

Overview of the most recent measures of the Government of the Slovak Republic regarding the spread of the COVID-19 virus

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On 31 March 2020, the Government of the Slovak Republic significantly extended the measures to mitigate the economic impacts related to the COVID-19 pandemic, including significant amendments to the Labour Code and related regulations as well as the adoption of a special act on certain extraordinary measures in the fiscal area which shall apply during the pandemic. A brief summary of selected measures is provided below.

The relevant laws were passed by the Government of the Slovak Republic on 31 March 2020, and by the Parliament on 2 April 2020. The laws still need to be signed by the President of the Slovak Republic and will enter into force on the date of their publication in the Collection of Laws, which is anticipated in the coming days.

If you are interested in more detailed information on the measures being taken in relation to the spread of the COVID-19 virus in the Slovak and international contexts, please visit the centralized White & Case information hub at: <https://www.whitecase.com/coronavirus-hub>.

1. Employment measures/Amendment to the Labour Code

The amendment to the Labour Code introduces several measures which allow employers to more flexibly react to changes regarding the need for work and employment conditions **on a temporary basis during an extraordinary situation, emergency situation or state of crisis** (jointly the “state of crisis”) and for two months after their revocation:

- **Introduction of the option to order an employee to work from home and an employee’s right to home office**

In comparison with the current situation, if the agreed type of work allows, an employer shall be entitled to order an employee to work from home (for example if work at the workplace is impossible, not necessary or risky and an employee refuses to work from home for any reason).

On the other hand, an employee will have the right to perform work from home if the agreed type of work allows him/her to do so and the employer has no serious operating reasons which do not allow the employees to work from home (e.g., it is necessary for some employees to be present at the workplace).

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- **Reduction of wage compensation to 80% during the existence of obstacles on the part of an employer due to the shutdown/limitation of its activities resulting from decisions of the competent authorities or a declaration of a state of crisis, and enabling the employer to order an employee to work off the time for which the wage compensation was paid**

Pursuant to the amendment to the Labour Code, if an employer cannot assign work to an employee due to:

- (i) the shutdown or limitation of its activities based on a decision of the competent authority (for instance due to the fact that the government has prohibited or limited the operation of certain shops, restaurants or other businesses in order to avoid the spread of diseases); or
- (ii) the shutdown or limitation of activities by the employer as a result of the declaration of the state of crisis,

it will be deemed an obstacle at work on the part of the employer, and the employee shall not be entitled to wage compensation in the amount of his/her average earnings (as currently stipulated), but to **80% of his/her average earnings**; however the employee shall always be entitled to a compensation that is not less than the minimum wage. No agreement with employee representatives **shall be required** for such reduction of the wage compensation. This measure shall not apply to employees of the so-called economic mobilization entities (in Slovak: *subjekty ekonomickej mobilizácie*) that have been subjected to work obligations during the state of crisis. Such entities include e.g., municipalities, self-governing regions or entrepreneurs that were designated by competent authorities as economic mobilization entities. For the sake of completeness we note that it also remains possible to reduce wage compensation to 60% after an agreement with the employee representatives.

The proposed regulation does not clearly indicate whether the aforementioned option will also apply to those employers which did not have to shut down or limit their operations due to the declaration of the state of crisis or measures related thereto, but which are indirectly affected, for instance, as a result of reduced turnover related to the overall economic situation caused by the pandemic. However, we believe that, taking into account the preparatory materials to the amendment and the allowance measures being implemented in order to support the preservation of employment (see part 2 below) which also apply to employers that are not affected by the prohibition of operation under the official decision but will experience a reduction of revenues, such employers should be covered by the measure in question. However, in such cases, we recommend consulting with an advisor and monitoring potential guidelines for the application of such measure before its implementation.

- **Shortening of the period for the advance announcement of the work schedule by the employer to at least two days and the shortening of the period for the advance announcement of (ordered) vacation**

As opposed to the standard weekly advance notice period, the employer shall be obliged to announce the work schedule at least 2 days in advance, unless the employee and employer agree on a shorter period, and it shall be valid for at least one week. The obligation to determine the beginning and the end of the working time and working shift schedule subject to the agreement with the employee representatives shall remain preserved.

Also, the period for the advance announcement of (ordered) vacation is shortened from 14 days to 7 days and 2 days in the event of unused vacation time; this period may be shortened with the consent of the employee.

- **Increased protection for employees against employment termination and employees returning to work for reasons related to COVID-19**

In order to increase the protection of employees against employment termination and in relation to their returning to work (especially the obligation to give the employee the same job position and assign him/her to the same workplace), an employee who was absent from work due to a quarantine measure, isolation, personal all-day care for a sick family member or for personal all-day care of an individual, will be regarded as an employee who was recognised as temporarily unable to work. Thus, with regard to an intended

employment termination, such period shall be deemed to be a protective period during which a termination notice may not be given due to standard reasons.

The amendment also introduces the recognition of absence from the workplace due to a quarantine measure or isolation as a significant personal obstacle at work which must be excused by an employer.

- **Transitional relief in respect to certain information and other obligations of an employer pursuant to the Act on Occupational Health and Safety and related suspension of relevant periods**

In addition to the amendment to the Labour Code, the same Act also amends the Act on Occupational Health and Safety (the “OHS Act”); see below the selected aspects:

During the state of crisis, an employer shall not be obliged to fulfil the standard information obligations pursuant to Section 7 (3) of the OHS Act (for instance notifying employees regarding occupational health and safety regulations and safe work principles) which, for example, apply when an employee commences employment or is transferred to a new job position, if such information obligation is triggered during the state of crisis declared with respect to the COVID-19 disease, and if such obligation cannot be objectively fulfilled. However, such obligation must be fulfilled if failure to do so could directly and seriously threaten the life and health of an employee. Subsequently, the employer is obliged to fulfil such information obligation as soon as possible, however, no later than one month following the date of revocation of the state of crisis.

Furthermore, the amendment introduces the suspension of periods for taking certain acts pursuant to the OHS Act (for instance periods for the repeated notification of occupational safety regulations, regular inspections of work safety, medical preventive check-ups) which would end during the period of the state of crisis, and the introduction of the postponement of periods for taking certain acts which would end one month after the revocation of the state of crisis. The employer will not be in delay if it conducts them by the end of the month after the revocation of the state of crisis. However, in certain cases the delay shall only apply if it was objectively impossible to fulfil the obligation within the original period (for example, the explanatory memorandum to the amendment indicates that if an employer has implemented an e-learning system that could be used for the fulfilment of such obligation it cannot be deemed to be objectively impossible to fulfil the obligation).

- **Other changes adopted during the legislative process**

Within the legislative process the Parliament adopted also certain measures in the field of social security. Such measures comprise *inter alia*: (i) extension of the period for payment of unemployment benefits; (ii) extension of the period for payment of nursing allowances (in Slovak: *ošetrovné*); and (iii) abolition of obligation to pay interest with respect to the sums owed to Social Insurance Agency paid in installments.

2. Economic Measures

The Government also passed the following measures primarily related to the support of employment with employers affected by the declared state of crisis and certain measures to reduce tax, custom and accounting burdens:

- **The state will pay 80% of an employee’s wage to companies whose operations were mandatorily closed and provide an allowance of up to EUR 200,000 per month to employers whose revenues have decreased as a result of the declaration of the state of crisis**

Pursuant to the proposed conditions of the project for maintaining employment during the declared state of crisis and the rectification of its consequences which were passed by the Government of the Slovak Republic on 31 March 2020, the affected employers may apply for the following allowances in order to maintain employment:

- (i) those employers which maintain job positions during the declared state of crisis despite the fact that their operational activities were interrupted or limited under the measure of the Public Health Authority

shall be entitled to a contribution in the amount of 80% of the employee's average earnings, however, not more than EUR 1,100;

- (ii) those employers which, although not obliged to close their operations experience a reduction of revenues (as compared to its revenues of the same period last year or last year's average revenues) and despite this fact maintain the job positions, shall be entitled to a contribution depending on the reduction of revenues, from EUR 180 (reduction of revenues by at least 20%) up to the maximum contribution of EUR 540 (reduction of revenues by at least 80%)¹, while the contribution for one applicant cannot exceed EUR 200,000 per month.

With regard to both contributions, the maximum total contribution for one applicant during the period of the project implementation shall be EUR 800,000.

The basic requirements for the payment of both contributions, which will be paid by the competent local Labour Authority, are (a) the payment of wage compensation in the amount of 80% of the employee's average earnings; and (b) the undertaking by the employer applying for the contribution that two months after the month with regard to which the employer applied for the contribution, it will not terminate the employment relationship or take any legal act through which it would terminate the employment relationship with the relevant employee by notice or agreement for reasons of its winding-up/relocation or redundancy.

The Government also passed a simplified procedure regarding the applications for contributions, according to which it will be sufficient to submit an affidavit to demonstrate most of requirements for the payment of the contribution including the reduction of revenues (the veracity of which will be subject to *ex post* checks) and by 31 December 2020, the obligation to be registered in the Register of Public Sector Partners shall be deemed to be fulfilled.

Slovak Ministry of Employment is preparing a website that will be dedicated to the payment of contributions which is expected to be operational as of 6 April 2020. The conditions for the payment of contributions may be further specified within the implementation of the project.

• Tax and accounting measures

The most significant tax and accounting measures include the following measures introduced by a new Act on Certain Extraordinary Measures in the fiscal area (the "**Act**") that shall apply from 12 March 2020 until the end of the calendar month in which the state of crisis is revoked by the Government of the Slovak Republic (the "pandemic period") or until the expiration of the latest period stipulated by the Act. Pursuant to the Act, the Government may extend or amend the adopted measures in the form of an ordinance.

Overview of the selected measures:

- **extension of the deadline for the submission of income tax returns and the payment of tax** – a tax return for a tax period whose submission deadline expires during the pandemic period shall be submitted by the end of the calendar month following the cancellation of the pandemic period (with certain exemptions, for example a taxpayer may exercise the option to extend the deadline by 3 or 6 months (if his/her income includes taxable income from foreign sources) based on his/her notification of the tax authority); the income tax must be paid by this deadline.

The deadline for the submission of a vehicle tax return and the payment of vehicle tax which did not expire prior to the pandemic period or which will start during the pandemic period shall be extended until the end of the calendar month following the cancellation of the pandemic period.

- **relief of the obligation to meet the deadline for performance of certain acts** – a tax entity shall be relieved of the obligation to meet the deadline for conducting certain acts even without filing an application in this respect, provided that the act in question will be conducted by the end of the calendar month following the cancellation of the pandemic period; this shall not apply to the submission of tax returns and the payment of individual taxes;
- **interruption of tax inspections and tax proceedings, postponement of tax enforcement** – any tax proceeding that was initiated prior to the pandemic period shall be interrupted, save for tax proceedings in which it is resolved on the tax overpayment refund or the asserted claim such as

¹ Amounts applied from April 2020, amounts of contributions for March 2020 are 50% lower.

excess tax deduction; time limits for tax inspections shall be interrupted until the end of the calendar month in which the state of crisis will be revoked. Tax enforcement proceedings shall be postponed during the pandemic period;

- **interruption of statutes of limitation** – during the pandemic period, the deadline for the expiration of the right to levy tax, the limitation period for enforcement of tax arrears and the deadline for the expiration of the right to enforce tax arrears shall be interrupted;
- **extension of deadlines for the submission of reports and conducting annual settlements** – the reports submitted by an employer (such as employee tax settlement reports) whose deadlines expire during the pandemic period must be submitted and the tax must be paid by the end of the second month following the cancellation of the pandemic period; the tax settlement and the calculation of income tax must be submitted by the end of the month following the cancellation of the pandemic period.
- **extension of accounting-related deadlines** – in general, the deadlines for the fulfilment of obligations pursuant to the Act on Accounting shall be deemed to be complied with if the accounting entity fulfils its delayed obligations by the end of the third calendar month following the cancellation of the pandemic period or by the deadline for the submission of a tax return, whichever occurs earlier (subject to further conditions).

The Act also regulates the possibility of granting financial aid to support the preservation of the operation of small and mid-size businesses in the form of a guarantee for a loan provided by a bank or the payment of interest on a loan provided by a bank, through the Export-Import Bank of the Slovak Republic and Slovenská záručná a rozvojová banka, a. s. (Slovak Guarantee and Development Bank); when this aid will be granted, the *de minimis* limits of state aid pursuant to the EU rules will have to be met (i.e., in general, the aid for one business cannot be more than EUR 200,000); the Slovak Ministry of Finance will set out the requirements for the aid.

The Act also introduces the authorization of the National Bank of Slovakia to interrupt pending supervisory proceedings and extend the time limits for taking acts.

The above-mentioned measures follow up on the series of measures adopted last week by the Government of the Slovak Republic, such as the direct payment of the sick pay allowance by the Social Insurance Agency in relation to the ordering of quarantine measures or isolation of the employee from the first day of his/her inability to work. Several other measures and their form, for example in respect of the support of large employers and the postponement of loan and leasing payments by banks (which may be implemented by way of a specific legislative measure) are under discussion.

We are continuously monitoring the situation. Should you have any questions in relation to the above, please do not hesitate to contact us.

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