

**BASIC INFORMATION AND TIPS FOR ENTREPRENEURS  
REGARDING THE COVID-19 OUTBREAK**

Opava, 24th March 2020

**1. STATE OF EMERGENCY AND THE GOVERNMENT-IMPOSED LIMITATIONS**

On 12th March 2020, the Czech Government declared a **state of emergency** according to the articles 5 and 6 of the Constitutional Act No. 110/1998 Coll., on the security of the Czech Republic. The state of emergency was declared for a period of **30 days**, i.e. so far by 11th April 2020. The state of emergency may be subsequently prolonged with the consent of the Chamber of Deputies.

During the state of emergency, the Government is entitled to **adopt measures limiting certain rights and freedoms** pursuant to section 5 of the Act No. 240/2000 Coll, as amended (Crisis Act). So far, the Government adopted in particular the following material measures:

Measure	Short description	Term
Prohibition of the free movement of persons	Prohibition of the free movement on the Czech territory, excluding in particular: (i) going to work and to perform other gainful activity, (ii) necessary trips to meet relatives and close friends; (iii) procurement of the basic needs; (iv) trips to medical, veterinary and social service establishments; (v) urgent official matters; (vi) performance of service and other activities of certain key professions; (vii) trips to nature; and (viii) funerals. Starting from 19th March 2020, it is obligatory to cover mouth (using drapes, scarves etc.) when leaving house.	From: 20/03/16 Till: 20/04/01
Obligation to limit personal encounters	Obligation to limit personal encounters with other people only to the absolutely necessary.	From: 20/03/16 Till: 20/04/01
Prohibition or retail sales of goods and services in stores	Prohibition of retail sales of goods and services in physical establishments, excluding in particular: (i) sale of food; (ii) sale and servicing of certain electronic devices; (iii) sale of fuels; (iv) sale of hygiene supplies and cosmetics; (v) sale of drugs, medical devices and optical goods; (vi) sale of animal feed; (vii) sale of newspapers, magazines and tobacco goods; (viii) laundry and cleaning services; (ix) sale of cloth and haberdashery; (x) real estate agencies; (xi) accountants; and (xii) sale at distance. Starting from 18th March 2020 the Government	From: 20/03/16 Till: 20/04/01

	recommends retail sellers and transportation service providers to disinfect places of contact. From 19th March 2020, the opening hours of grocery stores and drug stores between 7.00 and 10.00 a.m. are reserved for elderly people and people with physical disability over 50 years of age.	
Prohibition of operation in restaurants and casinos	Prohibition of operation in public canteens and casinos except for sale "to go" (exception does not apply to establishments in big malls over 5000 m <sup>2</sup> )	From: 20/03/13 Till: 20/04/01
Prohibition of public access to certain establishments and sports pitches	Prohibition of public access to pools and tourist information centers. Prohibition of access to outdoor and indoor sports pitches by more than 30 persons simultaneously.	From: 20/03/14 Till revoked
Prohibition of retail sales on public marketplaces	Prohibition of retail sales on public marketplaces and market buildings.	From: 20/03/14 Till revoked
Limitation of the residence of foreigners in the Czech Republic	Prohibition of entry of foreigners from risk areas, non-acceptance of visa applications filed outside the Czech Republic, interruption of pending long-term visa proceedings. The Government further approved a measure proposed by the Ministry of Interior to renew the internal borders (borders with Schengen states).	From: 20/03/14 Till revoked
Quarantine of persons returning from risk areas	General obligation to notify the return from any of the risk areas to the healthcare service provider (general practitioner) and to inform of potential COVID-19 symptoms (at distance). Obligation of general practitioners to issue decisions on quarantine in those cases.	From: 20/03/13 Till revoked
Limitation of cultural and social events	Prohibition of artistic performances, sports, religious and other gatherings, expositions, fairs, educational events etc. with the attendance exceeding 30 persons.	From: 20/03/13 Till revoked
Prohibition of public entry to certain entertainment facilities and sports pitches	Prohibition of public entry to gyms, solariums, swimming pools, saunas, wellness services, clubs and other entertainment facilities, public libraries and galleries.	From: 20/03/13 Till revoked

Prohibition of school attendance	Prohibition of personal attendance of pupils and primary schools, high schools, higher vocational schools and universities and on events hosted by such schools, except for practical education at universities. Prohibition of personal attendance on language courses, at arts schools and similar. Kindergartens are regulated by local authorities.	From: 20/03/13 Till revoked
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Please note that the above specified measures are significantly simplified and are meant only for the purpose of general overview of the matter. Full information is available at the website of the Government at: <https://www.vlada.cz/en/>. In case of any questions regarding the scope of any particular limitation, please refer to a professional legal advisor.

Breach of the imposed limitations may constitute an **administrative offence pursuant to section 34 of the Crisis Act**, which is punishable by fines up to 2 million CZK (individuals), or up to 3 million CZK (entrepreneurs and legal persons). Fines are imposed by relevant regional authorities.

## **2. HR ISSUES AND RECOMMENDATIONS**

The limitation imposed by the Government during the state of emergency may cause various HR issues. In practice, the employers mostly expect to deal with the following:

**A. Quarantine of an employee** – The obligatory quarantine of an employee after the return from any of the high risk countries (<https://koronavirus.mzcr.cz/en/high-risk-countries/>) is similar to the regime of short-term sickness leave). During the quarantine, the employee does not work and is entitled to a salary compensation (first 14 days of the quarantine) amounting to 60 % of the average salary, which is paid by the employer. In case the quarantine is prolonged, the employee will receive the sickness benefit from the relevant social security authority.

**B. Limitation of the employer's operation** – The business operation of the employer may be severely limited or even prohibited by the measures imposed by the Government. The assessment their effect on the employment relationships will always depend on specific circumstances – therefore, we recommend consulting a professional whenever unsure.

In general, the limitation of employer's operation will most likely constitute "other obstacle of work" on side of the employer pursuant to section 208 of the Labour Code or, in case the employer has such option stipulated in a collective agreement, a limitation of sales according to section 209 of the Labour Code. In case the limitation is due to shortages in supplies of materials etc. (i.e. if the outbreak has affected your supplier), it will be treated as idle time pursuant to section 2017 of the Labour Code. In case of employees with a standard employment contract, the employer will likely be obliged to pay a salary compensation in the amount of 60 % (idle time), 80 % (limitation of sales based on collective

agreement) or 100 % (in other cases) of the employee's average salary. The Ministry of Labour and Social Affairs (MLSA) issued a handbook to assess these cases, which is available here (in CZ):

[https://www.mpsv.cz/documents/20142/1443715/Desatero\\_tabulka.pdf/b415b933-f717-6936-df03-0fccd8ee6c16](https://www.mpsv.cz/documents/20142/1443715/Desatero_tabulka.pdf/b415b933-f717-6936-df03-0fccd8ee6c16)

In case of employees working on the basis of agreements on work outside the employment relationship, i.e. Work Agreement (in CZ: "dohoda o provedení práce" or "DPP") or Agreement on Work Activity (in CZ: "dohoda o pracovní činnosti" or "DPČ"), the possibilities will depend on the contents of such agreements. However, in these cases it is more likely that the employer will be able to stop requesting work without paying any salary compensation.

After a consultation with a professional advisor, the employers may consider any of the following measures to mitigate the losses caused by paying idle employees:

- (i) terminate employment relationships, which are not essential to the employer and will not trigger severance payments (keep in mind the rules of mass redundancies);
- (ii) terminate agreements on work outside employment relationships, which are not essential to the employer, or (if possible) cease to request work on the basis of such agreements;
- (iii) order vacation (keep in mind the rules of notification and on mass vacation);
- (iv) agreement on the transfer of the employee to a different type of work;
- (v) agreement on unpaid leave (not claimable, requires consent of the employee);
- (vi) assess a potential claim for donation (see below).

In case of employee, who are in quarantine (or on short-term sickness leave), the rules on the quarantine (or short-term sickness leave) take precedence over the obstacles of work on side of the employer.

**C. Home office** – Providing home office is not obligatory. So far, the relevant Government resolution only recommends it. However, with respect to the general obligation to prevent damage, we recommend allowing home office whenever possible. It is recommended to conclude agreement regarding the home office. In this regard, keep in mind that most of the employer's obligations will still apply when on home office and that it is necessary to fulfill them. This concerns mainly: working time records, health & safety, working time, limits of overtime and nightwork. All of the issues should be addressed in an agreement with the employee.

**D. Travel to work abroad** – Travelling to the high-risk countries, including Germany and Austria, is generally prohibited. The same applies to trips of persons from the high-risk countries. However, an exception applies to the employees / entrepreneurs regularly crossing borders from and to the Czech Republic for the purpose of work (in the area up to 100 kms from the border). The same exception applies to employees working in traffic. However, such employees are obliged to exert maximum caution during their stay in the high-risk countries. The exact scope of exceptions from the prohibition to travel abroad is found here: <https://www.mvcr.cz/docDetail.aspx?docid=22240158&doctype=ART>.

Starting from 18th March 2020, the employees taking advantage of the above specified exception are subject to stricter prohibition of movement – some of the general exceptions from the prohibition of movement, especially travels to meet relatives and trips to nature, do not apply to them.

**E. Medical checks** – During the state of emergency, the Government has granted exception from the obligation of the employers to perform regular medical checks of its employees. Medical checks of new employees and health cards may be temporarily substituted by an affidavit.

**F. Health & Safety** – Given the risks connected with the SARS-CoV-2 virus, the employers are recommended to adopt at least the following health & safety measures: (i) duly inform the employees of the possibility of infection and the necessary hygienic rules; (ii) provide the employees with the necessary equipment (drapes, respirators, disinfection). If possible, we recommend agreeing on home office.

**G. Employment visa** – From 14th March 2020 until revoked, all pending proceedings regarding long-term visas were suspended and all pending proceedings regarding short-term visa were terminated. Generally, no visa applications are accepted. Based on the Government resolution No. 214 dated 15th March 2020, the validity of existing visas was extended until the 60th day from the termination of the state of emergency. Practical application of this exception, however, was complicated by a Government resolution No. 248 (vague wording). In case you plan to rely on the exception, we recommend consulting the Ministry of Interior, Labour Office or a professional lawyer.

### **3. CONTRACTUAL OBLIGATIONS**

It is clear that the current situation may have a serious impact on the performance of business agreements, either by your firm, or by your contractual partner (or both). Possible implications and liability for the breach of obligation mostly depends on the contents of the affected business agreement.

Considering the general provisions of the Civil Code, the contractual partners may try to rely on provisions, which provide for the exclusion of liability or termination of obligations due to extraordinary events. These provisions include in particular:

- (i) Material change of circumstances – Material change of circumstances is defined as material and unexpected increase of costs or reduction of the value of performance, which occurs after the conclusion of the agreement. In case that COVID-19 causes such material change of circumstances, the affected party may demand renegotiation of the contractual terms. However, it does not enable the affected party to refuse the agreed performance.
- (ii) Subsequent impossibility of performance – In case it is not objectively possible to fulfill the agreed obligation due to the COVID-19 outbreak (e.g. to host an event for more than 30 persons), the obligation would be terminated with ex nunc effects. Pls note that the performance of an obligation is not considered as impossible in case that it only becomes harder or more expensive to perform, in case of delays and in case it is necessary to use the services of a third party to fulfill it.

- (iii) Force majeure – Force majeure usually enable the affected party to exclude its liability for delays or other breaches of contract. When relying on force majeure, it will be crucial if the COVID-19 outbreak falls within the definition of force majeure for the relevant contract.

In case of any disputes related to the business agreements caused by the implication of the COVID-19 outbreak, we recommend to assess the possibility to apply the above specified exceptions and the contractual provisions related to them.

#### **4. OPERATION OF COURTS AND AUTHORITIES**

The operation of public authorities was limited by the resolution of the Government No. 217 from 15th March 2020. The public authorities continue their operation. However, the officials are obliged to refrain from personal contacts, unless absolutely necessary, and their office hours are limited.

Based on the requests of the participants of proceedings, the courts and administrative offices tend to postpone hearings without any problems. Some authorities postpone hearings automatically, based on internal directives.

#### **5. SUPPORT MEASURES APPROVED BY THE GOVERNMENT**

**A. SUPPORT MEASURES IN TAXES** – The Ministry of Finance (MF) adopted a set of mitigation measures related to the COVID-19 outbreak called Liberation package I. and Liberation package II. MF promised: (i) a general pardon of fines for late filing and payment of individual income taxes filed by 1st July 2020 and real estate property taxes filed by 31st July 2020; (ii) remission of fines for late tax declarations for other taxes caused by the COVID-19 outbreak; (iii) remission of fines for later VAT control reports in the amount of CZK 1,000 until 31st July 2020; and (iv) remission of the obligation to pay the individual income tax advance payment for June 2020. More information on the measures may be found here: <https://www.mfcr.cz/cs/aktualne/tiskove-zpravy/2020/pruvodce-pro-danove-poplatniky-v-souvisl-37856> (CZ only)

**B. MEASURES TO SUPPORT EMPLOYERS** – Based on the proposal from the MLSA the Government approved measures to support employers, who pay the salary compensation due to the COVID-19 outbreak. In case of quarantines, the MLSA will cover the full amount of salary compensation during the first 14 days (whole quarantine period of employee). In case of obstacles of work on the side of the employer, the MLSA shall cover 50 % or 80 % of the salary compensation, depending on circumstances for the first 10 days (the obstacles may last much longer). The program should apply to costs incurred between 1st March 2020 and 30th June 2020. More information may be found here: <https://www.mpsv.cz/informace-ke-koronaviru> (CZ only)

**C. MEASURES TO SUPPORT ENTREPRENEURS** – Based on the proposal from the MLSA, the Government agreed to reduce the advance payments for social security by the amount of the minimum advance payment during the next 6 months (March till September). Entrepreneurs are currently paying

the minimum advance payments will not be paying any advance payments, other entrepreneurs will have their advance payments reduced accordingly. Moreover, entrepreneurs will be entitled to apply for Extraordinary Immediate Aid. More information may be found here:

<https://www.mpsv.cz/informace-ke-koronaviru> (CZ only)

Based on the proposal of the Ministry of Industry and Commerce (MIC), the Government approved that entrepreneurs will be entitled to claim the nursing pay in case they need to take care of children and cannot exercise their gainful activities. The nursing pay will be subject to the same rules as in case of the employees and shall amount to CZK 424 / day. More information may be found here:

<https://www.mpo.cz/cz/rozcestnik/pro-media/tiskove-zpravy/podrobnejsi-rozcestnik-v-kontextu-s-koronavirem--253458/> (CZ only)

**D. SOFT LOAN AND INTEREST-FREE LOAN FOR ENTREPRENEURS** – Within the programs COVID I and COVID II, the Czech and Moravian Guarantee and Development Bank will provide interest-free loans up to 15 million CZK for up to 2 years to entrepreneurs affected by the COVID-19 outbreak. More information may be found here:

<https://www.cmzrb.cz/podnikatele/uvery/uver-covid/> (CZ only)

In the field of agriculture and forestry, the Ministry of Agriculture plans to extend the programs of the Support and Guarantee Fund for the Agriculture and Forestry (SGFAF). Moreover, the payment of installments of the loans provided by the SGFAF may be postponed. More information here:

<http://eagri.cz/public/web/mze/> (CZ only)

## **6. COMPENSATION OF DAMAGES CAUSED BY THE GOVERNMENT MEASURES**

According the section 35 of the Crisis Act, the persons affected by certain Government measures adopted during the state of emergency are entitled to claim the compensation of damages. The compensation is provided in case of limitation of ownership rights or right to use to a property, provision of material aid and obligatory performance of work. The compensation is provided within 6 months from the termination of the state of emergency. The compensation is not expressly linked with the adopted limitation of business activities. In practice, there will be clear cases, where the compensation will be surely provided (e.g. forced labor and material aid), and other cases, where the potential compensation claim is very unclear and will depend on the case law (e.g. limitation of the ownership rights to the premises of a restaurant by the prohibition of its operation).

Section 36 of the Crisis Act provides grounds for the compensation of damage caused by the public bodies when fulfilling their obligations arising from the crisis measures. This compensation does not relate to a damage or loss caused directly by the adoption of the Government measures (e.g. by the prohibition of free movement), but to a damage caused by a specific activity of the public bodies (e.g. damage of property caused by the members of the police while fulfilling the crisis measures). The compensation claim must be exercised within 6 months from when the damage becomes apparent and within 5 years from when the damage is cause; otherwise the claim will be precluded.

In any case, it is recommended to maintain proper records and documentation of the damages and losses caused by the Government measures to ensure potential future damages claims.

**All information specified in this summary are up to date as of 24th March 2020. Subsequent changes of the relevant documents (in particular the Government resolutions) may occur.**

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