

Bird & Bird & COVID-19 & Slovakia

How will COVID-19 affect the general labour laws in Slovakia?

As of 4 April 2020, new Labour Code (the "LC") provisions are effective which, *inter alia*, deal with and regulate special provisions during times of extraordinary situations (in Slovak: "*mimoriadna situácia*"), states of urgency (in Slovak: "*výnimočný stav*") and states of emergency (in Slovak: "*núdzový stav*"). The main aim of these new regulations and rules is to help employers respond quickly to not only to the COVID-19 pandemic, but also the governmental measures adopted.

The new regulations do not in any way affect the general provisions of the LC. The new LC provisions are specific regulations applicable only during the effectiveness of measures to prevent the spread of communicable diseases or protect public health ordered by the competent authority.

The table below compares the general LC provisions with the occurrence of exceptional circumstances in Slovakia.

Regulation subject	Standard situation under the LC general provisions	Extraordinary situation, state of urgency or emergency (including the 2-month period after their removal)
Home office workingⁱ	Home office work must be agreed between the employer and employee. The employer may not unilaterally order an employee to work from home.	The employer is entitled to order the employee to work from home, if the agreed type of work allows it, and the employee has the right to perform work from home if the agreed type of work allows it and there are no serious operational reasons on the part of the employer that does not allow work from home.
Distribution of working timeⁱⁱ	After an agreement concluded with employee representatives, an employer may distribute working time unevenly in individual weeks for a period longer than four months, at most for 12 months, if the work requirements of the employer's activities vary in the course of the year. The agreement with the employee representatives cannot be replaced by a decision of the employer.	The employer is obliged to notify the employee of the working time schedule at least two days in advance, unless agreed with the employee for a shorter period and with a validity of at least one week.
Vacationsⁱⁱⁱ	The employer may order employees to take vacations upon negotiation with the employee representatives (in accordance with the vacation timetable established with the prior consent of the employee representatives).	The employer is obliged to inform the employee about ordering the vacation at least seven days in advance, and if it is unused leave, at least two days in advance. This period may be shortened with

The vacation must be ordered at least 14 days prior to the first day of vacation.

the employee's consent.

When determining leave, it is necessary to take into account the employer's tasks and the justified interests of the employee; thus, it is highly recommended to order leave in the range of max 50% of the amount of the employee's leave/vacation entitlement.

Employee's absence at work^{iv}

An employer shall excuse the absence from work of an employee for periods of the employee's temporary incapacity to work due to disease, quarantine attending to a sick family member and during periods of caring for a child younger than 10 years of age who for substantive reasons may not be in the care of a children's educational facility or school which the child is otherwise in the care of, or if the person who otherwise cares for the child who fell ill or was ordered to quarantine (so-called quarantine measures) (or accident, periods of maternity leave and parental leave or who underwent examination or treatment in a medical facility, which it was not possible to arrange outside of the working time of the employee). During such periods, an employee shall not be entitled to salary compensation.^v

The employer shall justify the absence of the employee at work even during his important personal impediment to work, which is a quarantine measure or isolation; for this time, the employee shall not be entitled to wage compensation.^{vi}

An employee who has an important personal impediment to work due to quarantine measures, isolation, personal and full-time treatment of a sick family member or personal and full-time care for a natural person^{vii} shall be considered as an employee temporarily incapable of work and shall be compensated.^{viii}

An employee who returns to work after the end of isolation, personal and full-time treatment of a sick family member^{ix} or personal and full-time care for a person^x is considered as an employee who returns to work after the end of the temporary incapacity to work.

Salary compensation in the event of the existence of an impediment at the employer's side (in Slovak: "prekážka v práci na strane zamestnávateľa")

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In case the employees cannot perform work due to the existence of an impediment at the employer's side (e.g., closure of the office/plant due to the pandemic), the employer shall be obliged to provide the employees with salary compensation in the amount equal to their average earnings.

In case the employees cannot perform work fully or partially due to the shutdown or limitation of operation of the employer on the basis of the authority's resolution or as a consequence of a declaration of an extraordinary situation, state of urgency or state of emergency, the employer shall be obliged to provide the employees with salary compensation in the amount of 80% of their average earnings, at least in the amount equal to the minimum salary applicable for Slovakia.

The right of the employer to agree on lower salary compensation (to minimum 60% of the average earnings of the employees) with the employee representatives remains in force.

The new regulations aim to, *inter alia*, relieve employers and entrepreneurs in times of crisis from

meeting the obligations under specific employment-related laws which objectively, even in

the event of a crisis situation, cannot be met or would be particularly difficult or disproportionately burdensome.

In order to support projects and maintain employment during the period of an extraordinary situation, state of urgency or emergency, and in the period after their occurrence, the eligibility conditions^{xii} shall be replaced by an affidavit of the applicant for such a stimulation/state aid.

The new Act which amends the LC also addresses a number of unemployment issues and:

- adjusts the extension of the unemployment support period by one month until the end of the original support period in times of crisis; and at the same time
- authorises the Government of the Slovak Republic to issue, if necessary, government

regulations which could temporarily regulate the conditions for entitlement to an unemployment benefit, conditions for payment of the unemployment benefit, duration of the unemployment benefit period for the period of crisis, and the amount of the unemployment benefit.

The full text of the abovementioned regulations and further related details are available in Slovak at: <https://www.slov-lex.sk/pravne-predpisy/SK/ZZ/2020/66/20200404>.

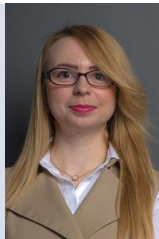
We can also expect several further steps and safety measures (not only with respect to employment and labour law issues) to be adopted by the Slovak Government, National Council of the Slovak Republic and respective authorities designed to minimise the negative impact of the COVID-19 pandemic. We will keep you informed about these.

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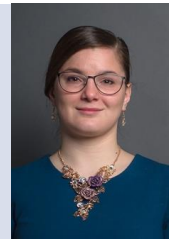
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ⁱ Please note that home office work as discussed is not applicable to certain types of work - work from home and telework (in Slovak: *domácka práca a telepráca*), as in these cases employees work only from home or another agreed place.

ⁱⁱ Art. 87 of the Act No. 311/2001 Coll. Labour Code as amended.

ⁱⁱⁱ Art. 100 et seq. of the Act No. 311/2001 Coll. Labour Code as amended.

^{iv} Art.141 of the Act No. 311/2001 Coll. Labour Code as amended.

^v Unless special regulation stipulates otherwise.

^{vi} Unless a special regulation provides otherwise.

^{vii} Pursuant to a special regulation.

^{viii} Pursuant to a special regulation.

^{ix} Pursuant to a special regulation.

^x Pursuant to a special regulation.

^{xi} Art.142 of the Act No. 311/2001 Coll. Labour Code as amended.

^{xii} E.g. compliance with tax obligations, social security contributions and mandatory old-age pension savings contributions), payment of an advance on public health insurance premiums, non-violation of the prohibition of illegal employment at least two years before applying a contribution, etc.

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