving from Italy, Korea and Iran),are obliged to remain in home isolation for 14 days. At the same time, these persons are obliged to report this fact by telephone or electronically to the healthcare provider, who is obliged to provide such persons with a confirmation of incapacity for work. This measure does not apply, for example, to truckdrivers entering the territory of the Slovak Republic for the purpose of transporting, loading and unloading goods. The absence of these persons at work must therefore be regarded as an impediment at work on the part of the employee due to temporary incapacity for work, for which the employee is entitled to wage compensation within the first 10 days of incapacity pursuant to Act No. 462/2003 Coll. on compensation of incomes in case of temporary incapacity for work of an employee, as amended and subsequently as of 11thday for a sickness allowance under the Act no. 461/2003Coll. on Social Insurance as amended.

What if the employee has returned from abroad or has been in contact with the infected person but still goes to work?

In such a case, the employee violates the current Slovak Public Health Office and the employer is entitled to order the employee to stay at home.

Can the employee decide to stay home without obvious symptoms of the disease, even if he has not returned from abroad?

Among other things, it may happen that an employee without any symptoms decides on his own initiative to undergo home isolation, or due to concern for his health or the health of his family stops going to work (without disposing with certificate of temporary incapacity for work issued by doctor). In such case, the employee may only stop going to work if he agrees with the employer on the grounds of absence from work. In this context, it is possible, for example, to grant leave on other grounds foreseen by the Labor Code, with or without compensation of wages as agreed between the employer and the employee.

WARNING! An employee who has not been recognized as being temporarily incapable for work (because of symptoms or returning from abroad) cannot unilaterally decide stop going to work unless he agrees with the employer on leave, unpaid leave, work from home or another way of justifying absence from work as described above. The absence of an employee at work without justification shall be considered as a breach of work discipline.

In addition, please note that the Employer is obliged to provide its employees with working conditions so that they can properly perform their work tasks without endangering life and health. If the employee refuses to carry out work or to comply with an instruction that directly and seriously endangers the life or health of the employee or other persons such action may not be considered as a failure to fulfill obligation = breach of the work discipline; if employees' life or health are demonstrably threatened as a result of failure to comply with the conditions in the field of occupational health and safety, employees are not obliged to comply with the employer's instructions.

What if employees are subject to quarantine ordered by the Public Health Authority?

In the event that an employee is subject to a quarantine prescribed by the Public Health Authority, the employer shall justify the absence of the employee at work during the duration of the quarantine. After the quarantine is ordered, the employer is obliged to assign a different kind of work to the employee or to work in another place (i.e. also “home office”).

The employer no longer needs the employees’ consent to assign them another work because of quarantine.

WARNING! If the employer does not have any other kind of work for the employee or work elsewhere, in this case it is an impediment at work on the part of the employee. The doctor shall recognize the person to whom the quarantine measure has been ordered as temporarily unable to work. During this time, the employee is entitled to compensation of the employer’s income during the first 10 days of the quarantine measure, and for a sickness allowance under the Act on Social insurance as of 11thday of work incapacity.

How to proceed in case of employee who was confirmed to have a coronavirus?

If the employee has confirmed occurrence of a virus, he/ she will be recognized as temporarily incapable of work and entitled to wage compensation, and subsequently to sickness allowance as described above. As it is an infectious and transmissible disease, the employee will also be subject to quarantine measures; at the same time, it can be expected that due to the health condition of the employee, his / her assignment to another job will not be applicable.

"How to reduce 100% wage compensation for employees? Read on next page."

What about employees who take care for children affected by the closure of school facilities?

In the situation where the employee remains at home because the school attended by his/ her child has been closed at the discretion of the competent authorities, that situation may be regarded as an impediment at work on the part of employee without wage compensation.

Pursuant to Act on social insurance, this employee may claim a nursing benefit in the relevant branch of the Social Insurance Agency -in the case of care for a healthy child up to 10years of age, if the school attended by the child has been closed or a quarantine measure ordered for particular child.

Employee may apply for a nursing benefit even in case he or she is taking care of a child olderthan10 years of age (if doctor evaluates the child's mental and physical abilities and concludes that all day care by parent is necessary).

Coronavirus and employees' representatives (published on 17.3.2020)

Coronavirus and related employers' measures to eliminate its spread in the workplace are one of the most recent topics today. However, what role do employees' representatives play in the process of adopting these measures and which responsibilities does the employer have in relation to them?

Measures to ensure occupational health and safety

The employer is responsible for ensuring that workplace safety and health measures are taken and implemented at the workplace. Protection of employees' health also includes measures against the spreading of dangerous contagion among employees in the workplace. To this end, the employer must also take and apply appropriate measures. All these measures must be discussed beforehand with the employees' representatives for occupational health and safety (hereinafter „**OHS**"). Negotiation in this case entails a discussion between the employer and the employees' representatives for OHS that may result in various incentives from the employees' representatives, which the employer can take into account. However, for the implementation of these measures, the employer does not need the prior consent of the OHS employees' representatives. If in addition to employees' representatives for OHS there are also other employees' representatives (trade union, works council, employee trustee), the employer is obliged to inform them of the measures that were taken.

Agreement on serious operational reasons

As the most effective tool against the spread of disease in the workplace, it seems logical to ensure that the employee stays at home. As you have already learned from many articles, the employer cannot order employees to work from home, so called "*Home office*". However, the employer may order the employee to take a holiday, but no later than 14 days before it was planned, or more precisely, before the ordering itself, which is in the current situation also does not seem to be the most appropriate option. The solution in this case may be applying the obstacles to work on the part of the employer, when the employer does not allow the employee to enter the workplace and does not assign him the work. **In this case, the employee is entitled to wage compensation equal to his average earnings**.

In this situation, there is an option for the employers, where the employees' representatives were established, to conclude an agreement with the employees´ representatives on serious operational reasons for which the employer is unable to assign work to an employee. In agreement, among other operational reasons, for which the employer cannot assign work to the employees, the employer shall also define the reason –limitation or suspension of the operation or other measures in order to avoid risk of spreading the disease. In case the serious operational reasons defined in the agreement occurs, the employer shall not assign work to the employees and shall not allow them to enter the workplace, **although the employees shall be still entitled to a wage compensation of at least 60% of the average earnings**(depending on what amount between 100% and 60% of the average earnings is agreed in the agreement).

An agreement on serious operational reasons may only be concluded with employees' representatives and cannot be replaced by the unilateral decision of employer.

60% - Serious operational reasons agreement (published on 18.3.2020)

Coronavirus and related employers' measures to eliminate its spreading at the workplace are one of the most recent topics today. Employers are starting to solve the optimization of their wage costs very fast in order to ensure the proper functioning of their business as long as it's possible. The failure of employers' orders/work may sooner or later lead to redundancies of employees, but the coronavirus epidemic itself does not constitute an immediate reason for employers to propose the collective redundancies. It is necessary to emphasize that the notices of employees for organizational reasons and collective redundancies are, despite the State of Emergency that was now declared in the Slovak Republic, still strictly regulated by the Labour Code.

"It is recommended to employers where employees' representatives operate to conclude the agreement on serious operational reasons."

If the situation is serious (e.g. decreasing turnover of the employers), employers can agree on the collective redundancies of employees at the earliest in a few weeks, as they have to comply with the deadlines and process specified in the Labour Code. It is necessary to realize what collective redundancies actually mean; this is the reason for the termination of employment with employees because the employer is being wound-up, relocated (and the employee does not agree to change the place of work), or the employee becomes redundant due to the employer's written decision to reduce the number of employees to ensure work efficiency or other organizational changes. The latter reason may, in our opinion, be a frequent reason for terminating employment in the future as a result of spreading of that disease. At the same time, the ratio condition of the number of redundancies to the total number of employees in the employer's status must be met. This process is very lengthy, because the employer can start dismissing employees only after having been interviewed by the employees' representatives and 30 days after receiving the information on the negotiations by the employees' representative and the Office of labour, social affairs and family.

However, from our advocacy experience and practice of mediators and arbitrators for the resolution of collective disputes, we know that this is not a scenario that is currently being dealt with acutely by big employers and Trade Unions. This dispute may come, but at present employers are mainly dealing with cost optimization and maximizing cash, what is understandable. Indeed, any collective redundancies imply additional employee claims such as compensation for termination and severance grant, which is in direct contradiction to the necessary savings and the immediate need for cash.

At present, an agreement *on serious operational reasons appears to be the best measure for employers in terms of the anti-coronavirus tool at the workplace and in particular at the need to maximize cash and cost savings, which may be concluded only with employees' representatives (i.e. trade unions, works council or works trustee)*. In this situation, we therefore recommend to employers (where employees' representatives operate) to conclude the agreement on serious operational reasons. In the agreement, among other operational reasons for which the employer cannot assign work to the employee, the employer also defines the risk of coronavirus spreading. In the event of serious operational reasons as defined in the

agreement, the employer does not assign work to the employee, does not allow him to enter the workplace, but the employee is entitled to a wage compensation of at least 60% of the average wage, thereby saving the employer's costs. We note that, unless there are employee's representatives, the employer cannot unilaterally instruct the employee to stay home and not work due to the spreading of coronavirus and to pay him only 60% of his average salary and at the same time cannot agree on such with the employee individually. If there are no representatives of employees or if he does not agree with them, it is considered an impediment on the part of the employer, what means, in case of employees staying home and not working from home, that he must pay them100% of their average earnings. We would like to state that the situation for employers is easier in the Czech Republic, because if there are no employees' representatives operating, the employer can decide by himself on serious operational reasons when the employer cannot assign work to the employee and then pay the employees 60% of their average earnings.

At present, the agreement on serious operational reasons is the most effective way of maximizing cash for the employer. The employer´s order for taking leave is possible and effective in terms of spreading the disease, but not in terms of the employer's costs. It should be noted that employees on leave are entitled to 100% of their average earnings.

If the employer does not have employees' representatives, the most effective tool against spreading disease at the workplace and at the same time optimizing the costs for the employer seems to be the agreement between the employee and the employer to keep the employee at home and letting him work from home. As you have already learned from many articles, the employer cannot order employees to work from home, so called "Home office", but he can individually agree with the employee about working from home, as well as to change his wage and work scope. Without the employee's or mutual agreement, the employer cannot reduce the employee's wage. It will always be an impediment to work on the part of the employer and the employee is always entitled to 100% of his average earnings in such unilateral decisions.

On the grounds of our advocacy practice, including the practice of collective dispute mediators who deal with collective labour disputes on a long-term basis, we would like to propose to employers to allow employees to choose together with the employer, the employees' representatives as works trustee or works council as quickly as possible, so the employer and the employees' representatives have an opportunity to conclude an agreement on serious operational reasons. The Labour Code allows members of the works council to be elected directly by secret ballot on the basis of a list of candidates proposed by at least 10 % of the employees. The elections shall be valid if at least 30% of all employees who have the right to vote participate in the voting for members of the works council. The candidates with the highest number of votes shall then become members of the works council. We believe that, in cooperation with employees, elections can be organized quickly and effectively so that employee's representatives are validly elected, and that employers and employees' representatives can quickly conclude an agreement on serious operational reasons in the context of a pandemic.

Contractual obligations (published on 19.3.2020)

How to proceed?

Does coronavirus and the measures to prevent its spreading stop you from fulfilling your contractual obligations or other duties? Are you in the delay or do you know that you will not be able to fulfill your obligation at all? Here are some basic recommendations on how to proceed in this case and answers to fundamental questions on how to minimize the negative impact of COVID-19 on your contractual relationships.

What should you do if you run into delay in fulfilling the contractual obligation due to anti-coronavirus spreading measures?

Measures needed to slow down or limit the spreading of coronavirus, as well as the emergency situation declared by the government, may put the contractor in delay in meeting their contractual obligations. This delay can be due to labour

shortages, material shortages, or the increased costs for the safety and health of workers. In this case, we recommend the following:

Talk to your contractual partner

Here again, as in every life situation, communication is the basis for solving problems. If you are in delay in fulfilling your contractual obligation or already know that you will be in delay, please inform your contractual partner. The situation is currently quite difficult for everyone, so it is understandable if you ask your contractual partner to postpone the fulfillment of the obligation, or agree to change the provisions of the concluded agreement in the form of an amendment that takes into account the pandemic and its consequences.

Force majeure

Coronavirus and related measures may justify the failure to fulfill obligations under the agreements if they constitute so-called “force majeure”. In this context, if you do not agree with your business partner to postpone the fulfillment of your obligations or to make other appropriate arrangements, it is necessary to analyze the agreement you have concluded. Force majeure (otherwise referred to as “vis major”, “force majeure” or “Act of God”) can be defined as a legal fact consisting of an extraordinary, unforeseeable, irreversible and unintended event that may cause or causes harm. The claims and further actions of the parties will vary depending on whether the agreement contains force majeure or not, and at the same time will depend on the precise definition of this provision in the agreement.

When analyzing the force majeure arrangements in the agreement, it is necessary to focus on the specific conditions set out therein, in particular whether it also applies to the declared emergency situation, a state of emergency or epidemic and how to apply this clause. Despite the seriousness of this situation, the force majeure clause in your agreement may not include an epidemic and related measures as one of the cases of force majeure, as these provisions do not receive much attention in the agreement for a long time.

WARNING! Mere fulfillment of the definition of force majeure in the form of an epidemic or spreading of the virus contained in the agreement is not yet sufficient. At the same time, it is necessary that the obstacle in the form of virus spreading or the epidemic and the associated measures was the cause of the failure to fulfill obligations duly and in time (for example, delays in the production of goods because the supply of individual components of the product was limited due to government measures). If the respective contracting party does not breach the agreement as a result of the aforementioned conditions of force majeure, the other contracting party shall not be entitled to withdraw the agreement, except as agreed in the agreement and shall not be entitled to the damage compensation or a contractual penalty.

In case of concluding the new agreements, it is recommended to explicitly include epidemics, pandemics and the spreading of the virus in the force majeure provisions, or to supplement the already concluded agreements in this way with an amendment.

Insurance - insurance payment and loan agreement

Regarding the delays in the fulfillment of obligations and resulting from it breaches of agreements or other situations arising in connection with a pandemic, it is appropriate to focus on whether these cases are covered by the insurance you have taken out. In this respect, it is advisable to find out whether and to which extent your insurance agreement covers these cases.

WARNING! If you have been granted a loan by a bank or a different financial institution, we recommend that you review the terms and conditions of the loan, especially in relation to the financial indicators that you should meet under the loan agreement, and whether these conditions can be met during the coronavirus pandemic.

Can the spreading of coronavirus be a reason for reducing or increasing the agreed price?

The Slovak legislation does not know the legal provision that would allow the affected party to unilaterally change the terms of the agreement in the event of a substantial change in circumstances, including a reduction or increasing in the agreed price, as in the Czech Republic, for example. This means that the affected party cannot, in principle, unilaterally proceed in increasing or decreasing the agreed price without fulfilling other conditions.

WARNING! In accordance with the legislation, the exercise of rights and obligations cannot not be contrary with good morals and the principle of a fair trade. In our opinion, if the consequences of coronavirus and related measures would cause inequalities between the parties, a party may require to change the agreed price in order to protect its position – in this case in support of her request, good morality or fair trade could be considered as an argument.

Can coronavirus be a reason for extinguishing contractual obligations?

Pursuant to the legislation of the Slovak Republic, the contractual obligation may be extinguished due to the impossibility of its fulfillment. If the performance of the agreement becomes impossible, the obligation to perform will lapse. In the case of commercial relations, this is an additional impossibility of performance if the obligation cannot be fulfilled by another person. As a result of government measures taken to prevent the spreading of coronaviruses that have banned several activities, the contractual obligation may also be extinguished due to the impossibility of fulfilling it.

WARNING! In the event that it is impossible to fulfill one or all obligations arising out of the concluded agreement, you must notify the other party, so the entitled party, without undue delay. Otherwise, you are liable for any damage caused (by the late informing) to your contracting partner. In commercial relationships, the debtor whose obligation has extinguished due to the impossibility of performance, is obliged to pay for the caused damage to the creditor, unless the impossibility of performance was due to the circumstances excluding the liability. Circumstances which exclude liability shall be deemed to be an obstacle that has occurred independently of the will of the liable party and prevents it from fulfilling its obligations, unless it can be reasonably assumed that the liable party would avert or overcome the obstacle or its consequences and has foreseen this obstacle at the time of an occurrence of the obligation. In our opinion, the coronavirus epidemic fulfills this definition of a liability-exclusion circumstance. If any repayment has already been paid under such an agreement, it shall be reimbursed.

What are the other options for the termination of an agreement due to a coronavirus epidemic?

If a party is in the delay in its duty performance due to the coronavirus epidemic and the related measures, and is not in the event of impossibility performance or an exclusion of delay due to the force majeure, the other party has the right to withdraw the agreement accordingly to the contractual terms.

Of course, it is always possible to terminate the concluded agreement, if it is agreed. In such a case, the agreement terminates upon expiry of the notice period.

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GDPR (published on 23.3.2020)

"Employers already know that the issue of personal data protection needs to be treated sensitively."

How to take measures against the spreading of COVID-19 and not to violate GDPR

The adoption of various measures for prevention of the COVID-19 spreading also raises many practical issues in the area of personal data protection. Nowadays, employers already know that the issue of personal data protection needs to be treated sensitively. Personal data relating to health is considered to be a specific category of personal data that is subject to a higher level of protection. So how to deal with the new situation when, on the one hand, the employer is expected to take all necessary measures to protect the health of his employees, and on the other hand, the General Data Protection Regulation (GDPR) remains valid, according to which the employer shall not process personal health data without any particular reason?

Please find below our recommendations on how to proceed properly and avoid GDPR violations in the most common COVID-19 situations. Although the article was written in the context of the legislation of the Slovak Republic, it can be appropriately applied to the situation in the Czech Republic, because as in the Slovak Republic, in the Czech Republic the employer is as well responsible for safety and health at work, etc. In the context of taking measures against the spreading of COVID-19, the new Slovak government has already announced that it is also preparing some changes in the area of personal data protection.

Can the employer request information from the employee whether he has recently been abroad and even in which country?

Yes, he can. Given that the employer is obliged to take all measures to protect the health of his employees, including the adoption of measures necessary to prevent transmissible diseases, according to Art.52 para. 1a) of the Act no. 355/2007 Coll. on the Protection, Promotion and Development of the Public Health and on amendments to certain acts(hereinafter the "**Health Protection Act**"), has the right to ascertain information from employees and even suppliers or clients in order to fulfill his legal obligation under the Health Protection Act.

Can the employer request information from the employee that he is in a quarantine?

Yes, he can, if so, the employer is entitled to request information from the employee about the beginning and end of the quarantine in the term of employer's responsibility by taking the necessary measures to prevent transmissible diseases under the Health Protection Act.

Can the employer ask the employee if he has common symptoms of COVID-19 (e.g. respiratory problems, fever)?

Yes, the employer may request this information from employees or third parties in order to ensure occupational safety and health (e.g.by completing a questionnaire, etc.) or under the responsibility of the employer in taking the necessary measures to prevent transmissible diseases under the Health Protection Act. The employer is responsible for the safety and health protection of his employees at work pursuant to Act no. 124/2006 Coll. on Health and Safety at work and on amendments to certain acts (hereinafter the "**Occupational Safety and Health Act**").

Can the employer oblige the employee to undergo a health examination?

Yes, he can, but to a limited extent. The employer is obliged to protect the employee from being infected by another employee, as he is responsible for the safety and health of his employees at work according to the Occupational Safety and Health Act. In view of the above stated, the employer may introduce less invasive measures, such as temperature measurement.

Can the employer require from the incapable employee to confirm he has or does not haveCOVID-19?

The employer may ask the employee for such information, but the employee is not obliged to share this information with the employer. However, the examining physician will inform the state authorities of this fact, who in turn will also probably inform the employer (if there is a risk that other employees might be infected).

Can the employer request information from the employee whether he has been in contact with a person infected with COVID-19?

Yes, he can, but to a limited extent. Again, due to the reason that the employer is responsible for the occupational health and safety, he can strictly request such data from employees to the minimum necessary extent.

Is the employer entitled to inform other employees that presence of COVID-19 has been confirmed by the particular employee?

Yes, if necessary. The employer is obliged to inform those employees who came into contact with the employee who was infected byCOVID-19. If other employees have not been in contact with the infected employee, the employer will not inform them or depending on the circumstances of the case, the employer should consider whether it is sufficient to inform employees only about the occurrence of COVID-19 at the workplace without mentioning specific person. Informing other employees should therefore be carefully considered, i.e. it should not be done in form of publishing a list of people infected with COVD-19 on the employer's intranet, etc.

If the employee can work from home, so called home office, is the employer obliged to provide the necessary equipment to work from home?

Yes, the employer is obliged to provide the employee with the equipment necessary for working from home (e.g. laptop, mobile phone, etc.), if work from home is agreed in the employment agreement. If work from home is not agreed in the employment agreement, the employer cannot order it. Even while working from home, the employer is responsible for the security of personal data and therefore, he is obliged to take the necessary measures to prevent unauthorized leakage of personal data.

Real estate lease (published on 24.3.2020)

"Usually the obligation to pay rent in the agreed amount remains valid for the tenant, despite the changes in circumstances, even substantial ones, caused by government measures to prevent the spreading of coronavirus."

The impact of coronavirus and related measures on the real estate lease

A frequent question in dealing with the consequences of a coronavirus pandemic is the question of the real estate lease and possibility of terminating the lease or possibility of reducing rent for reasons related to the spreading of coronavirus or its preventive measures.

In this context, the matter may be divided into two basic areas. The first one is the lease of non-residential premises, i.e. in particular manufactural or administrative premises, which are rented by companies for the purpose of running their business. Typically, in the current situation this type of lease is especially problematic for those companies who had to close their operations (particularly in the gastronomy business, but also in the other retail establishments), but it may also be a problem for other companies in case of restrictions or suspensions of the production due to coronavirus.

However, questions concerning the solution of rental relationships "stricken" by coronavirus also concern the lease of the apartments, i.e. premises intended for housing the natural persons. Tenants are often workers whose performance may be limited or even interrupted for the reasons related to coronavirus. However, companies that rent apartments for their employees are often tenants, so this issue may affect them as well.

A special category is also the lease of family houses. Although the property is intended for housing, the legal regime of such lease relationships is different from the lease of non-residential premises and the lease of the apartments.

What are the possibilities of the lease termination or the possibilities of requesting a rent deduction for particular types of rent?

Here is a brief general information about some of the possible solutions in this situation.

Lease of non-residential premises

The tenant is entitled to require deduction of rent only in case the lessor does not fulfill his obligations under the lease agreement or legal obligations (in particular the obligation to keep the subject of the lease in a condition appropriate for the agreed or usual use and to ensure proper performance of services related to the use of the subject of the lease). In case the tenant temporarily does not want or cannot use the subject of the lease for reasons other than violation of the obligation by the lessor, the tenant is not entitled to deduction of rent. **In case business activities of the tenant are restricted due to the government measures to prevent the coronavirus from spreading, there is no entitlement to a rent deduction for tenant.**

The obligation to pay rent in the agreed amount remains valid for the tenant, despite the changes in circumstances, even substantial ones, caused by government measures to prevent the spreading of coronavirus (as opposed to the possibility of changing contractual conditions as it is in the Czech Republic).

The termination of the lease of non-residential premises is regulated in the Slovak legislation similarly. In principle, there are no legal grounds for terminating the lease in relation to temporary reasons limiting the lessor's business activity.

If the lease is concluded for an indefinite time period, both lessor and tenant shall be entitled to terminate the agreement in the written form with a three-month notice period, even without providing any reason.

In the case of a fixed-term lease agreement, the tenant may terminate it with a three-month notice period solely if:

- the tenant loses authorization to carry out activity for which he has rented the non-residential premise;
- the non-residential premise becomes inappropriate for the agreed use without the fault of the tenant;
- the lessor grossly violates his contractual or legal obligations related to the lease of non-residential premise.

Regarding government measures to prevent the spreading of coronavirus, it must be noted that, in our opinion, the temporary impossibility to carry out an activity does not result in a loss of authorization to carry on that activity to justify the termination of the lease agreement. However, in the event that the tenant loses the license to carry out the business activity for which he rented the non-residential premise (most likely it will be termination of the trade license for a certain activity), in this case the tenant has a reason to terminate the lease agreement. WARNING, the attention should be paid to all activities carried out by the tenant in the rented property, not just the "main activity"; it is necessary to analyze the lease agreement and other aspects.

It is also possible to terminate the contractual relationship for the lease agreement of non-residential premises by a withdrawal from the agreement, however, the legal grounds for this are provided only in the event of a contractual breach by the other party.

Notwithstanding the foregoing, before any action is taken in relation to the change or termination of the lease agreement, it is necessary to take into account particular agreement itself – the reasons for terminating in the agreement may vary, what means that the contractual provisions may override the law and it may also happen that they could offer the lessor a broader spectrum of opportunities to change or terminate the lease relationship.

Apartment lease

The tenant is entitled to deduction of rent or payments for services connected with leasing an apartment in the event of defects in the subject of the lease or deficiencies in the provision of other services. **Therefore, this claim will not arise to the tenant in connection with government measures to prevent the spreading of coronavirus.**

Even in the case of an apartment lease, the change in circumstances caused by government measures to prevent the spreading of coronavirus, what may result in the tenant not needing the apartment anymore, does not relieve the tenant from paying the rent in the agreed amount, as well as does not provide him a reason to terminate the lease of the apartment.

In case of an apartment lease, the tenant is entitled to terminate the agreement in the written form with a three-month notice period, even without providing a reason, both in case of an indefinite lease and a fixed-term lease[1] (the lessor is limited only by certain withdrawal reasons).

The apartment lease may also be concluded by the agreement on short-term lease of an apartment, but this must be expressly stated in the agreement. **In case of a short-term lease of an apartment, it is also possible to terminate the lease by noticing a withdrawal to the lessor on the grounds that the tenant's employment has ended.**

The apartment lease can also be terminated by a withdrawal from the lease agreement, but also only in cases of the contractual breach by the other party.

Although the contractual freedom of the parties by concluding an apartment lease agreement is not as broad as when concluding a lease agreement of non-residential premises, it shall be also paid attention to a specific agreement before any action is taken in relation to the change or termination of the lease agreement (for example, the wording of the agreement may remove doubts about the possibility of terminating a fixed-term agreement).

Lease of a residential premise but other than an apartment

The subject of the lease may also be a real estate intended for housing persons, but at the same time property other than an apartment (typically, a family house).

However, even with such a lease, the tenant is entitled to a rent deduction only in case of defects in the property restricting its proper use.

Termination of the lease agreement of the other real estate intended for housing is possible by the termination of any contracting party (with a three-month notice period) only in case if the lease was concluded for an indefinite period. Unless otherwise agreed in the agreement, the lease agreement of such real estate concluded for a definite time period, **cannot be terminated by a withdrawal.**

Withdrawal from the agreement is also valid in this case only if the other party breaches the agreement.

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[1] In the case of termination of a fixed-term lease, the legal opinion on the possibility of termination by the tenant without providing a reason is not unite, therefore it cannot be ruled out that the court could declare such termination invalid, however we do not assume that.

As in previous types of property leases, when renting a residential premise other than an apartment, the lease cannot be terminated directly on the grounds of the measures to prevent the spreading of coronavirus. **However, in this type of lease the law regulates the relations of the parties least and provides to the parties the greatest contractual freedom. It is therefore very important to analyze particular agreement before taking any action in relation to such a lease. Frequently, the agreement provides quite a wide range of possibilities for the contracting parties to terminate the agreement.**

General measures - planning and communication

“Never forget to check the actual lease agreement.”

Given the above, in the Slovak conditions the tenant has an opportunity to reduce the rental payment in relation to coronavirus only by agreement with the lessor – therefore it is always necessary to communicate with the lessor. **Any agreement to change the rent (even temporary) or other terms of the agreement must be made in written form in the case of the real estate lease agreements.**

When terminating the lease, such a step shall be well timed as the period of a notice, which unless otherwise specified in the agreement, starts to run from the first day of the month following a delivery of termination notice to the other party (i.e. for example, if one makes termination notice on 25.3., but this will be delivered to the other party on 1.4., notice period starts from 1.5.).

Collective redundancies (published on 1.4.2020)

With regard to the coronavirus spreading, employers are taking a number of measures to prevent it from spreading and to eliminate the associated risks. In addition, employers are also forced to address optimization of operating costs. Despite the adoption of various measures, the failure of orders in practice can lead to redundancies. However, the coronavirus epidemic itself does not provide a legal basis for terminating employment. It should therefore be stressed that, despite the emergency situation in which the Slovak Republic finds itself, termination of employment remains strictly regulated by the Labour Code. Therefore, the employer has at his disposal only the same options he had before the outbreak of the pandemic.

In case of termination of employment with a larger number of employees, it is also necessary to consider whether the criteria of collective redundancies were fulfilled, where the employer has other specific obligations that will prolong the termination of employment. Collective redundancies are those where the employer terminates his employment by dismissal for organizational reasons or in any other way, for a reason not based on the employee, for 30 days:

a) of at least ten employees of an employer who employs more than 20 and less than 100 employees,

b) of at least 10% of total number of employees of an employer who employs at least 100 and less than 300 employees,

c) of at least 30 employees of an employer who employs at least 300 employees.

This also means that even if the employment relationship is terminated by the agreement, such termination is included for the purposes of assessing the collective termination of employment.

As regards the collective termination procedure itself, the employer shall at the latest one month before the beginning of collective redundancies, discuss with the employees' representatives measures to prevent or reduce collective redundancies. If there are no employees’ representatives operating, the employer shall negotiate these measures directly with the respective employees.

The employer is also obliged to inform the Office of Labour, Social Affairs and Family about the collective redundancies in order to find solutions to the related problems. In this context, the employer shall provide the Office with a written copy of the reasons for the collective redundancies, the number and structure of the employees to be dismissed, the total number

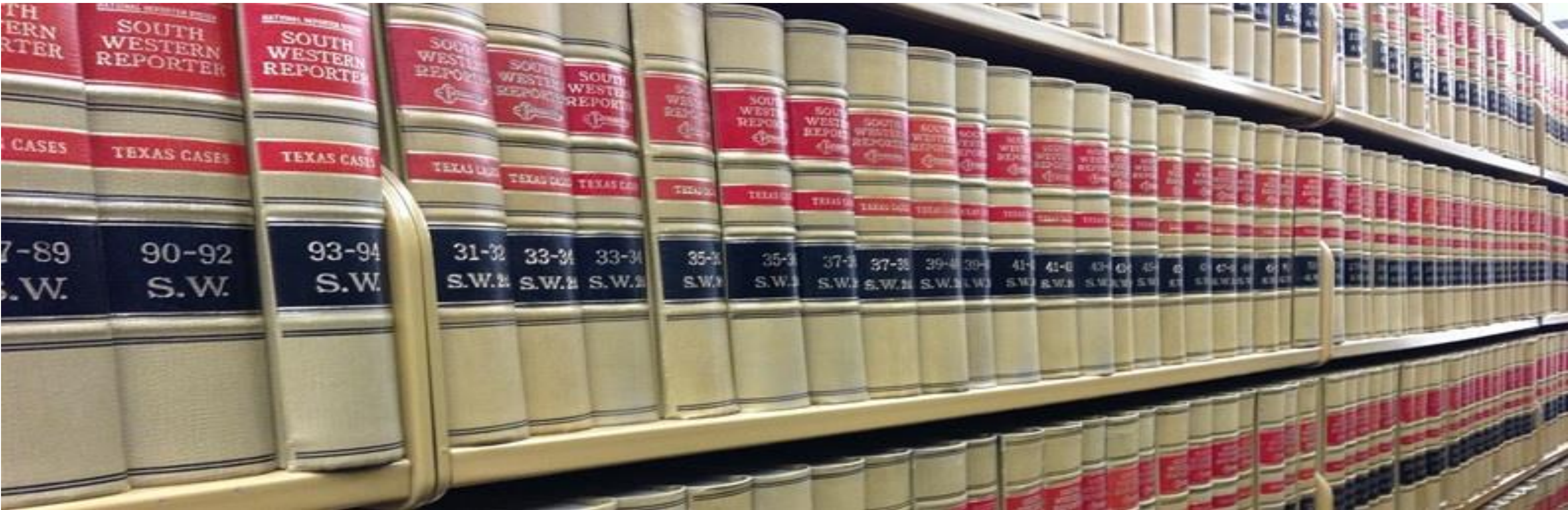
and structure of the employees he employs, the period during which the collective redundancies will take place, together with the criteria for his choice and names, surnames and permanent addresses of the employees who shall be terminated.

Consequently, the employer may give notice to the employee for organizational reasons or a proposal to terminate the employment by agreement for the same reasons at the earliest one month after the date of receipt of the written information to the Office of Labour, Social Affairs and Family. This process is so lengthy, because the employer can actually start to dismiss employees only after they have been interviewed by the employees' representatives and 30 days after receiving information on the negotiations by the employees' representative and the Office of Labour, Social Affairs and Family.

In addition, in the case of collective redundancies, the provisions on notice and severance pay to which employees are entitled according to the length of time worked with the employer shall also apply. The notice period starts on the first day of the calendar month following the notice of termination and ends on the last day of the respective calendar month. On termination of employment due to organizational reasons, the employee is entitled to a notice period of 1 month if the employment lasted less than a year. If the employment relationship lasted from 1 to 5 years, the employee is entitled to 2-month notice, for an employment relationship of more than 5 years, it is up to 3 months' notice. Depending on the duration of the employment relationship, the amount of severance pay may be from one to four times the average monthly earning, but if the employment is less than two years, the employee is not entitled to any severance pay.

In this context, we also point out that the government has proposed measures to help employers who have had to close operations as a result of anti-coronavirus measures or those whose sales have been significantly reduced by the crisis, to maintain jobs by contributing to employees' wages. According to the government's proposal, such wage allowances will be conditional on employers not dismissing their employees. In light of the stated above, it is up to the employer to decide whether it is important for him to terminate the employment relationship or to resolve the situation by applying government measures.

B. Current corona related legislation



Temporary assigned employees (published on 26.3.2020)

Guidelines for employers are coming from each side as to which action to take at the workplace to minimize the spreading of the virus Covid-19 and how to deal with the labour claims of employees. According to many expert opinions and practical experience, one of the most effective solutions to the current situation is in the case of limitation or cessation of operations, the conclusion of an agreement on serious operational reasons, in the case of which the employer can provide employees with wage compensation of only 60% of their average earnings. The employer can conclude this agreement only with the employees' representatives and cannot replace it by his own decision or the individual agreement with the respective employees. However, what about temporary assigned employees, does the agreement on the serious operational reasons apply to them?

Does the agreement on serious operational reasons apply also to the agency employees?

Pursuant to the Labour Code, the agency for temporary employing may agree with the employee to temporarily assign him for work performance to the using employer. Temporary assignment is based on an agreement on temporary assignation of an employee between the agency for temporary employing and the using employer. The using employer to whom the employee has been temporarily assigned, shall on behalf of the employer assign work to the employee, organize, control and direct his work, give him instructions, create favourable working conditions and ensure occupational safety and health as to the other employees. However, the executive employees of the using employer may not perform any legal acts against the temporarily assigned employees on behalf of the recruitment agency. Likewise, the law provides that during the temporary assignment the employee shall be paid wage, compensation of wage and travelling expenses by the employer having temporarily assigned the employee, so the recruitment agency. At the same time, the Labour Code stipulates that working conditions including pay conditions and terms of employment for temporarily assigned employees must be at least favourable than those for a comparable employee of the using employer.

The agreement of serious operational reasons defines cases when the employer cannot assign work to employees in the event of serious circumstances, it constitutes an impediment to work on the side of the employer and therefore he shall pay to the employees only the agreed part of their salary, which should not be less than 60% of their average earnings. This agreement is concluded by the employer with the employees’ representatives.

With regard to the legislation on temporary assignment as defined by the Labour Code, where it is directly stated that the using employer does not pay the wage to the temporarily assigned employee and cannot perform legal acts against him, we are of the opinion that the agreement on serious operational reasons between the using employer and the employees' representatives does not apply to the temporarily assigned employee. In the present case, therefore, if such serious operational reasons will occur and are defined in the agreement on serious operational reasons by the using employer, but not by the actual employer of the assigned employee, i.e. the recruitment agency who has not entered into such an agreement with employees' representatives or if employees' representatives do not operate there, the temporarily assigned employee for the time of obstacles to work on the side of the recruitment agency as his employer (unless they can provide the employee other suitable work) has a wage compensation within the statutory range of 100% of his average wage.

"The agreement on serious operational reasons between the using employer and the employees' representatives does not apply to the temporarily assigned employee."

When do employees' representatives operate in the agency?

The right of collective bargaining is also a part of the working and employment conditions of the temporarily assigned employees, which must be at least as favourable under the Labour Code as a comparable employee of a using employer. At present therefore, it is becoming increasingly common that temporary employees are also members of a trade union organisation operating by the using employer. The using employer does not know about their membership in a particular trade union organisation, as the trade union organisation does not provide this information. In such a case, it may happen that the temporarily assigned employees are members of the trade union organisation operating by the using employer, and the recruitment agency as their actual employer is unaware of this at all. We are of the opinion that this does not automatically establish the trade union organisation also in a recruitment agency, because in order to operate by the employer, the trade union organisation must report it properly and legally prescribed method. Nevertheless, it may happen that such an announcement will be also made in a recruitment agency, for example in a situation where a larger number of the employees of recruitment agency become members of a trade union organisation or when it is appropriate for employees' representatives for a certain reason.

In addition to the trade union organisation, employees of the agency for temporary employing can, of course, depending on the number of employees, also set up a working council or to choose a working trustee. The involvement of employees' representatives may also entail the advantage for the recruitment agency that it may conclude an agreement on serious operational reasons.

How to solve the current situation?

In the event that there are serious operational reasons on the side of the using employer, for which it is possible to agree with the employees' representatives to pay 60% of average earnings, for the agency for temporary employing the following

options become available:

Termination of the temporary assignment

The first option to deal with the coronavirus epidemic is to terminate the temporary assignment of a particular employee to the using employer, because the using employer cannot provide work to the assigned employee for serious operational reasons that occurred by him and subsequently temporary assigning the employee to another using employer (if it is possible) or eventually a termination of employment with the employee.

Conclusion of a specific agreement on serious operational reasons between the employer of the temporarily assigned employee and the employees' representatives

As mentioned above, in the event that employees' representatives are formed in the recruitment agency or a notice of the operation employees' representatives of the using employer in the recruitment agency, the agency may conclude a specific agreement on serious operational reasons and reduce the wage compensations granted to employees throughout the duration of the obstacles to work.

Change of contractual relationship with the using employer

We understand that the main purpose of the temporary measures is to do everything in order to return business to its original state, and hence the number and composition of employees. Thus, many times even in this situation, employers are not interested in losing reliable employees, even from temporary ranks. However, if using employers are supposed to pay to the temporarily assigned employees the wage in the amount of 100% of their average earnings while paying the primary staff just 60%, it is most likely they would try to terminate the temporary assignment of those employees. A suitable solution is therefore also a modification of the contractual relationship between the using employer

or an agency, defining that during the existence of serious operational reasons, due to which it is not possible to assign work to the temporarily assigned employees, the using employer will only reimburse costs at least in the amount of 60% of their salary to the agency, even if the agency would be obliged to pay 100% of the wage compensation. In this way, the loss would be fairly spread between the agency and the using employer in order to maintain the continuation of cooperation.

Based on our practical experience, we are aware that, in practice, there is currently a one-sided reduction on the wages of the temporarily assigned employees by the agencies for temporary employing, regardless of whether there are employees' representatives in the agency. However, if an employee had a wage amount fixed in the employment agreement during his temporary assignment to a using employer, in our opinion, it cannot be unilaterally reduced without concluding an agreement on the change of working conditions, regardless of the fact that comparable employees of the using employer may receive lower wages.

First measures – "LEX CORONA package" (published on 27.3.2020)

The hot topic of these days are the expected innovations and changes that can help employees, employers, and self-employed people, which are concerning the economy of social measures and legal protection in the Slovak Republic at the time of coronavirus.

The National Council on 25.3. 2020 has approved the first package of measures under "LEX CORONA", and in particular the following:

1. Act on certain emergency measures in relation to the spreading of dangerous contagious human disease Covid-19 and in the judiciary

Suspension of the period

Pursuant to the Act, from the effective date of this Act until 30.04.2020, the limitation periods and periods after which the right expires (time-limits) in private-law relationship swill not expire. This also applies to the periods laid down by the law or determined by the court for the performance of a procedural act in the proceedings before the court by the parties.

As regards to the limitation periods and time-limits, which have expired after 12.03.2020until the date when this Act enters into force, they shall not expire earlier than 30 days after this Act will entry into force.

In practical life, it may obviously apply also to the common complaint periods for purchase agreements not only in commercial relationships but in civil ones as well when it comes to the consumer right for a withdrawal or a replacement of the claimed product.

Not to forget that it also concerns labour relations, where is a number of time-limits by which non-exercises the right will simply expire, so for example, the possibility of dismissing the employee for the breach of work discipline within two months from the day when the employer became aware of the reason for termination, shall extend.

"Kurzarebeit still on its way for large employers."

Per rollam decision-making in case of collective bodies

Collective bodies of legal persons constituted under civil or commercial law may at the time of an emergency situation or the state of emergency vote by correspondence or allow their members to participate in meetings by electronic means, even if this does not follow by their internal rules or statutes.

This provision has a particular importance for the proper functioning of companies, in terms of deciding the necessary matters at the general meeting, where only the period for calling these bodies is excessively long.

This also has a great influence on the employees' representatives decision-making process, especially on traditional election of the trade union organizations.

Public hearings

In times of an emergency situation and the state of emergency, court hearings will only be conducted to the necessary extent, public participation in such hearings may be excluded for the health protection reasons.

Application for the initiation of insolvency proceedings

The period for filing a bankruptcy application for the initiation of insolvency proceedings shall be extended to 60 days if the extension was between 12.03.2020 and 30.02. 2020.

Prohibition of pledge and auction reinforcement

Until 30.02.2020, the pledge enforcement cannot be exercised. The auctioneer, the court enforcement officer and the trustee are obliged to refrain from auctioning.

Procurement

There is a restriction on the prohibition of concluding the agreements in terms of the procurement with entities who did not sign in the register of public sector partners in the case of agreements concluded for the purpose of ensuring life and health protection in times of the state of emergency or an emergency situation if (except for low value agreements) at the same time the conditions for a direct negotiated procedure due to an extraordinary event have been fulfilled.

Changes in the personal data protection

In times of emergency situation or medical state of emergency, it should be possible to make available to the Public Health Authority of the Slovak Republic identification, operational and location data subject to telecommunications secrecy for the purpose of collecting, processing and storing it to the extent necessary to identify individuals for life and health protection in a causal link with the occurrence of a pandemic or the spreading of a dangerous contagious human disease. The Public Health Authority of the Slovak Republic will be authorized to collect, process and store these data for the duration of an emergency situation or the state of emergency, but no later than till 31.12.2020;

Act no. 355/2007Coll. on the Protection, Support and Development of Public health contains several obligations related to the movement of a specific person and consequently this Act allows to impose sanctions for violation of the ordered quarantine, for failure to notify their capacity of health or other measures, such as a prohibition on mass events or a prohibition of professional activity. Location data can thus be used by the Public Health Authority to prove the committing of the offense.

Social measures and labour law field

Despite many proposals for measures that could introduce the expected and necessary measures in favour of employers and sole traders, specific measures have not yet been approved to the extent seen in the Czech Republic, Austria or Germany. These are so called "kurzarbeit" that allows employers to retain their employees. The state usually assumes its own costs such as wages and levies in order to enable survival of the companies. Kurzarbeit is able to temporarily relieve the economy and preserve jobs.

Such a measure has not yet been adopted in Slovakia.

As of 25.3.2020, the Parliament adopted the following measures:

2. Amendment to the Social Insurance Act

- An employee who has been recognized as temporarily uncapable for the duration of the emergency situation, the state of emergency or the state of alarm because of a quarantine measure or isolation shall be entitled to the sickness benefit from the first day of temporary incapacity for work. The amount of the benefit, which shall be 55% from the first day of the sickness benefit, will be provided by the Social Insurance Agency.

Currently, the first ten days of the sickness benefit are paid by an employer, with the first three days being 25% of the employee's daily assessment base and 55% of the employee's daily assessment base. The benefit claim is assessed by the physician, who shall be contacted by a telephone or an e-mail.

- Care rules currently applied to the parents and children, whose schools have been closed, are changing as well. The parent of a child who has not reached the age of 11 (up to 10 years) or 18 years in the case of a child with a long-term unfavourable health state will be entitled to the care benefit. In case of children older than 11 years of age and until the age of 16, the insurance company pays the care benefit if the physician confirms that the child's state of health requires all-day care. In this case, the insurance company will pay the care benefit for the entire duration of the care. On 26.03.2020, the social insurance institution published the conditions which a parent must meet in order to be able to pay him a care benefit. The social insurance institution also warns all policyholders who have claimed or are still claiming a care benefit in connection with the coronavirus pandemic that they shall send a declaration on honor to the relevant branch of the insurance company. It is a statement of facts necessary for entitlement to the payment of the care benefit for the respective month. The social insurance institution needs to know the exact days when each parent took care of the child.

Employees, compulsorily affiliated to health and pension insured self-employed persons, voluntarily affiliated to health insured, voluntarily affiliated to pension insured and voluntarily affiliated in unemployment insured persons are not obliged to pay sickness insurance, pension insurance and unemployment insurance from the first on the day of the need for personal and all-day treatment or personal and all-day child care until the end of the need for such treatment or care.

This measure can lead to chaos in the first few months, because if the employer is not aware of the care leave, he is also obliged to pay a possible obstacle at work in the amount of 100% or less. The employer is not entitled to unilaterally withhold or pay wages paid unjustifiably.

- During the duration of an emergency situation, the state of emergency or the state of alarm declared in connection with COVID-19, a citizen may apply for inclusion in the job seekers register also on the basis of an application submitted by electronic means without a qualified electronic signature.

3. Labour Code

Work performance for the purpose of holidays is already considered to be a period of care for a child less than ten years of age, who cannot for serious reasons be in the care of a childcare institution or school in which the child is otherwise cared, or has become sick or has been quarantined (quarantine measure).

4. Amendment to the Employment Services Act

Employers who will not be dismiss during an emergency situation, can thus get contribution on the posts from the state. The employer will have to maintain this post even after the end of the quarantine period. Details of the direct support are not yet known. Any sole trader who has had to stop or limit his activity in relation to measures against the spreading of coronavirus will also be eligible for the allowance.

5. Decision of the government of the Slovak Republic

According to the decision of the government of the Slovak Republic it is necessary to measure the temperature of employees and visitors when entering hospitals and employers' workplace with production (factories). The performance of this obligation is left to the creativity of employers.

Amendment to the Social Insurance Act (published on 28.3.2020)

Several amendments to the key legislation have been adopted to address the situation arising from the spreading of COVID-19, particularly in the areas of labour and social security law. On 25.03.2020, an amendment to the Social Insurance Act was adopted. We provide you below a brief overview of the amended provisions of this Act relating in particular to the treatment of care and sickness benefits, both in relation to employees and sole traders.

Care benefit

Based on the adopted preventive government measures, all primary, secondary schools and pre-school facilities were closed in the Slovak Republic. For this reason, the real so occurred a need for parents to care for their minors, usually on a full-day basis. In such a case, the parent could have been entitled to the so-called "care benefit", and that also in case the child is under 10 years of age. The same claim arose for the parent if the child has been quarantined –then the parent has been entitled to it for 10 days of quarantine.

Pursuant to the amended legislation, the period during which the care benefit is provided to the parent has been extended up to the whole duration of the quarantine or the closure of the school and pre-school facility. In addition, the parent of a child who has not reached 11 years of age or 18 years of age in case of a child with a long-term unfavourable health state will be entitled to the care benefit. In case of children older than 11 years of age and up to the age of 16, the insurance company pays the care benefit if the physician confirms that the child requires full-time care.

The social insurance pays care benefit in the amount of 55% of the daily basis of assessment, based on the parent's affidavit, which the respective parent is obliged to submit to the social insurance at the end of each calendar month. The affidavit should contain the facts necessary for the confession or duration of entitlement to the payment of care benefit for the respective month. The social insurance needs to know the exact days when each parent took care of the child.

"Employers are relieved of the costs incurred in respect of employees who are required to stay in quarantine."

In addition, we would like to inform sole traders that a parent who receives care benefit (an employee, a compulsorily affiliated to health insured self-employed person, a voluntarily affiliated to health insured self-employed person, a voluntarily affiliated to unemployment insured person) is not obliged to pay premium for the health insurance, pension insurance and unemployment insurance from the first day of day-long childcare until the end of the need for such care, i.e. for the period during which he receives care benefit. To put it simply, such a parent, in addition to the amount of the care benefit, will also save the cost of insurance payments without the parent's insurance being interrupted during this period, as it was before the amendment was adopted.

In addition, the amendment allows parents to take over each other in terms of taking care of their children. This means that for a certain period of closure of school facilities or quarantine, first one parent and then another one can take care of the child and consequently receive the care benefit.

Please note that the amended regulation may initially lead to some misunderstandings on the side of the employer, since if the employer is not aware of the care benefit drawing, the employer is also required to pay to the employee100% of the employee's average salary or less according to the agreement. In the event of such a concurrence of care benefit and wage compensation, the employer is not entitled unilaterally to deduct the amount of wage compensation paid unjustifiably (unless a written agreement on wage deductions has been concluded or a wage compensation in this case). In such a case, the employer would only have the option of enforcing the wrongly paid wage from the employee, which could be lengthy and inefficient. It is therefore in the interest of the employer to communicate with the employee and proactively determine (for example, by telephone) whether the employee is receiving the care benefit in the given period.

Temporary incapacity for work and sickness benefit

An employee who has been recognized as temporarily uncapable for work for the duration of an emergency situation, the state of emergency or state of the alarm because of a quarantine measure or isolation is entitled to sickness benefit.

According to the original legislation, the first ten days of the sickness benefit were paid by employer, with the first three days being 25% of the employee's daily basis of the assessment and 55% of the employee's daily basis of the assessment.

Pursuant to the amendment to the Social Insurance Act, employees who must stay in quarantine are entitled from the first day of quarantine to the sickness benefit amounting up to 55% of the daily basis of the assessment paid by the social insurance. This means that employers are relieved of the costs incur in respect of employees who are required to stay in quarantine, while at the same time increasing their earnings for the first three days of quarantine.

In this context, we consider it necessary to inform that the government intends to adopt in an accelerated legislative procedure a package of measures to assist entrepreneurs and sole traders. According to the publicized measures, it should be the provision in the amount of 80% of the employee's wage to companies whose operations have been compulsorily closed by order of the senior health official. In addition, the government also advised to provide contributions to sole traders and firms whose sales fell in March 2020 as a result of anti-coronavirus spreading measures. However, these measures have not yet been officially published on the government's website.

Financial measures (published on 3.4.2020)

On Wednesday, 2.4.2020, the National Council of the Slovak Republic approved a governmental bill on some extraordinary financial measures in connection with the spreading of dangerous contagious human disease COVID-19. We bring you an overview of these measures, which will come into effect on the day of publication of the Act in the Collection of Laws, which is expected in upcoming days on the following measures:

- in the field of taxes and accounting
- on financial assistance and
- measures for importing goods from abroad.

All these measures will apply as of 12.3.2020, when an emergency situation caused by the coronavirus has been declared in Slovakia and until the end of the calendar month in which the government withdraws the declaration of emergency situation (unless the longer duration is specified for individual measures; the government may extend the application of measures even after the emergency situation has been abolished).

1. Measures in the field of taxes and accounting

"Income tax declaration filing deadline postponed."

Income tax declaration and annual calculation

Income tax declaration that shall be filed within deadline that shall expire within a period of these measures (i.e. in particular the deadline of 31.3.2020, which applies to most taxpayers who have a fiscal year identical to the calendar year but also an extended deadline of 30.6.2020, if these measures continue during this time), **shall be submitted by the end of the calendar month following the end of the emergency situation** (when it is also necessary to pay the tax).

Within the same period, employers shall also carry out the annual calculation and income tax calculation for employees and shall deliver the documentation of these annual accounts to employees by the end of the second calendar month following the end of the emergency situation. Within this period of two months from the end of the emergency situation, the employer shall refund the difference between

the calculated income tax and the total withheld income tax in favor of the employee and pay the employee a bonus, tax bonus or part thereof and the tax bonus on paid interest or its part.

The taxpayer has the possibility to notify his tax administrator of the extension of the period for submitting the tax declaration by a maximum of three months (even without reason) or by six months (if he received the income from abroad). Should such a postponement period also expire during the duration of these measures, the obligation to submit a tax declaration and to pay the tax shall be postponed until the end of the calendar month following the end of the emergency situation. The extension based on the notification does not apply to taxpayers in bankruptcy or liquidation, such a taxpayer shall apply for an extension of the time limit, yet the tax administrator is not obliged to comply with such a request.

Electronic communication

Persons who are not required to communicate with the financial administration by electronic means using a certified electronic signature or through a designated electronic interface (e.g. VAT declarations) may make submissions and communicate with the financial administration via email and do not need to complete such submission in paper form (typically as for non-business individuals). In the case of errors in such filing, the financial administration will also communicate in the same form. In this context, we would like to point out that the burden of proof of a particular filing is still borne by the person making the submission and it is not clear how the email filing shall be proved.

Extension of deadlines

The failure to meet deadline during the application of these measures shall be forgiven if the taxable person takes such action at the latest by the end of the calendar month following the end of the application of these measures (for the deadline to file income tax return and paying the tax covered are governed by the above stated measures, not this general measure).

Service by hand delivery

ATTENTION, an important change occurs when delivering financial administration consignments that are destined to the addressee's hands. While applying these measures to the by hand delivery, it is sufficient for the post office to deliver a notice of deposit with a withdrawal period (or otherwise specified by the postal service itself!) after which the consignment is deemed to have been delivered irrespective of whether the addressee has been informed. **This means that the postman does not actually have to deliver the consignment, nor does it make a second attempt to deliver it, he can just announce its deposit at the post office.**

Suspension of tax proceedings

Tax proceedings initiated prior to the declaration of an emergency situation shall be suspended at the request of the taxpayer, the previously suspended proceedings shall not be continued and the tax proceedings initiated during the application of

these measures shall be suspended on the day following the initiation of the proceedings. Proceedings shall be suspended in the above stated cases automatically; the financial administration has no possibility to reject the interruption.

Although the legislature has not made a clear statement regarding the continuation of such interrupted proceedings, we consider that such interrupted proceedings will continue after the emergency situation caused by coronavirus has been abolished (as is quite clear from the explanatory memorandum to the bill).

However, the suspension of tax proceedings does not concern proceedings in which a refund of the tax overpayment is decided – the overpayments will therefore be refunded as before. Nor are there any interruptions to VAT deduction proceedings. In such cases, the proceedings may be suspended only if the personal involvement of a person who disagrees with his participation because of the pandemic is necessary for the proceedings.

Suspension of certain time limits

During the period of application of these measures, there shall be no time limit for the extinction of the right to levy tax, the right to enforce tax arrears or a limitation period for the enforcement of the tax arrears.

If during the period of application of these measures, the time limit for payment of the tax that shall be paid by the taxpayer expires by the end of the calendar month following the end of the emergency situation caused by coronavirus, such payment delays shall not be considered tax debt. Nor will the financial administration charge any interest on such late payments.

Torts

The taxpayer shall be relieved of his liability for a breach of the obligation to submit an additional income tax declaration within the prescribed period if that period has expired during the period of these measures and if the taxpayer fulfills this obligation by the end of the calendar month following the end of the measures. The fine for the higher tax under the additional tax declaration will only be calculated until the date of the declaration of the emergency situation.

The tax execution is postponed for the duration of these measures (however, the legal effects of acts performed during the declaration of the emergency situation until the effective date of the Act on these measures remain preserved).

Motor vehicles tax

The period for submitting the tax declaration and due date of motor vehicles tax which did not expire before the declaration of the emergency situation caused by coronavirus or started after its declaration, is considered to be met if the tax declaration is submitted and this tax is paid by the end of the calendar month following the cancellation of the emergency situation.

Administrative fees

Administrative fees for the acts and proceedings of administrative authorities necessary to mitigate the negative consequences of the COVID-19 pandemic are temporarily abolished. However, the legislature does not specify in any way what administrative fees shall be affected.

Measures in the field of accounting

Obligations under Act no. 431/2002 Coll. on Accounting as amended, for which the time limit was expired during the period of these measures, shall be deemed to be duly fulfilled if they are completed by the end of the third calendar month following the end of the state of emergency or till the time limit expiration of submitting the tax declaration (depends what will occur first!). However, the same applies in case the obligations under the Accounting Act could not be fulfilled for objective, personal or technical reasons due to the negative consequences of the COVID-19 pandemic if they are done within the same time limit.

The time limit for imposing fines under the Accounting Act is also suspended for the duration of these measures.

Other measures

In addition to measures intended for taxpayers, the legislature adopted measures allowing home office also for financial administration employees or postponement of the performance of the service evaluation and submitting asset declaration of financial administration employees within sixty days of the cancellation of the state of emergency.

2. Financial assistance

Financial assistance to entrepreneurs, as proposed by the government and approved by the parliament, is intended for small and medium-sized enterprises, i.e. entrepreneurs with less than 250 employees and whose annual turnover does not exceed EUR 50 million and / or the total annual balance sheet does not exceed EUR 43 million (and at the same time the European *de minimis* rules on state aid are not exceeded).

This financial assistance may be provided by the Ministry of Finance (not mandatory!) in the form of a loan security, or in the form of interest payments on a loan provided by the Export-Import Bank of the Slovak Republic (Exportno-importná banka Slovenskej republiky) or the Slovak Guarantee and Development Bank (Slovenská záručná a rozvojová banka, a.s.; **therefore, the financial assistance does not concern loans granted by commercial banks**).

"Financial assistance does not concern loans granted by commercial banks."

Details on how to apply for financial assistance will be determined by the Ministry of Finance.

Loan security

The Ministry of Finance may undertake to fulfill obligation to the bank instead of the entrepreneur if the latter fails to do so, but only if the entrepreneur:

a) is not a facilitator of employment for a reward or is not a temporary employment agency;

b) has no debt to the social insurance or health insurance company overdue for more than 180 days,

c) is not in bankruptcy or restructuring and

d) meets the conditions laid down by the bank.

If the Ministry of Finance fulfills the obligation to the bank instead of the entrepreneur, the Ministry will then be able to enforce this obligation from the entrepreneur together with interest (including the possibility to delegate the enforcement of the claim to other persons).

Payment of interest on the loan (so-called interest bonus)

The Ministry may grant an interest bonus to the employer if:

a) for the period specified in the loan agreement concluded between the bank and the small employer, he will maintain the level of employment specified in the loan agreement and

b) at the end of that period, the employer shall have no obligations for social insurance premiums, for compulsory pension savings contributions or for compulsory public health insurance overdue against the social insurance institution or the health insurance institution beyond the amount specified in the loan agreement.

The measures do not address the situation how the bank will proceed with entrepreneur if he fails to meet the conditions for interest bonuses, it is only stipulated that the bank will in this case be obliged to repay the interest to the Ministry. Thus, it can only be assumed that the agreement with the bank will in this case also regulate the obligation of the entrepreneur to pay interest additionally (even the explanatory report on the bill does not clarify the intention of the government in this case).

3. Measures for the importation of goods from abroad

For the duration of these measures, goods imported from abroad are exempt from payment of import duties and value added tax if these goods are distributed to people affected by coronavirus or COVID-19 disease free of any charge or for persons assisting in preventing the spreading of coronavirus or disease COVID-19 and these goods are imported by a charity organisation approved by the Ministry of the Interior of the Slovak Republic.

As a charity organisation or welfare association for the purpose of importing goods exempt from import duties and value added tax, the Ministry of the Interior shall approve applying person who, according to the data entered in a register kept by the Ministry of the Interior

a) provides health care, social assistance or humanitarian care,

b) supports the public benefit purpose of carrying out individually targeted humanitarian aid for an individual or group of people who are in danger of life or who need urgent assistance in a natural disaster, or

c) engages in any other activity of a charitable or welfare nature.

The second important amendment to the Labour Code (published on 3.4.2020)

On 02.04. 2020, the National Council of the Slovak Republic approved an amendment to the Labour Code, which substantially strengthens the employer's rights in relation to some necessary rapid measures during a pandemic emergency and other employment and social security laws.

The amendment to the Labour Code should be effective during an emergency situation, the state of emergency or the state of alarm and within two months of their withdrawal.

Below is a brief summary of the amendment:

"Employers now entitled to order home office."

1. Can the employer already direct the employee to do the „Home Office"?

From the effective date of the amendment to the Labour Code, the employer is entitled to order work from the employee's household if the agreed type of work permits it and if there are no serious operational reasons on the side of the employer that do not allow to work from home.

2. Notification of worktime schedule may be minimized

The employer is obliged to notify the employee of the new worktime schedule at least two days in advance, unless he agrees with the employee for a shorter period of time, and the new work schedule shall be valid for at least a week. According to the law that has been in force so far, the employer is obliged to notify the employee of the work schedule at least a week in advance and it shall be valid for at least a week.

3. Holiday no longer needs to be announced 14 days in advance

The employer is obliged to notify the employee of the draw of paid holiday at least seven days in advance and at least two days in advance if it is an unused holiday from the previous calendar year. This period may be shortened again with the consent of the employee.

4. Notice protection of employees in quarantine and those who day-long care of a natural person (mostly children)

The Labour Code extends the range of employees who are protected against notice by the employer.

The amendment to the Labour Code extends this heading and provides that the following employees will be protected against notice by the employer under the same conditions as employees during sick leave:

1. employees in quarantine and isolation;

2. employees personally caring of the sick family member day-long;

3. employees personally and day-long caring of a natural person.

If employees are absent at work for the above mentioned reasons, the employer cannot give notice to them. They are subject to a prohibition of notice.

5. Wage compensation during an obstacle to work without the consent of employees' representatives of 80% of the average wage

Under the amendment to the Labour Code, if an employee cannot perform work entirely or partially due to reducing or closing down of the employer's operations at the discretion of the competent authority or reducing or closing down of the employer's operations as a result of an emergency situation, the state of emergency or the state of alarm, it is considered to be the obstacle on the side of the employer and in this case the employee is entitled to a wage compensation of 80% of his average earnings, but at least in the amount of the minimum wage.

In the course of observations, when the draft law was discussed in the government of the Slovak Republic, the provision was added that this case does not apply if employers have concluded agreements with employees' representatives on serious operational reasons, on the basis of which the employer can provide a wage compensation of 60% of the average earnings. Thus, these agreements remain effective. In practice, this means that if an employer does not have employees' representatives, he shall provide the employee with a wage compensation of 80% of his average earnings from the effective date of the amendment to the Labour Code.

Postponement of loans repayment (published on 6.4.2020)

In agreement with the Slovak Bank Association, the Slovak government informed about news in repayment of loans in connection with the spreading of coronavirus. Another new feature will be the increasing in contactless payments from the current EUR 20 to EUR 50. The draft also provides the possibility of postponed payment of up to nine months free of charge. Banks will be obliged to postpone the repayment of the loan upon the client's request. The condition for postponement of installments due to the pandemic is that the applicant shall not be in delay in loan repaying for more than 30 calendar days as of the date of receipt of the application. Likewise, the debtor shall not be in default of at least EUR 100 for another loan with the same creditor.

The bank clients, who are natural persons, sole traders and small and medium-sized enterprises with up to 250 employees, may apply for the postponement of instalments. The application can be submitted by any of the loan debtors, which means that the application can be submitted not only by the person to whom the loan was granted, but also by the co-applicant. If the application complies with the requirements stipulated by law, the creditor, i.e. the bank, is obliged to allow the postponement of the installments and inform the debtor thereof. The granting of the postponement will be considered a change in the consumer agreement, but the debtor will not be in default with the postponed installments and the postponement shall not be considered a delay in the repayment of the loan in relation to the credit register. This means that the debtor will not create a negative enrollment in the credit register, which could otherwise cause problems for the clients in the future, for example in refinancing the loan. However, please note that the loan postponement does not apply to overdraft loans or credit cards.

At the same time, banks will have to inform the client of all the conditions for the postponement of installments. These are the data about the interest on the loan during the postponement period, the amount of interest or information on the procedure after the postponement. At the same time, the bank shall provide information that the debtor can start repaying the loan during the postponement of the installments and what will happen after the postponement of the installments' expiration. The creditor, i.e. the bank shall also include in the information other facts related to the postponement of

repayments, which have an impact on the total cost of the loan. The aim is for the debtor to realize that there may be some obligations with the repayment and that postponing of installments does not mean the debt relief. This week the government will discuss the draft and then it should be approved by the National Council of the Slovak Republic.

First aid to SME (published on 7.4.2020)

On 31.03.2020, the government of the Slovak Republic approved the conditions of the project to support the maintenance of employment at the time of the declared emergency situation, which for smaller employers and sole traders[2] means the possibility to obtain contributions from the state in connection with the pandemic situation and mitigating its consequences.

A self-employed person for the purpose of granting a contribution is considered to be a natural person who operates a trade, but also carries out activities under special laws, such as: tax advisors, attorneys, theaters, artists under the Copyright Act, self-employed farmers, etc.

"Mainly relevant for employers up to 250 employees only."

The state will provide a number of contributions to help bridge the impact of the emergency.

Starting from 06.04.2020, a part of these contributions can be requested online at https://www.pomahameludom.sk/, the second part of the contributions, which are dependent on the decrease in turnover, can also be requested on this website from 08.04.2020.

The first aid to entrepreneurs during this crisis represents two types of contributions, the first one only concerns employers who were / are obliged to suspend or limit their operational activities at the time of declaring an emergency situation, a state of emergency or a state of alarm under the Measure of the Public Health Authority of the Slovak Republic.

The second contribution concerns employers and self-employed whose turnover has fallen as a result of the declaration of an emergency situation, a state of emergency or a state of alarm.

1. Contribution for employers who were/are obliged to suspend or limit their operational activities at the time of declaration of an emergency situation, the state of emergency or the state of alarm under the Measure of the Public Health Authority of the Slovak Republic.

The allowance concerns only employers to maintain a job for employees to whom the employer cannot assign work because of an obstacle on the side of the employer (Section 142 of the Labour Code).

The allowance per employee is equal to the amount of wage compensation paid at the time of obstacles at work, at the same time not more than 80% of the average earnings of the employee paid at the time of obstacles at work and at the same time the amount of 1100 EUR at most.

It is therefore logical that the allowance cannot be claimed for employees who at the time of the emergency situation, i.e. from 13.03.2020, was on sick leave, took care benefit, was on holidays or worked in terms of home office.

EXAMPLE: If an employee was at home between 16.03.2020 and 31.03.2020 because the employer could not assign work under Section142 and his wage reimbursement was 600 EUR, he would receive a contribution of 480 EUR.

CONTRIBUTION 1 – to maintain a job for employers who were obliged to suspend or limit their operational activity and to maintain jobs

[2] A self-employed person for the purpose of granting a contribution is considered to be a natural person who operates a trade, but also carries out activities under special laws, such as: tax advisors, attorneys, theaters, artists under the Copyright Act, self-employed farmers, etc.

CONTRIBUTION 2 – to maintain a job for employers who were not obliged to suspend or limit their operating activity but had a fall in turnovers of at least 20% and would maintain jobs

Contribution 2 is also for self-employed persons who were obliged to suspend or limit the pursuit or operation of a self-employed activity or who were obliged to suspend or limit the pursuit or operation of a self-employed activity but who at the same time had a fall in turnovers by at least 20%.

EMPLOYER

The following are considered to be the employer:
- Legal person having its registered seat or registered seat of its organizational unit in the Slovak Republic
- Organizational unit of a foreign legal or natural person
- Legal or natural person carrying out activities under the Employment Services Act
- Sole trader
- Person operating according to special regulations
- Author, artist
- Private farm laborer.

EMPLOYEE

For the purpose of granting the allowance an employee is considered to be an employee in employment relationship.

CONTRIBUTION 1

The employer is entitled to an allowance for each employee to whom the employer cannot assign work because of an obstacle on the part of the side of the employer (Section 142 of the Labour Code).

The allowance per employee is equal to the amount of wage compensation paid at the time of obstacles at work, at the same time not more than 80% of the average earnings of the employee paid at the time of obstacles at work and at the same time the amount of 1100 EUR at most.

WARNING! Contribution cannot be claimed cannot be claimed for employees who at the time of the pandemic, i.e. from 16.03.2020, was on sick leave, took care benefit, was on holidays or worked in terms of home office.

EXAMPLE: If an employee was at home between 16.03.2020 and 31.03.2020because the employer could not assign work under Section142 and his wage reimbursement was 600 EUR, he would receive a contribution of 480 EUR.

A precondition for granting the contribution for an employer's or self-employed person who is an employer is to pay the employee a wage compensation of 80% of his average earnings and the obligation two months after the month for which he is applying to not to terminate employment relationship or to not make any legal act that may terminate the employment relationship with the employee by notice or agreement for the reasons specified in Section63 para. 1, par. a) and b) of the Labour Code.

The conditions to be submitted by the employer are indicated directly on the above-mentioned website and are relatively detailed, but can be replaced by a declaration on honor. Statements for individual employees or for wage compensation is possible to enter directly through the statement (excel) on the page. The measures explicitly state that

The applicant for the contribution may be only the entity that was established and started to operate its activities by 01.02.2020 at the latest. The facts, which the applicant proves by the declaration on honor, will be subject to subsequent controls.

The refunds of an employer who has paid employees a compensation of 60% of their average earnings under collective agreements will be taken into account when paying for the relevant period according to the actual wage compensation paid, up to a maximum of 880 EUR (lowering the ceiling of 1 100 EUR by 20%).

An employer who has paid employees 100% of their average earnings under the Labour Code (until the amendment to the Special Provisions at the time of emergency situation came into effect) will receive a contribution of 80% of the employee's average earnings for the relevant period up to 1 100 EUR.

The maximum total amount for one applicant is 800 thousand EUR for the project implementation period.

CONTRIBUTION 2

The allowance is intended for employers and self-employed persons who had a fall in turnovers at the time of the declaration of an emergency situation, state of emergency or the state of alarm.

The maximum total contribution for one employer in the second group of employers or for a self-employed person who is an employer is 200,000 EUR per month.

Contribution for March 2020

The allowance per employee is equal to the amount of wage compensation paid at the time of the obstacles at work, at the same time not more than 80% of the average earnings of the employee paid at the time of the obstacles at work and at the same time the maximum:

- 90 EUR when turnover fell by 20% or more
- 150 EUR when turnover fell by 40% or more
- 210 EUR when turnover fell by 60% or more
- 270 EUR when turnover fell by 80% or more.

Contribution for April 2020

The allowance per employee is equal to the amount of wage compensation paid at the time of the obstacles at work, at the same time not more than 80% of the average earnings of the employee paid at the time of the obstacles at work and at the same time the maximum:

- 180 EUR when turnover fell by 20% or more
- 300 EUR when turnover fell by 40% or more
- 420 EUR when turnover fell by 60% or more
- 540 EUR when turnover fell by 80% or more.

The self-employed person is entitled to a flat-rate allowance to compensate the lost profit from the earning activity in the same amount as mentioned in the paragraph above.

For an entity that does not account in double entry accounting (accounts in single entry accounting or keeps a record of income, applies flat-rate expenses), this is the amount of actual income received in the account or cash register.

The refunds of an employer who has paid employees a compensation of 60% of their average earnings under collective agreements will be taken into account when paying for the relevant period according to the actual wage compensation paid, up to a maximum of 880 EUR (lowering the ceiling of 1 100 EUR by 20%).

An employer who has paid employees 100% of their average earnings under the Labour Code (until the amendment to the Special Provisions at the time of emergency situation came into effect) will receive a contribution of 80% of the employee's average earnings for the relevant period up to 1 100 EUR.

The maximum total amount for one applicant is 800 thousand EUR for the project implementation period.

Conclusion

It is evident that the above-mentioned contributions are only for small entrepreneurs up to 250 employees, because the maximum amount of the contribution is relatively low and we know from our experience that the total labour costs for about 1000 employees range is from 1 up to 2 million EUR.

These employers are not affected by the aforementioned measure of the government of the Slovak Republic and are still waiting for so-called Kurzarbeit along the lines of Germany or Austria, where employees receive their wages in almost full amount.

In companies that have lost orders due to the current situation, Kurzarbeit is an excellent measure that can prevent collective redundancies. By taking on personnel costs, the state will enable employers to survive. As the situation improves, employers will be ready to resume production and services. Kurzarbeit is a fair social measure, and throughout the entire duration of Kurzarbeit, employers are committed to work at least to some extent, starting from around 20%. Employers are committed to maintain jobs and not to dismiss employees not only during the Kurzarbeit regime, but for several months after it has ended.

Postponement of contributions for entrepreneurs and self-employed persons (published on 7.4.2020)

On Friday April 3, 2020, the National Council of the Slovak Republic approved another amendment to the Social Insurance Act in response to the corona crisis and its impact on employers. Pursuant to this amendment, employers and self-employed persons are entitled to postpone their contributions to the social and health insurance institutions for the month of March until the end of July, namely until 31.07.2020. However, the option of postponement does not apply to all employers and self-employed persons, but only to those who have decreased their sales by 40% in March. The specific method of determining the decline in sales or income from business will be determined by government directive. Thus, entrepreneurs will not be registered as defaulting debtors in the event of a postponement, which could complicate their efforts to obtain other contributions enshrined in particular by the amendment to the Labour Code.

This postponement shall also apply if the employer or the self-employed person as the insurance payer is no longer the employer or the self-employed person at the time the premium is paid. However, the possibility of postponement does not relate to the insurance premium which is paid by the employee but contributed by the employer. The employer is obliged to continue to pay such premiums at the original due dates.

Employers whose employees carry out hazardous work are also entitled to postpone the obligation to pay contributions to supplementary pension savings for these employees. The employer pays and contribute allowance of at least 2% of the employee's gross salary, with details on the payment of contributions and the due date of contributions what is standardly stipulated in the collective agreement. Likewise, the state allows postponement of the employer's contribution to the supplementary pension savings for an employee of the third or fourth work category.

Time limits and deadlines, for example, for the employee's registration in the register of insured people and savers of old-age pension saving and outturn account, remain unchanged. If they were postponed, the social insurance would not have updated data on employees' insurance and their basis of assessment, which could be a problem in assessing their entitlement to social insurance benefit

Legislative changes in occupational health and safety and assessments of medical fitness for work (published on 8.4.2020)

In connection with the gradual adoption of legislative measures related to the emergency situation declared as a result of the spreading of the COVID-19 virus, on 02.04.2020 the National Council of the Slovak Republic approved an amendment to Act no. 124/2006 Coll. on health and safety at work (hereinafter the "Occupational Safety and Health Act"). The aim of this amendment is to relieve employers and entrepreneurs in times of crisis from the fulfillment of their obligations under this Act, which, objectively, notwithstanding the measures taken in a crisis situation, cannot be met or would be particularly difficult or disproportionately burdensome. The amendment is effective from 04.04.2020.

On 03.04.2020 also the Act on emergency measures in the field of health, which supplemented several laws, of which the most important for employers is the Act no. 355/2007 Coll. on the Protection, Support and Development of Public Health(hereinafter the "Public Health Protection Act"), which regulates the assessment of the health capability of employees for work. The amendment is effective from 06.04.2020.

Please find the overview of the changes that have been adopted:

The Occupational Safety and Health Act

1. Postponement of employer's information duties

If during the duration of an emergency situation, the state of emergency or the state of alarm declared in connection with COVID-19 (hereinafter "***crisis situation***"), an employer recruits an employee, allocates him to another workplace or job, or introduces new technology, workflow or the work equipment, **he is not obliged to acquaint the employee with:**

i legislation and other regulations to ensure safety and health at work;

ii the principles of safe work, health protection, safe behavior and safe working practices;

iii existing and foreseeable hazards and threats, with impacts that they may cause to health and protection against them;

iv prohibiting entering the area, staying in the area, and engaging in activities that could directly endanger the life or health of an employee;

v a list of works and workplaces prohibited to pregnant women, mothers up to the end of the ninth month after the childbirth, breastfeeding women and juvenile employees.

(hereinafter "***OSH rules***").

The postponement of the employer's obligation to inform employees about OSH rules is only possible if in a crisis situation these obligations cannot be fulfilled objectively and at the same time failure to fulfill these obligations will not immediately and seriously endanger life and health.

If the employer is unable to fulfill the information duty in a timely manner during the duration of the emergency situation, he is obliged to fulfill these obligations additionally as soon as possible, at the latest within one month from the date of the recall of the crisis situation.

2. Suspension of time limits for the fulfillment of obligations concerning the employees

The amendment introduces a mechanism of temporary suspension of time limits to fulfill the following obligations of the employer:

vi repeatedly acquainting employees with OSH rules at intervals specified in the internal regulation pursuant to § 7 (5) of the Occupational Safety and Health Act (at least every 2 years, unless the law imposes a shorter deadline);

vii ensuring the participation of employees in the reconditioning stay according to § 11 par. 12 and 13 of the Occupational Safety and Health Act;

viii provision of preventive medical examinations for employees pursuant to Section 16 (6) of the Occupational Safety and Health Act[3];

i provision of updating training for employees pursuant to Section 16 (8) of the Occupational Safety and Health Act.

For the above stated obligations, if the deadline for meeting them falls on the duration of the crisis situation, it is considered that the deadline for meeting them during the duration of the crisis situation is suspended (i.e. it does not

[3] This explicitly concerns people who by law need to undergo medical examinations which are necessary to maintain the validity of the evidence of professional competence for the performance of the activities listed in Annex no. 1a. q) to s) of the Occupational Safety and Health Act (e.g. certificates of inspection technicians, certificates for repairs of reserved technical equipment, certificates of service of technical equipment, etc.).

lapse). In addition, the law maker has introduced a rule according to which all suspension periods which are due to suspension have to run within one month after the end of the crisis situation, as well as the deadlines which actually fell to one month from the date of the end of crisis situation, shall stay maintained, although they were not suspended, if the employer fulfills this obligation no later than one month after the end of the crisis situation.

Example:

The crisis situation (in particular an emergency situation) in Slovakia is valid from 12.03.2020(from 6.00 am) and lasts until further notice. For example, if the time limits for the employer's obligation to repeatedly acquaint the employees with the OSH rules expired on 15.04.2020, the period of 35 days between the beginning of the crisis situation and the date on which the employer's obligation to repeatedly acquaint the employees with the OSH rules was supposed to take place, shall be suspended and will not start to lapse until the day following the end of the crisis situation. That means if, for example, the crisis situation is revoked on 01.06.2020, the period for employer's obligation to repeatedly acquaint the employees with the OSH rules would start on 02.06.2020 and expire on 06.07.2020.

If in the same situation (i.e. the crisis situation is revoked on 01.06.2020), for example, the deadline for employer's obligation to repeatedly acquaint the employees with the OSH rules would expire within one month of the date of the withdrawal of the crisis (e.g.15.06.2020),the employer does not need to fulfil the obligation on such date, but may fulfil it at latest in one month after the crisis situation has been revoked, i.e. until 01.07.2020.

In case of the employer's obligation to repeatedly acquaint the employees with the OSH rules, same as in case of postponement of the employer's information duty under sec.1hereof, the suspension period can apply only if it is objectively impossible to fulfill the obligation to notify within the original period and at the same time if failure to do so does not immediately and seriously endanger life and health.

The deadlines for fulfilling the remaining obligations mentioned above are unconditional, since they are obligations which fulfillment is not entirely within the competence of the employer, but is necessarily linked to the cooperation of third parties or facilities which activity is or may be limited or suspended in a crisis situation.

3. Suspension of time limits for official examinations, technical examinations, professional examinations and inspections of working equipment

A procedure similar to that for employees' obligations under sec.2 hereof has also been introduced for the time limits for the performance of official examinations, technical examinations, professional examinations and inspections of working equipment established pursuant to Section9 (1) par. a) and Section13 (3)of the Occupational Safety and Health Act relation to Section9 (2)of directiveno.508/2009 Coll., which lays down details to ensure safety and health protection at work with technical equipment pressure, lifting, electric and gas and which also lays down technical equipment that is considered as reserved technical equipment, as amended and consequently to Section5 (3) of the Slovak government regulation no. 392/2006 Coll. on minimum safety and health requirements for the use of work equipment. These provisions do not apply to maintenance which is important from the point of view of ensuring the safe operation of technical equipment or work equipment. The condition for suspension and maintaining time limits is again the objective impossibility of fulfilling the obligation and protecting the life and health of employees. At the same time, the employer is obliged to ensure the highest possible level of safety of the work equipment operated, including dedicated technical equipment. Failure to comply with this obligation cannot directly and seriously endanger life and health. The risk of this threat is at the discretion of the employer.

Public Health Protection Act

The amendment introduced that in times of crisis situation **employers do not have to fulfill certain obligations related to the occupational protection of health**(e.g. health risk assessment at work, reporting obligations, working rules to protect and support the health of employees at work, etc.), except the obligations to take measures in order to reduce exposure of

employees and residents to labour and working environment factors. **The employer is obliged to fulfill these obligations immediately after the end of the crisis situation.**

An important change is that, during the crisis situation, the medical capability for work is not assessed and medical preventive examinations in relation to work with employees are not performed. This applies in principle to any preventive medical examinations performed by the occupational health service, the activity of which in this respect is also directly suspended by law. **The assessment of the medical fitness of a natural person applying for employment during a crisis situation, shall be replaced by a declaration on honor. The declaration must be replaced by an assessment of medical examination for work no later than 90 days after the end of the crisis situation.** Regarding repeated assessment of the medical capability of a person who is already working with the employer, a declaration is not necessary by law, but we still recommend to secure it. Unlike jobseekers whose medical examination to work must be assessed no later than 90 days after the end of the crisis situation, the law does not provide a specific time limit for medical examinations of employees and therefore the above mentioned general rule, according to which this obligation shall be complied immediately after the crisis, must be applied.

Home office as the right of the employees (published on 9.4.2020)

At present, many companies in the prevention of the spreading of respiratory disease COVID-19 allow their employees to work from home, the so-called home office. However, is the employer always obliged to allow the home office or can he otherwise prevent the spreading of the pandemic as a precaution?

> ***"Recent Labour Code amendment introduced the right of an employee to work from home during COVID-19 emergency."***

Before the outbreak of the pandemic, the home office was considered solely as a benefit voluntarily provided by the employer. In this case, the home office was agreed with the employee in terms of the employment agreement, e.g. usually by specifying its number of days per week or month. However, following the outbreak of the pandemic, employers were required to take measures to prevent the spreading of the pandemic under the current legislation on occupational safety and health. In addition, the approved amendment to the Labour Code introduced **the right of an employee to work from home during this COVID-19 emergency, if the agreed type of work permits it and there are no serious operational reasons on the employer's side that do not allow to work from home**(new Section 250b (2) of the Labour Code). The amendment does not define in detail which serious operational reasons may arise on the side of the employer in order not to allow the employee to work from home. However, we believe that in routine administrative work, the employer should allow the home office at the time of the pandemic in accordance with the new provision of the Labour Code.

In connection with work from home, it should not be forgotten that the employer is also obliged to provide the employee with the equipment necessary for the work from home (depending on the type of work, e.g. laptop, mobile, etc.). At the same time, the employer is still responsible for the security of personal data and is therefore obliged to take all necessary measures to prevent unauthorized leakage of personal data. Some employers are preventing work from home precisely

because they are not able to provide their employees with these technical conditions (i.e. they do not have enough notebooks, they are concerned about data security, etc.). Since there are no uniform rules on how the new provisions of the Labour Code are to be applied, the actual assessment may vary from case to case. However, please note, that if an employer does not allow the employee to take home office, in some circumstances this may be considered as an obstacle to work on the side of the employer where the employee is entitled to 100% of his average monthly earnings. This is related to the fact that the obstacle to work on the side of the employer is defined according to the Labour Code quite broadly, including various obstacles of technical and organizational nature and therefore the employer's unwillingness to allow the home office can be considered as such an obstacle.

On the other hand, the employee's right to home office, in our opinion, cannot be understood as an absolute employee's right, it is a right which performance is limited both by the nature of the work and by the operating conditions of the particular employer. A serious operational reason on the side of the employer can be given, for example, in the situation of the beginning of a new project or for other reasons, due to the specific nature of the work of a particular employee, when the employer does not allow the employee to work from home. In such a case, the arbitrary absence of an employee at work could be regarded as an unjustified absence with possible sanctions as in the case of a breach of discipline.

However, the employer shall take into account that if he does not allow home office in the current situation, he will have to prove e.g. before the Labour Inspectorate or in any court proceedings that, in his particular case, the home office is not allowed due to serious operational reasons or the nature of the work performed by the employee, and also that he has fulfilled his preventive obligation under Section 5 of Act No. 124/2006 Coll. on Occupational Safety and Health, including the obligation to continually assess the risks for ensuring occupational safety and health and to take other related measures. In practice this means that if an employer, for example, does not allow a home office in relation to a particular employee or group of employees, he should take other measures to eliminate social contact (concrete measures should be proposed by an occupational safety and health technician in cooperation with the occupational health service, which is obliged to provide such counseling directly by law in times of emergency).

In view of the stated above, we recommend employers to issue an internal directive on how to work from home where specific conditions for work at home are regulated (e.g. rules on how employees will succeed each other in the office when working at home during a pandemic etc.). If the employer already has IT directive or Data protection directive, we recommend updating it with provisions on how to work from home if necessary.

Changes of time limits governed by Ministry of Interior (incl. residence permits; published on 15.4.2020)

On 7.4.2020, the National Council of the Slovak Republic approved a government bill on some measures within the remit of the Ministry of the Interior of the Slovak Republic in connection with the disease COVID-19. With effect from 9.4.2020, 17 acts within the remit of the Ministry of the Interior have been amended, the purpose of which is to reduce the risk to public health while at the same time affecting citizens' rights the least under the restricted regime of certain public authorities.

In particular, the following changes were made:

- validity extension of some cards and documents
- changes in the commence of time limits in the field of trade business activity
    - in the section of vehicle registration
    - in relation to the residence of foreigners

"Validity/time limits changes concern residence permits, identity cards, driving licenses, firearms licenses, papers and licenses in the field of security services, trade licenses, vehicle registrations and others."

Validity extension of some cards and documents

The validity of certain documents that shall expire during and after the withdrawal of the crisis situation, namely identity cards, driving licenses, firearms licenses, papers and licenses in the field of security services, certificates of proficiency in the field of fire protection, etc. For example, regarding the identity cards, the 180-day time limit for applying for an identity card due to its expiration does not apply anymore. Similarly, in order to limit the personal contact, it has been introduced that identity cards issued during the emergency situation are delivered directly to the citizen's address (there is no need to personally collect them at the Police department) and that shall be issued without paying the administrative fee for delivery.

On the contrary, the validity of passports is not extended. During the crisis situation, the Ministry of the Interior or the consular authority may also limit the receipt of applications for the passport issue, e.g. only for receipt of applications for the rapid issue of a passport till two days or ten working days.

Changes in the commence of time limits

1 Trade business activity

During the crisis period until its withdrawal, the minimum period for suspension of a trade is reduced from the original six months to one month. An entrepreneur may decide to suspend a trade during the crisis situation for any period, but no longer than for3 years.

2 Vehicle registration

During the crisis situation, vehicle owners/holders are not a subject to the vehicle registration obligations. For example, under the act in question, a vehicle owner who has not yet registered the vehicle in the vehicle register, does not have to register it within 30 days of its acquisition. Similarly, there are no time limits commence in relation to the obligation to notify a change in the vehicle ownership, to notify other changes in the vehicle registration, such as a change in colour, registration of a towing device, etc.). The time limits for fulfilling these obligations shall be extended for the period following the withdrawal of the crisis situation. The length of the time limits by which the obligations of vehicle owners/holders is extended depending on the end of the crisis (for example, in event of an end of the crisis by 30.4., the obligations have to be fulfilled within 1 month).

3 The residence of foreigners

The adoption of the actin question also amended the Act on the Residence of Foreigners. Foreigners who are unable to travel due to the crisis situation and their residence in the territory of the Slovak Republic shall expire, are thus protected from the consequences that their unauthorized residence would otherwise cause.

All temporary residences, permanent residences or tolerated residences that shall expire during or within one month after the crisis situation, remain valid for two months from the end of the crisis (for example, if the crisis situation will endon30.4, the residence remains valid until 30.6.). At the same time, any third-country national who has legally entered the territory of the Slovak Republic is entitled to stay in the territory of the Slovak Republic until one month after the end of the crisis situation.

In relation to the residence of foreigners, the following also applies temporarily:

a) **the time limit of the validity of documents submitted in the procedure for granting a residence permit or in the renewal residence procedure shall be extended -**it is sufficient that the submitted documents fulfill the condition that they are not more than 90 days older at the time of the imposed measures related to the threat of the public health. This means that if a third-country national applies for a residence permit or a renewal of residence after the end of the imposed measures, in this case the police shall accept the submitted documents even if they are already older than90 days. ATTENTION, at the same time there is a condition that the third-country national shall not leave the territory of the Slovak Republic from the end of the crisis situation to the moment when he will apply for the residence permit – that has to be fulfilled;
b) for renewal of the residence for the purpose of business, a third-country national is not required to demonstrate income after tax of the company for the previous fiscal period during which the crisis situation lasted, at least in the amount of sixty times the subsistence minimum – the declaration on honor, stating that his business was affected by the duration of the crisis situation during the previous fiscal period is sufficient;
c) **certain time limits laid down by the law on the duration of the crisis situation are extended** (for example, in the event of employment termination, the residence for the purpose of employment will not cease after 60 days);

d) **during the crisis situation, the time limits do not commence for reporting the change** of name, surname, personal status, nationality, travel document data or identity card and exchange of travel document or identity card of an EU citizen and his family member (standard time limit: 5 working days from the day when the change occurred), **for submitting** health insurance in the territory of the Slovak Republic, a medical report confirming that the third-country national does not suffer from any disease which could threaten public health (standard time limit: 30 days from the residence card receipt), **for announcing** the loss, theft or damage of a travel document or residence document for an EU citizen and his family member (standard time limit: 5 working days from the day on which the person became aware of the loss, theft or damage), etc.;
e) **the duration period of the crisis situation is not counted in connection with the termination of the residence due to the non-arrival of the third-country national to the territory of the Slovak Republic within 180 days from the granting the residence permit**, i.e. temporary residence permit shall not expire if the third-country national does not enter the territory of the Slovak Republic within 180 days of the temporary residence;
f) postponing the execution of the decision on administrative expulsion during the crisis situation;
g) if a third-country national is staying outside the territory of the Slovak Republic during the crisis situation, he may submit an application for the renewal of temporary residence or an application for permanent residence for an unlimited time period to the consular authority of the Slovak Republic.

Second aid to employees, all employers, sole traders (self-employed persons; published on 16.4.2020)

Large employers no longer wait for Kurzarbeit, the government has extended the range of aid to them

"Help for large employers – "Kurzarbeit" in Slovakia."

On 14.4.2020, the government of the Slovak Republic approved the extension of the conditions of the project to support the maintenance of employment at the time of the declared emergency situation, for all employers and sole traders. [4]

The state will continue to provide a number of contributions to help bridging the impact of the emergency situation and these contributions can still be requested online at https://www.pomahameludom.sk/.

1 The contribution for all employers, who retain jobs even in case of suspension or restriction of their operations at the time of the declared emergency situation

The employer has the possibility to choose one of two options and cannot change it during granting of the contribution.

a) reimbursement of the wage compensation of an employee to whom the employer cannot assign work due to an obstacle on the side of the employer up to a maximum amount of 80% of his average earnings, up to a maximum of EUR 880 (i.e. it concerns employees who do not work);

b) a flat-rate contribution to partially cover the wage costs for each employee, depending on the fall in sales in the amount shown in the table below:

[4] A self-employed person for the purpose of granting a contribution is considered to be a natural person who operates a trade, but also carries out activities under special laws, such as: tax advisors, attorneys, theater performers, artists under the Copyright Act, self-employed farmers, etc.

fall in sales (categories)	March 2020
less than 10 %	EUR 0.-
from 10% - 19,99 %	EUR 90.-
from 20% - 29,99 %	EUR 150.-
from 30% - 39,99 %	EUR 210.-
from 40 % and more	EUR 270.-

fall in sales (categories)	April, May 2020
less than 20 %	EUR 0.-
from 20,00 - 39,99 %	EUR 180.-
from 40,00 - 59,99 %	EUR 300.-
from 60,00 - 79,99 %	EUR 420.-
from 80 % and more	EUR 540.-

The contribution cannot be granted to employees who receive social security benefits, i.e. sickness benefits and care benefits or are on annual leave.

A precondition for an employer's contribution to be granted is the obligation to not to terminate employment relationship or to not make any legal act that may terminate the employment relationship with the employee by notice or agreement for the reason of organizational changes two months after the month for which the contribution is requested.

In this case an interesting situation may arise if employers have concluded agreements on serious operational reasons with employees' representatives for compensation, for example, in the amount of 60% of the average earnings, the state will reimburse the wage compensation, but attention – only to the amount set by this agreement.

Given that the state will reimburse 80% of the employee's average earnings under this measure, it is still worth considering having an agreement on serious operational reasons below the amount of 80% of the average earnings.

2 Contribution for employers who suspended their operational activities at the time of declared emergency situation, the state of emergency or the state of alarm, based on the measure of the Public Health Authority of the Slovak Republic.

The statement introduced on 31.3.2020 concerning contribution in the amount of 800.000 EUR per one employer is abolished. The contribution may be granted to compensate an employee's salary at the range set by a collective agreement or an agreement on serious operational reasons with employees' representatives throughout the entire period of granting the contribution.

3 Contribution for self-employed persons who were obliged to suspend or restrict the performance or operation of a self-employed activity or who had a fall in sales

The condition is that it concerns just self-employed person who:

a) has been affiliated to sickness and pension insurance (both compulsorily and voluntarily) for the period up to 31.3.2020 and is insured after that date; or

b) draws so-called wedge holidays under Act no. 461/2003 Coll. on Social Insurance as amended that grants the wedge holidays for each self-employed person from the beginning of business performance till 1st of July of the following calendar year (after the year in which the business performance was started). It is not possible to grant a contribution to self-employed person who also has an employment relationship or a cancelled or suspended trade.

The contribution to compensate the loss of earnings for self-employed person in relation to a fall in sales compared to the same period in 2019 (or as the average for 2019 in case the self-employed person did not operate in that period) illustrates a comparable period for February 2020, as follows up to the maximum amount:

fall in sales (categories)	March 2020
less than 10 %	EUR 0.-
from 10% - 19,99 %	EUR 90.-
from 20% - 29,99 %	EUR 150.-
from 30% - 39,99 %	EUR 210.-
from 40 % and more	EUR 270.-

fall in sales (categories)	April, May 2020
less than 20 %	EUR 0.-
from 20,00 - 39,99 %	EUR 180.-
from 40,00 - 59,99 %	EUR 300.-
from 60,00 - 79,99 %	EUR 420.-
from 80 % and more	EUR 540.-

Conclusion

It is evident that the abovementioned contributions to employers require a proper recalculation of the costs for the employees and a forecast of sales for the following period. First of all, this means that employers have to find out whether it is worth to have some of the employees at home due to the obstacles to work or to apply for the contribution that can partially cover the wage costs for those employees who will work.

How to apply for the measure No. 2 - contribution for sole traders (self-employed persons; published on 20.4.2020)

How to apply for the measure No. 2 - contribution for sole traders (self-employed persons) in the emergency situation during the COVID 19 pandemic from the Labour Offices of the Slovak Republic within the terms of the project "*First Aid*" to support the maintenance of employment at the time of the declared emergency situation, approved by the government of the Slovak Republic by the Resolution No. 178 of 31. 3. 2020

I. Frequently asked questions asked by the sole traders

1. Which sole trader can apply for the measure No. 2?

A sole trader who at the time of the declared emergency situation suspended or restricted the self-employment activity (trade) under the Measure of the Public Health Authority of the Slovak Republic or a sole trader whose sales/income from business have decreased (this fact is going to be reviewed monthly retrospectively).

2. Does a sole trader have to be affiliated to sickness and pension insurance in the Social Insurance institution if he wants to apply for the measure No. 2?

Sole trader:

a) must be affiliated to sickness and pension insurance (compulsorily and voluntarily) for the period till 31. 03. 2020 and the insurance shall be lasting after 31. 3. 2020, or

b) draws so-called levy holidays under the Social Insurance Act[5], which means that from the beginning of business performance (if he started to perform his business in 2019) until 01. 07. 2020, he does not have to pay compulsive contributions to the Social Insurance institution.

[5] Act No. 461/2003 Coll. on the Social Insurance, as amended.

Example: A sole trader started to perform a business in 5. 5. 2019 or 1. 10. 2019, so until 1. 07. 2020, he is taking the aforementioned levy holidays and therefore does not have to pay contributions to the Social Insurance institution.

3. Can a sole trader have a suspended or canceled trade if he wants to apply for the measure No. 2?

ATTENTION, the contribution cannot be granted to a sole trader who has canceled or suspended a trade.

ATTENTION, although during this emergency situation it is possible to suspend a trade for less than 6 months (e.g. for one month) and thus avoid paying contributions to the Social Insurance institution, please note that health insurance contributions (not contributions to the Social Insurance institution) have to be paid every day, even if the trade is suspended.

Thus, before suspending a trade, it should be noted that in case of the trade suspension, the sole trader cannot apply for the measure No. 2 as a result of a decline in sales and, secondly, that health insurance contributions shall always be paid.

On 20. 4. 2020 should be also published a provision concerning the aid to those sole traders who suspended a trade and have no other income. They should be able to apply for the measure No. 4[6], the amount of which is determined notwithstanding the fall in the business income, namely:

a) For March 105 EUR

b) For April and May 210 EUR

however, these persons still should continue to be affiliated to the health insurance.

4. Can a sole trader have a simultaneously concluded employment relationship if he wants to apply for the measure No. 2?

No, he cannot.

However, if the sole trader has an employment relationship based on agreement on a non-employment relationship performance (e.g. a work performance agreement or an agreement on work activity), he can apply for a contribution – the measure No. 4, the amount of which is determined notwithstanding the decline in the business income, namely 105 EUR for the month March and 210 EUR for the months April and May.

5. How long before this emergency situation (i.e. before 13. 03. 2020) did the sole trader have to perform his business in order to be entitled to the measure No. 2?

An applicant for the contribution can only be a sole trader who was established and started operating no later than 1. 2. 2020, meaning his trade was declared (for free trades) no later than 1. 2. 2020.

6. Can a sole trader be granted to the care benefit or sickness benefit and apply for the measure No. 2?

Yes, he can.

While receiving the so-called care benefit or sick benefit during this emergency situation since 13. 3. 2020, the social and health insurances are not suspended by the sole traders and during this period of receiving the care benefit and the sickness benefit, no advance payments for social and health insurance shall be paid.

7. Till when does the sole trader can apply for the measure No. 2?

[6] Conditions of measure No. 4 as of 20. 4. 2020 are not yet known.

The application for March 2020 must be submitted till 15. 05. 2020 at the latest. The applicant submitting the application for the months April or May submits the application by the end of the calendar month following the calendar month for which the self-employed person applies for the grant, i.e. for April is until 31. 5. 2020 and for May is until 30. 06. 2020.

II. Which decrease in income a sole trader must have in order to apply for the measure No. 2 and what is the amount of the contribution?

A sole trader shall show a decrease in sales in March 2020 compared to the same period in 2019 (or to the average for year 2019); in case that the sole trader did not operate in that period, he shall demonstrate a comparable period for February 2020. Subsequently, the contribution for compensation of the income loss from gainful employment for the sole traders shall be provided as follows:

pokles tržieb (kategórie)	Marec 2020
menej ako 10 %	0,- EUR
od 10% - 19,99 %	90,- EUR
od 20% - 29,99 %	150,- EUR
od 30% - 39,99 %	210,- EUR
od 40 % and more	270,- EUR

The sole trader shall show a decrease in sales in April and May 2020 compared to the same period (i.e. April and May) in 2019 (or to the average for year 2019); in case that the applicant did not operate in that period, he shall demonstrate a comparable period for February 2020. Subsequently, the contribution for compensation of the income loss from gainful employment for the sole traders shall be provided as follows:

pokles tržieb (kategórie)	Apríl, Máj 2020
menej ako 20 %	0,- EUR
od 20,00 - 39,99 %	180,- EUR
od 40,00 - 59,99 %	300,- EUR
od 60,00 - 79,99 %	420,- EUR
od 80 % and more	540,- EUR

Each sole trader (applicant) can only choose one of the alternatives in how to calculate the decrease of sales. The three options are:

1. The sales for the reporting month are compared with the sales for the same month of the previous year.

Example, reporting period March 2020 - the previous period is March 2019.

2. The average of sales in 2019 (1/12 of sales in 2019) is compared with sales in the reporting month – only sole traders who have been performing gainful employment for the whole year 2019 are entitled.

Example: Those sole traders who have been performing business the whole year 2019 may choose between alternative 1 or 2.

3. The February 2020 sales are compared to the reported month sales – only sole traders who have been performing gainful employment only for part of the year 2019 and have started to perform gainful employment by 1. 2. 2020 at the latest.

III. How does a sole trader (self-employed person) have to apply for the measure No. 2 and which mistakes must the sole trader avoid? (instruction)

Possibility to apply for the measure No. 2 for the sole traders has been launched since 8. 4. 2020 at www.pomahameludom.sk or www.neprepustaj.sk.

1. The page (both) is logical and after clicking on *Apply for the measure No. 2* (*Podať žiadosť pre opatrenie č. 2*), the website will direct you to the relevant section for the authorized persons, i.e. for self-employed persons - sole traders.
2. From the website, download (i) the application form for the financial contribution to the self-employed and also (ii) a statement for the financial contribution recognition in the required format (we recommend excel or ods) that have to be filled. You can also find on the website additional information that can help you with filling forms.
3. Click on the third link below the application form for the financial contribution recognition, this is the manual – Tool for filling out the application form for the financial contribution recognition (359 KB): (Pomôcka k vypĺňaniu žiadosti pre priznanie príspevku (359 KB) that contains exactly what and how shall be filled out.
4. It is natural that not everyone will be able from the first time to fill out perfectly the application form for the financial contribution recognition, but in principle, the Labour Office will call for the removal of deficiencies before concluding the agreement on granting the contribution itself.
5. Please note that some details in your application may seem to be problematic to fill out, namely:

   a) **Legal form** – to be written: *natural person – entrepreneur*;

   b) **Enrollment in the Registry** – enter the number in the Trade or Commercial Registry (the number you have on the trade license or in the Commercial Registry of the competent court);

   c) **Subject of prevailing activity of SK NACE** - here is a 5-digit code in accordance with the Ordinance of the Statistical Office of the Slovak Republic, which is also available on portal www.pomahameludom.sk, click on the fifth link below, it is the Statistical Classification of Economic Activities SK NACE Rev. 2 (1,869 KB): (Štatistická klasifikácia ekonomických činností SK NACE Rev. 2 (1 869 KB));

   d) **Declaration on honor** - it is important to emphasize that the state makes contributions on the basis of the declaration referred to point 4 of the application form, ATTENTION, this declaration may be afterwards a subject to the further control;

   e) **Declaration that self-employed persons is not in difficulty as of 31. 12. 2019.**

   For majority of the sole traders this may be more difficult to assess. On the portal pomahameludom.sk, at the very bottom of the form application is a manual that will help to define the company in difficulty, it is the Definition of the company in difficulty (267 KB): (*Definícia podniku v ťažkostiach (267 KB)*;

   Yet, basically it applies:

(i) If the **sole trader is in liquidation, restructuring or insolvency, it is essentially a company in difficulty.**

(ii) **If the sole trader has been operating for less than three years, he is not considered to be in difficulty unless he is in liquidation, restructuring or insolvency.**

(iii) If the sole trader has been operating **for more than three years,** it is necessary to examine the financial situation of the company. Most sole traders account in a simple accounting system and therefore, in order to determine whether a sole trader is in difficulty, in addition to the above-mentioned conditions, the value (number) given in the financial statements may be in line 12 „Difference between income and expenses“ in relation to line 21 „Difference between assets and liabilities“. If the number in line 12 is greater than half the number in line 21, the company is in loss.

Example: *A sole trader reached the income in the amount of 20 000 EUR for the year 2019. The incurred costs were in the amount of 24 000 EUR. The difference between the assets and liabilities from line 21 is 1000 EUR. The difference between the income and costs represents a loss of 4 000 EUR. This is more than half the difference between the sole trader's assets and liabilities (500 EUR), so the sole trader is considered to be in difficulty.*

It is evident that most of the sole traders do not have to have completed the financial statements for the year 2019 by the date of form application for the Labour Office, but it is important to know at least the current state of their management for the year 2019.

f) **Declaration that the self-employed person has fulfilled all tax obligations pursuant to the Income Tax Act**

Although it is fundamentally mandatory for taxpayers to file tax declarations for the previous calendar year till 31. 3. 2020 and also to pay tax, it should be noted that in the context of pandemic emergency measures, the time limit for filing income tax declarations for the taxation period has been postponed. The time limit for filing the income tax declaration for the taxation period which is the calendar year 2019 is until the end of the calendar month following the end of the pandemic period.

Example: *If the pandemic period ends in August 2020, the time limit for filing the tax declaration will be 30. 9. 2020 and the same is for the income tax that will also be payable on 30. 9. 2020.*

For this reason, if the sole trader has paid tax for previous years as well as all eventual sanctions, the fact that he did not file a tax declaration at the time of the pandemic and did not pay income tax by 31. 3. 2020 is not a problem in terms of granting the measure No. 2.

g) **Declaration that the self-employed person has fulfilled all obligations to pay advance payments for public health insurance premiums, social insurance premiums and compulsory pension social insurance contributions.**

ATTENTION, this declaration may be problematic.

It should be noted here that the amendment to the Social Insurance Act proposes to extend the scope of applicants on the contribution to those applicants who fulfill their tax or levy obligations to the Labour Office additionally through a schedule of instalments or those who were unable to meet these obligations in the month February 2020 due to loss of sales in March 2020.

ATTENTION, the amendment, which has not yet been effective because it has not been yet approved by the National Council of Slovak Republic (20. 4. 2020), does not solve the possibility for the self-employed persons who already have insurance premiums debts and do not have a schedule of instalments for the previous months.

Therefore, we ask sole traders to request from the Social Insurance institutions a schedule of instalments before applying for the measure No. 2.

We reiterate that the above mentioned statements are based on the declaration and can only be examined after the contribution was recognized, that is why we would like to point out that the sole traders shall think over their potential obligations to Health Insurance institutions, Social Insurance institutions and the tax office, so that in the future they would not be a subject to fines and obligations to repay the contribution which has been already granted!

IV. How a sole trader (self-employed person) shall proceed after filling out a form application for a financial contribution grant and a statement for its recognition (instructions)

1. The filled (i) application form for a financial contribution grant to the self-employed person and also (ii) the statement of financial contribution recognition in the required format (we recommend excel or ods) must be saved so that you can return to it if necessary. *The Labour Office will call you upon in case of any deficiencies within 5 (five) working days to redress deficiencies and will provide you with guidance.*
2. You do not need to print, sign or scan files.
3. Send via e-mail the filled (i) application form for a financial contribution grant to the self-employed person and also (ii) the statement of financial contribution recognition on a special address of the Labour Office according to your registered seat (on www.pomahameludom.sk you can find your respective Labour Office).
4. If you have an electronic mailbox, you should send the application form and the statement via www.slovensko.sk. In exceptional cases, the application form may be also submitted by post to the address of the respective Labour Office or in person to the office of filing of the respective Labour Office.
5. In the subject of the message (in both cases, even if you send the application via e-mail or through the portal slovensko.sk you must state your ID and VAT number and the number of the measure you are applying for, which is in case of self-employed persons – number 2).
6. Within 24 hours, the Labour Office should send you an e-mail notification of the application receipt.
7. The Labour Offices will send you then the agreements on granting the contribution. They will be delivered to you via an electronic mailbox on slovensko.sk (if you have one) or directly by post. It is likely that the Labour Offices will call you upon on the precisely specified time to personally visit the Office to sign the agreement, so please, do not forget to write down your telephone number in the application form.
8. The signed agreement must be sent either by post or electronically, or brought to the Labour Office.
9. Within a few days of receipt of the signed application form, the Labour Offices shall send a contribution.
10. The application form for March 2020 must be submitted till 15. 05. 2020. An applicant who submits an application form for April or May, shall submit an application by the end of the calendar month following the calendar month for which the self-employed person applies for a contribution.

Temporary business protection from the creditors as a result of the COVID pandemic (published on 20.4.2020)

On 14th of April 2020, the government of the Slovak Republic approved another set of legislative changes within the Lex Corona package aimed at protecting entrepreneurs from the negative impacts of the current situation on their business. The measures are intended to be temporary, with a duration until 1st of October 2020, however the duration of temporary

business protection can be extended by the government until 31st of December 2020 at the latest. The use of temporary protection is appropriate in cases where entrepreneurs need such adjustment due to the pressure of their creditors. The amendments have not yet been approved by parliament, but we are expecting this approval and therefore the changes to enter into force in the coming days.

How will temporary business protection work?

Temporary protection will be based on the "opt in" model and therefore the company will have to apply for it through a dedicated form published by the Ministry of Justice on its website. The granting of protection will be decided by four district courts in Trnava, Žilina, Banská Bystrica and Prešov depending on the given registered seat or the place of business of the entrepreneur. If the form for temporary protection meets the set requirements, the court will grant the entrepreneur temporary protection without any delay – the exact time limit is not fixed – by issuing a confirmation of temporary protection and publishing this fact in the Commercial Bulletin. Temporary protection shall be deemed to be granted on the day following the date of publication in the Commercial Bulletin.

"Temporary protection will be available to all legal persons and entrepreneurs – natural persons seated in the Slovak Republic if insolvency occurred after coronacrisis appeared."

Which entrepreneurs can apply for temporary protection?

Temporary protection will be available to all legal persons and entrepreneurs – natural persons seated in the territory of the Slovak Republic whose business authorization was established before 12th of March 2020. At the same time, they must fulfill the special condition that they have not been yet in the insolvency as at 12th of March 2020. Temporary protection therefore will not be granted to entrepreneurs who have not acknowledged financial difficulties as a result of Covid, but have been already in the insolvency before the specified date of 12th March 2020. In doing so, entrepreneurs will only declare this fact in their form without the need to somehow prove it. The government also admits in the draft law that as a rule this circumstance will not be properly investigated due to the short time given to the court to decide, but at the same time the law introduces the possibility of subsequent revocation of temporary protection by the court if the conditions for granting it were not met. Banks, insurance institutions, pension management companies and other financial market actors will be completely excluded from the temporary protection.

What does the "insolvency" of the entrepreneur mean?

In this respect, the definition of insolvency laid down in Act No. 7/2005 Coll. on Insolvency and restructuring applies, which considers two situations as the insolvency: 1. incapability to pay and 2. over-indebtedness. A legal person is incapable to pay if it is overdue for 30 or more days with settlement of liabilities towards at least two creditors. A natural person - entrepreneur is incapable to pay if he / she is overdue for 180 or more days with settlement of liabilities towards at least one creditor. Regarding the second possible form of the insolvency, the over-indebtedness, the entrepreneur is over-indebted if it has at least two creditors and the value of the entrepreneur's liabilities exceeds the value of his assets. However, the amount of liabilities shall not include the entrepreneur's liabilities the towards shareholders, statutory members or other related parties.

What are the effects of the temporary protection granted?

In particular, the purpose of temporary protection is to prevent a potential wave of insolvencies being filed against entrepreneurs by their creditors. Its concrete effects, of course temporary, during its duration will be as follows:

- **Protection from creditor insolvency applications**

All insolvency proceedings initiated by creditors after 12th of March 2020 against debtors who are under temporary protection will be compulsorily suspended.

- **Postponement of the obligation to file an application for insolvency**

An entrepreneur under temporary protection shall not be obliged to file an application for insolvency of its assets in the duration of the temporary protection. At present, an entrepreneur is obliged to do so if he is over-indebted and the insolvency application would otherwise have to be filed within 30 days from which he became aware of his over-indebtedness or could have learned of it while maintaining professional care.

- **Suspension of certain enforcement proceedings**

Enforcement proceedings initiated after 12th of March 2020 against an entrepreneur who is under temporary protection will be compulsorily suspended for the duration of the temporary protection and the executor will not be able to continue proceedings in it. The suspension of the enforcement proceedings will be without blocking the entrepreneur's assets and thus the executor will also have to e.g. withdraw blocking bank accounts.

- **Providing temporary protection against the pledge enforcement**

It shall not be possible to enforce a pledge relating to the enterprise, item, right or other property belonging to this enterprise, towards the entrepreneur who is under temporary protection.

- **Adjustment of the rules on the offsetting of certain claims**

If an entrepreneur who is under a temporary protection following the day, he was granted by the court a temporary protection, receives a claim towards a related party (e.g. a claim towards a shareholder), the related party will not be able to set off its earlier claims against the given entrepreneur's claim, i.e. those that have arisen to the related party before the temporary protection to the entrepreneur was granted. The purpose of this, as with the other effects of temporary protection, is to prevent a reduction of assets of the entrepreneur who is under temporary protection.

- **Rules modification of the possibility to terminate or withdraw an agreement concluded with an entrepreneur who is under temporary protection**

The other contracting party shall not be able to terminate or withdraw an agreement concluded with an entrepreneur who is under temporary protection because of the entrepreneur’s delay which occurred before the entrepreneur was granted temporary protection. Such termination or withdrawal shall be ineffective.

- **Possibility of preferential payment of certain liabilities**

The entrepreneur who is under temporary protection shall be able to settle liabilities directly related to the maintenance of his business - if they arose after granting of the temporary protection - preferably over other due liabilities payable earlier, without exposing himself to the risk of possible criminal liability for favouring such a creditor. The law does not define in detail which liabilities will be considered as those that can be directly related to the maintenance of the business.

- **Suspension of restrictions on corporate financing by related parties**

The law will allow the entrepreneur who is under temporary protection to use the resources from related parties to support the financing of the business, without these claims of the related parties being satisfied in the event of the entrepreneur's eventual bankruptcy only as the last ones, as so-called subordinated; these claims of related parties can be automatically settled together with other ordinary claims of unrelated creditors. However, the only limitation will be that the possible security of the claims of related parties by the entrepreneur's asset who is under temporary protection, will not be taken into account in the bankruptcy and such protection will be ineffective.

Are there any special obligations for the entrepreneurs applying for temporary protection?

Yes. From the moment the entrepreneur has applied for the temporary protection, he will be obliged by law to make a sincere effort to put his creditors' interest before his own, and under the threat of revocation of temporary protection, he

will not be allowed to distribute profit or other own resources until the temporary protection expires. At the same time, the entrepreneur will have to – again under the threat of revocation of temporary protection – refrain from disposing of his assets, when it comes to any substantial changes in the composition of the assets, the use or designation of the assets or a not insignificant reduction of the assets. However, the law does not specify these criteria in more details, so therefore it will be at the discretion of the court.

What if the court for the first time does not grant me temporary protection?

Given that the decision to grant temporary protection will be decided at first instance by a senior court clerk, it will be possible to file an objection against a possible refusal of temporary protection within 15 days and then it will be directly decided by the judge. However, the judge's decision will be already final and unenforceable.

Is it possible to prematurely lose temporary protection?

The court granting temporary protection may, either on its own initiative or on the initiative of any third party, decide to suspend the temporary protection granted if the conditions for granting have not been met at all or if the entrepreneur who is under temporary protection has breached the temporary protection obligations (e.g. in its duration he prioritized his own interest over the interest of creditors, distributed profit or other own resources, etc.).

Further amendment to Social Insurance Act (published on 21.4.2020)

The exemption from the obligation to pay the insurance contributions and contributions for the pension savings for April 2020

"Exemption from the obligation for employers and compulsorily insured self-employed persons to pay the social insurance contributions and contributions for the pension savings approved."

In order to mitigate the consequences of measures against the spreading of covid-19, the government of the Slovak Republic submitted another amendment to Act No. 461/2003 Coll. on Social Insurance. The government justifies the proposal of the amendment by preventing significant economic damages caused by the restriction of business activity, which also leads to a reduction or overall income loss for many entrepreneurs. This situation may result in a gradual reduction in business operators and thus in employers and post losses.

The submitted amendment to the Social Insurance Act stipulates the exemption from the obligation for employers and compulsorily insured self-employed persons to pay the social insurance contributions and contributions for the pension savings (the so-called 2nd pillar) for the month April 2020. [7]

Exemption conditions for paying the insurance contributions and compulsory contributions for the pension savings

The employers and self-employed persons will be exempted from the obligation to pay contributions for the social insurance and contributions for the pension savings only if they have closed their operations at the discretion of the competent state authority for at least 15 days in April 2020. In this case the decision of the competent authority shall be deemed as the measure of the Public Health Authority of 29th of March 2020.

This means that if your operation was compulsorily closed in April for 15 days, you do not have to pay social insurance contributions and compulsory contributions for the pension savings for April 2020 at all. In addition, within the

[7] The employer has the contributions for the pension savings of the employees who perform work, classified by the decision of the state administration authority in the field of public health, in the third or fourth category and at least in the minimum of 2% of the employee's gross salary.

aforementioned amendment to the Act, the government reserved the right to extend or to prolong the period during which employers and self-employed persons are exempted from the obligation to pay social insurance contributions at any time, directly by the government regulation. In practice, we therefore can expect that if certain operations remain compulsorily closed, the employers and compulsorily insured self-employed persons who have their operations closed, will be exempted from contributions payments in the further months as well.

Contributions paid by the employee and levied by the employer, remain the employer's obligation to levy it at the original due dates.

The employer or self-employed person shall prove the closure of the operation by an affidavit, which shall be submitted to the social insurance institution no later than the eighth day of the calendar month following the month in which he is not obliged to pay the social insurance contribution. This means that for April 2020, the employer or self-employed person concerned is obliged to submit this affidavit no later than till 11th of May 2020 (since 8th is May is a bank holiday).

Consequences of exemption from the social insurance payments and compulsory contributions to the pension savings

Exemption from the compulsory social insurance payments and contributions to the II. pillar will not affect the assessment of entitlement to sickness and pension benefits for self-employed persons and pension benefits for employees of the respective employer, as well as employees who are the employer's statutory body or its member and have at least 50% participation in the employer's assets. For this purpose, the obligation to pay contributions to the social insurance and compulsory contributions to pension savings is deemed to have been fulfilled in the event of its legal exemption.

However, we point out that for the period for which the employer is exempted from the employer's compulsory contributions to pension savings, so they will not be paid, the amount of the saver-employee in the respective pension management company will not increase. This may have a negative impact on the amount of the pension granted to employee from the II. pillar. However, the amendment also takes into account this situation and establishes a provision according to which the amount of the pension, early old-age pension and minimum pension is not reduced during the period for which the employers are exempted from the compulsory contributions.

Extension of the scope of applicants for support the maintenance of posts contribution

In addition, the amendment to the Act proposes to extend the scope of applicants for a contribution in terms of the project to support the maintenance of work positions under Act No. 5/2004 Coll. on Employment Services (contribution of up to 80% of the employee's gross wage) also to those applicants who additionally fulfill their tax or contributions obligations to the Office of Labour, Social affairs and Family through the schedule of instalments or those who were unable to meet these obligations for the month February 2020 due to loss of profit in March 2020.

Further financial measures (published on 22.4.2020)

On Wednesday 22.4.2020, the National Council of the Slovak Republic approved an amendment to the Act on Certain Emergency Measures in the field of finances in connection with spreading of the dangerous contagious human disease COVID-19, extending and modifying measures related to the field of finances. Here is an overview of current measures:

- in the field of taxes
- obligations related to cash registers
- in the customs administration in connection with intellectual property rights
- related to public assets administration

"Measures are extension, but also a change of previously approved financial measures."

The above-mentioned measures are not just an extension, but also a change (and not always to the benefit of entrepreneurs/citizens) of previously adopted measures in the field of finances,

about which we informed you in our review published on 3.4.2020. These measures shall also apply from 12.3.2020, when in Slovakia was declared an emergency situation and until the end of the calendar month in which the government will withdraw the declaration of the emergency situation (unless the longer duration is specified for individual measures, while it is still valid that the government may extend the application of measures even after the emergency situation has been withdrawn).

Measures that have not been changed by the latest amendment remain in force, as we have already informed you.

1 Measures in the field of taxes

Deduction of tax loss

Under the measures, taxpayers have the possibility to deduct from the tax basis the tax losses accrued for the taxation periods ended in years 2015 to 2018 with an aggregate value of up to 1,000,000 EUR (of course, only those not yet deducted) if the time limit for their tax declaration shall expire during the year 2020 (although the wording of the law does not expressly regulate this, we believe that it is the original time limit for submitting a tax declaration without taking into account any extension of the time limit for submitting a tax declaration under measures related to coronavirus or COVID-19).

Taxpayers who do not have a fiscal year identical to the calendar year may claim tax losses for a taxation period ending on 31.10.2029 at earliest.

"Taxpayers entitled to one-time deduction of tax losses accrued in the past from tax basis."

The taxpayer can apply for the tax loss voluntarily and in any amount (up to 1,000,000 EUR). However, if he decides to apply for it, the loss will always be deducted from the earliest recognized losses up to the last recognized losses or up to the mentioned limit, i.e. the taxpayer can no longer arbitrarily choose for which periods the losses shall be deducted.

Advances on the income tax

If the taxpayer's sales fall by at least 40% compared to the same period of the previous year, no later than 15 days the taxpayer can submit to the tax administrator declaration and he will be exempted from paying this advance (automatically, without any further decision of the tax administrator).

For the first time, the exemption from paying advances of the income tax shall apply to advances payable in May 2020.

For this purpose, the following shall be considered as sales:

a) revenues of taxpayer using double-entry accounting and a taxpayer who reports the economic results in the financial statements in accordance with International Financial Reporting Standards,

b) income from the sale of goods, products and services after deduction of discounts to a taxpayer accounting in a single-entry system, to a taxpayer who keeps a tax accounts and to a taxpayer who keeps accounts.

Motor vehicle tax

The obligation to pay motor vehicle tax advances is cancelled during the period of application of these measures. Motor vehicle tax shall be cleared and paid also within the time limit for submitting the tax car declaration.

Tax overpayments

Tax overpayments for income taxes claimed in the tax return will be refunded within 40 days of the end of the calendar month in which the taxable person submitted the tax return. The tax overpayments claimed by the tax return applied in 2019

which was submitted before 31.3.2020 has to be refunded till 10.5.2020. In fact, it was slightly extended the time limits for refunding of tax overpayments.

Illegally claimed tax overpayment, if not corrected even by corrective tax return, has to be obligatory penalized by the tax administrator in the amount of 100% difference of the illegally required overpayment and legal overpayment (the fine is, of course, imposed in addition to the obligation to return the overpayment).

Value added tax and excise duties

The payer of value added tax shall not be included in the list of tax debtors if he fails to fulfill the obligation to submit a value added tax return or a control statement or repeatedly fails to pay a positive difference between the total value added tax payable and the deductible value added tax if he will fulfill this obligation by the end of the calendar month following the end of the duration of these measures.

The condition for the refund of excessively deducted value added tax which concerns the underpaid customs duties and arrears on compulsory insurance premiums due shall be deemed to be fulfilled if the payer of the value added tax pays or contributes the amount due of customs duty and the amount due of compulsory insurance premiums during the pandemic period till the end of the calendar month following the end of the pandemic period.

If in the duration of these measures the taxable person cannot prove that the conditions for the application of the preferential tariff of excise duty on mineral oil – placing the mineral oil containing the biogenic substance to the release for consumption – the taxable person may apply for this preferential tariff, if he will prove that the conditions have been fulfilled for each taxation period in the period of application of these measures until the end of the calendar month following the end of the application of these measures.

The customs office will not be obliged to withdraw the permits or to exclude from the register tax warehouse operators, if they commit a breach in the obligation to properly fulfill the compulsory levy obligation, if this breach occurs due to the negative consequences related to the declaration of an emergency situation due to coronavirus.

Other taxes and charges

The constructors, whose time limit for the fulfillment of notification obligation on floor area measurement of the building, i.e. in respect to the development fee, runs out, for the duration of these measures will not be considered to be in delay in fulfilling it if they fulfill their obligation in the end of the calendar month following the end of the application of these measures.

Similarly, persons obliged to comply with the notification obligation in relation to municipal waste charges will not be considered to be in delay.

Under the same conditions, taxpayers obliged to submit a tax return on real estate, on a dog, vending machines, and non-gambling gaming machines, shall be not considered to be in delay.

Restriction of a release of the certain time limits failures

A failure to comply with the time limits during the application of these measures shall be released if the taxable person takes such omitted action at the latest in the end of the calendar month following the end of the application of these measures.

However, this release did not concern the submitting of the tax declaration and the tax payment (which were a subject to the separate measures), but now the measure does not apply even to the time limits of the control and recapitulative statements of value added tax and the payment of tax advances.

Suspension of tax proceedings

Unlike the two-week-old legislation, the legislator decided that tax proceedings and inspections suspended before these measures came into force, would not be continued till the expiry of the measures, but it is possible to continue them.

All tax proceedings and inspections currently suspended will continue as soon as the reasons for their suspension cease to exist and will automatically continue unless they have been discontinued at the request of the inspected taxable person.

However, it is still possible for the taxpayer to request a suspension of the tax proceeding and inspection as we have informed you earlier. What is new is that if the taxpayer does not request the suspension of the tax proceeding or inspection, he will not be a subject to the release of time limits failure (as mentioned above).

2 Cash registers

E-cash register (*e-kasa*) users who are required to notify a change of business name, retail outlets, if it is different from their place of business or registered seat, or a change in their main business, and the time limit for compliance for this obligation expires during these measures shall be deemed to be fulfilled without any penalties if they notify such changes in the end of the calendar month following the end of the duration of these measures.

If a fine on the spot has been imposed on an e-cash register user in the duration of these measures, it will be payable until the end of the calendar month following the end of the application of these measures.

3 Customs administration in connection with intellectual property rights

In proceedings of arrears' claims in a customs enforcement procedure shall apply the suspension of these proceedings until the end of the application of these measures.

If a person committed a customs offense or a violation by failing to comply with the conditions laid down for goods[8], he is not liable for such a violation if the violation was solely due to negative consequences in relation to the declared emergency situation due to coronavirus.

4 Public administration asset

A debtor of a state who fails to make due and in time instalments in accordance with the agreed instalment schedule due to the negative consequences of a declared emergency situation due to coronavirus, shall be entitled to conclude a new debt instalment agreement. A new instalment agreement is conditional on the obligation to continue repaying the debt at the latest in the end of the third month following the end of the duration of these measures. If the debtor enters into such a new agreement, the delay under the original agreement will not be considered a delay and therefore the debtor will not be a subject to sanctions.

In the duration of these measures, the management of the moveable state asset which is necessary for preventing the spreading of a coronavirus pandemic, to mitigate the negative consequences of a coronavirus pandemic or to provide health care, shall not be covered by the provisions on bidding and the conditions for the administration transfer or ownership under the Act no. 278/1993 on the Public Administration asset, as amended, nor does the approval of the Ministry of Finance or the relevant founder be required.

[8] This is a failure to comply with the conditions for goods:
1. placed under a special customs procedure,
2. placed under the export customs procedure,
3. released for consumption with exemption from import customs duties,
4. ensured for dealing with a customs offense or a customs violation,
5. temporarily stored,
6. placed under a free zone customs regime or
7. on which a pledge has been established.

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LAW FIRM

Protection of lessees, temporary protection of entrepreneurs (published on 24.4.2020)

Dealing with spreading of COVID-19, it was approved an amendment to the act[9], which introduces the protection of lessees, temporary protection of entrepreneurs, as well as the possibility to apply for an emergency postponement of the claim enforcement.

Protection of lessees

In connection to the current crisis caused by the threat of the spreading of coronavirus, it is clear that many enterprises as well as natural persons get into trouble with inability to fulfil their liabilities due to the decrease of income. The problem with the fulfillment of liabilities also affects the payment of rent, both rent for production or administrative premises of entrepreneurs, as well as rents for housing of natural persons.

At the proposal of the government, the National Council of the Slovak Republic adopted an on 22.4.2020 amendment to act on certain emergency measures in connection to the spreading of COVID-19 disease, which introduced the protection of lessees against the termination of the lease due to non-payment of the rent and payments for services connected to the use of subject of lease. The amendment applies to the lease of any real estate, regardless of whether these are residential or non-residential premises, as well as regardless of whether the lessees or lessors are legal or natural persons.

Until 31.12.2020, the lessors may not unilaterally terminate the lease of real estate due to non-payment of the rent and payments related thereof, if the lessee does not pay rent and payments related thereof for reasons that have their origin in the spreading of COVID-19 disease. For lessors this means that they may not withdraw from the lease agreement until the end of the year and, although the amendment is not entirely clear in this regard, we consider that lessors also should not terminate the lease during this period. The lessor may not terminate the lease for the late rent payment or payments related thereof in the rental period from 1.4.2020 (therefore, if there was a delay in rent payment before this period and it constituted reason to terminate the lease, the lessor may do so; but if the rent or other payment is paid in advance, non-payment of the rent in March, if it is payment for the month April, it cannot be a reason for termination of the lease until 31.12.2020).

"Until 31.12.2020, the lessors may not unilaterally terminate the lease of real estate due to reasons that have their origin in the spreading of COVID-19 disease."

We recommend lessees to communicate with the lessors that they will be or are in the delay with payments and thus inform the lessor in advance that the lease with them cannot be terminated. However, it is not excluded that the lessee receives a notice of the lease termination or the lessor withdraws from the lease agreement and the lessee only subsequently notifies that the non-payment of the rent was caused by coronavirus. In this case lease shall be not terminated.

Lessees beware, it is the lessee's duty to sufficiently prove that the delay in paying the rent or payments related thereof is caused by the spreading of the dangerous contagious human disease COVID-19. The act does not stipulate on how the delay shall be proved, so it is necessary to consider the circumstances of a particular situation. However, we believe that the reason for non-payment can be sufficiently proven by the decrease of income due to the closure of the operation based on the decision of the state authorities (for lessees entrepreneurs), or the decrease in income due to non-assigning work by employers (for lessees natural persons).

Lessees must also be aware that **the temporary protection against the lease termination does not mean release from the rent payments or payments related thereof or its reduction**. From 1.1.2021, the lessors will again have all the options to terminate the lease, also due to non-payment of the rent from 1.4.2020 (it also cannot be excluded that the lessor will immediately withdraw from the lease agreement on 1.1.2021). The impossibility of termination of the lease under this

[9] act amending the Act no. 62/2020 Coll. on certain emergency measures in relation to the spreading of the dangerous contagious human disease COVID-19 in the judiciary and amending certain laws.

measure also does not apply to other reasons for the termination of the lease, it applies only to non-payment of the rent due to coronavirus.

Temporary protection of entrepreneurs

The purpose of the temporary protection of entrepreneurs is to create a time-limited framework with tools to support the effective management of the negative consequences of the spreading of the dangerous contagious human disease COVID-19 impacting on entrepreneurs operating a business. Entrepreneurs who meet the following **conditions** can apply for this temporary protection:

- who have their registered seat or place of the business in the Slovak Republic,
- who were authorized to perform business before 12.3.2020 and
- who are affected by the negative effects of the spreading of the dangerous contagious human disease COVID-19.

Temporary protection will be provided to the entrepreneur by the competent court, based on application form published by the Ministry of Justice of the Slovak Republic. The precondition for obtaining the temporary protection is that the applicant fulfills the conditions for the temporary protection grant, which he shall prove by a written declaration that:

a) is entitled to submit an application and pursues the aim of temporary protection by submitting an application due to a significant increase in the number of overdue claims or a significant decrease in his sales compared to the same period in 2019, which significantly endangers the business performance,

b) as of 12.3.2020 was not in insolvency,

c) at the date of submitting the application, there are no grounds for his dissolution and the effects of the insolvency declaration or restructuring permit do not apply to him,

d) as of 12.3.2020, no enforcement proceedings were held in relation to him in order to satisfy the claim from his business activity,

e) in relation to his company, item, right or other property value belonging to the company, the mortgage enforcement was not commenced by 12.3.2020,

f) in the calendar year 2020, did not distribute profit or other own resources, or eliminated the consequences of such acts,

g) in the calendar year 2020, in addition to measures aimed at mitigating the consequences of the spreading of dangerous contagious human disease, COVID-19 has not taken any other measure endangering his financial stability or eliminated its consequences,

h) keeps proper accounting and does not violate the obligation to file proper individual financial statements and emergency individual financial statements in the collection of documents pursuant to Section 40 para. 2 of the Commercial Code.

If the application meets the prescribed requirements, the court will provide the entrepreneur with temporary protection in the form of a confirmation of the temporary protection. The court shall publish information about the applicant and the temporary protection in the Commercial Journal, while the temporary protection shall be deemed to have been granted on the day following the day of publication in the Commercial Journal.

Temporary protection has **the following effects**:

- **The proceedings on the creditor's petition to declare insolvency** on the entrepreneur's property who is under the temporary protection, which was filed after 12.3.2020, **are suspended**. This effect also applies to creditors' claims

proceeded during the temporary protection. The insolvency proceedings, in which insolvency was not declared and which were initiated on the claim of the creditor that was filed after 12.3.2020, are also suspended. In the duration of the temporary protection, an entrepreneur who is under the temporary protection is not obliged to file a claim for insolvency declaration on his property.

- **Enforcement proceedings initiated after 12.3.2020** to satisfy a claim from the business activity of an entrepreneur who is under the temporary protection **will be suspended** for the duration of the temporary protection.
- It shall not be possible to enforce a mortgage relating to the enterprise, item, right or other property belonging to this company towards the entrepreneur who is under the temporary protection. Upon the notified commencement of the mortgage proceeding, the effects of the expiration of the time limit after which the mortgage may be proceeded, shall be restored and the commencement of its expiration shall be connected with the termination of the temporary protection.
- It is **not possible to set off a claim** that arose against the entrepreneur who is under the temporary protection after the temporary protection was granted, even if the claim arose before granting temporary protection if it is a claim that belongs or belonged to a related party under the Insolvency and Restructuring Act.
- After the temporary protection was granted, the other party **may not terminate the agreement, withdraw from the agreement or withheld performance under the agreement for delay of the entrepreneur who is under the temporary protection**, if the delay arose between 12.3.2020 till the act came into force and was caused by the spreading of dangerous infectious human disease COVID-19. This does not apply if the other party would directly endanger the operation of his business. The right of the other contracting party to terminate the agreement, withdraw from the agreement or withheld performance under the agreement for delay of the entrepreneur who is under the temporary protection after act the came into force is not affected.
- During the period of temporary protection, **there are no time limits for exercising the rights against the entrepreneur** who is under the temporary protection, including time limits for asserting claims from unenforceable legal acts.
- Temporary protection also imposes certain obligations to the entrepreneur. In particular, the entrepreneur who is under the temporary protection may not distribute profit or other own resources and must refrain from disposing of the company's estate and assets which may belong to it, if there are any significant changes in the composition, use or purpose of such assets or its negligible reduction. If insolvency is declared on asset of the entrepreneur who has been granted the temporary protection, a legal act which has been taken in violation of this provision shall be ineffective against creditors. Liability for damage and legal liability are not affected.
- Liabilities directly related to the maintenance of the company's operations, which arose after the temporary protection was granted, can be paid preferentially to previously due liabilities by the entrepreneur who is under the temporary protection in its duration time.
- Credit and credit similar benefits granted in non-cash means to the entrepreneur who is under the temporary protection by a related party under the regulation on Insolvency Proceedings for the duration of temporary protection and directly related to the maintenance of business operations are not assessed under the provisions of the Commercial Code on crisis, also the provisions about their satisfaction in order as subordinated ones according to the Insolvency and Restructuring Act shall not apply. Their security in insolvency is not taken into account.

Temporary protection **expires** on 1.10.2020, while this term may be extended by the government of the Slovak Republic, but no longer than 31.12.2020. Temporary protection also expires if the entrepreneur who is under the temporary protection applies for its termination or if the court decides to cancel it.

Postponement of enforcement proceedings of natural persons

The act also introduces the possibility for natural persons to file a postponement of enforcement in case if the enforcement proceedings were initiated after 12.3.2020. The application shall be submitted to the competent court enforcement officer and must include a statement that the income of the debtor has temporarily decreased as a result of an emergency situation caused by the spreading of the dangerous contagious human disease COVID-19 and the immediate enforcement could have particularly adverse consequences for him or his family. An asset declaration must be attached to the application.

The application will be disregarded if (i) it is not complete, (ii) it is about the same postponement, (iii) the debtor has already been allowed to pay in installments, (iv) the enforcement has been stopped, (v) it is a recovery of the maintenance claim, (vi) it is for the satisfaction of the right to non-monetary performance or (vii) the enforcement proceedings were initiated before 12.3.2020. The postponement of the enforcement lasts six months from the issuance of the notice of the postponement of the enforcement, but no longer than till 1.12.2020. During the postponement of enforcement, the court enforcement officer may still perform actions aimed at identifying and securing the property subject to the enforcement. If such acts were taken before the notice of suspension was issued, their effects shall be maintained.

State aid to employers 3A and 3B (published on 28.4.2020)

Overview and conditions

In April 2020, the government introduced new state aid schemes for employers and self-employed people, which extended the originally provided scope of possibilities of granting the state aid just to small and medium-sized companies to large employers (so-called measures 3A and 3B). Given that the specific conditions and practical issues of the provision of extended state aid are not entirely clear, below we answer the most common questions concerning the granting of the state aid, within the so-called measures 3A and 3B in relation to employers.

In this context, we would like to draw your attention to the fact that the conditions for the provision of state contributions due to the situation are currently changing very rapidly, sometimes from day to day. Therefore, the overview below is also valid as of the date of issue – 28.04.2020

Who is entitled for the state aid in terms of measures 3A and 3B?

For the state aid presented in terms of measures 3A and 3B, all employers who will manage to maintain posts at the time of the declared emergency situation in the Slovak Republic. The amount of the contribution under the measure No. 3 is determined in two different methods. However, the employer has the right to choose only one of these methods.

"The method of determining the amount of the state aid can be chosen only once and cannot be changed later."

WARNING! The chosen method of determining the amount of the state aid is then applied throughout the entire period of receiving the grant, so think carefully about which method you choose before applying. You have time to apply for the March 2020 contribution till 15th of May 2020, so there is plenty of time to decide. For each additional month (April, May) the application must be submitted by the end of the following calendar month.

How is the amount of the contribution determined under the measure 3A?

The contribution under the measure 3A is granted in the amount of the wage compensation of employees to whom the employer could not assign work due to an impediment at work on the side of the employer up to 80% of the average salary of employees, but not more than 880 EUR.

WARNING! The mentioned limit of 880 EUR represents the wage compensation of the employee, which is simply the „gross salary“ of the employee. The contributions that the employer is obliged to pay, he still shall continue to pay from his own resources that are not reimbursed by the state.

For which employers is it sufficient to apply for a contribution under the measure 3A?

The contribution under the measure 3A is particularly sufficient for employers whose large number of employees do not work in whole or partially due to the impediments at work on the side of the employer, and at the same time have little or even no decrease in sales at all (in case of a decrease in sales of up to 20%, employers would not receive any contribution under the measure 3B for April 2020, in case of a decrease in sales from 20 to 39.9%, the flat-rate contribution is only 180 EUR per employee).

WARNING! The employer may claim the contribution for all employees (including part-time employees). The employer's contribution does not belong to the time during which the employees were on sick leave, care leave or holidays. The employer may not claim the contribution for employees performing work, based on the agreements on work outside the employment relationship, or an executive who does not have an employment agreement.

What is the calculation of the contribution under the measure 3B?

The contribution under the measure 3B is granted in the amount of the sum of flat-rate contributions to cover a part of the wage costs for each employee in the employment relationship. The amount of the flat-rate contributions per employee depends on the decrease in the employer's sales. At the same time, the contribution can be granted in the maximum amount of the employee's salary.

The flat-rate contribution per employee for the measure 3B is for March 2020:

- **90 EUR with a decrease in sales of 10% and more**
- **150 EUR with a decrease in sales of 20% and more**
- **210 EUR with a decrease in sales of 30% and more**
- **270 EUR with a decrease in sales of 40% and more**

The flat-rate contribution per employee for the measure 3B is for April 2020:

- **180 EUR with a decrease in sales of 20% and more**
- **300 EUR with a decrease in sales of 40% and more**
- **420 EUR with a decrease in sales of 60% and more**
- **540 EUR with a decrease in sales of 80% and more**

WARNING! The contribution will not be granted for an employee who had more than 50% of his monthly working time fund an obstacle to work on the side of the employee (sick leave, care leave, holiday). We draw your attention to the fact that wage costs are considered not only the costs of wages of employees who work properly, but also the costs of employees' wage compensation. This means that the flat-rate contribution under this measure is also granted to employees who do not work due to obstacles to work on the side of the employer.

For which employers is it sufficient to apply for a 3B contribution?

The contribution under the measure 3B is more advantageous for employers who recorded a larger decrease in sales during the said period (40% and more), but have relatively few employees on the impediments at work on the side of the employer,

have short-time employees (short-time working). In addition, these are mainly employers who use their employees for work that will be evaluated in the longer term.

What are the conditions for obtaining the contribution 3A and 3B?

To receive the contribution, the employer must fulfill the following conditions:

- Pays wages or wage compensation to employees in accordance with the provisions of the Labour Code,
- Does not claim contribution for employees who are on notice period or receive social security benefits due to obstacles to work on the side of the employee,
- Does not claim the contributions for employees for whom he was granted with another wage contributions,
- Does not claim the contribution for employees with starting date to work after 02.03.2020,
- The employer must submit data on the state of employees as of 31.3.2020,
- The employer shall not be obliged to repay the aid on the basis of a previous Commission decision declaring the aid was illegal and incompatible with the internal market,
- Did not violate the prohibition on illegal employment in the period of 2 years before submitting the application,
- Has fulfilled its tax obligations according to a special regulation by the day of submitting the application, according to the information from the Labour Office it is until 28.2.2020,
- Has fulfilled the obligations to pay an advance on contributions for the public health insurance, social insurance and compulsory contributions to pension savings, according to information from the Labour Office it is until 28.2.2020,
- Has no due financial obligations towards the Labour Office,
- Is not in insolvency, liquidation, compulsory administration or does not have a specified schedule of installments according to the special regulation,
- Does not have registered unsatisfied claims of his employees arising from the employment relationship,
- Is not legally prohibited from receiving subsidies or subventions or being prohibited from receiving assistance and support provided from the EU funds if it is a legal person.

WARNING! Compared to the original government measure, the condition that the employer was not a company in difficulties by 31.12.2019 was excluded from the conditions for granting the contribution. In addition, the condition that the employer has no debts on taxes and contributions is met even if the employer has a tax or levy liability legally postponed or divided into installments based on the schedule of installments, but the schedule of installments must be already agreed.

WARNING! The employer has committed a violation of the prohibition of illegal employment by the day of the inspection of the relevant labour inspectorate, which found this violation regardless of when the protocol was negotiated. This means that if you committed violation of the prohibition of illegal employment, for example in 2017 (when the inspection was performed), although the proceedings have not yet been completed, the condition that you have not committed the prohibition of illegal employment in the last two years, is fulfilled.

What other conditions must the employer fulfill after the contribution has been granted?

Two calendar months following the calendar month for which the employer's contribution was granted, may not terminate the employment relationship with the employees by notice or agreement for the reasons stated in Section 63 para. 1 a) and b) of the Labour Code.

Nor can the employer transfer an employee for whom he has applied for a contribution to another establishment if the employer has more than one establishment.

In practice, this means that if an employee resigns or you agree with the employee to terminate employment relationship, you should be entitled to the contribution.

Can the employer terminate an employment relationship with employees for whom he has not applied for the state contribution for organizational reasons also within 2 months of submitting the application for the contribution?

Yes, in the case of an employee for whom the employer has not applied for the state contribution, the employer may also terminate the employment relationship with him for the reasons stated in Section 63 para. 1 a) and b) (due to employee redundancy), at any time.

Which sanctions will the employer face if he falsely declares in the application that he fulfills all the conditions for the grant?

All facts which the employer states in the application for the contribution by an affidavit may be the subject of subsequent inspections. By confirming the accuracy and veracity of the information provided in the application and its annex, the employer is aware of the legal consequences of a false declaration of compliance, including possible criminal consequences (criminal offense of fraud, subsidy fraud, damage to the European Communities' financial interests).

However, we perceive criminal sanctions as an exceptional consequence, so we believe that in case of non-compliance with the conditions, the employer will simply return the contribution provided for a specific employee.

Is the employer obliged to pay income tax on the contribution under the measures 3A and 3B?

According to Mr. Mihál's media reports, this employer contribution should be a subject to the income tax, i.e. taxed. He justifies his opinion by the fact that, in general, subsidies provided from the state budget, the EU budget and other sources are subject to tax and taxable income. We do not yet fully agree with this opinion. However, we recommend taking this option into account when calculating the employer's funds. We will provide more information as soon as there is an official opinion on this issue.

What does have to be stated in the grant application under the measures 3A and 3B and where can I find it?

The application for the grant together with the statement can be found and downloaded in the excel format on the website https://www.pomahameludom.sk/. The application must be fulfilled with a statement containing information on employees (nominal list with the determination of the hourly wage and the eventual extent of obstacles to work on the side of the employer in the case of an application under the measure 3A). The application shall be accompanied by an affidavit that the employer fulfills all the required conditions. The application must be submitted to the locally competent Labour Office in whose territorial district the employer will maintain the posts. If the employer has more than one establishment, he submits the application in the district of his registered seat.

Parental contribution, unemployment support, substitute alimony and other social benefits and COVID-19 (published on 5.5.2020)

In terms of the solution to the situation arising as a result of the spreading of COVID-19, two regulations have been adopted in the social field:

1. Government Regulation no. 101/2020 Coll. on the Extension of the Unemployment Support Period for the duration of an emergency situation, the state of emergency or the state of alarm declared in connection with COVID-19 (hereinafter "**Government Regulation 101/2020 Coll.**"), which regulates the extension of the unemployment support period with effect from **30th of April 2020**;
2. Government Regulation no. 102/2020 Coll. on certain measures in the field of Social Affairs, Family and Employment Services in case of the emergency situation, the state of emergency or state of alarm declared in connection with COVID-19 (hereinafter "**Government Regulation 102/2020 Coll.**") with effect from **30th of April 2020**, introduces new rules on parental contribution, substitute alimony and other social benefits.

The unemployment support period is being extended

Who WILL BE entitled to the extended unemployment benefit grant?

It will apply to those jobseekers whose unemployment support period was supposed to end at the time of the pandemic duration. The unemployment support period lasts 6 months and has been already extended for 1 month once during the pandemic. Regulation no. 101/2020 Coll. extends it again by extending already extended support period for another month, i.e. in total the original 6-month support period is extended for two months. At the same time, this regulation stipulates that the extension of the unemployment support period will expire at the latest one month from the date of the end of the state of emergency declared in relation to COVID-19.

"Further extension of the unemployment support period approved."

The parental contribution will be even after reaching the age of 3 years or 6 years

Who WILL BE entitled to the extended parental contribution grant?

It will apply to those entitled persons whose children reach the age of 3 years or 6 years (in special cases) during the pandemic. The entitled person will thus be entitled to parental contribution even after the month in which the child:

- reaches the age of 3 years,
- reaches the age of 6 years if he has a long-term unfavorable health condition,
- reaches the age of 6 years in case of a child entrusted to the substitute care or reaches the age of 3 years in the period from the validity of the first decision to entrust the child to substitute care. [10]

***EXAMPLE:** If Ms. XY gave birth to a child on 20.4.2017, she was supposed to receive the parental contribution for the last time in April 2020 (the child reached the age of 3 years on 20.4.2020). According to Government Regulation no. 102/2020 Coll., Ms. XY will, however, continue to receive parental contribution for the following months - May, June, etc. until the government declares the end of the pandemic, as she meets the set conditions - she has no income from employment relationship, does not receive social security benefits, etc. However, she loses the right to parental contribution if, for example, she finds a job or starts to perform business.*

Who WILL NOT BE entitled to the extended parental contribution grant?

[10] *At present, the parent is entitled to parental contribution up to 3 years of age of the child, or up to 6 years, if the child has a long-term unfavorable health condition or if the child is entrusted to the substitute care or reaches the age of 3 years in the period from the validity of the first decision to entrust the child to the substitute care.*

The aim of providing parental contribution over a longer period of time is to protect those who have no other income, i.e. whether it comes from employment relationship, business performance or state benefits. Therefore, once the child has reached the age limit in time of the pandemic duration, parental contribution will be paid only if the entitled person:

- has no employment income from a dependent activity or income from a business performance or other self-employed activity,
- does not receive a social insurance benefit (e.g. sickness benefit, maternity benefit, unemployment benefit, pension, accident insurance benefit),
- does not receive a pension from pension savings or supplementary pension savings,
- does not receive a social security benefit (for example, police officers, soldiers, etc.).

! WARNING! The only possible overlapping of parental contribution with other income is if the entitled person is granted with **care benefit** or the entitled person has a **service leave with wage entitlement due to personal and full-time care of the child** (e.g. police officers, soldiers, etc.) – and care benefit or the wage is lower than the standard amount of parental contribution (370/270 EUR), so the entitled person is simultaneously entitled to parental contribution. In this case, the amount of the parental contribution is given as **the difference** between the standard amount of the parental contribution (370/270 EUR) and the amount of the care benefit or the wage.

EXAMPLE: *If Ms. XY gave birth to a child on 20.4.2017, she was supposed to receive the parental contribution for the last time in April 2020 (the child reached the age of 3 years on April 20.4.2020). The employee receives a widow's pension as she is a widow. As she is already in receipt of a widow's pension, she does not fulfill the conditions laid down and will receive her parental contribution for the last time in April 2020.*

EXAMPLE: *If Ms. XY gave birth to a child on 20.4.2017, she was supposed to receive the parental contribution for the last time in April 2020 (the child reached the age of 3 years on April 20.4.2020). Ms. XY entered into an employment agreement with effect from 10.5.2020. According to Section 5 par. 2 of Act no. 571/2009 Coll. on Parental Contribution, the parental contribution is paid for the whole calendar month, even if the conditions for entitlement to this contribution have been fulfilled only for a part of the calendar month. For the month of May 2020, Ms. XY will still be entitled to the original parental contribution. For the month of June 2020, Ms. XY is no longer entitled to parental contribution - as she already has employment income from dependent activity, this applies regardless of how many days Ms. XY works in June.*

In which amount will the parental contribution be granted?

The parental contribution will be granted to the entitled person in the same amount as it was granted before the pandemic. The amount of parental contribution is 370 EUR if the parent received maternity benefit before receiving parental contribution and 270 EUR if the parent did not receive maternity benefit before receiving parental contribution (simply put, if the parent before receiving maternity benefit worked or performed business and paid at least minimum levies, at least 270 days during the past two years, he is entitled to maternity benefit and subsequently, after the grant termination of maternity benefit, he is also entitled to a higher parental contribution).

For how long will the entitled person be eligible to the parental contribution?

The entitled person is entitled to parental contribution until the end of the month in which the government declares the end of the pandemic.

Access to substitute alimony will be simplified

At the time of the pandemic, it will not be necessary to prove that the conditions for entitlement to the substitute alimony are met. [11] The purpose of this provision is to ensure that the applicant can obtain substitute alimony even in times of the crisis situation. This means that **the applicant has to submit to the relevant Office of Labour, Social Affairs and Family** according to the place of permanent residence of the entitled person (hereinafter "**Office**") only **a declaration on honor that two following after each other calendar months from the due date of the last installment of the alimony, the liable person did not fulfill the alimony liability** in the full amount, within the time limit and in the manner determined by a valid court decision or an agreement approved by a court.

After the end of the crisis situation, the applicant will be obliged to prove to the Office within 30 calendar days that an application for enforcement performance has been submitted, also for the period specified in the declaration on honor. If he fails to do so, the Office shall decide on the obligation of requesting to pay back the substitute alimony provided in advance. At the same time, it was introduced that during the crisis situation, the condition of fulfilling compulsory school attendance or the condition of the child's dependency is considered to be fulfilled, provided that the school attended by the dependent child is closed by decision of the competent authorities.

Common provisions for measures in the fields of social affairs, family and employment services

1. During the pandemic, **the following time limits shall not run:**

- the time limit on which entitlement to child benefit, supplement to child benefit, parental contribution, childcare benefit, childbirth benefit, childbirth benefit to more simultaneously born children and funeral contribution ceases;
- the time limit for notification of the facts determining the duration of entitlement to child benefit, parental contribution, childcare benefit, childcare benefit on support of the substitute childcare, compensatory contribution to miners, emergency aid, special contribution and substitute alimony.

2. **During a pandemic, access to certain social benefits** (e.g. emergency aid, child benefit, childcare benefit, parental contribution, childcare benefit on support of the substitute childcare and substitute alimony) **shall be simplified** by introducing the following:

- the granting and payment of advances where, for objective reasons, it is not possible to assess entitlement to these benefits and contributions at the time of the crisis situation;
- the possibility to indicate in the applications the date of birth of the child, if he has not been assigned a birth number due to a pandemic, in this case the birth certificate or other proof of birth of the child is not required;
- the possibility of delivering the submission in electronic form without a qualified electronic signature, while supplementing the submission in paper form is not required.

In proceedings in the field of state social benefits and social benefits, emergency aid and special contribution, substitute alimony and compensation of social consequences of severe disability, **no oral hearing shall be ordered, no personal inspection of the file shall be provided, no local inspection shall be performed**, evidence shall be provided without personal participation of the witness or the expert and only decisions are delivered personally.

Resumption of temporarily suspended time limits (published on 6.5.2020)

[11] *Substitute alimony contributes to the alimony maintenance of a dependent child in case that (i) the liable person (parent or other natural person) fails to fulfill the alimony maintenance liability laid down in a valid court decision or court-approved agreement, or (ii) the dependent child is not entitled to an orphan's pension , or the amount of the orphan 's pension does not reach the amount of the minimum alimony maintenance provided for by the Family Act.*

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As we informed you in our report published on 27.03.2020, within the so-called “LEX KORONA package” the running of certain time limits was temporarily suspended by the date of entry into force of the Act no. 62/2020 Coll. on certain emergency measures in connection with the spreading of the dangerous contagious human disease COVID-19 and in the judiciary and amending certain laws (i.e. from 27.03.). Given that the effectiveness of this legal measure has not been extended, it is necessary to guard your legal claims, taking into account the time limits that have been already running.

From 01.05. again, limitation periods and periods after which the right expires (preclusive periods) in private-law relationships, such as common complaint periods, limitation period for claiming damages or reimbursement of unjust enrichment, time limits for recovery of property, for claiming payment entitlements, etc., start to run. Regarding the limitation periods and preclusive periods which would have expired in the period from 12.03. to 27.03. (before the approval of the Act), these began to run again from **26.04.**

From 01.05. also periods/time limits laid down by the law or determined by the court for the performance of a procedural act in the proceedings before the court by the parties or by the interveners, which were suspended from 27.03., shall commence, for example, time limits prescribed for responding or for filing an appeal against a decision. However, if the procedural time limits had already expired before the promulgation of the Act, these, unlike the substantive legal time limits, were not extended. The suspension of the procedural time limits to the extent mentioned above concerned only civil proceedings, whereas in criminal proceedings it only applied to the time limit for bringing proceedings for the accused, his attorney, the injured party and the person concerned.

The time limits within which the debtor is obliged to file an application for the declaration of insolvency proceeding on his assets in case of **indebt, which occurred from 01.05.**, is **again 30 days.** This is a situation where, due to the indebt, the liable person must file an application for the declaration of insolvency proceeding on his assets. This means that if the company is indebted, its statutory body will again have 30 days to file an application for the declaration of insolvency proceeding, otherwise he will be responsible for the delay in filing the application for declaration of insolvency.

On the contrary, **the prohibition on the exercise of pledges and auction enforcement continues to be extended**. It is not possible to exercise the pledges until **31.05.2020**. The auctioneer, the enforcement officer and the administrator are obliged to refrain from conducting the auction. This also applies to proceedings already initiated on the exercise of a pledges or auction. The enforcement officer is also obliged to waive the execution by selling the real estate until 31.05.2020.

Meal vouchers (allowance) and COVID-19 (published on 14.5.2020)

Every employee is entitled to the so-called meals vouchers (allowance) for each calendar day of the business trip under the conditions laid down by Act no. 283/2002 Coll. on Travel Allowances, as amended (hereinafter the “**Travel Allowances Act**”). The specific amount of the meal allowance is determined by a measure of the Ministry of Labour, Social Affairs and Family of the Slovak Republic on the amounts of the meal allowance, which adjusts the amount of the meal allowance for the next period, usually for about 1 year. A specific sample that precisely regulates when the meal allowance is to be increased is set out in Section 8 of the Travel Allowances Act and is set so that the meal allowance is increased if, according to the statistical authorities, the price index increases cumulatively by the required value. The last time such a meal allowance increased as of 1.7.2019. The same principle of increase applies to the amounts of basic allowance for the use of road motor vehicles.

In connection with measures in the fight against COVID-19, a government has adopted a draft law on 13.5.2020, amending Act no. 461/2003 Coll. on the Social Insurance, as amended, and which amends certain acts. This Act added a transitional provision to the Travel Allowances Act regarding the declaration of the emergency situation in connection with the COVID-19 disease. According to this new provision, the provision of Section 8 of the Travel Allowances Act will not apply until 31.12.2021. This means that if the conditions for increasing the amounts of meal allowances and basic allowances for the use of road motor vehicles were otherwise met at the specified time, they will not increase until 31.12.2021.

Another amendment to the Social Insurance Act: Establishment and termination of compulsory sickness and pension savings of self-employed person (published on 20.5.2020)

Following the consequences of the corona crisis, the National Council of the Slovak Republic on 13.05.2020 adopted in an accelerated legislative procedure another amendment to Act no. 461/2003 Coll. on the Social Insurance as amended. The purpose of this amendment is to regulate the establishment and termination of compulsory sickness insurance and compulsory pension insurance for self-employed persons as a result of the postponement of time limits for submitting tax declarations, which took place to mitigate the impact of measures against the spreading of the COVID-19 epidemic.

The need to change the legislation arose due to the fact that the assessment of the establishment and termination of compulsory sickness insurance and compulsory pension insurance of the self-employed person is linked to data on income from business performance and other self-employed activities, which self-employed person reports in the submitted tax declaration. Due to the possibility of postponement or with the newly established time limits for submitting tax declarations enshrined in the Act on Certain Emergency Measures in the financial field in connection with the spreading of dangerous contagious human disease COVID-19, it is thus necessary to regulate the establishment and termination of compulsory sickness and compulsory pension insurance of self-employed person.

Pursuant to the amendment to the Social Insurance Act, the legal regime for assessing the establishment and termination of compulsory sickness savings and compulsory pension savings for those self-employed persons who submitted a tax declaration for income tax for 2019 till 31.03.2020, or eventual a corrected tax declaration within this period, stays maintained. If a self-employed person submitted a tax declaration for the year 2019 till 31.03.2020, but an eventual corrected tax declaration only after this time limit, his compulsory sickness and pension insurance will be assessed on the basis of the data reported in the last corrected tax declaration for 2019, to the first the day of the third calendar month following the month in which the extended or postponed time limit for submitting a tax declaration has expired.

In case of the self-employed persons, who used the possibility in accordance with the Act on Certain Emergency Measures and did not submit a tax declaration for income tax till 31.03.2020, a new (postponed) time limit shall run according to the law, so the establishment of compulsory sickness and pension insurance will be assessed on the first day of the third calendar month following the month in which the time limit for submitting the tax declaration under the Act on Certain Emergency Measures has expired.[12] This means that for those self-employed persons who have an extended time limit for submitting a tax declaration for year 2019, depending on the termination of the emergency situation in the Slovak Republic, a new time limit is applied to assess their compulsory sickness and compulsory pension insurance, depending on whether the last day of the time limit for submitting a tax declaration expires no later than 30.09.2020 or after this time limit.

In practice, this will mean that, for example, if the Slovak government announces the end of the pandemic (emergency situation) in June 2020, the time limit for submitting a tax declaration for 2019 will expire on 31.07.2020. If the self-employed person announced the extension of the time limit for submitting a tax declaration by three months, i.e. till 30.06. 2020, the new time limit for submitting a tax declaration expires on 31.07.2020. In such a case, compulsory insurance will be established by the self-employed person from 01.12.2020, provided that the income from business and other self-employed activities for year 2019 was higher than 6 078 Eur. If he does not reach this amount of income, his compulsory insurance will expire on 30.11. 2020.

[12] The income tax declaration for the tax period, which last day of the time limit for submitting the income tax declaration according to a special regulation expires during the pandemic period, shall be submitted by the end of the calendar month following the end of the pandemic period. Within the time limit for submitting the income tax declaration, the taxable person, taxpayer, heir or a person under a special regulation, are obliged to pay the income tax. A taxpayer whose last day of submitting the income tax declaration under a special regulation expires during the pandemic period may, upon notification to the relevant tax administrator until the expiration of the time limit for submitting the tax declaration, pursuant to paragraph 1, extend the time limit under the special regulation by a maximum of 3 or 6 calendar months.

In case that the self-employed person announced an extension of the time limit for submitting a tax declaration by six months, i.e. until 30.09.2020, the time limit for submitting the tax declaration of this self-employed person expires on 30.09.2020. Compulsory insurance will also be established from 01.12.2020, provided that his income from business and other self-employed activities for year 2019 was higher than 6 078 Eur. If he does not reach this amount of income, his compulsory insurance will expire on November 30.11.2020.

If, for example, the government of the Slovak Republic announces the end of the pandemic in October 2020, the time limit for submitting a tax declaration for year 2019 ends on 30.11.2020. The self-employed person has announced the extension of the time limit for submitting a tax declaration by three months, i.e. until 30.06.2020. The new time limit for submitting a tax declaration expires on 31.11.2020. Compulsory insurance will be established from 01.02.2021, provided that his income from business and other self-employed activities for year 2019 was higher than 6 078 Eur. If he does not reach this amount of income, his compulsory insurance will expire on 31.01.2021. The above procedure also applies to the self-employed person who has an extended time limit for submitting a tax declaration for year 2019 by six months, i.e. till 30.09.2020.

The self-employed person, whose compulsory sickness and compulsory pension insurance will last after 30.06.2020 until the newly proposed date of assessment of his compulsory sickness insurance and compulsory pension insurance, shall pay premiums for the sickness insurance, pension insurance and Solidarity reserve fund in this period from the assessment basis, from which he paid this premium until 30.06.2020.

Pursuant to this amendment to the Social Insurance Act, the Financial Directorate of the Slovak Republic was obliged to notify the Social Insurance institution of the relevant data on self-employed persons necessary for the assessment of their compulsory sickness insurance and compulsory pension insurance and for determining the assessment basis and premium amount.

Extension of the "First Aid" project for further months (published on 21.5.2020)

The “First Aid” project is a measure to support the maintenance of employment in case of a declared emergency situation caused by COVID-19 and the elimination of its consequences. Employers who had to close their operations, based on the decision of the Public Health Office of the Slovak Republic or their sales decreased, have then the possibility to claim different types of state contributions depending on the extent to which they were affected by the emergency situation in connection with COVID-19. The implementation of the First Aid project itself was approved for the period from 13th of March 2020 to 31st of May 2020, i.e. from the date of prohibition of certain operations, based on the Measure of the Public Health Office of the Slovak Republic in case of a threat to public health.

“State aid to overcome coronacrisis extended.”

Given that the negative effects of this situation on employment and the labour market persist, the government has decided to continue providing financial compensation to employers and the self-employed persons in the emergency situation even after the end of May 2020, i.e. also in June and July 2020 and eventually in August 2020 as well. This draft was adopted at the meeting of the government on 20.5.2020.

In connection with the “First Aid” project, the government also adjusted the method of determining the decrease in net turnover and income from business performance and other self-employed activities. The contribution paid in terms of the “First Aid” project is paid to employers depending on the decrease in their net turnover and business performance income. As the contribution itself increased business performance income and thus worsened the possibility of claiming a premium postponement, on 20.05.2020 the government approved a draft government regulation[13] stipulating that this contribution

[13] Regulation of the government of the Slovak Republic amending the regulation of the government of the Slovak Republic no. 76/2020 Coll. on the method of determining the decrease in net turnover and income from business performance and other self - employed activities.

would not be included in sales (net turnover or income) when assessing the year-on-year decrease in sales. However, the stated above does not yet issue the assessment of the contribution in terms of taxes and levies, and if the Income Tax Act does not change, then the self-employed person will have to pay taxes and levies from the received contribution next year.

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