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# Coronavirus from the perspective of Slovak labour law



## **CORONAVIRUS FROM THE PERSPECTIVE OF SLOVAK LABOUR LAW**

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In the last couple of days, the spread of the COVID-19 epidemic (or in infectious coronavirus disease) has become an important topic in countries where it occurs. The complications it causes reach far beyond health-related issues, as it highly affects the local business environment and gives a new perspective on employment relations. As companies are acknowledging the impact the epidemic has on their employees, theoretical and practical questions are arising concerning labour law, questioning the rights, obligations and safety measurements that shall be imposed. As the situation is constantly evolving and changing, we advise to regularly seek information provided by local authorities, but to provide answers to the most common questions employers are asking us, our experts prepared an overview on coronavirus from the perspective of the Slovak labour law.



**1. In the current situation, may I send an employee on a business trip abroad? Is the employee entitled to refuse such business trips?**

An employer, upon the consent of the employee, may send an employee on a business trip outside the municipality circuit of their regular workplace or residence for a necessary period of time. The abovementioned consent is not required if taking business trips directly arises from the agreed type or place of work or if the possibility of sending on a business trip is agreed in the employment contract.

During the business trip, the employee shall carry out work pursuant to instructions of his or her superior sending the employee on the business trip. It follows that the employee may not decide himself or herself to take business trip but may be instructed to do so by the employer.

However, taking into account the current situation, the employers should reconsider sending the employees on business trips and opt for other measures to minimize the personal contacts, such as phone calls or teleconferences, if possible. At the same time, the employer shall not consider as a failure to fulfil the obligations of the employee in those cases in which the employee refuses to carry out work or follow instruction which seriously threatens the their or other persons' life or health. Although the law is not specific about what shall be understood under the term “serious threat” to life or health, but one can only assume that if, for example, an employer intends to send an employee to a so called “black list country” (which currently are Italy, China, Iran or South Korea) where there is an undeniably high risk of being infected, then the employee’s refusal to travel would be probably rightful. On the other hand if, for example, taking business trips is agreed in the employment contract or it arises therefrom and the employer is sending the employee to the country where there is low risk of being infected or none at all, such employee would probably not be in a position to refuse the business trip.

**2. How should I treat a so-called “employee at risk”, i.e. an employee who has arrived from one of the areas considered as at risk? I do not want to lose productivity, but by no means am I interested in spreading the infection among my employees.**

Provided that an employee is infected or shows a sign of infection, the employee should contact their physician, no matter whether the person came from the blacklist country or not. Provided that the employee does not show any sign of illness and feels fit, however, the employee has arrived from a blacklisted country, the employee should inform their physician and the physician shall decide on obligatory isolation of such person at home for fourteen days. It is then probably up to agreement of both parties whether the “employee at risk” stays at home temporarily as incapable to work and asks for the social insurance sick pay or will be carrying out work from home.

### **3. If the employee stays at home, do I have to pay them even if they do not perform any work? Can I order them to work from home?**

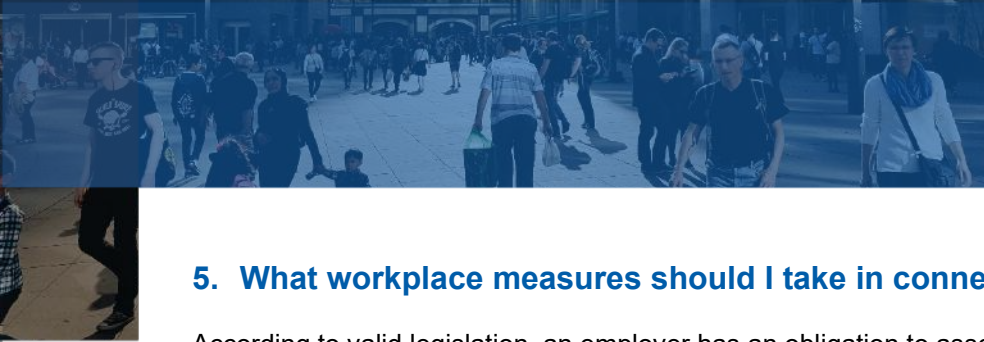
Provided that there is no special regulation in force, an employer may not force the employee to work from home (or better to say, keep the employee from their ordinary workplace). It is advisable for both parties to agree that the work will be temporarily performed from home or another place. In principle, it cannot be ordered. If an employee carries our work (even from a different place), an employee is entitled to wage. The employer should explain to employee who feels fit, that working home office may be also beneficial for the employee as it might be one of the tools how to “keep the employer alive” and protect the employer from economical destruction which may, at the end of the day, hit the employee accordingly.

Provided that the employee is fit but cannot carry our work from home as it is objectively impossible and the employer’s office would be for example closed due to special regulation and so the employer may not assign the work to employee to be carried out form home, it will be likely an impediment on the side of employer and the employee is entitled to wage compensation. This might be, however, subject to further discussion as nobody can tell now what will such measure really be like, who exactly will be the addressee etc. The parties may also agree on taking vacation for a necessary period of time or taking the compensatory time. The employer is in the position to order the employee vacation, however, it might be a bit risky as this order shall be communicated at least fourteen days prior to such involuntary vacation and the employer must also consider the employee’s interests.

There are too many scenarios that may occur and it is difficult to name every possible situation. The case might be that the employee may not carry out work due to the fact that the employee has returned from the blacklisted country and should stay isolated, the employee must stay at home as the employee takes care of their child who cannot stay home alone (the child cannot be placed in kindergarten as it is closed, the child is ill etc.) These situations are considered as the impediments to work on the side of employee and in many (but not all) cases the employee is not entitled to wage compensation. The parties may, however, also in these cases agree on carrying out work from home, if possible.

### **4. Is there any possibility to save costs for employees unable to work as a result of the coronavirus?**

Simply said, if an employee may not carry out work, one should consider the possible impediments on the side of employer or an employee. Provided that there is an impediment on the side of employer, the employee may be entitled to wage compensation in the scale of 60 per cent wage compensation to full wage compensation. Provided that there is an impediment on the side of employee, the employer shall excuse the absence of employee at work and, depending on particular case, the employee might be or might not be entitled to wage compensation. In some cases, the employee may be entitled, for example, to social insurance sick pay, social care pay etc.



## **5. What workplace measures should I take in connection with the coronavirus?**

According to valid legislation, an employer has an obligation to assess the risks at the workplace and take suitable measures. On the other hand, the employee should not act contrary to the employer's legitimate interests. The employer should discuss the situation with its employees so that they understand measures that might be taken. Explaining the situation might lead to reasonable behaviour and reaction of the employees. Some measures may not be viewed as "employee friendly", some require the consent of an employee in order to be introduced (e.g. order to take vacation). In general, an employer should reconsider sending the employees to business trips abroad, mass events such as education trainings, conferences etc. and instead of that opt for phone or online conferences. Employer may instruct its employees not to take personal trips abroad, especially to the blacklisted countries if not necessary and if an employee travels there, discuss with such employee the subsequent measures that should be taken in order to minimize the risk of spreading the disease. As mentioned before, the parties may agree on carrying out work from home, taking subsequent vacation, taking compensatory time etc. If there is no specific instruction issued by competent authorities (like e.g. in case of persons coming back to Slovakia from black list countries where the employee's absence from work shall be excused), it will be more about discussing, persuading, explaining the situation and expectations that every person shall behave reasonably due to existing situation. The employer might also adopt a decision that the employer will not assign the work to employee, in such case, however, it will be an impediment to work on the side of employer and the employee is entitled to wage compensation.

## **6. What are some other legislative changes caused by the coronavirus?**

The Public Health Authority issued the regulation introducing an obligatory quarantine or isolation that addresses every person returning from the blacklisted countries and having a permanent residence in Slovakia, employment relationship in Slovakia or any person residing in Slovakia for more than 90 days for the period of fourteen days following the day such person returns from the blacklisted country. Many public, cultural or sports events are cancelled, some universities, schools and kindergartens are closed etc.

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