



March 2020

New coronavirus – employment law

With regard to the spread of the new type of coronavirus SARS-CoV-2 disease (hereinafter only the “Coronavirus“) we provide some important information related to the employment law.

Occupational health and safety protection

The employer is obliged to eliminate or at least minimize risks related to the occupational health and safety protection. Within this category falls also the endangerment by the Coronavirus.

In order to comply with the occupational health and safety protection obligations, it is reasonable to adopt following measures:

- Inform employees in the area of hygiene and about employer’s measures with regard to the Coronavirus, eventually appoint a contact person for these matters
- Limit personal interactions
- Limit business trips and conferences
- Increase intensity of cleaning and sanitation
- Provide additional protective equipment (respirators, veils, face shields, if available)
- Limit or ban movement of third persons on employer’s premises
- Let the employees work from home (if possible)

The employees are obliged to inform the employer if they were in the niduses of the infection (Italy, China etc., see <https://koronavirus.mzcr.cz/en/high-risk-countries/>).

The employer cannot test an employee for the coronavirus on its own; however, the employer may order to an employee to undergo an **extraordinary occupational medical examination**.

The employer shall discuss with the potentially risky employee the necessity to contact the Regional Hygiene Station. If the employee does not cooperate, the employer can inform the **Regional Hygiene Station** about such risky employee on its own.

Quarantine and other limitations

A. *Quarantine imposed on an employee*

A quarantine imposed on an employee by a health protection body is considered as an important personal impediment to work on the part of the employee and the employee is entitled to compensation for salary in the amount of 60 % of the average earnings for the first 14 days of the quarantine. From the 15th day onwards, the employee is entitled to sickness

insurance pays. The employee is obliged to inform the employer that a quarantine has been imposed on him.

B. Preventive measures of the employer

If, for preventive reasons, the employer wants to achieve that some employees who are suspected to be infected by Coronavirus do not stay at the workplace, following options can be considered:

- Agreement on **home office** (performance of work from home) with the employee, if the nature of the performed work allows it. The employer may not order the home-office to the employee.
- Agreement on taking of the **compensatory time off for overtime work**.
- Granting of **unpaid leave** to the employee at his/her request.
- **Taking of leave** may be ordered to the employee only in advance; this has to be notified to the employee at least 14 days in advance.
- If none of the options is feasible and despite of that the employer does not allow the employee to perform work, it is considered as an **impediment to work on the part of the employer** → the employee is entitled to compensation for salary in the amount of 100 % of the average earnings.

C. Preventive measures of the employee

If an employee who fears Coronavirus refuses to come to work or to perform work, it is reasonable to **discuss** this issue with him/her first **and to try to find a compromise**.

The employee is entitled to **refuse the performance of work** in respect of which he/she justifiably believes that it directly and seriously endangers his/her health. However, the criterion for a refusal to work is strict and it will not be probably met in case of mere fear of Coronavirus. This criterion can be however met in case of employees with a weaker immunity (e.g., cardiacs, persons with chronic or oncological diseases, diabetics, pregnant women, person above 60 years of age, etc. If the refusal to perform work is justified, it would be considered as an impediment to work on the part of the employer and the employee would be entitled to a compensation for salary in the amount of 100 % of the average earnings.

If the criterion for the refusal to work is not met and the employee is absent in a shift, it will be considered as an **unexcused absence** with respective sanctions → without salary for the shift which the employee absented in, reduction of leave, in some cases a notice of termination or even immediate termination of the employment law relationship.

D. Official order, limitation or suspension of operations, delays, partial unemployment

Assessment of impediments to work in case of **decisions and measures of the public authorities** which have impact on employer's operations has not been united yet and will always depend on the circumstances of the given case and measure. Extraordinary epidemiological measures with global impact on some operations are, in some cases,

considered as a quarantine and the employee is entitled to compensation for salary in the amount of 60 % of the average earnings. In cases where the operations are not directly limited and the employee is ready to perform work but the employer does not assign work, the employee is entitled to compensation for salary in the amount of 100 % of the average earnings. In case of temporary limitation of sales of products or limitation of demand, the instrument of partial unemployment is being used, when, on the basis of an agreement between the employer and the trade union or on the basis of an internal directive issued by the employer, the employee is provided with compensation for salary which may not equal less than 60 % of the average earnings.

If the operations of a business partner are affected and, as a result, there is a **defect in supplies or raw materials or driving force** for the employer, it is considered as a dead time on the part of the employer and the employees are entitled to compensation for salary in the amount of 80 % of the average earnings.

In case that the employer's operations are paralysed by high **morbidity of employees** and a healthy employee is ready to work, it will be considered as a dead time on the part of the employer and the employee will be entitled to the compensation for salary in the amount of 80 % of the average earnings.

E. Carer's allowance

Because of the current situation, the Ministry of Labour and Social Affairs wants to extend the period for which the carer's allowance is paid. This period should last for the entire period for which the school or respective facility is closed. At the same time, the right to receive the carer's allowance should be extended to the self-employed persons.