

COVID-19: Solutions for employers

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Outline

- Latest changes in relation to idle time
- Use of annual vacation and unpaid vacation
- Agreement on part time work and reduced salary
- Performance of work not provided in the employment contract
- Lease of employees to another employer
- Mutual agreement on termination
- Regular redundancy
- Collective redundancy

Latest changes in relation to idle time

- Idle time allowance applications must be submitted until the 30th date of the current month
- Idle time compensations will be payable until 30 June 2020
- Amendments effective from 9 May:
 - Employers who are eligible for inclusion in the so-called white list of the Tax Authority will be able to reduce the idle time payment until 70% of the regular salary (minimum salary plus an amount equal to the state social support payment for each child must be ensured)
 - Employee can terminate the employment contract without notice and is eligible to receive the regular severance payment (1-4 monthly salaries)
 - Procedure will be effective until 31 December 2020

Annual vacation / unpaid vacation

- Forcing the employees to go on annual vacation or to use unpaid vacation is not legal
- The only exception could be when the employee has unused vacation days for previous vacation years – in such case the employer could send the employees on vacation by unilateral order
- **Exception:** As of 9 May 2020 until 31 December 2020, employers who are eligible for inclusion in the so-called white list of the Tax Authority will be able to send the employees on annual vacation without taking into account the employees' wishes, i.e., as convenient for the employer

Agreement on part-time work or reduced salary

- Employee may not be forced to go on part-time work or accept lower salary – mutual agreement should be signed (except the latest amendments below and redundancy option discussed later)
- Agreement can provide that part-time work or reduced salary is determined for a certain time (fixed term or on specific conditions, e.g., turnover is back to normal)
- Amendments effective from 9 May 2020:
 - Collective agreement entered with a trade union may provide that part-time work can be determined for employees in case of short term decrease of production (minimum salary plus an amount equal to the state social support payment for each child must be ensured)
 - Employee can terminate the employment contract without notice and is eligible to receive the regular severance payment (1-4 monthly salaries)
 - Procedure will be effective until 31 December 2020

Performance of work not provided in employment contract

- In case of idle time, employer can assign the employee to perform work not provided in the employment contract no more than 2 months during 1 year
- An employer has the right to assign an employee for performance of work not provided in the employment contract for a period not exceeding 1 month within 1 year in order to avert the consequences caused by force majeure, an unexpected event or other exceptional circumstances which adversely affect or may affect the normal course of activities in the undertaking.

Lease of employees to another employer

- In most cases consent of the employee is required
- Employer is still liable for performance of all obligations against the employees leased out (salary, vacation, etc.)
- Written agreement should be signed between the lessor and lessee
- Lease of employees could be regarded as employment agency services which require a license issued by the Employment State Agency (issued within 1 month)

Mutual agreement on termination of employment

- Mutual agreement enables termination of employment with immediate effect, and the employee is able to apply for unemployment benefits
- Agreement can contain an obligation to sign a new employment contract subject to certain conditions

Redundancy

- Not an optimal solution if quick action is required, since the termination notice period is 1 month, during which the regular salary must be paid
- Severance payment in the amount of 1-4 monthly salaries depending on seniority
- Evaluation of employees must be performed if only some of the employees taking the same position are terminated
- NB! – vacancies should be offered to the employees
- It is possible that an employee is a trade union member for more than 6 months (consent of the trade union must be requested)

Redundancy by offering amendments

- It is possible to offer the employees to sign amendments, e.g., part-time work or reduced salary in combination with termination notice – if the employee does not accept the amendments, then the employment relationship is terminated within 1 month on the basis of redundancy
- All regular conditions on redundancy are applicable (evaluation, trade union consent, etc.)
- If employee agrees to the amendments, the old salary must be paid for 1 month

Collective redundancy

- Collective redundancy is such redundancy where the number of employees to be terminated during a 30-day period is:
 - at least 5 employees if the employer normally employs more than 20 but less than 50 employees in the undertaking;
 - at least 10 employees if the employer normally employs more than 50 but less than 100 employees in the undertaking;
 - at least 10% of the number of employees if the employer normally employs at least 100 but less than 300 employees in the undertaking;
 - at least 30 employees if the employer normally employs 300 and more employees in the undertaking
- Employee representatives, if any, should be consulted in good time
- Employment State Agency and municipality must be notified
- Termination notices can be submitted within 30 (60) days from submission of notification (it is possible to ask for shortening of this deadline)

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