EY Global Labor and Employment Law COVID-19 Tracker

Volume II (Italy - Vietnam)

15 December 2020

Building a better working world

Important notes

- This document provides a snapshot of the Labor and Employment Law regulations that operate in jurisdictions around the world.
- This document is updated on an ongoing basis but should not be relied upon as legal advice. It is designed to support conversations about policies that have been proposed or implemented in key jurisdictions.
- In addition, not all jurisdictions are reflected in this document.
- You should consult with your local EY Law team to check for the latest developments.

In challenging times like these, many businesses are encountering questions that urgently need to be answered. Companies around the globe are now facing unprecedented challenges, not only financially but also in terms of human resources.

As the spread of the COVID-19 pandemic continues to accelerate throughout the world, it is essential for businesses to stay agile. This particularly applies to multinational companies working across many different jurisdictions, taking into account varying legal regulations.

In this tracker, across two volumes, we provide a comprehensive overview of legal regulations in more than 60 jurisdictions. We have put together guidance on the continuing initiatives on state support for furlough, short-time or part-time work, as well as the key questions regarding workforce transformation.

Staying informed of the latest information will be essential in adapting to the new business landscape we are now facing. Our local labor and employment law professionals in your jurisdiction are available to discuss your specific queries. We will continue to update this document as further information comes to hand.

With best wishes,

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EY teams have developed additional trackers to help you follow changes on our dedicated ey.com page here, including:

- Immigration
- Force Majeure
- Tax Controversy
- Global Tax Policy
- Indirect Tax (US States)
- Mobility
- Transfer Pricing
- Global Trade

EY professionals are updating the trackers regularly as the situation continues to develop.

31 Jurisdictions covered (Volume 2 of 2)

Italy	Nicaragua	Romania	Switzerland
Japan	North Macedonia	Russia	Taiwan
Kazakhstan	Norway	Serbia	Turkey
Latvia	Panama	Singapore	Ukraine
Luxembourg	Paraguay	Slovakia	United Arab Emirates
Mexico	Peru	Slovenia	United Kingdom
The Netherlands	Poland	Spain	Vietnam
New Zealand	Portugal	Sweden	

Italy

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14 December 2020

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. COVID-19 is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken and be updated on the basis of the new developments. Examples of this include ▸ Providing disinfectants ▸ Technical possibilities as an alternative to physical meetings (e.g. video conferencing); ▸ The provisions of the Protocol to regulate measures to contrast the spread of the COVID-19 pandemic in the workplace, signed on 24 April 2020 between our Government and the trades union and which integrates a previous Protocol of 14 March 2020	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee might be suspended from work with full benefits.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. Individual information regarding sickness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people. Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information in accordance with the underlying duty of loyalty which forms part of the employment.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?
No.	Since in Italy various strict measures have been adopted and updated, it is strongly recommended to follow the indications directed by the Government and their updates as well as the provisions of the Protocol to regulate measures to contrast the spread of the COVID-19 pandemic in the workplace, signed on 24 April 2020 between the Government and the trades union and which integrates a previous Protocol of 14 March 2020.	Yes.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.	(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
		(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
The CBA applied by the employer at national, territorial and/or company level, might provide special flexibility measures, such as bank hours and multi-period working hours that, depending on the case, might be unilaterally activated by the employer, or with prior union consultation or approval. Currently, these measures do not benefit from state subsidies. Furthermore, the Government encouraged the utilization by the employers and employees of accrued holidays and permits. Currently, these measures do not benefit from state subsidies. Finally, with several Decrees and Laws aimed at introducing specific measures for the spread of the COVID-19 pandemic, additional parental leave has been granted for public and private sector employees and for certain self-employed workers, parents of children aged not more than 12 years or of disabled children. The parental leave provides the possibility for such workers to refrain temporarily from work, for a continuous or defined period of days, with the right to receive an indemnity, usually equal to 50% of their salary. These Decrees also provided an extra amount of days of paid leave for the care of disabled family members.	CBAs may define the appropriate union consultation measures for the relevant employer, industry or territory. Special parental leave, as well as additional paid leave for the care of disabled, do not require specific procedures to be implemented by trades union and/or work councils.	It depends on a case-by-case basis. The starting day can be postponed due to the particular urgency: ▸ If the Company is closed by virtue of Government provision; and/or ▸ If the performance of the working activities can not be executed from remote locations, and the parties have not yet signed the employment contract If there is already a contract signed between the parties, this might create an issue, since the employee might require salary payment in any case or benefit from a wage integration fund.	Please refer to comments in Q8(i).	Please refer to comments to Q8(i), but if the starting day is not postponed, the employee must stay at home during the sick leave.

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(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
	(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
Yes, there are a number of employment obligations including maintaining health and safety of employees. It should be considered whether the employee can be accommodated (e.g. working from home) during the illness. The employer has to promptly communicate to the employee the reasons for postponing the employment state data. The employer has to also communicate to the labor offices the start date of the particular employee.	If the activity can be performed from remote locations, the employer can ask the employees to work remotely (i.e., smart-working) and pay the normal wage salaries. If this is not possible, and/or the employee has not yet accrued any holiday, the employer might ask for the intervention of temporary wage funds, if the requirements are met by the company. In this case, the employees receive part of their salaries directly through state subsidies.	Please refer to the comments in Q10(i).	Generally, in the case of absence for sickness, part of the wage/salary is paid directly by the National Institute for Social Security to the employee, starting from the fourth day of absence.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?

If the existing employee is sick they must stay at home. Otherwise, if the employee is a newly-recruited employee, it is not clear if the employer can impose that the employee must use their holidays and permits which have not yet accrued.

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?

A new urgency decree has been introduced with some specific exceptions to the general ban of dismissals for economic reasons during this period.

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

In addition to the specific leave for parents and/or the possibility of remote working and the other measures such as furloughs, it is possible to discuss at company level the applicability of regulatory incentives and the forms of flexibility already available, also with the aim of supporting employees with school-age children to be looked after, in situations where schools and kindergartens are closed due to the COVID-19 pandemic.

Moreover, Law Decree no. 111 of 8 September 2020 stated that a working parent may perform remote working for all or part of the period corresponding to the quarantine of children under 14 years of age.

As an alternative to the above, if it is impossible to work remotely, one of the two parents may opt for 50% paid extraordinary leave.

A parent cannot benefit from any of the above measures on the days where the other parent:

- Is receiving the benefit from one of the above measures
- Is performing remote working; or
- Does not carry out any work activity

These measures will be valid until 31 December 2020.

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(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

Special temporary wage guarantee funds, connected to the COVID-19 pandemic, have been implemented by the Italian Government in order to integrate the salaries of the employees in the case of temporary contractions of the activities and/or shutdown of the companies due to the risk of contagion. In particular, these are the following:

- New 'Ordinary' Temporary Wage Guarantee Fund
- New 'Ordinary' Temporary Wage Guarantee Fund for companies already benefiting of an extraordinary temporary wage guarantee fund
- New Temporary Wage Guarantee Fund 'In Derogation'; and
- 'Extraordinary' Temporary Wage Guarantee Fund for the Red and Yellow Zones'

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

- New 'Ordinary' Temporary Wage Guarantee Fund:
  - Companies: Industrial companies (manufacturing, transport, building and others), production and employment cooperatives which carry out activity similar to industrial companies, and to craft firms in the building sector;
  - Employees: Those employees employed on the date of entry into force of Law Decree 23 February 2020, n. 6, even if they have not yet performed 90 days of work
- New 'Ordinary' Temporary Wage Guarantee Fund for companies already benefiting of an extraordinary temporary wage guarantee fund:
  - Companies:
    - Companies that, at the date of entry into force of Legislative Decree 23 February 2020, no. 6, were benefiting from an extraordinary temporary wage guarantee fund treatment; and
    - Companies that are benefiting from a solidarity subsidy
  - Employees: Those employees already benefiting from extraordinary temporary wage guarantee fund treatment
- New Temporary Wage Guarantee Fund 'In Derogation':
  - Companies: Companies operating in the private sector (including agricultural, fisheries and non-profit sector, including religious organizations, and regardless of the number of employees), for which the treatments provided for by the current provisions regarding safety treatments are not applicable
- 'Extraordinary' Temporary Wage Guarantee Fund for the 'Red Zone' and 'Yellow Zone':
  - Companies: Companies falling within the municipalities of the 'Red zone' and the 'Yellow Zone' regions of Lombardy, Veneto and Emilia-Romagna;
  - Employees: If the companies are not located in the 'Red Zone' or in the 'Yellow Zone', the subsidy can be requested on a limited basis, only for employees resident and/or domiciled in the 'Red' or 'Yellow Zone'

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

- New 'Ordinary' Temporary Wage Guarantee Fund

There is a simplified trade union consultation procedure to request the treatment, which can also take place after the request of intervention and through telematic means. Union agreement is not requested in these cases. The duration of the temporary wage guarantee fund will not be calculated in the maximum overall duration provided by the normal provisions, and the treatment is exempted from the additional contribution.

- New 'Ordinary' Temporary Wage Guarantee Fund for companies already benefiting from an extraordinary temporary wage guarantee fund

The granting of 'Ordinary' treatment is subject to the prior suspension of the effects of the previously authorized extraordinary intervention. The simplified procedure should be the same provided for the New "Ordinary" Temporary Wage Guarantee Fund.

- New Temporary Wage Guarantee Fund 'In Derogation'

Except for companies with no more than five employees, this treatment requires prior union agreement with the appropriate trade union, which can also be concluded electronically. The intervention is authorized by decree of the concerned Italian Regions and the Italian Autonomous Provinces, to be sent electronically to National Social Security Institute (INPS), along with the list of beneficiaries.

- Extraordinary" Temporary Wage Guarantee Fund for the 'Red Zone' and 'Yellow Zone'

The simplified procedure for this treatment requires prior union agreement with the appropriate trade union, and the intervention is authorized by decree of the concerned Italian Regions (Lombardia, Veneto, and Emilia Romagna), to be sent electronically to INPS, along with the list of beneficiaries.

(17) What is the legal framework for collective redundancies?

The Law Decree no. 104/2020, released on 14 August 2020, has introduced some limited exceptions to the general ban on dismissals (individual and collective) for economic reasons, generally extended to 31 December 2020.

Currently, collective and individual dismissals can be made immediately in three cases:

- Definitive cessation of business activity with liquidation of the company
- Bankruptcy without provisional exercise of the business; or
- Under CBAs, stipulated by the appropriate trades union at the national level, which provides for incentivized exits, limited to workers who adhere to such an agreement. Remains valid for the exception to the ban, already envisaged, with respect to the change of contract with and the re-employment of the employees by the new contractor

Collective dismissals are mainly governed by 'Law 23 July 1991, no. 223, Rules on the Wages Guarantee Fund, redundancies, unemployment benefits, enforcement of European directives, job placement, and other labor market provisions' (Law 223/1991).

A collective dismissal occurs when an employer with more than 15 employees intends to dismiss at least five employees in the same establishment, or in different establishments located in the same province, within a period of 120 days.

If the aforementioned threshold and conditions are met, the employer must follow the collective dismissal procedure established by Law 223/1991.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?
The employer's decision on collective dismissal must be based on valid reasons - financial, reorganizational (e.g., organizational and management rationalization to reduce business inefficiencies) or restructuring (e.g., significant changes to business structures). Arbitrary or discriminatory reasons for dismissal are prohibited.	To initiate the first consultation phase of the collective dismissal procedure, the employer must send a prior notice to the internal work councils/trades union (i.e., workers' representation at plant level, known as RSA or RSU, as well as to the representative unions at territorial level, including those representing executives) and to the competent local labor authority (*Ispettorato Territoriale del Lavoro*, henceforth ITL), whereby detailed information must be given on: ▸ Reason(s) for the proposed dismissals ▸ Number of employees to be dismissed (including executives) ▸ Positions and professional profiles of the entire workforce, including those of the employees proposed to be dismissed ▸ Proposed timing for the collective dismissal; and ▸ Any proposal or measure to reduce the possible social consequences of the collective dismissals (social plan) There is no mandatory or specific time period prescribed by law for providing notice. In any case, if required by the unions, the consultation phase must start after seven days from the receipt of the notice by the unions. The first consultation phase with the unions must be completed within 45 days from the receipt of the notice. No specific consultation requirements with other employee representatives exist. **Consultation requirements with employees** There is no legal barrier to open communication with employees, subject to the prior notification to the unions of a collective dismissal. After the collective dismissal negotiation process is complete with the unions, the employer may communicate individually to the affected employees about the outcome of the process. In any case, the dismissal letter must be delivered by the employer to the affected employees. The dismissal shall be communicated within 120 days after the conclusion of the procedure, unless different terms are agreed upon with unions.

(20) Does the employer need to notify Labor Authorities or other government authorities? Is approval required before moving forward with any redundancies?

Approval of the labor authorities or other government authorities are not required to dismiss any employees in a collective dismissal process. However, after the completion of consultation with the unions, the employer is required to notify (in writing) the competent local labor authority (ITL or Ministry of Labor) of the outcome of the consultation process with the unions.

If no agreement is reached with the unions during the first phase of consultation, an additional conciliation procedure may take place before the ITL or Ministry of Labor upon its request. The conciliation procedure (second phase) must be completed within 30 days from commencement.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

Unless the dismissal involves all of the company's employees, the criteria for the selection of the employees to be dismissed are usually agreed upon and indicated in the agreement with the unions (if any).

The law provides that, upon commencement of the collective dismissal procedure, the employer is required to identify, in the prior written notice, the redundant professional profiles and the relevant number. Upon conclusion of the procedure, the employees to be actually terminated must be identified by the employer by virtue of a comparison among all the company's personnel, based on the following legal criteria:

- Organizational, technical and productive reasons
- Years of service; and
- Number of dependents of the affected employee (family responsibilities)

In the case of collective dismissal, unrelated to closure of the company, some restrictions apply with respect to:

- Mandatory percentages of employees with disabilities
- Maternity leave – until the child is one year old, or in the first year after the marriage
- Grace period for illness; or
- Fixed term employment contracts

These limits operate differently in the case of closure of the company or in the case of collective dismissal with continuation of the business.

(22) Are there any actions required to limit the negative impact of the redundancy?

The employer is not obligated to propose or devise a social plan. Nevertheless, the employer and the unions can negotiate and agree, during the negotiation phase, on alternative measures (like re-assignment to lower positions, incentive for voluntary resignation, etc) to mitigate the negative impact of the proposed collective dismissal.

Internal alternative employment/redeployment

No mandatory requirement to provide any internal alternative employment or redeployment exists.

Other measures

No other measures are required.

(23) What is the estimated timeline for a collective redundancy process?

Approximately one month is required to prepare for the collective dismissal process. However, the timeframe may vary depending on the complexity of the contemplated collective dismissal.

After the prior notice to the unions, the first phase of joint consultation must be completed within 45 days. In the case of a disagreement, it may take additional 30 days for the conciliation process (second phase) initiated by the ITL or Ministry of Labor. The second phase must be completed within 30 days from the date of its initiation. Therefore, the whole procedure must be concluded within 75 days from the date of receipt of first notice addressed to the unions. This time period is reduced by half if the number of employees to be dismissed is less than 10. The dismissal shall be communicated within 120 days after the conclusion of the procedure, unless different terms are agreed with unions.

The aforementioned timeframe is only an indication of the minimum mandatory requirement and it does not include the timeframe required for the preparation of the contemplated collective dismissal and/or any possible extensions agreed with the unions.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Notice, or an indemnity in lieu of, if the employee is released from work during the notice period
- Severance payment (*Trattamento di Fine Rapporto*)
- Other severance indemnities in accordance with the individual or collective agreement
- Payment to the INPS for each dismissed employee of a 'dismissal ticket', whose amount is a variable percentage (82% or 41% in certain cases) of the New Social Insurance for Employment (NASpI indemnity) for each working year of the employee, with a maximum of three years; and
- The NASpI indemnity is also funded by the employers for each dismissed employee upon termination of employment

Customary additional costs

The employer may budget an exit package additional to the mobility indemnity but is not obligated to propose or devise a social plan. It is important to note that in any case, the mobility indemnity is paid by the INPS and not by the employer to the employees.

Notwithstanding this, the employer and the unions can negotiate and agree on measures like outplacement and incentive for voluntary resignation in order to limit the negative impact of the collective dismissal during their joint consultation(s).

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(25) Are there any hiring/re-hiring restrictions post-redundancy?

There are no legal barriers restricting an employer from hiring new employees after implementation of a collective dismissal in positions or establishments different from those involved in the collective dismissal. However, according to the case law, a hiring restriction is applicable if the employer decides to hire new employees for the same position or plant/establishment where it implemented collective dismissal. There is no specific time period prescribed for such restriction as it can vary depending on whether an agreement in this regard has been reached with the unions within the closure of the consultation process.

Italian law does not provide the affected employees with the right to be rehired. However, this right can be agreed during the negotiation with the unions.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

The law establishes that if a collective dismissal is implemented in violation of the procedure and there is an agreement with the unions that recognizes the correct implementation of the procedure, the affected employees cannot challenge the dismissals for violation of the procedure. In other words, the agreement with the unions will validate the incorrect procedure.

The following interested parties can bring lawsuits related to the redundancy process:

- Unions: If they were not involved in the procedure and/or there was any violation in the procedure (on condition that they did not enter into an agreement with the employer); or
- Impacted employees: If the dismissals were implemented verbally, in violation of the legal criteria (or those agreed with the unions) and/or for breach of the procedure established by law

Impacted employees can challenge the dismissal in writing directly with the employer within 60 days from the date of notification of dismissal. This should be followed by a judicial challenge before the labor courts within 180 days of the date on which the employee first challenges the dismissal, otherwise the entire challenge process would be ineffective.

Litigation can stop or slow down the collective dismissal process. A labor court may suspend the process if it is being challenged by the unions (under Article 28 St. Law, also known as Law 300/1970) for anti-union behavior of the employer.

(27) What are the risks of damages or other remedies due to the redundancy process?

The legal consequences in the case of unfair dismissal can vary (depending also on the contractual category of the unlawfully dismissed employees) and might include reinstatement into the previous job and position and/or compensation.

In the case of invalidity of the collective dismissals, the affected employees are entitled to the following:

Damages for unfair dismissal

A labor court may order economic compensation, up to 36 months gross salary in the case of invalidity of the collective dismissal, as amended by Judgment No. 194/2018 of the Italian Constitutional Court.

Reinstatement

A labor court may grant an award for reinstatement (in limited cases, i.e., if an employee was dismissed either verbally or in violation of the criteria established by law).

Criminal sanctions

No criminal sanctions apply in Italy for noncompliance with the collective redundancy procedure.

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Japan

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants; and ▸ Technical possibilities as an alternative to physical meetings (e.g., video conferencing)	Under Japanese law, an employer can prohibit an employee to enter the workplace as long as salaries are fully paid. Salary payment may be limited to the statutory leave allowance (approximately equivalent to 60% of salary) or may not be required at all, depending upon the situation, to be judged on a case-by-case basis.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. The employer should contact the public health center first and follow their instructions. Any examination should be conducted under instruction by the public health center, which validates the company's handling sensitive health information. Individual information regarding illness must always be handled carefully. Information regarding one diagnosed individual shall not be spread to a larger group than necessary and employers should remain cautious about identifying affected individuals, even internally.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information in accordance with the underlying duty of loyalty which forms part of the employment. However it must be further assessed if an employer can take further actions should an employee refuse to answer. Should an employee does not provide information when asked, employers may prohibit the employee from coming to the office to prevent the possible infection of other employees.	No. However, the public health center should contact the employer.

(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
For international assignments and business trips (including home leave), information on special immigration restrictions concerning the COVID-19 pandemic should be carefully studied. The Government of Japan established subsidies to employers to help with managing COVID-19 situation. The government updates information frequently and employers should consult government sources to view the latest situation.	Yes.	The existing labor and employment regulations apply to the current situation, except for new governmental assistance for employers (and employees). The applicable includes: ▸ Flexible working style: Flextime working hours system, remote work and off-peak commuting ▸ Overtime work: Variable working hours system, special clauses in labor-management agreement concerning overtime work and special overtime work due to disasters/crises ▸ Leave: Annual paid leave, statutory leave allowance, sick pay from Employees' Health Insurance or Workers' Accident Compensation Insurance ▸ Subsidy: Subsidy for employment adjustment, for special paid leave for school closure, for implementation of remote work system (and other subsidies at the municipal level) Please refer to comments in Q14, Q15 and Q16 for information on government assistance.	Some systems listed in Q7(i) require a labor-management agreement with an employees' representative. The regulation remains unchanged prior to the COVID-19 pandemic. No works councils system exists in Japan.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.	
No.	No.	No.	Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?			(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.		
If an employee's absence from work is for reasons attributable to the employer, the employer must pay a statutory leave allowance approximately equivalent to 60% of the employee's salary. Whether the requirements are satisfied or not should be studied on a case-by-case basis.	If an employee's absence from work is for reasons attributable to the employer, the employer must pay a statutory leave allowance approximately equivalent to 60% of the employee's salary. Whether the requirements are satisfied or not should be studied on a case-by-case basis.	The employer is not obliged to pay a salary to the affected employee. The Employees' Health Insurance could provide sickness allowance (approximately equivalent to 2/3 of an employee's salary) when an insured employee is absent from work on four consecutive days due to illness.	An employer cannot force an employee to take statutory annual paid leave. If there are other leave options under the employment agreement and then the employer may suggest alternatives.	No.

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(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

Generally, there is no additional legal obligation from an employer perspective. The employee may use, if any, annual paid leave or other leave which is permitted under the relevant employment agreement.

On 28 February 2020, the government requested that, to prevent children from being infected with COVID-19 at school, all elementary and junior high schools be temporarily closed from 1 March 2020 to the start date of spring school vacation. Due to this school closure, employees with school-age children have had difficulties working because they needed to take care of children at home.

After the national simultaneous closure has concluded, schools and kindergartens may again be closed for specific periods of time when an infection is detected there (to aid investigation and sterilization).

The government encouraged employers to give special paid leave to such employees by establishing new subsidy. The government subsidy is paid to an employer who gave, or will give, at least one day in special paid leave during the period from 27 February 2020 to 31 December 2020 to employees who were required to take care of their children due to the school closure. The amount of subsidy is 100% of wages paid to the employee who took special paid leave, with the upper limitation of ¥8,330 (or ¥15,000 for leave taken on 1 April or later) per employee per day. The application for the subsidy must be made by 28 December 2020 (for leave taken up to 30 September 2020) and by 31 March 2021 (for leave taken up to 31 December 2020).

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

Subsidy for employment adjustment

This subsidy is paid to an employer that downsizes its business due to economic reasons and places employees on leave instead of terminating them. This subsidy is applicable not only for the COVID-19 pandemic, but the government has specifically included employers affected by it. The following outlines the special treatment for temporary leave undertaken from 01 April 2020 to 31 December 2020 :

What is paid to employer

2/3 (or 4/5 in the case of medium-sized business) of statutory leave allowance (approximately 2/3 of wages) paid by the employer to employees placed on leave. Please note:

- There are certain upper limitations - up to ¥15,000 per employee per day
- When the employer does not conduct any unilateral termination of employees (including certain non-renewal of fixed-term employees and termination of temporary staff agreements with staffing agencies), the ratio is 3/4 (or 10/10 in the case of a medium-sized business); and
- Except for employers with a small workforce of 20 employees or fewer, the calculation of subsidy is basically made based on the total amount of wages for the purpose of the Employment Insurance (*koyo hoken*) paid by the employer to its employees for the previous year, not based on the total amount the employer actually pays to its employees as leave allowance this time. This means that this subsidy may not be able to cover the subsidized ratio of actual spending depending upon which employees are placed on leave

Main conditions

- Employer places its employees on leave due to economic reasons, which should include cases where:
  - The business slowed because of customers downsizing due to the COVID-19 pandemic
  - The business was closed because of an employee infected with COVID-19; and
  - The business was closed because of employees who cannot work due to the temporary closure of schools
- Employer must be a business covered by Employment Insurance (*koyo hoken*)
- Employer's management indicators, such as production volume or revenue for the last one month, was decreased by 5% or more compared to the indicator during the same period last year (there are alternative criteria)
- Employees are placed on leave based on a labor-management agreement with an employees' representative and are paid at least the amount of statutory leave allowance

Process

- Employees are placed on leave in accordance with a labor-management agreement and the leave allowance is paid, and then this subsidy is applied (typically monthly or each pay period)
- The subsidy corresponding to leave from 24 January to 31 May must be applied by 31 August 2020. Thereafter, the subsidy must be applied within two months after each pay period. It takes about two weeks for process according to the government

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?
Subsidy for employment adjustment (due to the COVID-19 pandemic) - Please refer to comments in Q14. Subsidy for special paid leave: The government established this subsidy for an employer which gives special paid leave to its employees who need to take care of their children during the period of the temporary school closure from 27 February 2020 to 31 December 2020. Payment directly to employees who cannot receive statutory leave allowance: This benefit is for employees who cannot receive statutory leave allowance from their employers (which constitutes employer violating the Labor Standards Act). The government strongly encourages employers to pay statutory leave allowance and use the subsidy for employment adjustment. There are other assistance measures at municipal level.	Subsidy for employment adjustment (due to the COVID-19 pandemic) - Please refer to comments in Q14. Subsidy for special paid leave: Application must be made by 28 December 2020. The application must be supported by documents such as employee roster, attendance record, wage ledger, work schedule, notice from relevant school, etc. Applying employer would need to cooperate with further enquiries by the government checking eligibility for the subsidy. There are other assistance measures at municipal level.	Dismissal of employees due to redundancy is primarily governed by the Labor Contracts Act (LCA) and the Labor Standards Act (LSA). The Act on Comprehensive Promotion of Labor Measures and Stabilization of Employment of Workers and Enrichment of Work Life (CPA) provides for specific notification and approval requirements in the case of 'large decrease in employment' i.e., 30 or more redundancies in a single month at one workplace. Additional notification requirements provided by the Act on Stabilization of Employment of Elderly Persons (ASEEP) apply in the case of redundancies of five or more elderly persons in a month. Further, additional notification requirements provided by the Act on the Promotion of the Employment of Disabled Persons apply in the case of dismissal of one or more employee with disabilities, except when there is a reason attributable to the employee.

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(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

The LCA provides that a dismissal by an employer is deemed by law to be an abuse of the employer's rights and, therefore, remains null and void, if the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms (Dismissal Requirement) as provided by the LCA.

In terms of redundancy, courts generally determine whether they have met the Dismissal Requirement by looking into the following four factors (Four-factor test):

- Necessity to reduce the workforce
- Whether the employer made decent efforts to avoid the dismissal for redundancy by taking measures other than the dismissal
- Appropriateness of selection of dismissed employees; and
- Appropriateness of dismissal procedure

(19) What are the consultation requirements with works councils/unions (if any)?

Under the Japanese law, there is no general obligation to consult with a trade union, without their request, upon dismissing employees for redundancy, unless there is an existing collective labor agreement between the employer and a union which obliges the employer to consult prior to any redundancy procedure. However, in light of the four-factor test referred to in Q18, the employer is encouraged to have a proper communication with unions (if any) or employees. In addition, if a union requests a collective bargaining session, the employer is obliged to have one, in principle.

There is no works council system in Japan.

Consultation requirements with other employee representatives

There is no specific obligation to consult with other employee representatives in Japan. However, please refer the comments in Q20 about the obligation to seek an opinion from the employees' representative to prepare a plan to support affected employees under the CPA.

Consultation requirements with employees

Under the Japanese law, there is no general obligation to consult with employees upon dismissing employees for redundancy.

However, to meet the four-factor test referred to in Q18, the employer often explains reasons for redundancy and offers voluntary severance packages to avoid redundancy. As such, consultation with employees to be dismissed is often undertaken.

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(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Please refer to comments in Q17.

Notification requirement: Under the CPA, the employer must notify the Ministry of Health, Labor and Welfare (MHLW) in the prescribed form no later than one month prior to implementing any contemplated 'large decrease in employment'. The required information includes measures to be taken to assist the employees in finding new jobs and the status of securing a new employer for the employees.

In addition, under the ASEEP, in the event that five or more elderly employees (in principle, persons aged 45 or more) are made redundant in a single month, the employer must notify the Public Employment Security Office no later than one month prior to the redundancy. The required information is similar to that required for the notification to the MHLW described above. Further, additional notification requirements provided by the Act on the Promotion of the Employment of Disabled Persons apply in the case of dismissal of one or more employee with disabilities, except when there is a reason attributable to the employee.

Approval requirement: Further, under the CPA, if there is a 'large decrease in employment' due to downscaling of operations based on the employer's economic reasons, the employer must formulate a plan for measures to support the affected employees in finding new employment, in the prescribed form, which must be submitted to the MHLW for approval no later than one month before the first relevant redundancy occurs. The required information includes current status of business, measures to be taken to assist the employees in finding new jobs, and opinion from the employees' representative (meaning a union organized by a majority of employees at the workplace, where such a union exists, or a person representing a majority of the employees, where no such union exists).

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The employer is not free to choose which employees will be dismissed for redundancy and should establish objective, reasonable criteria and fairly apply them. The four-factor test referred to in Q18 is used by courts in Japan to determine whether a dismissal for redundancy is valid or not. The criteria may differ from case to case (as the four-factor test is not established by law but by court precedents) but, in general, the employer should consider the following principles:

- The employee's attitude toward work (e.g., the number of days absent from work and history of disciplinary action), degree of contribution (e.g., years of service and performance), type of employment (e.g., regular employee or part-time worker), and circumstances (e.g., age and family structure) are used; and
- Under the LSA, an employer may not dismiss an employee (whether for redundancy or not) during a period of absence from work for medical treatment with respect to injuries or illnesses suffered in the course of employment, nor within 30 days thereafter, and may not dismiss a female employee (whether for redundancy or not) during the period of absence from work before and after childbirth pursuant to the LSA (i.e., six weeks before expected due date and eight weeks after childbirth, in principle) nor within 30 days thereafter. Under the Labor Union Act, dismissal based on the fact that they are a union member is illegal

(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
Internal alternative employment/redeployment Based on the four-factor test referred to in Q18, an employer is required to make a reasonable effort (both internal and external measures) to avoid dismissal for redundancy. Generally, cost reduction (e.g., reduction in directors' compensation, bonus and other business costs), redeployment, secondment, suspension of new hiring, and a company-wide voluntary retirement offer (including a provision of support in finding a new job inside or outside of the employer's business) would be considered.	In cases where submission of a plan for a large decrease in employment to the MHLW is not required but no voluntary resignation before dismissal is sought, one to two months would be sufficient. However, practically, due to the four-factor test referred to in Q18, employers often seek voluntary resignations of employees (with voluntary payment of severance packages) before undertaking dismissals for redundancy. In such cases, an additional one to three months could be required. In addition, if there is a collective bargaining session with unions, more time could be necessary.	**Mandatory costs** The key components of mandatory HR legal costs are as follows: ▸ Payment of 30-day average wage (as defined in the LSA) if the employer does not give a 30-day advance notice for dismissal; and ▸ Payment of retirement allowance set forth in applicable employment contracts **Customary additional costs** In practice, due to the four-factor test referred to in Q18, employers often seek voluntary resignations of employees (with voluntary payment of severance packages) before undertaking dismissals for redundancy. In such cases, payments under the packages consist customary additional costs. There is no official standards for the type and the amount of the packages and employers determine them on a case-by-case basis.

(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
There is no specific regulation on hiring after the implementation of dismissal(s) for redundancy. For the purposes of the four-factor test referred to in Q18, however, new hiring implemented immediately after dismissals for redundancy would make courts consider whether any justification for dismissals may be undermined. New hiring after the implementation of dismissal(s) for redundancy should therefore be carefully considered.	**Interested parties** After a dismissal for redundancy, the dismissed employee can bring a lawsuit or other legal proceedings available to challenge the validity of the dismissal. The statute of limitation depends of the claim of the employee dismissed, as set out below: ▸ For reinstatement claim, there is no expressed statute of limitations ▸ For back pay of the employee's salary (assuming that the dismissal was null and void), the applicable statute of limitation is three years from each payday of relevant salaries; and ▸ Claim for compensation by way of damages is usually subject to a three year limitation from the date of the dismissal Litigation cannot stop or slow down the redundancy process.	Remedies could be compensation for the harm suffered by the employee and/or reinstatement of the employee. There is no punitive damage system in Japan. **Damages caused by illegal (Invalid) dismissal** Usually, illegal dismissal (where the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, and therefore, is deemed null and void by the court) itself does not become a ground for compensation or damages. However, in exceptional cases, courts may consider a dismissal itself to constitute a tortious act and order the employer to compensate by way of damages (consolation money). **Reinstatement** If the dismissal lacks objectively reasonable grounds and is not considered to be appropriate in general societal terms, and therefore, is deemed null and void by the court (failure to pass the four-factor test), the employees affected could seek reinstatement with relevant back pay, with statutory interest (currently 3% per annum). **Criminal sanctions** Under the CPA, failure to comply with the notification requirements to the MHLW in the case of a 'large decrease in employment' may result in a criminal fine of up to ¥300,000 for the person in charge and the employing entity itself. In addition, under the ASEEP, failure to comply with the notification requirements to the MHLW in the case of redundancy of five or more elderly employees (in principle, persons aged 45 or more) in a single month may result in a non-criminal fine of up to ¥100,000 for the representative of the employing entity. Further, under the Act on the Promotion of the Employment of Disabled Persons, failure to comply with the notification requirements in the case of dismissal of one or more employee with disabilities, except when there is a reason attributable to the employee, may result in a criminal fine of up to ¥300,000 for the employing entity.

Kazakhstan

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
The declared state of emergency has now ceased in Kazakhstan, However, quarantine measures remain with the government introducing their gradual lifting. As such, enterprises are allowed to resume the work under strict and enhanced sanitary and epidemiological measures. Rules and regulations differ from city to city and region to region, depending on the type of activity (relevant industry, number of employees, etc). Employers are commonly required to: ▸ Ensure that most of the employees continue the remote work regime ▸ Arrange for transportation of employees to and from workplaces ▸ Conduct daily pre-shift examination of all employees ▸ In the case of symptoms of acute respiratory infections, isolate the employee and call an ambulance ▸ Provide employees with personal protective equipment ▸ Arrange desks taking into account social distance between employees ▸ Ensure daily cleaning of rooms at least twice a day, including the use of detergents and disinfectants ▸ Ensure continuous operation of ventilation systems and air conditioning systems, as well as aeration of rooms at least twice a day for 15 minutes; and ▸ Install hand sanitizer dispensers in visible and accessible places	Yes, the employer is obliged to prohibit an employee who may be infected, if the employer recognizes that the employee is affected or has symptoms of acute respiratory infections.	The employer should inform employees if any other employees have been diagnosed with COVID-19 to identify people (if any) who had contact with the diagnosed individual.	Employers should request their employees to inform them about whether they have recently spent time in high-risk or restricted areas. An employee is obliged to answer this question in order to be allowed into the workplace.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?
There is no such obligation for an employer to alert the Government if an employee has been diagnosed. However, the employer is obliged to call an ambulance if an employee shows symptoms of acute respiratory infections, and the ambulance operators then should notify the relevant authorities.	In accordance with the algorithm introduced by the Committee for Quality Control and Safety of Goods and Services recently, some of the activities that are ready for recommencement of work should undergo a sanitary and epidemiological audit. After the audit, the workplace should receive a report as a result indicating that the facility is ready to resume work and is in compliance with all of the sanitary and epidemiological standards.	Yes.	It should be noted that there are no COVID-19 specific regulations in the labor legislation. All terms and conditions of changes to working arrangements are via general rules set out in the Labor Code, Employment Law, trade union regulations, the employer's internal regulations and the employment contract with each employee. In accordance with the Labor Code of RoK (henceforth, Labor Code) there are three types of temporary leave: ▸ Temporary disability leave: Sick leave is paid by the employer based on a certificate from medical institutions. Based on the Labor Code, the employer must pay a minimum amount, calculated according to 15 monthly indices (currently, approximately $80), unless a higher amount is provided by the employer's own internal policies. ▸ Stand-by period: An employee having to take a stand-by period, due to neither the employer's nor employee's fault, must be paid a minimum salary by the employer, i.e., currently approximately $100 ▸ Paid or unpaid vacation: Paid vacation should be compensated with not less than the average monthly salary of the employee, while and unpaid vacation is obviously not paid

(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Only if employees are members of a trade union. Special procedures are set out by the Trade Unions Law and collective agreements. However, they are not COVID-19 specific, they are of general nature.

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
Yes. It depends on whether the employment contract has already been signed or not. If it has, the employer will be contractually obliged to ensure the employee has access to working place, or to pay the minimum salary for the stand-by period if the office is closed. If the new hire is in quarantine both for the reason of visiting a 'quarantine city/area' during the previous 14 days or testing positive for COVID-19 (or being in contact with a person who is positive for COVID-19), the employer would be obliged to pay sick leave for the relevant quarantine/ treatment period (please refer to comments in Q7). If the employment contract has not been signed, none of the above applies, and the employment start date can be moved.	Yes. It depends on whether the employment contract has already been signed or not. If it has, the employer will be contractually obliged to ensure the employee has access to working place, or to pay the minimum salary for the stand-by period if the office is closed. If the new hire is in quarantine both for the reason of visiting a 'quarantine city/area' during the previous 14 days or testing positive for COVID-19 (or being in contact with a person who is positive for COVID-19), the employer would be obliged to pay sick leave for the relevant quarantine/ treatment period (please refer to comments in Q7). If the employment contract has not been signed, none of the above applies, and the employment start date can be moved.	Yes. It depends on whether the employment contract has already been signed or not. If it has, the employer will be contractually obliged to ensure the employee has access to working place, or to pay the minimum salary for the stand-by period if the office is closed. If the new hire is in quarantine both for the reason of visiting a 'quarantine city/area' during the previous 14 days or testing positive for COVID-19 (or being in contact with a person who is positive for COVID-19), the employer would be obliged to pay sick leave for the relevant quarantine/ treatment period (please refer to comments in Q7). If the employment contract has not been signed, none of the above applies, and the employment start date can be moved.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
	(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
It depends whether the new hire and the employer have signed an employment agreement and hiring order. If so, then the employer has an obligation to retain the employee's job until they are able to start work.	The employee may be offered to work from home, in which case, the pay would be normal pay rate based on the actual working time. If the office is closed, and the employees are not required to work, the employer must pay for the stand-by period, at least in the amount of the statutory minimum salary (in 2020, approximately $100).	The employee may be offered to work from home, in which case, the pay would be normal pay rate based on the actual working time. If the employee is in quarantine both for the reason of visiting a 'quarantine city/area' during the previous 14 days or testing positive for COVID-19 (or being in contact with a person who is positive for COVID-19), the employer would be obliged to pay sick leave for the relevant quarantine/ treatment period (please refer to comments in Q7).	If the new hire is in quarantine both for the reason of visiting a 'quarantine city/area' during the previous 14 days or testing positive for COVID-19 (or being in contact with a person who is positive for COVID-19), the employer would be obliged to pay sick leave for the relevant quarantine/ treatment period (please refer to comments in Q7).

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?
Usually, for sick leave, the employer has to have a sick leave certificate which is provided by the employee, who can choose to provide it to the employer or withhold it. Therefore, the employer cannot force the employee to take sick leave without the employee's consent. However, in a situation such as responding to the COVID-19 pandemic, taking sick leave may be ordered, provided the employer ensures payment in the amount of not more than 15 monthly calculation indices (₸41,670) per month, in accordance with local legislation, unless otherwise provided by the internal acts of the employer for the period of leave.	Government authorities are taking steps to preventing the continued spread of the COVID-19 pandemic. There are no COVID-19-specific decrees or regulations covering labor relations. However, quite a few official governmental decrees and local regulations have been issued in the course of the COVID-19-related state of emergency and quarantine period, such as: ▸ Introduction of a quarantine regime in the territory of Almaty, Nur-Sultan, Shymkent cities and other regions of Kazakhstan ▸ Specific measures to ensure safety of the people of Kazakhstan, including closure of many entertainment businesses, public offices, etc.; and ▸ Latest Decree No. 47 or 14 August 2020, entitled "On introduction of amendments to the Decree of the Chief State Sanitary Doctor of the Republic of Kazakhstan"	There are no obligations for employers with respect to kindergartens. It is recommended that employers grant flexible work time or paid vacation to one of the parents who must stay home with children.

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(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

In his speech on 23 March 2020, the President of Kazakhstan stated that for the period of the state of emergency, monthly payments will be made to individuals deprived of income due to its introduction (approximately $100).

By Government Ruling No 126 of 20 March 2020, certain enterprises which suffered from a mandatory shutdown were exempt from the following taxes until 31 December 2020:

- Property tax for malls, shops, entertainment centers, cinemas, theatres, exhibitions, sports facilities
- Land tax for agricultural producers; and
- Personal income tax for individual entrepreneurs using a general regime of taxation

For taxpayers indicated in points 1 and 2 above, the accrual of interest has been suspended until 15 August 2020, and the period for filing tax returns was extended until Q3 of 2020.

In addition, the filing period for Corporate Income Tax returns was extended until 30 April 2020 (one month extension) for all enterprises.

Other governmental support measures have been declared by the President and the Chairman of the Agency for Financial Supervision in their public statements, including but not limited to:

- Potential loan repayment holiday (previously until June 2020) and freezing of interest accrual by banks and by the National Management Holding *Baiterek*; and
- Potential freezing of lease payments, with no interest or penalties, by the Investment Fund of Kazakhstan for leases of immovable property

There are following recent documents adopted by the government to support taxpayers:

- Resolution No. 224 dated 20 April 2020 that introduced changes to the tax rates and the deadlines for tax obligations for certain categories of taxpayers
- Law of the Republic of Kazakhstan "On the Introduction of Amendments and Additions to the Code of the Republic of Kazakhstan and 'On Taxes and other Obligatory Payments to the budget'', dated 5 July 2020
- Law of the Republic of Kazakhstan "On the implementation of the Code of the Republic of Kazakhstan 'On Taxes and other Obligatory Payments to the budget'. (The Tax Code) dated 2 July 2020, no. 354-VI

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Please refer to comments in Q14.

Each Resolution is adopted and regulates activity for certain types of industries that are in urgent need of help from the government due to the COVID-19 pandemic.

Initially individual entrepreneurs and small and medium enterprises received government help, such as postponing tax returns, suspension of loans for some time. This help was given to the enterprises that could not function due to the restrictions in place to respond to the COVID-19 pandemic.

For the period from 1 June to 31 December 2020, mining (excluding hydrocarbons), mining and metallurgical enterprises were included in the list of major taxpayers subject to monitoring and are included on the list for state aid.

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(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?	(18) Does the employer need to have a legal justification to carry out redundancy dismissals?
For tax benefits, nothing is expected from the taxpayers, the exemptions would apply automatically. For financial benefits, the borrowers are expected to file an online application with the relevant lender. No details are yet available.	Workforce transformation or collective redundancy is regulated by the Labor Code, the Employment Law, other laws, agreements among the employers, employers' associations, trades union and local executive authorities (social partnership agreements), as well as agreements between the employers and the trades union or the employees' elected representatives (CBAs) that have been concluded under the Labor Code. Collective redundancy can be triggered by a variety of reasons, such as liquidation of the employer, staff reduction or decrease in the volume of products produced or services provided, and all other such circumstances that lead to a decline in the economic situation of the employer. Kazakhstan legislation has its own issues, which are often expressed in different interpretations and practical application of its norms by various state authorities and private entities. Also, most issues are not clearly regulated by the Kazakhstan legislation.	As per the Labor Code, collective redundancy must be justified on at least one of the following grounds: ▸ Liquidation of the employer ▸ Reduction in the total number of employees or organizational changes within the employer that lead to elimination of certain positions (Staff reduction); or ▸ Economic reasons – a decrease in the volume of products produced, work performed or services provided, leading to a decline in the economic situation of the employer It is necessary for employers to justify the termination of employment contracts. The justification must be specified by a the written decision of the employer on the collective redundancy. A copy of this decision should be provided to each employee, together with a notice of termination of the labor contract, at least 15–30 days in advance of the termination date depending on the grounds cited by the employer.

(19) What are the consultation requirements with works councils/unions (if any)?

The regional social partnership agreements for different regions may place an obligation on an employer to obtain in advance (approximately one month before termination of the employment contracts) a justified opinion of a trade union in relation to the draft decision of the employer on the potential dismissal of employees. Such a requirement (if applicable in the relevant region) applies regardless of whether the dismissed employee is a member of a trade union or not. CBAs usually stipulate the rules regarding the obligation to obtain an opinion of the trade union or the employees' elected representatives in advance, or to notify the trade union employees' elected representatives of the contemplated collective redundancy.

Some regional agreements may require the employer to provide *Akimats* (local municipal authorities) and trades union with information on the contemplated collective redundancy at least two months prior to its implementation.

According to some regional agreements, employers should provide information to *Akimats* and trade union on the contemplated collective redundancy with the following information:

- Number and categories of employers who may be impacted by the redundancy
- Positions and professions, specialties, qualifications and salaries of the impacted employers; and
- Period within which the employees may be impacted by the collective redundancy

Consultation requirements with other employee representatives

In the absence of trades union or applicable regional agreements, the employer must consult with the employees' elected representatives only when terminating the employees who have less than two years until their statutory retirement age (where the redundancy is being made on the ground of staff reduction). Under such circumstances, a commission consisting of an equal number of representatives of the employer and the employees (Internal commission) must come to a joint decision confirming such termination. If the internal commission is unable to arrive at a decision, the termination will be deemed to be prohibited/invalid.

Consultation requirements with employees

There is no legal requirement for the employer to consult with the impacted employees before termination. It is, however, necessary that the impacted employees are provided with a notice of termination at least 15–30 business days in advance. The notice period to which the impacted employees are entitled depends on the grounds for initiating collective redundancy. Please refer to comments at Q18 for further information.

Moreover, if longer notice periods are established in the social partnership agreements and/or CBAs, the period set out in those agreements will apply. In the event that an employee provides their written consent for termination earlier than the abovementioned time periods, the termination can be implemented earlier.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?	(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?
Pursuant to the Employment Law, the employer is required to provide the following information on any proposed collective redundancy to the public employment authority at least one month prior to the implementation: ▸ Number and categories of the impacted employees ▸ Official positions of the impacted employees ▸ Specializations of the impacted employees ▸ Qualifications of the impacted employees ▸ Salaries of the impacted employees; and ▸ The time frame within which the employment will be released from duties	According to Kazakhstan legislation, collective redundancy of the employees as a part of liquidation and/or termination of the activity of the employer apply to all employees of the liquidating company. Generally, an employer has the right to independently determine the categories of employees being terminated, provided such a choice is justified in terms of effective economic activities and rational management of property. However, there are certain restrictions in relation to special categories of employees (protected employees). The Labor Code prohibits termination of labor relations at the initiative of the employer for the following protected employees: ▸ Pregnant women ▸ Employees (including women and men) on unpaid maternity or paternity leave to care for a child under the age of three ▸ Single mothers raising a child under the age of 14 (or a disabled child under the age of 18) or other guardians raising a child under the age of 14 or a disabled child under the age of 18 without a mother ▸ Employees who have lost their working ability due to a work injury or an occupational disease (until their working ability is restored or disability is confirmed) ▸ Employees on sick leave ▸ Employees on paid annual vacation ▸ Employees who have less than two years left prior to their statutory retirement; and ▸ Members of elected trade union bodies not released from their main work It is, however, to be noted that termination of employees of the last two categories is possible but such termination would require confirmation of the internal commission and the justified opinion of the higher trade union body, respectively. Other categories of protected employees and cases of protection may be established in social partnership agreements and/or CBAs. However, the abovementioned prohibitions do not apply if the employer is facing liquidation.

(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
Internal alternative employment/redeployment Prior to making a final decision to terminate employment of each employee due to a decrease of the volume of products produced, work performed or services provided resulting in a decline in the economic situation of the employer, the employer is required to offer other available positions to the employees. Termination is possible only in the case of: ▸ Absence of alternative positions within the employer's organization; or ▸ The employees refusing to be transferred voluntarily **Other measures** Social partnership agreements and CBAs may contain other requirements with respect to mitigating the negative impact of the collective redundancy (e.g., searches for alternative employment and social support).	Usually, the entire process for collective redundancy, including issuance of notices and preparation of the necessary documentation, can take from approximately two to four months, provided longer terms are not established in the social partnership agreements and/or CBAs. However, the term depends on the size of the redundancy and the length of discussions with the trades union or the employees' elected representatives.	**Mandatory costs** The key components of expected HR legal costs include the following: ▸ For liquidation and/or termination of the activity of the employer and/or Staff Reduction: Average salary of one month ▸ For termination of labor due to decrease in the volume of product, work performed and service provided, resulting in a decline in the economic situation: Average salary of two months ▸ Salary of the employee for the period of work to the date of termination ▸ Compensation for unused vacation ▸ Compensations related to damage to health and property incurred by the employee in the course of exercising their labor duties; and ▸ Fees, if any, to consultants **Customary additional costs** Additional costs could be triggered by additional anti-redundancy actions as may be agreed in a CBA or in employment contracts.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

There are no statutory hiring restrictions. However, based on the available court practice, employers should not hire new employees to the positions that have been eliminated from the organizational structure within the period of at least one year of the effective date of redundancy.

The above restrictions will also usually apply to integrating employees via secondments or other types of labor hire. If the employer hires new employees immediately following the redundancy, there is a great chance that employees may claim that the redundancy was not justified and, hence, claim reinstatement.

(26) What are the risks of litigation caused by the redundancy process?

As a general rule, an employee may appeal against not only the employer's decision on the collective redundancy, but the subsequent decision to terminate the employment contracts with each employee based on the decision for collective redundancy. Normally, such claims are made after the collective redundancy and, therefore, do not affect the timeline of the redundancy process. However, if the employer's decision on the collective redundancy is being challenged in court, the entire process may be put on hold until the litigation completes.

The impacted employee, a group of employees, a trade union on behalf of an employee(s) or an authorized body can appeal against an employer's decision to terminate employees due to collective redundancy.

An individual labor dispute is resolved as follows:

- The dispute will be considered by a Conciliation Commission, a body created with an equal number of representatives from the employer and employee side to discuss and agree joint decisions (save for the exceptions set out in the Labor Code, which entitle employees to proceed directly to court)
- If the parties cannot reach an agreement in the Conciliation Commission, the employee is entitled to take its case to court

Collective labor disputes are resolved by the following steps:

- The dispute is considered by the employer and/or an official association of employers (an organization created by employers to represent and protect the interests of their members in the social partnership system)
- If it is impossible to resolve the dispute, it may be brought to the Conciliation Commission (save for the exceptions set out in the Labor Code, which entitle employees to proceed directly to court); and
- If the parties cannot reach an agreement in the Conciliation Commission, the dispute is sent for labor arbitration

In the event that all of the above methods fail, the last resort is litigation.

During a collective redundancy, an authorized body (Labor inspectorate) may carry out an audit. If the labor inspection finds any violation, the inspector may order elimination of such violations. In the case of failure to eliminate violations by the employer, the authorized body can bring an action in court against the employer.

There are several types of remedies available to an employee who has been unfairly dismissed by the employer:

- Reinstatement at work
- Payment of an average salary for the entire period of forced absence (capped at a period of six months)
- Legal expenses, state duty and other court expenses; and
- Compensation for 'moral damage', a violation, derogation or deprivation of personal non-material benefits and rights of individuals, including mental or physical suffering such as, humiliation, irritation, depression, anger, shame, despair, physical pain, inferiority or uncomfortable conditions experienced (currently or previously) by the victim as a result of the offense committed against the person, and in the event of the person's death as a result of such an offense – by their close relatives or spouse

(26) What are the risks of litigation caused by the redundancy process? *(continued)*

Damages for unfair dismissal

Kazakhstan legislation generally envisages reinstatement at work for the employees who have been unfairly dismissed by the employer.

An employee who has been reinstated is paid an average salary for the entire period of forced absence (suspension from work) or a difference in salary for the time of performing lower paid work in the case of illegal transfer to another job, but not more than for a period of six months.

If the employer delays the execution of such a decision, the Conciliation Commission or a court will issue a decision to make an additional penalty payment for the amount of the average salary or a salary difference.

In practice, if the claim of the employee is satisfied, legal expenses, including the state duty, are collected from the employer.

In addition, an employee may also claim for moral damage (if any).

Reinstatement

Please refer to the section on 'Damages for unfair dismissal' above.

Criminal sanctions

Criminal sanctions are imposed only in the following cases:

- Unjustified termination of an employment contract with an employee or failure to comply with a court decision on reinstatement at work, as well as any other violation of the labor legislation that causes significant harm to the rights and legitimate interests of the employee
- Violation of the labor legislation relating to employees under the age of 18, who are prohibited from working
- Deliberate termination of the employment of a pregnant woman or a woman with a child under the age of three; and
- Deliberate non-payment of payments due by the employer to the employee

The above violations are punishable with a fine that may extend up to 5,000 monthly calculation indices (approximately $38,000), correctional work for the same amount, limitation of freedom or imprisonment for up to five years.

(27) What are the risks of damages or other remedies due to the redundancy process?

Not applicable.

Latvia

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?
Employers are obliged to provide employees with opportunities for remote work, if the specifics of the work allow for it and if the employee is able to fully perform their work duties at home. Employers should also provide employees with the necessary personal protective equipment for the performance of work duties (for example, face masks, aprons, coveralls). Additionally, employers must adopt measures to limit the spread of COVID-19 pandemic in the workplace: ▸ By appointing a responsible person(s) for the implementation of these measures in the workplace ▸ informing the employees about the said measures ▸ Other than that, general regulations apply, i.e., employers are responsible for ensuring fair and safe working conditions that are not harmful to employee health. Thus, the work must be organized in such a way (including internal meetings, communication, delivery services etc. if necessary) in order to comply with the rules adopted by the responsible state authorities of the Republic of Latvia in relation to the emergency situation due to the COVID-19 pandemic.	No, this is not directly regulated by applicable laws, but more depends on each employee's attitude to their health condition. An alternative option might be considered, in the case where an employee shows signs of illness but they refuse to visit a doctor. The the employer may, taking into account the circumstances, position and duties of the employee and other important aspects of employment, consider exercising the right to suspend an employee from work (Article 58, Paragraph 3 of the Labor Law of the Republic of Latvia, henceforth Labor Law), otherwise it can be detrimental to their or third parties' health and safety, as well as to the substantiated interests of the employer or third parties.As well as in accordance with Article 82 of the Labor Law, an employee, on the basis of a relevant order of the employer, has a duty to undergo a medical examination in cases where undergoing of such examination is provided for in laws, regulations or a collective agreement, or the employer suspects employee has become ill with an illness which threatens or may threaten the employee's or another person's safety or health.	There are no regulations that determine how an employer should alert other employees if there is a diagnosed individual at the workplace. This might be regulated by internally binding rules. The primary duty of the employer is to ensure fair and safe working conditions that are not harmful to health.	According to Article 17 of the Labor Protection Act of the Republic of Latvia, employees have a duty to take care of their safety and health and the safety and health of persons who are, or may be affected by their work, and to report immediately to the employer any work environment factors that pose, or may pose, a risk to safety and health of other people. In addition, the law obliges the employee to cooperate with the employer in ensuring a safe working environment and working conditions, so as not to pose a risk to employees' safety and health. According to Article 81 of the Labor Law, an employee has an obligation to take care to eliminate or reduce, as far as possible, obstacles that adversely affect, or may affect, the normal course of work in the enterprise, as well as to prevent or reduce losses as far as possible. The employee must notify the employer immediately of these obstacles, losses or the risk of losses.	No, but the employer, if necessary, might be entitled to pass such information to the Center for Disease Prevention and Control or other responsible authorities, taking into account the functions of these authorities during the response to the COVID-19 pandemic in Latvia.

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(6) Other remarks

- For breach of epidemiological safety requirements: Natural persons may be fined between €10 and €2000 while other legal entities may face penalties between €140 and €5000
- For the failure to use a face mask in the scenarios provided for in laws and regulations: A warning or a fine of up to €50 of fine may be imposed (in force from 20 November 2020)
- For violation of restrictions or prohibitions imposed during a crisis or state of emergency: Natural persons may be fined between €10 to €2000 while other legal entities may face penalties of between €140 to €5000; and
- For providing false information in the following cases, if such information is requested by the authorities:
  - Regarding the spread of an infectious disease during a declared emergency situation
  - That the person has been diagnosed with an infectious disease
  - That the person has been in contact with an infected person; or
  - That the person has been in an area which has a high risk of infection during the stipulated time

For offences in these cases, a fine of between €10 and €2000 may be imposed.

A state of emergency was declared in Latvia due to the COVID-19 pandemic from 9 November 2020 to 6 December 2020. New regulations or amendments to the current regulations might be adopted depending on the situation.

(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?

There is no specific additional regulation adopted for partial unemployment or reduced activity during the emergency situation in Latvia, thus the general binding rules of the Labor Law should be applied. For example, an employer and an employee may agree on amendments to the employment agreement regarding working time, remuneration, grant of an annual paid vacation, as well as an employer, upon the request of an employee, may grant them leave without pay.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
According to the Labor Law, an employee has an obligation to reimburse the employer if the employer does not provide work for an employee or if the employee does not perform the activities necessary for carrying out the employee's obligations (Idle Time). However, to avoid mass lay-offs, the government has announced support for companies whose activities have been affected or restricted by the state of emergency, and whose turnover has decreased by 20% compared to the average. The government will provide remuneration for employees in these companies who have been placed on furlough at 70% of the average gross monthly salary for the period of the previous three months (i.e. August, September and October 2020), but not exceeding €1000 per calendar month. The Idle Time benefit is not subject to payroll tax (personal income tax) and mandatory state social insurance contributions. However, the planned support is not yet approved, therefore it is subject to changes.	Procedure related to State-funded remuneration and its corresponding details are in the planning stage.

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.	
No. The Labor Law stipulates that the employer and the employee shall establish a mutual employment relationship under an employment contract. The employee and the employer may amend the employment contract by mutual agreement. This means that, if necessary, amendments to the employment contract (e.g., postponement of an employment start date) can be mutually agreed. In the case of an already concluded employment contract, where a probationary period has been specified in order to assess whether an employee is suitable for performance of the work entrusted to them, then during such probationary period, the employer and the employee have the right to give a notice of termination of the employment contract in writing, at least three days prior to termination. When giving notice of termination of an employment contract during the probationary period, an employer does not have an obligation to indicate the cause for such notice.	Not directly regulated, but the general regulations should be applied, taking into account the current situation. As referred to in Q8(i), amendments to the employment contract must be mutually agreed. In the case of a probationary period, the term of such period may not exceed three months. The said term shall not include a period of temporary incapacity and other periods of time when the employee did not perform work for justifiable reasons.	Not directly regulated, but the general regulations should be applied, taking into account the current situation. As referred to Q8(i), amendments to the employment contract must be mutually agreed. In the case of a probationary period, the term of such period may not exceed three months. The said term shall not include a period of temporary incapacity and other periods of time when the employee did not perform work for justifiable reasons.	In accordance with provisions of applicable law, an employment contract shall be deemed to have been entered into from the moment the employee and the employer have agreed on the work to be performed and on the remuneration, as well as on subsequent observance by the employee of the working procedures and orders of the employer. However, an employment contract must be entered into in writing prior to commencement of work.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**	**(10(iii) The employee has been diagnosed with COVID-19.**
If necessary, the employee and the employer may agree on solutions related to the use of different types of leave, i.e. the parties may agree on the use of paid annual leave during this period. According to the Labor Law, an employee has the obligation to reimburse the employer for the remuneration if the employer does not provide work for an employee or does not perform the activities necessary for the acceptance of employee's obligations (Idle Time). However, to avoid mass lay-offs, the government has announced support for companies whose activities have been affected or restricted by the state of emergency, and whose turnover has decreased by 20% compared to the average. The government will provide remuneration for employees in these companies who have been placed on furlough at 70% of the average gross monthly salary for the period of the previous three months (i.e. August, September and October 2020), but not exceeding €1000 per calendar month. The Idle Time benefit is not subject to payroll tax (personal income tax) and mandatory state social insurance contributions. However, the planned support is not yet approved, therefore it is subject to changes.	If the employer has a reasonable suspicion an employee's illness that poses or may pose a threat to their safety or health, the employer, using the provisions of Section 82, Paragraph 1 of the Labor Law, is entitled to order the employee to immediately undergo a medical examination. If possible, remote working should be organized or the employee and the employer may agree on solutions related to the use of different types of leave, i.e. the parties may agree on the use of paid annual leave during this period, or sick leave, which might be granted in the case of illness or the employee entering a quarantine period.	For employees diagnosed with COVID-19 and those who have been quarantined, a medical professional must confirm that these employees should take sick leave and the relevant dates they should commence/conclude such leave. If incapacity for work is due to a COVID-19 diagnosis, sick pay will be paid by the state from the second day, in the amount of 80% of the average insurance contribution salary of the recipient of sickness benefit.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?
The employer has not been delegated the right to determine whether the employee should take sick leave. A medical professional shall issue a sick leave direction to an employee in the circumstances specified in recent regulations.	A state of emergency was declared in Latvia due to the COVID-19 pandemic from 9 November 2020 to 6 December 2020. New regulations or amendments to the current regulations might be adopted depending on the situation.	It is not directly regulated but general regulation should be applied. If necessary, the employee and the employer may agree on solutions related to the use of different types of leave, i.e. the parties may agree on the use of paid annual leave during this period. In addition, remote working may be organized, if feasible.

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(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?
Any business which has been affected by the COVID-19 pandemic has the right to apply for an extension of the term for the payment of taxes. Local governments have the right to determine other terms for the payment of real estate tax in 2020, which are different from the terms determined in the law On Immovable Property Tax, postponing them to a later period in 2020. It is also be possible not to set any interest and contractual penalties in the case of delay of payments, except on those for services used - electric power, water supply and other property maintenance services. An option has been made possible to increase reserve capital of the national development finance institution (ALTUM), allowing businesses affected by the COVID-19 pandemic to take advantage of various support instruments – loan guarantees, as well as loans for overcoming the crisis. Creditors, including employees, are prohibited, until 1 September 2020, from submitting an application to bring insolvency proceedings against a legal person if any of restrictions set out in Section 57, Paragraph 1, Clauses 1-4 of the Insolvency Law exists. A state of emergency was declared in Latvia due to the COVID-19 pandemic from 9 November 2020 to 6 December 2020. New regulations or amendments to the current regulations might be adopted depending on the situation.	Those paying personal income tax are allowed to not make advance payments on personal income tax for 2020. The State Revenue Service will refund overpaid VAT in a shorter period than established in the Law on VAT, thus providing financial resources to be used for overcoming the situation caused due to the COVID-19 pandemic. The deadline for submitting annual reports has also been extended by threemonths. Local governments are able to postpone deadlines for real estate tax payments.	Where a business has suffered damage due to the COVID-19 pandemic, they can apply for a working capital loan at a lower interest rate from ALTUM. Damage caused by the COVID-19 pandemic must be proved. A credit guarantee is offered by ALTUM to companies that have an objective difficulty in making loan payments to banks due to the COVID-19 pandemic, which will allow the bank to defer payment of the principal. ALTUM can be reached via e-mail: info@altum.lv The State Revenue Service holds additional information about tax-related reliefs: vid@vid.gov.lv.

(17) What is the legal framework for collective redundancies?

Collective redundancies are defined as redundancies in which the number of workers to be made redundant within 30 days is:

- At least five employees, if the employer usually employs more than 20 but less than 50 employees in the company
- At least 10 employees, if the employer usually employs at least 50 but less than 100 employees in the company
- At least 10% of the number of employees, if the employer usually employs at least 100 but less than 300 employees in the company; or
- At least 30 employees, if the employer usually employs 300 or more employees in the company

The collective redundancies procedure is regulated by the Labor Law.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Yes.

In calculating the number of employees to be made redundant, this also includes employment termination cases when the employer has not given notice of termination of the employment contract, but the employment relationship has been terminated on other grounds, which are not related with the conduct or abilities of the employee but which have been facilitated by the employer.

When giving a notice of termination of an employment contract, an employer has an obligation to notify the employee in writing of the circumstances that are the basis for the termination. Prior to giving a notice of termination of an employment contract, an employer has the obligation to ascertain whether the employee is a member of an employee trade union.

(19) What are the consultation requirements with works councils/unions (if any)?

The employer shall initiate consultations with the employees' representatives in order to agree on the number of employees subject to collective redundancies, the course of collective redundancies and the social guarantees for the redundant employees.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

An employer who intends to make collective redundancies shall notify the State Employment Agency and the local government not later than 30 days in advance (due to the COVID-19 pandemic, The State Employment Agency can shorten the time period for submission of notice of collective redundancies).

The notice must contain, among other information, the reasons of collective redundancies, the number of employees to be made redundant (mentioning the occupation and qualifications of each employee, the number of employees normally employed and the period of collective redundancies).

The notice must also provide information about the consultation with employees' representatives. The employer shall send a copy of the notification to the employees' representatives. The State Employment Agency and the local government may also request other information from the employer pertaining to the proposed collective redundancy.

The collective redundancies may take place not earlier than the said time period as given in the notice submission, unless the employer and the employees' representatives have agreed on a later deadline for initiating collective redundancies.

Due to the COVID-19 pandemic, the State Employment Agency can shorten the time period for submission of the notice about proposed collective redundancies.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

A reduction in the number of employees for reasons not related to the conduct of an employee or their abilities, but may be adequately substantiated on the basis of the performance of urgent economic, organizational, technological or similar measures in the enterprise.

In the case of a reduction in the number of employees, preference to continue employment relationships shall be for those employees who have higher performance results and higher qualifications.

If the work results and qualifications do not significantly differ, the employer has advantages by keeping in position those employees who fall within any of the criteria specified in Section 108, Paragraph 2 of the Labor Law, for example:

- Who have worked for the relevant employer for a long time
- For whom less than five years remain until reaching the age of retirement
- Who, while working for the relevant employer, have suffered an accident or have fallen ill with an occupational disease
- Who are persons with a disability or are suffering from radiation sickness
- Who have participated in the rectification of the consequences of the accident at the Chernobyl Atomic Power Plant
- Who are raising a child aged up to 14 years or a child with a disability aged of up to 18 years
- Who have two or more dependents
- Whose family members do not have another regular income
- Who, without discontinuing work, are acquiring an occupation (profession, trade) at an educational institution; or
- Who have been granted the status of political refugee

Note that none of criteria mentioned above shall have priority in comparison with the others.

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(22) Are there any actions required to limit the negative impact of the redundancy?

In the case of collective redundancy, the employer has an obligation to make severance payments. The amount of redundancy benefit depends on how long the employee has worked for the company (i.e., from one month average earnings if the employee has been employed by the relevant employer for less than five years and up to four months average earnings if the employee has been employed by the relevant employer for more than 20 years).

If a notice of termination of an employment contract has been given on the basis of Section 101, Paragraph 1, Clauses 6-10 of the Labor Law (i.e., including a reduction in the number of employees), the employer, at the written request of the employee, has the obligation to grant sufficient time to the employee, within the scope of the contracted working time, to seek another job. The collective agreement or the employment contract shall specify the length of such time and the earnings to be maintained for the employee during this time period.

An employer is prohibited from giving a notice of termination of an employment contract to an employee who is a member of a trade union, without prior consent of the relevant trade union, if the employee has been a member of the trade union for more than six months (except during the probation period, in the case of liquidation or other similar reasons),

(23) What is the estimated timeline for a collective redundancy process?

- An employer who intends to carry out collective redundancy shall, in sufficient time, commence consultations with the representatives of employees
- An employer who intends to carry out collective redundancy shall, not later than 30 days in advance, notify in writing the State Employment Agency and the local government in the administrative territory of which the undertaking is located
- An employer may commence collective redundancy not earlier than 30 days after the submission of a notification to the State Employment Agency, unless the employer and the representatives of employees have agreed on a later date for commencing the collective redundancy; and
- In exceptional cases, the State Employment Agency may extend the term from 30 to 60 calendar days

(24) What are the estimated costs?

This cannot be estimated, it depends on the particular situation.

Each employee should receive all unpaid salary, unused annual vacation and severance benefit and other mandatory payments.

(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
The rules of the Labor Law do not stipulate any hiring restrictions after the collective redundancy. But it is necessary to take into account that a notice of termination of an employment contract should be justified by indicating circumstances that are the basis for the notice of termination of the employment contract.	There is always a litigation risk, for example, if an employee feels disappointed by their dismissal from work based on the initiation of the employer. All claims arising from employment relationships are subject to a limitation period of two years (unless a shorter limitation period is provided by particular laws). An employee may bring an action in court for the invalidation of a notice of termination by an employer within one month from the day of receipt of such notice. In other cases, when the right of an employee to continue employment relationships has been violated, they may bring an action in court for reinstatement within one month from the date of dismissal.	This cannot be estimated, it depends on the particular situation. If a notice of termination by an employer has no legal basis, or the procedures prescribed for termination of an employment contract have been violated, such notice, in accordance with a court judgment, shall be declared invalid. An employee, who has been dismissed from work on the basis of a notice of termination by an employer which has been declared invalid or also otherwise violating the rights of the employee to continue employment relationships, shall, in accordance with a court judgment, be reinstated in their previous position. An employee who has been dismissed illegally and reinstated in their previous position shall, in accordance with a court judgment, be reimbursed the average earnings for the whole period of forced absence from work. Compensation for the whole period of forced absence from work shall also be disbursed in cases where a court, although there exists a basis for the reinstatement of an employee in their previous position, upon the request of the employee terminates employment relationship.

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?
The employer has the obligation to continuously evaluate the work environment and act on potential risks for the protection and safety of all employees. The COVID-19 pandemic is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants; and ▸ Technical possibilities as an alternative to physical meetings (e.g. video conferencing)	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting the person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits or obtain a medical certificate directing them to enter quarantine.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people. Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information in accordance with the underlying duty of loyalty which forms part of the employment.	No.

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(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
In Luxembourg, a significant number of employees are commuters, living in France, Belgium or Germany and working in Luxembourg. In this cross-border context, in the case of home-working, specific attention should be paid to tax and social security rules to avoid the affiliation/payment in the country of residence (tax threshold provided in each Luxembourg tax convention with the neighboring country and limiting the working time in the country of residence to 25%, according to the European Social Security Regulation 883/ 2004). During the COVID-19 pandemic, specific agreements have been reached with each neighboring country (France, Belgium and Germany) to address these social security and personal tax issues and the rules are therefore currently on hold until 31 December 2020.	Yes.	In the context of the COVID-19 pandemic, several regulations provide an employer with possibilities for flexible workforce planning: ▸ Remote working: The Luxembourg government asked companies to promote remote working when possible ▸ Partial unemployment scheme: Allows employers, in certain circumstances such as the spread of the COVID-19 pandemic, to close down all or part of the business concerned and to receive state funds to maintain salaries. Specific measures for the COVID-19 pandemic have been modified as of July and will remain applicable until 31 December 2020. Conditions to benefit from the regime are different depending on the sector (industrial manufacturing, tourism, hotels and restaurants, others sectors) and include gradual restrictions on dismissing employees for economic reasons. In addition, the employer must apply in advance and ask for the regime to be applied for the following month, with no retroactive application ▸ Leave for family reasons: An employee could request leave for family reasons if they need to remain at home to take care of one/several children under 13 years of age and they don't have any other solution (no option for remote working, etc.). This specific leave was not to be used by both parents simultaneously. This leave was available on a full time or part-time basis (for example, three days per week) and the employer was fully compensated by the Social Security Scheme. However, the right to this specific leave has been limited from 25 May 2020 and removed as of 15 July 15 2020, which was the starting date of the school summer break	▸ Partial unemployment scheme: The implementation of a partial unemployment scheme requires a prior consent of the Staff Delegation (signature of the President of the Staff delegation is required on the application). Unions must be involved if the company is subject to a CBA.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employer has been diagnosed with COVID-19.
No.	No.	No.	Not applicable.	The employer must grant an exceptional leave/absence duly authorized. The employee will be paid as per usual.	The employer must grant an exceptional leave/absence, duly authorized. The employee will be paid as per usual or can be put under quarantine by the Public health services. In this case, they will be covered by a sickness certificate.	The employee will be covered by sickness leave.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
No.	No.	In this situation, the employee has a right to a specific leave for family reasons, which can not be refused by the employer. Please see comments in Q7 on the regulations covering this type of leave.	Yes, please refer to comments in Q7. There is the partial unemployment scheme, the recourse to which has been facilitated by the government during the COVID-19 pandemic. However, a new regime has been introduced as of July and will apply until 31 December 2020. Companies which are drastically impacted, for example in the tourism and events sector, will benefit from specific conditions by allowing employee dismissals to a limited extent.

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(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?
The partial unemployment scheme benefits companies facing serious difficulties. In the application, the company must explain the measures already taken to maintain the employment level (training sessions, remote working, etc.) and the business (research for new clients or suppliers, developments of new products, investments or restructuration plan, etc.).	▸ Partial unemployment scheme: All companies must apply through a dedicated e-platform available on the Unemployment Authorities website (ADEM) ▸ Partial unemployment scheme: Specific measures for the COVID-19 pandemic have been modified as of July and will be applicable until 31 December 2020 Conditions to benefit from the regime are different depending on business sectors (industrial manufacturing, tourism, hotels and restaurants, others sectors) and include gradual restrictions on dismissing employees for economic reasons. The employer must apply in advance and ask for the regime to be applied for the following month, with no retroactive application.

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(17) What is the legal framework for collective redundancies?

Workforce transformation, also referred to as Collective Redundancy, is governed by Article L. 166-1 et seq. of the Luxembourg Labor Code (Labor Code). CBAs can modify the rules.

The rules governing the collective redundancy process vary based on the number of impacted employees and the existence of employee representatives.

Large-scale redundancy is defined as significant modification of employment, or redundancy of:

- Seven or more employees in 30 days; or
- 15 or more employees in 90 days

This triggers the following complex processes:

- Legal justification
- Consultation with employee representatives
- Informing public authorities
- Robust social plan; and
- HR legal costs

A simplified process applies to collective redundancies that fall below the aforementioned thresholds.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Workforce transformation must be justified by the operational requirements of the company, the establishment or the service, such as reorganization through the outsourcing of an activity, decrease of the business (loss of clients or markets) or redesign of the work organization with an existing job position being integrated in the activities of other team members.

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirement with works council/unions

The works councils in Luxembourg have been abolished and replaced by staff delegations, as per social elections held on 12 March 2019. At the outset of a redundancy process, the employer has the obligation of a preliminary negotiation with the employee representatives, i.e., the staff delegation and the unions, depending on the specific case.

The staff delegations must be informed and consulted, with or without union negotiations, prior to any decision being taken on the project and before any implementation step. The staff delegation must be informed and consulted on the following matters:

- Legal and business justification for the contemplated restructuring
- Number and categories of workers affected by the dismissals
- Number and categories of workers usually employed
- Contemplated timing
- Selection criteria process; and
- The calculation method proposed for any additional redundancy payment (if applicable)

Firstly, the negotiation must address any possibilities that may help to limit the negative impact of the redundancy. In particular, the following topics should be discussed:

- Implementation of legislation on short-time unemployment partially paid by the State
- Possible modifications of the working time, such as the establishment of a longer or shorter reference period
- Reduction of the working times not falling within the legislation on short-time unemployment
- Organizing, if necessary, participation in permanent training and/or redeployment during free working hours
- Possibility of training, even if redeployment training allows reallocation of the workers within the company
- Possibility of training, permanent training and redeployment training, allowing allocation of the workers to another company belonging to the same business field
- Temporary loan of personnel
- Support of career changes
- Implementation of the legislation on advanced retirement adjustment; or
- Principles and procedures regulating the implementation and follow-up of the social plan

Financial compensation can be only envisaged at a later stage.

Either of the following possible outcomes must be achieved within a maximum of 15 days after the start of the negotiations:

- Successful negotiations: The parties shall record the outcomes in an agreement called the 'social plan.' This plan shall be communicated to the labor authorities. As from the date of signature of the agreement, the employer is entitled to proceed with the collective redundancies; or
- Failed negotiations: The parties shall record in writing that they have failed to reach a social plan and set out the reason(s) for that failure. This document must be communicated to the labor authorities. It must also be presented to the National Conciliation Office (NCO) within three days of signing the failed social plan

The employer will not be entitled to proceed with the collective redundancies until the NCO has provided the parties with final approval to conclude a social plan or until the parties have recorded in a document that they were unable to conclude a social plan.

Consultation requirements with other employee representatives

Please refer to preceding section.

Consultation requirements with employees

There is no specific obligation to consult the employees themselves before or during the negotiation process. Once the negotiation is completed and the social plan is in place and signed, the employer must notify the impacted employee of their dismissal. In the event that the impacted employees are notified of their dismissal prior to the social plan being agreed, the dismissal will not stand, and the impacted employees may be reinstated.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?	(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?
The employer will not be entitled to proceed with the collective redundancies until the NCO has provided the parties with final approval to conclude a social plan or until the parties have recorded in a document that they were unable to conclude a social plan. For more information, please refer to comments in Q19.	The staff delegation is competent to determine general selection criteria related to redundancy. These criteria are sometimes negotiated in the social plan.	The employer must do everything possible to limit the negative impact of the collective redundancy on the employees. All such measures are included in a social plan. The social plan must include the following measures, depending on the means available to the company or its group: ▸ **Internal alternative employment/redeployment** The employer must use all reasonable means to mitigate the consequences of redundancy, by redeploying employees and retrain the employees made redundant within the same company or within another company in the same sector. ▸ **Other measures** The social plan could include other external measures such as financial compensation for impacted employees or provision of support for a career change.	The time required to fully implement a large-scale redundancy depends on the number of redundancies contemplated and/or time taken to negotiate the social plan. The Labor Code provides a 15-day period to negotiate the social plan. The time period can be extended to allow for further negotiations, if it appears that there will be a failure to reach an agreement. There are no official statistics but depending on the size of the company, the process may take approximately two months.

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(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Notice, or payment in lieu thereof if the employee is not required to work during their notice period
- Termination payments
- Social plan costs; or
- Various other costs

Customary additional costs

The measures of a social plan may vary depending on the size of the company, the means of the company and its group, previous social plans and the employer's potential to provide for a large range of measures to reduce the negative impact of the redundancies, including outplacement.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

There are no restrictions on recruitment following a large-scale redundancy. However, upon request, employees who were made redundant following a large-scale redundancy are entitled to benefit from a 12-month rehiring priority on all job positions that become available corresponding to their skills.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Impacted employees and staff delegations can challenge a dismissal on the following grounds:

- Failure to provide grounds for dismissal
- Reason for dismissal is not reasonable or valid
- Dismissed employee falls into a protected category; or
- Notice of dismissal being provided prior to social plan

If an impacted employee challenges the reason for the collective redundancy, the burden will be on the employer to prove the accuracy of the redundancy.

(27) What are the risks of damages or other remedies due to the redundancy process?

Challenges could lead to two types of civil remedies, as well as criminal sanctions.

Damages for unfair dismissal

Damages can be awarded to employees based on:

- Absence of a legal justification; or
- Failure to apply the measures put forward in the social plan

The amount of the damages varies depending on employees' age, years of service, salary, ability to find out an equivalent job on the local market.

Impacted employees can also claim moral damages arising due to abusive dismissal (which may range between €1,000 to €30,000) based on circumstances surrounding the dismissal.

Criminal sanctions

Failure to comply with certain legal requirements, in particular, those attached to the consultation with employee representatives, exposes the employer to criminal fines.

Mexico

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants; and ▸ Technical possibilities as an alternative to physical meetings (e.g., video conferencing) Companies considering essential activities shall conduct an official auto diagnosis to evidence compliance with the specific health and safety obligations. For those companies that are not considered essential activities, they will be able to reassume operations in accordance with the weekly epidemiological traffic light system. When such companies have the green light to reactivate, they have to secure the authorization referred below. In addition to such authorization, some states have introduced additional obligations. For instance, in Mexico City companies with more than 100 employees shall conduct COVID-19 tests on a weekly basis of at least the 3% of the personnel. In the case of a positive test, isolation measures must be taken.	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. For example, in countries for which GDPR applies, personal health data should be processed, stored, secured, accessed and destroyed in accordance with that legislation. Individual information regarding sickness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people.

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(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information in accordance with the underlying duty of loyalty which forms part of the employment.	Yes, but only in those states in which a proper regulation has been issued (e.g. Mexico City).	No.	No. The issue is, however, being discussed in the Mexican Parliament with respect to home office regulation. It is expected that a bill will be passed in the last quarter of 2020.	Not yet applicable.	Not applicable.

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
No. The employment relationship will start as agreed by the parties, but the same will be suspended until the Ministry of Health determines the resumption of business activities. During the suspension, the employer must paid at least the daily minimum wage.	No.	No. Provided that the employer has secured a medical leave certificate issued by the social security institute.	Not applicable.	Daily minimum wage.	Full salary.	There is no payment obligations since the social security authority will grant a compensation in lieu of salary during the medical leave.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
Yes.	Since there are some substantial discrepancies between the Federal and the State/Local governments on how to manage the outbreak, notably regarding the reactivation of the economy and the specific sanitary measures, it is essential for companies to follow up not only on regulations issued at a Federal level but also those mandated by the State/Local governments.	There is no specific mechanism that needs to be followed by the employer to assist employees in this situation. If the labor relationship has not been suspended, the employee needs to continue working. The employees, however, could claim for paid vacations or claim for a leave of absence (no longer than three days without salary payment). In similar situations, companies, unions and employees have agreed on a work stoppage mechanism by reducing the shifts / salary or implementing home office if possible.	Not applicable.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?
Not applicable.	Not applicable.	Workforce transformation, also referred to as collective redundancies, are governed by Art. 433 of the Mexican Labor law (MLL). CBAs can increase legal requirements. MLL does not establish any threshold regarding collective redundancies. The same process applies irrespective of whether an employer makes redundant one employee or a significant number of employees.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Collective redundancies, as with any individual redundancy, are the result of the elimination of one or more positions due to a reduction of the work that must be justified by the following grounds:

- Force majeure or acts of God that prevent the company to continue operating, at least, at the same level
- the employer's physical or mental incapacity or death (if the employer is a natural person), which produces as a necessary, immediate and direct consequence, the termination of the work
- Significant and obvious unprofitability of the venture
- Depletion of the substance of an extractive industry
- Employer's legally declared insolvency or bankruptcy; and
- Reduction of staff due to the introduction of machinery or new work procedures

(19) What are the consultation requirements with works councils/unions (if any)?

In Mexico, there is no equivalent to the legal concept of works council.

Further, unless required by an applicable CBA, the employer is under no obligation to consult the unions in order to move forward with the redundancy procedure set forth under the MLL.

An employer could negotiate a CBA with the unions on the measures aimed at limiting the negative impact of the redundancies on the potential impacted employees. This negotiation is not mandatory and must be approved by the Labor Board (Labor authority in charge of labor matters and conflicts in Mexico); Otherwise, the CBA will not be enforceable.

Consultation requirements with other employee representatives

The employer is not required to disclose any information to other employee representatives as a precondition to file the petition of collective termination with the Labor Board.

Consultation requirements with employees

Pursuant to MLL, the employer must seek approval or authorization of the Labor Board regarding the redundancies. If the Labor Board rules that the redundancies are justified and proved, then it will inform the impacted employees (directly or through the relevant union) of their redundancy. Therefore, the employer is not legally required to prepare any specific documentation to notify the employees of the redundancies.

In the specific case of introduction of machinery or new work procedures resulting in a downsizing and redundancies, the employer can choose to negotiate with all its employees or only the impacted employees on the impact of the collective redundancy and the measures to limit its negative consequences. This negotiation is not mandatory; However, if an agreement is concluded as a result of the negotiation, no approval of the Labor Court is required to execute the collective redundancies. For all other cases of collective redundancies established by MLL, approval of the Labor Board is required. For more information, refer to comments in Q20.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?	(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?
Pursuant to MLL, the employer must seek approval or authorization of the Labor Board regarding the redundancies. Prior approval of the Labor Board is required (under different procedures) in the case of: ▸ Force majeure or acts of God that prevent the company to continue operating, at least, at the same level ▸ the employer's physical or mental incapacity or death (if the employer is a natural person), which produces as a necessary, immediate and direct consequence, the termination of the work ▸ Depletion of the substance of an extractive industry ▸ Significant and obvious unprofitability of the venture ▸ Employer's legally declared insolvency or bankruptcy; and ▸ Reduction of staff due to the introduction of machinery or new work procedures (in the absence of an agreement with union or employees) In the absence of approval or authorization by the Labor Board, the employer cannot execute the redundancies. The approval process usually takes between six and 12 months.	In order to determine which employees will be terminated as a consequence of an approved downsizing, MLL holds that the employees' years of service will be the primary indicator. Employees with fewest years of service will be the first ones impacted. As a secondary criterion, age and union affiliation shall also be considered.	The employer is not legally required to undertake actions to limit the negative impact of the collective redundancy. **Internal alternative employment/redeployment** There is no specific obligation to search for alternative employment in order to avoid the redundancies or to agree on a social plan.	The estimated legal timeline for a collective redundancy will depend on the workload of the Labor Board but on average it may take between six and 12 months. The time to prepare the collective redundancy process depends on the total number of employees and is, on average, two months.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Accrued benefits, for example, pending vacation days, vacation premium, Christmas bonus and any other fringe benefits granted to the employees, such as savings fund and commissions
- Severance payment, which varies depending on the ground for the redundancy:
  - In the case of the introduction of machinery or new work procedures resulting in a downsizing and redundancies, the severance amounts to 120 days of salary (approximately four months' salary), plus 20 days of salary for each year of service rendered (i.e., seniority premium) or the amount stipulated in employment agreements, if it is higher than the seniority premium; or
  - In the other cases, the severance amounts to 90 days of salary (approximately three months' salary) and a seniority premium equal to 24 times the minimum daily wage for each year of service

Customary additional costs

There are no customary additional costs in relation to a collective redundancy in Mexico.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

There are no legal barriers restricting hiring after the implementation of a collective redundancy.

Hence, the employer can re-hire someone to do the same job performed by a former redundant employee.

There is no hiring freeze period following a reduction in force.

Collective redundancy is not limited to certain positions or types of contracts.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Any employee, group of employees or the company's union can bring a claim during the process.

In general, an employee can bring a legal action for rescission of the employment relationship or unjustified dismissal. The limitation period for bringing a claim, depending on legal action, is one or two months.

If the union exercises its right to strike, the redundancy procedure will be suspended by the Labor Board.

Failure to obtain approval from the Labor Board, if required, may result in a claim for unfair dismissal, reinstatement and payment of full severance, in certain cases.

(27) What are the risks of damages or other remedies due to the redundancy process?

Damages for unfair dismissal

There is no right to compensation for loss. In the case of an unfair dismissal, the employees are entitled to receive full severance from the employer, if such severance were not paid upon termination.

For more information on severance, please refer to comments in Q24.

Reinstatement

An employee can file a claim for reinstatement in the case of an unjustified dismissal without the Labor Board's approval.

In principle, reinstatement is mandatory with the exception of high-level personnel, temporary employees and specific roles, provided that full severance is paid. The employer may refuse to reinstate the employee and pay full severance instead.

Criminal sanctions

There is no criminal sanction related specifically to collective redundancy process in Mexico.

The Netherlands

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants; and ▸ Technical possibilities as an alternative to physical meetings (e.g. video conferencing)	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee must stay at home while in principle retaining the right to full pay and other supplements (if any). If the employee is diagnosed with COVID-19 and is ill, they must report the same and the regular rules on continued payment of wages during illness apply.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. An individual's information regarding illness must always be handled carefully. Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?
No.	Since March 2020, the Dutch government announced several aid programs due to the spread of the COVID-19 pandemic to limit negative (economic) consequences for employers. An example is the Temporary Emergency Measure for Bridging Work Retention (NOW 1.0, 2.0 and 3.0). Please refer to comments in Q7.	Employers are able to apply for a subsidy of labor costs based on the Temporary Emergency Measure for Bridging Work Retention (NOW). This temporary measure is to help mitigate the financial consequences of Covid-19 for employers and stimulate keeping employees in work during this time. Three programs have been provided so far and employers are required to file an application for NOW in advance to the term for which it will be applicable. Application for NOW 3.0 will be open as early as October 2020, for a maximum of nine months, for the period commencing 16 November 2020. The subsidy may be requested for periods of three months at a time.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?

Please note that on 17 March 2020, the old working time reduction regulation (i.e., Working Time Reduction Scheme) has been withdrawn and new regulations (i.e. NOW) has been announced. The NOW, in summary, means:

- Introduced in March 2020, NOW 1.0 applied for a period of three months until May 2020. After the initial three month period, the NOW was extended by four months (applications due between June 2020 and August 2020)
- If the employer is part of a "group", the (loss of) turnover of the entire group is the basis for the NOW application. Above a certain subsidy limit, restrictions apply to the payment of dividends to shareholders, the payment of bonuses to executives of the employer and the group, and the (re)purchasing of its own shares. If a group has incurred a loss of turnover of less than 20%, an operating company with a loss of turnover of at least 20% may also apply for the NOW
- It has been announced in August 2020 that the NOW will be extended by three periods of three months each, from 1 October 2020 until 1 July 2021. A number of principles have been announced. In the first period, from 1 October 2020 to 31 December 2020, employers with a reduction in turnover of at least 20% are eligible for the wage subsidy. As of January 2021, there must be a 30% reduction in turnover. Over nine months, there will be a gradual reduction in compensation rates from 80% to 60%. As opposed to a reduction in compensation, the employer has the possibility of gradually reducing the wage bill without affecting the subsidy
- The amount of subsidy is based on the wage costs, and depends on the loss of turnover and can be up to:
  - 80% of employee costs in the period 1 October until 31 December 2020 (turnover loss at least 20%) + an additional 10% of these employee costs will be provided to a yet-to-be determined organization as a budget for training/education programs to allow a swift transition from job to job (if needed)
  - 70% of employee costs in the period 1 January until 31 March 2021 (turnover loss at least 30%)
  - 60% of employee costs in the period 1 April until 30 June 2021 (turnover loss at least 30%)
- After the application, the employer will receive the payment in advance of at least 80% of the expected subsidy. The actual loss of turnover is subsequently determined. For large applications (i.e., if the advance payment is €25,000 or more, or if the final subsidy is €125,000 or more), an auditor's report or other expert statement is required. If the advance payment turns out to be to incorrect, a subsequent payment or recovery can take place
- The subsidy for labor costs can also be claimed for employees with flexible contracts, such as on-call workers
- The NOW does not affect the accrued unemployment benefit rights of employees

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(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Works council requirements apply. The works council needs to be informed (in advance) about the NOW application. The works council has in principle no statutory right of advice or consent with regard to the application.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
No.	No.	No.	Not applicable.	In principle, the employee is entitled to wage continuation.	In principle, the employee is entitled to wage continuation.	In principle, the employee is entitled to wage continuation.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
The employer is in principle not permitted to medically examine/test an employee should a suspicion of COVID-19 arise. An employer should refer the employee concerned to a general practitioner or the company doctor.	No.	The employee may be entitled to specific leave due to a suddenly closed school. This is called emergency leave, e.g., if the school is suddenly closed and the employee has to find a babysitter. If the employee cannot find a babysitter, the employee should consult with the employer and holiday leave should be taken.	Yes, please refer to the comments in Q7(i), regarding NOW.

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(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

In order to be eligible for the subsidy pursuant to the NOW:

- In the first period, from 1 October to 31 December 2020, a loss in turnover of at least 20%. As of January 2021, a 30% loss in turnover
- Employers are required to continue to pay 100% of the salary to their employees
- During the period in which the employer receives the subsidy, they may not dismiss employees for business or economic reasons. If they do, it will have consequences for the (amount of) subsidy
- The employer has the obligation to encourage and enable their employees to receive further education and/or training
- Employers applying for a NOW subsidy have to comply with several obligations, including but not limited to, acting in accordance with the purpose of the subsidy scheme
- Above a certain subsidy limit, restrictions apply to the payment of dividends to shareholders, the payment of bonuses to executives of the employer and the group, and the (re)purchasing of company shares

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

- The application period for the NOW 1 and NOW 2 is closed.
- Employers eligible for the subsidy can request the subsidy at the Public Employment Services (UWV)
- It is expected that application for the first period of the NOW 3.0 can be submitted as early as 16 November 2020. The first payments of the advance should then be made within two to four weeks following the date of application
- The final determination of the amount of the subsidy should be requested within 24 weeks after the end of the three month period (NOW 1) or four month period (NOW 2)
- The final subsidy will be based on the actual turnover loss in the applied respective period and the actually paid salary

(17) What is the legal framework for collective redundancies?

Collective redundancies are governed by the Dutch Civil Code, additional arrangements and the Collective Redundancy Notification Act (*Wet Melding Collectief Ontslag*), which transposes the European Directive on collective redundancy.

The Collective Redundancy Notification Act applies if the employer intends to terminate the employment agreements for business economic reasons of at least 20 employees working in the same geographical work area within three months.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?
Collective redundancy must be based on economic reasons/grounds. Economic grounds are, for example: ▸ Economic difficulties ▸ Work reduction ▸ Organizational or technological changes that would render certain job positions obsolete, such as automation ▸ (Partial) closure of business; or ▸ Relocation of the company	**Consultation requirements with works council/unions** The employer is obligated to inform and consult the works council (if any) prior to making any decision on collective redundancy as the works council has a right to advise on the contemplated collective redundancy. The works council must be able to influence the decision, and the works council needs to be informed in a timely manner (ideally before the formal application to the labor authority (*UWV*)). The employer must provide the works council with the following information: ▸ An overview of the reasons for the intended decision ▸ Expected consequences of the intended decision for the employees; and ▸ Intended arrangements to limit the negative impact Unions must also be consulted before the employer can actually terminate the employment contracts of the employees. Not doing so can lead to the annulment of the dismissals. Consultation of the unions must not only relate to preventing, or at least reducing, the number of the intended redundancies, but also mitigating the consequences of the intended redundancies. The consultation does not have to lead to an agreement. In order to make a proper decision, the employer has to provide all the available information about the collective redundancy to both unions and the works council. Within the consultation phase of the collective redundancy, the employer can impose a confidentiality agreement with the unions and the works council. **Consultation requirements with other employee representatives** No specific consultation requirements with other employee representatives exist. **Consultation requirements with employees** The employer must provide the impacted employees with the same information provided to the works council and unions. In addition, the impacted employees must be informed of the selection process that resulted in their redundancies or reinstatement. However, the employer is not allowed to give a notice of termination to the impacted employees without prior permission of the labor authorities (*UWV*).

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(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

The employer must notify the contemplated collective redundancies to the labor authorities (*UWV*). The notification must contain:

- Detailed report on the reasons for the intended decision
- Information on the impacted employees (i.e., number of impacted employees with subdivision by function, age and gender together with the number of employees usually employed)
- The intended date(s) of termination of the employment contracts
- Information on the selection process
- The intended arrangements (e.g., social plan, search for alternative employment)
- The intended way to terminate the employment contracts; and
- Information on the consultation process, if any, with the works council and unions (solely in the case of a non-insolvent employer)

The employer must report the intended collective redundancy to the labor authorities in a timely manner (no time frame set by law). If the application is incomplete, or unions or works council have not yet been informed or consulted, the application will be put on hold until all necessary steps are completed.

Further, the employer is not allowed to give notice of termination to the impacted employees without prior permission of the labor authorities.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The employer is not free to choose which employees will be made redundant. The employer must comply with the selection process prescribed by the Dutch Civil Code, which is the so-called mirroring principle and is based on the following factors:

- Job category
- Age
- Years of service; and
- Last in, first out system

Certain employees are afforded special protection during the redundancy process, particularly:

- Employee representatives (member of works council/other employee representative body – the restriction is applicable for a period of two years from the date of expiration of such membership)
- Employees who are a candidate to be elected a member of an employee representative body
- Employees performing activities on behalf of an union
- Pregnant employees or employees on maternity or paternity leave
- Employees in military service; or
- Sick employees (employer is not allowed to give notice of termination during the first two years of illness, except in the case of termination of all the company's activities)

(22) Are there any actions required to limit the negative impact of the redundancy?

The employer must consult the unions in order to plan actions to limit the negative impact of the collective redundancy.

Internal alternative employment/redeployment

Employers are obligated to search for alternative employment/redeployment (even including education or training) before the employee can be made redundant.

Other measures

Employers are not obligated by law to implement any other external measures as they are at liberty to accept or reject such outcome of the consultation process with the unions.

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(23) What is the estimated timeline for a collective redundancy process?

It may take about three to four months for the preparation of the specific documentation required for the information and consultation process with the works council, drafting a social plan and drafting a report to the labor authorities. However, the time period may vary depending on circumstances such as the number of the redundancies contemplated, time taken to negotiate a social plan, negotiations with the works council, etc. Any negative outcome of the consultation process with the works council could further delay the process.

No legal timeline is prescribed for implementation of the collective redundancy process.

(24) What are the estimated costs?

Mandatory costs

The key components of HR legal costs are as follows:

- Severance payment – in the event of termination by mutual consent; and
- Transitional compensation

For the calculation of the transitional compensation a specific formula applies. The terminated employee is entitled to either a maximum gross transitional compensation of €83,000 (in 2020) or one year's gross salary if the employee's annual salary is higher than €83,000.

Further, CBAs may deviate from the statutory rules for transitional compensation, if they include an equivalent arrangement.

Customary additional costs

No other customary additional costs to the employer exist.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

The employer is prohibited from hiring any person for the same work or position as the employee who was recently made redundant within 26 weeks from the date of dismissal permit granted by the labor authorities (*UWV*). The employer is obligated to first offer such a position to the employee who was made redundant before the employer can hire someone else.

(26) What are the risks of litigation caused by the redundancy process?

The following interested parties can bring lawsuits related to the redundancy process within two months after the redundancy:

- Works council: The works council can start a procedure against the collective redundancy process. This is possible if the works council gives negative advice and that advice is set aside without a proper reason; or
- Impacted employees: The impacted employees can claim reinstatement or a higher severance payment based on reasonableness and fairness in the event of gross imputable acts or negligence by the employer

For example, if the employer gives notice for termination without prior permission of the labor authorities; employer did not comply with the Collective Redundancy Notification Act.

Litigation could stop or slow down the collective redundancy process.

(27) What are the risks of damages or other remedies due to the redundancy process?

Challenges could lead to the following remedies:

Damages for unfair dismissal

The impacted employee can claim for a severance payment in addition to the statutory transitional compensation (if any) based on reasonableness and fairness in the event of gross imputable acts or negligence by the employer. There is no quantum of damages prescribed by the law.

Reinstatement

Employees are entitled to reinstatement within the company based on reasonableness and fairness in the event of gross negligence by the employer.

Only employees can claim reinstatement. It is not possible for employers to offer reinstatement instead of a severance payment.

Criminal sanctions

There are no criminal sanctions to the employer if there is a violation of legal requirements.

New Zealand

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
Employers have a fundamental obligation to ensure the health and safety of all employees under the Health and Safety in Employment Act 1992. As a result, an employer is required to continuously evaluate the work environment and act on potential risks to employees' health and safety. Accordingly, appropriate health and safety measures must be taken to protect employees. Examples of these measures include: ▸ Appropriate procedures in place in relation to social distancing ▸ Closure of a premises ▸ Providing disinfectants; and ▸ Personal protective equipment and alternatives to in-person meetings (e.g. video conferencing)	Protecting the health and safety of other employees is a valid reason for prohibiting an infected employee's access to the workplace. If employees have any close contact with a diagnosed person or if there are suspected cases of COVID-19 in the workplace, either the New Zealand Ministry of Health or the local Public Health Board should examine the individuals and, if required, direct them to self-isolate (either at home or in a managed facility) for 14 days from the last date of contact with the diagnosed individual. People who have symptoms of COVID-19 and are awaiting test results are also required to self-isolate, along with other persons in their household. Employees may be able to work remotely or in managed isolation during this period. If this is not possible, other options such as granting the employee sick leave, annual leave, or taking advantage of any other Government subsidized leave (as it may be at the time) may be explored.	An employer should, in the first instance, seek consent from the diagnosed employee to disclose information regarding their health status. Failing such consent, an employee's privacy in respect of COVID-19 should be maintained to the extent appropriate and so long as it does not risk harm the other employees in the organization. To the extent privacy legislation applies, the same should be followed to appropriately handle information disclosed in connection with COVID-19. Information regarding a diagnosed individual should not be shared with a larger group of fellow workers than necessary. However, if there is a valid reason (such as the need to contact trace all those that have been in contact with the diagnosed individual), then this can be communicated to all affected workers within a larger group. As the employer is responsible for providing a safe and healthy working environment, adequate precautions need to be taken in order to safeguard other employees from being infected and/or to alert them when they are at risk. Employers should be working directly with the Ministry of Health and/or the local Public Health Board to identify the diagnosed worker's close contacts through the contact tracing process.	In spite of the employee's right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. This type of question may be asked by the employer and employees' duty of good faith obliges them to reveal this information accordingly.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?
No, the Ministry of Health and/or local Public Health Board are aware of all positive cases of COVID-19 and identify the diagnosed person's close contacts through the contact tracing process.	Not applicable.	No.	Not applicable.

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(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.	(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
	8(i) The office is closed due to the COVID-19 pandemic;	8(i) The new hire has visited a 'quarantine city/area' during the last 14 days;	8(iii) The new hire has been diagnosed with COVID-19.	
Not applicable.	No. If the employer has stated in their offer of employment that the start date may be altered in the event that the office is closed due to COVID-19 pandemic, then such action may be permissible, so long as ~~a~~ correct procedure is followed, and the decision is based on fact.	No. If the employer has noted in their offer of employment that the start date may be altered in the event that a new hire has visited a quarantine city/area, then such action may be permissible, so long as ~~a~~ correct procedure is followed, and the decision is based on fact.	No. If the employer has noted in their offer of employment that the start date may be altered in the event that the new hire has been tested positive with COVID-19, then such action may be permissible, so long as ~~a~~ correct procedure is followed, and the decision is based on fact.	Not applicable.

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(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?			(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?
10(i) The office is closed due to the COVID-19 pandemic;	10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	10(iii) The employee has been diagnosed with COVID-19.		
The employee's contract and the circumstances of the office closure will inform the employer's pay/benefit obligations. It should be noted that the requirement to pay employees is stringent. In certain circumstances, annual leave or sick leave entitlements may be used. However, new employees would not have any entitlement to sick leave (employees are only entitled to sick pay after six months' continuous service) or annual leave (employees are only entitled to annual leave after 12 months' continuous service).	The employee's contract and the circumstances surrounding the employee's visit to the 'quarantined city/area' will inform what the employer's pay/benefit obligations. It should be noted that the requirement to pay employees is stringent. In certain circumstances, annual leave or sick leave entitlements may be used. However, new employees would not have any entitlement to sick leave (employees are only entitled to sick pay after six months continuous service) or annual leave (employees are only entitled to annual leave after 12 months' continuous service).	An employee who has been diagnosed with COVID-19 and is unable to attend work would normally be entitled to statutory sick leave. However, new employees (unlike current employees) would not be entitled to that sick leave (employees are only entitled to sick pay after six months continuous service). In certain circumstances, annual leave entitlements may be used. However, new employees would not have any entitlement to annual leave (employees are only entitled to annual leave after 12 months' continuous service).	New employees become entitled to paid leave only after they have worked continuously for 12 months (annual leave) and six months (sick leave). If employees have an entitlement, they cannot be forced to take sick leave but in certain circumstances, employees can be directed to use annual leave.	No.

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?
None. Employers and employees can agree upon working remotely, flexible working (i.e. different hours) or reduced hours for a particular period to accommodate childcare commitments (if the particular job allows that flexibility). An employee is entitled to make a flexible work request to their employer. If such a request is made, the employer must comply with certain statutory requirements. An employer can refuse to accommodate a flexible working request on specific grounds. If flexibility is not possible, the parties can agree for the employee to take paid or unpaid leave (depending on the circumstances of the closure and the employee's entitlement) in the event they are required to take care of any children whose school or kindergarten have closed in response to the COVID-19 pandemic.	Potentially, the Wage Subsidy (in place at the time, (if any) or the Leave Support Scheme may provide support to help employers pay employees. The payments are $585 per full time worker and $350 per part time worker.	The Wage Subsidy can only be applied for within a designated timeframe (which is linked to the COVID-19 Alert Level in place at the time), and in addition to other criteria, requires the employer to have suffered the stipulated revenue drop. In order to qualify for the Leave Support Payment, employees must not be able to come into work because they are part of the affected groups which the Ministry of Health guidelines recommends to stay at home and the employee must not be able to work remotely. Employers cannot receive both the Wage Subsidy and the Leave Support Payments for the same employee at the same time.	Employers must provide their Inland Revenue Department (IRD) number, business name, business address, names of employees, employee IRD numbers and contact details for their business. The employer must make a binding online declaration of their entitlement to the payment and their obligations to the relevant employees for the period the support is received.

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(17) What is the legal framework for collective redundancies?

There is no difference between the requirements for large-scale (or collective) restructurings and smaller-scale restructurings. Workforce transformation and any resulting employee redundancies must be managed by employers in accordance with the relevant statutory provisions and relevant case law.

Any redundancy process should meet two legal tests:

- Substantive legal justification (that it is genuinely warranted due to the employer's business or financial circumstances); and
- Procedural fairness (including a fair selection process, genuine consultation, sufficient notice and payment of any applicable redundancy compensation, and any other contractual or statutory obligations towards employees)

There is an overarching statutory obligation on the parties to an employment agreement to deal with each other in good faith, as well as a statutory obligation on an employer to consult with employees about a proposed restructuring or redundancy. Consultation involves giving employees sufficient and timely information about the proposal, seeking their feedback, and genuinely considering the employees' response before making a decision.

If an employee's individual or a collective employment agreement sets out a consultation requirement for a proposed redundancy and payment of any compensation, the employer must follow this.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

For a redundancy to be justified, the employer must be able to show that it had a genuine business or financial need to make the redundancy. Even then, the employer must establish that it did everything that a 'fair and reasonable employer could have done in all the circumstances at the time the dismissal or action occurred'. This test is largely governed by case law and based on the factual circumstances surrounding the decision, but there must be a genuine and honest commercial reason to substantively justify a redundancy.

While there remains a certain amount of managerial discretion around the commercial decisions that a business makes, the decision to disestablish a role must be one that a fair and reasonable employer could have made, and then must be carried out in a procedurally fair manner.

(19) What are the consultation requirements with works councils/unions (if any)?

Works council: There is no works council or an equivalent body in New Zealand.

Unions: An employer must consult with any unions who represent affected employees in a restructuring situation, both as an essential element of the redundancy process and as part of the statutory duty of good faith. In addition, it is common for CBAs to contain mandatory consultation provisions, which the employer must follow. In general, the consultation process with unions mirrors that required for individual employees. Although in some circumstances, the employer may give the unions a longer notice period (either of the proposal or the outcome) so that they are better placed to assist their members.

Consultation requirements with other employee representatives: There is no obligation in New Zealand for the employer to consult the health and safety (H&S) committee or H&S representatives unless the workforce transformation affects health and safety in the workplace or there is a requirement to do so within the employer's H&S policy or any relevant collective agreement. If an H&S consultation is undertaken, this would likely take place parallelly with the union and employee consultation.

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(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?	(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?
No.	Where a restructuring proposal involves redundancies within similar roles (i.e., there is more than one employee to choose from), fair and objective criteria must be used to select the employees made redundant. Employees must be provided with the opportunity to give feedback on the proposed selection criteria and should also understand the finalized selection criteria. Whether the chosen criteria are fair and objective, is generally a fact-specific consideration. Selection criteria used may include length of service, disciplinary and performance records, experience and skill required for a new role, and performance in an interview. Employers must take care that criteria are not discriminatory and are truly objective. Although the duty of good faith requires employers to disclose selection criteria, the employer should not disclose confidential information about any identifiable individual.	New Zealand imposes no mandatory requirement for payment of redundancy compensation to employees (although many individual employment agreements and collective agreements include such requirement). There are no specific legislative requirements that prescribe what employers must do to limit the negative impact of a restructuring (except for some very specific measures which apply to vulnerable employees in a transfer-of-business situation). However, there are a number of steps that employers are required to consider as part of a fair redundancy process. These would include: ▸ Offering the affected employee alternative employment within the company if a role is available (even if that alternative role requires upskilling); and ▸ Providing some form of external assistance (e.g. Employee Assistance Programme (EAP) counselling assistance, career planning and outplacement services) It is common to provide certificates of service and/or written references to departing employees to assist them with their future employment prospects.

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(23) What is the estimated timeline for a collective redundancy process?

The time required to fully implement a redundancy depends on the particular circumstances. Timing will be influenced by:

- The number of redundancies contemplated
- Whether unions are involved
- Whether the relevant individual or collective agreements have prescriptive redundancy consultation clauses
- Whether the restructuring falls around a holiday period
- Whether the employees are on sick leave or parental leave; and
- Whether the employee feedback includes suggestions that require further investigation or changes to the initial proposal

A simple redundancy processes can be carried out over a two or three week period, but that time frame will be longer in more complex cases. Employers should also be willing to extend their proposed time frame where the circumstances dictate that it would be fair and reasonable to do so.

(24) What are the estimated costs?

The only mandatory costs are the employees' contractual termination entitlements (such as notice or a payment in lieu of notice and a payment for any accrued leave entitlements). There is no statutory entitlement to redundancy compensation but where an employment agreement provides for redundancy compensation or additional notice of termination payments, this must be paid to the employee.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

Employers may mandate that the redundant employees (particularly those who volunteer for redundancy and receive compensation) may not be eligible for re-employment within a specified period.

While other employers agree to offer preference for re-hiring formerly redundant employees who seek re-employment, there is no fixed approach. However, if an employer has recently made a person redundant and advertises or hires people for a similar or the same position within a short period, this will call into question the substantive justification and genuineness of the employer's decision to make the former employee redundant. This may lead to a legal claim by the employee requiring reinstatement of the employee if the role has not been filled, or compensation for lost wages, and for hurt and humiliation.

(26) What are the risks of litigation caused by the redundancy process?

An employee can challenge an employer's decision to disestablish their position or terminate their employment on grounds of redundancy by bringing a personal grievance for unjustified dismissal under the Employment Relations Act 2000.

If the employee is employed under a collective agreement, the union may represent the employee in this personal grievance. The employee (or union) only has 90 days, starting from the date on which the action amounting to a personal grievance occurred, to raise the personal grievance with their employer. Claims cannot be brought outside that 90-day period.

(27) What are the risks of damages or other remedies due to the redundancy process?

An employer is generally not exposed to risk of damages or other remedies for genuine redundancies carried out in a procedurally fair manner. However, damages could be awarded to employees based on absence of a substantive legal justification for the redundancy or procedural unfairness. Damages can include compensation for lost wages and/or hurt and humiliation and these can vary widely depending on the circumstances of each individual case.

Where a redundancy is found to be unjustified, the Employment Relations Authority or the Employment Court may order the employee to be reinstated to the former position, if that is practical and reasonable. This means that the employer will be required to reinstate the employee either to their previous position, or to a position no less favourable. Reinstatement will not be awarded where the relationship between the parties has broken down irretrievably or where the former role no longer exists or has now been filled by another employee.

There are no criminal sanctions for an unjustified dismissal arising through redundancy.

Nicaragua

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
The employer has the obligation to continuously evaluate the work environment and act on potential risks for the protection and safety of all employees. The COVID-19 pandemic is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken. This includes, but is not limited to, proper training and introducing measures for the business to engage in remote working and/or the implementation of technical tools to avoid physical meetings (e.g., video conferencing) for their employees. This also includes all recognized measures such as ensuring the proper facilities: ▸ For the washing of hands of all persons attending the premises ▸ Taking of temperatures ▸ Separation of spaces for all employees attending the business facilities; and ▸ Provide technical support and platforms to the employees for their digital meetings	The employer is responsible for providing a safe and healthy working environment. The employer can deny access to any employee with symptoms in order to protect the health of other employees and others. This is a valid reason for prohibiting any access to the workplace. Usually, the employee will be absent due to their illness. If possible, the employee would be allowed to work from home after the completion of their sick leave.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order safeguard that other individuals are not infected at the workplace. Privacy of infected or suspicious employees should be protected and health condition must not be published by any means. The health data of the diagnosed individual/s should be processed, stored, secured, accessed and destroyed after is no longer relevant. Information regarding diagnosed individual/s shall only be shared with the relevant parties and not be disclosed to others in general. However, others can be contacted if it is justified, i.e., the infected employee was in contact with a larger group, and this group (or individuals) should be informed for their own protection, medical follow up and safety. Please note that health data can be processed in accordance with Law No. 787, provided that a written consent from employees has been obtained. Please also note that health data triggers some extra precautions, i.e., sufficient security measures need to be taken, including control of the access to data and all data should be deleted when its no longer required. The data can also be transferred to third countries when the appropriate level of protection is provided.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information in accordance with the underlying duty of loyalty expected in all labor relationships and to comply with a safe and healthy environment for all employees.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
No.	No.	Yes.	In usual times, part-time work is governed by the Labor Code and remuneration must be set for a reduced workday. In this case, the employer can proceed with the payment of the minimum hourly salary established in the Decree of Annual Minimum Salary. Payment of reduced working hours and minimum hourly salary must be indicated in the labor contract. If not, an addendum should be signed. Temporary leave is not allowed under the labor regulations in Nicaragua, only the temporary suspension of labor contracts (established in the Labor Code), which means that an employer will stop the payment of salaries during the suspension period and the employees do not work. Suspension only applies if there is a valid/justifiable reason, such as *force majeure* or unforeseeable circumstances, which prevents work from developing in the first place. For temporary suspensions, a formal request must be submitted to the labor authorities (Ministry) and the latter will issue a resolution in approximately six days. The suspension could be extended upon request of the employer. Currently, local authorities have not provided special regulations regarding the spread of the COVID-19 pandemic and its impact on the workforce (or on any other impacted subject area).	There is no special or different procedure to follow. The suspension of contracts must be authorized by labor authorities (Ministry).

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
Yes.	No.	No.	Yes, the employer should take any measure in order to maintain health and safety of the new employee. For example, the employee could work from home if its possible.	If the office is closed due to suspension of the labor contracts or any other legal reason, and the Labor authorities (Ministry) has authorized it for a specific period of time, the employer has no obligations regarding the new hire for the duration of the closure. However, if the authorities did not authorize it, the employer must continue to pay salaries and severance, as applicable.	Employer must continue to pay salaries and severance, as applicable	Employermust continue to pay salaries and severance, as applicable During this time, redundancies could not occur, unless labor authorities have previously provided authorization.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
No.	The government has not communicated any special regulations regarding the spread of the COVID-19 pandemic.	Leave of absence is not regulated in this jurisdiction. However it could be accepted, if the employee retains the same labor conditions agreed in the contract i.e., salary and social benefits must continue. Private schools and kindergartens have the same labor obligations as any other institution. Public/state-operated schools and kindergartens are currently not allowed to close during the COVID-19 pandemic. In the event of a private school or kindergarten closure, its legal representative should request the closure authorization from the labor authorities. Business closure or suspension should occur only after such authorization, and the payment of salaries would stop during the suspension. If a definitive closure occurs, the employer must pay severance to its employees, which includes the payment of seniority compensation and social benefits.	At the moment, there are no governmental programs for these circumstances prescribed.

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(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?	(18) Does the employer need to have a legal justification to carry out redundancy dismissals?
Not applicable.	Not applicable.	Collective redundancies are treated similar to suspensions of employment contracts : ▸ Request must be filed at labor authorities office; and ▸ Labor authorities would issue a resolution authorizing (or refusing) any collective redundancy The resolution is usually issued six days after the request. If employees that are members of a labor union are dismissed, the rights and obligations in the CBA are applied.	Collective suspension of labor contracts and/or collective redundancies must be justified on one or more of the following grounds: ▸ Lack of raw material which prevents the work being executed ▸ Economic, financial or technical difficulties ▸ Closure of business ▸ *Force majeure* or hardship event; and ▸ The last justification, duly verified, should be the exception applicable in the current COVID-19 pandemic

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

At the outset, the employer must inform and commence negotiations with the relevant labor unions or directly with the impacted employees (in the absence of a labor union at the employer) as part of obtaining the approval of the labor administration at a later stage and limiting redundancies.

Negotiations with unions are mandatory. Although the law does not require reaching an agreement, the parties must sign a written record of the negotiations, an essential component of the employer's submission to the labor authorities, requesting authorization to suspend or terminate employment contracts.

There is no prescribed timeline for information and consultation process; However, it must be completed prior to suspending or terminating employment contracts.

Consultation requirements with other employee representatives

In Nicaragua, there is no specific obligation to inform and consult with employee representatives other than the relevant labor unions. However, it is recommended to inform the Health and Safety Committee, if the restructuring has an impact on the working conditions of the employees.

Consultation requirements with employees

In the absence of a labor union, the employer must inform and commence negotiation with employees aimed at obtaining their approval and limiting redundancies.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Once the information and consultation process is completed, implementation of the workforce transformation is subject to approval by the labor authorities.

The employer must provide the labor authorities with the written record of the negotiations with unions or the impacted employees, requesting authorization to suspend or terminate the employment contracts. From the receipt of the employer's request, the labor authorities have six business days to convene a hearing between the employer and the impacted employees. The project can move to implementation only after the approval is granted by the labor authorities.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

There are no specific legally prescribed employee selection criteria. The employer is free to choose the employees to be made redundant, but can implement the contemplated workforce transformation only after obtaining prior authorization from the labor authorities. However, typical selection criteria used by the employers in Nicaragua may include, but are not limited to:

- Attendance record
- Disciplinary record
- Skills or experience; and
- Work performance

Certain employees including union representatives, pregnant women or ill employees enjoy special protection during restructuring processes.

(22) Are there any actions required to limit the negative impact of the redundancy?

In Nicaragua, employers are not obligated to implement a social plan and/or take any actions to limit the negative impact of the workforce transformation.

Internal alternative employment/redeployment

There is no mandatory requirement to search for any internal alternative employment or redeployment.

(23) What is the estimated timeline for a collective redundancy process?

The time required to obtain the labor authorities' approval largely depends on the number of redundancies foreseen, government priorities and the outcome of the employee information and consultation process. However, in general, the approval process may take one to three months depending on the complexity of the project.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Notice, or an indemnity in lieu of the same, if the employee is released from working during the notice period; and
- Termination indemnities

Customary additional costs

There is no customary additional cost to the employer.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

Nicaraguan legislation does not prohibit hiring employees after the implementation of collective redundancies. Further, the employer is not obligated to give priority to rehire the terminated employees to the positions that become available corresponding to their skills.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Litigation risk related to the redundancy process is relatively low prior to the labor authority's approval. It is due to the fact that the impacted employees are required to exhaust all administrative procedures prior to approaching the court for relief.

The impacted employees can challenge, within one month from the date of termination of the employment contract, primarily on the the legal justification for the collective redundancy, including, but not limited to the selection criteria process the employer utilized.

Litigation cannot stop or slow down the collective redundancy process.

(27) What are the risks of damages or other remedies due to the redundancy process?

Damages for unfair dismissal

In Nicaragua, besides reinstatement, the impacted employees cannot claim damages for termination (i.e., for unfair termination or otherwise).

Reinstatement

In Nicaragua, reinstatement is the most common remedy available to the impacted employees.

The impacted employees are entitled to reinstatement within the company when the redundancies are declared null and void by a court. Under such circumstances, the court may order the employer to pay all backdated salaries from the date of termination of employment until the date of reinstatement. However, the employer can refuse to reinstate the impacted employees by paying twice the amount of the compensation for the length of service provided by labor law.

Criminal sanctions

There are no criminal sanctions specifically related to violation of rules on collective suspension of employment contracts. However, there are criminal sanctions in the case of discrimination, which may be applicable in the context of a collective redundancy.

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?
The Government has adopted the protocol on preventative measures for all workplaces. In brief, employers are obliged to: ▸ Set-up hand sanitization stations and organize regular cleaning and disinfection of the office ▸ Provide face masks and tissues for the employees and trash cans with lids for hygienic disposal of waste ▸ Introduce promotional material on usage of face masks, as this is an obligation for all employees as well as other promotional material raising COVID-19 awareness ▸ Adopt measures to maintain social distancing of at least one meter among persons in the office ▸ Reduce in-person meetings, and organize the work in shifts, i.e. organize remote working as much as the work process allows ▸ Inform the regional public health center in a timely manner in the case of any COVID-19 cases	If the employer has evidence that the employee is infected, they must prevent access and report the case to the relevant institutions. The employee should be subject to quarantine with public health institutions as per current measures. If the employer has reason to suspect potential infection, they can ask the employee to undergo medical examination. Based on medical protocols, the employee may have to enter isolation until medical reports are confirmed and quarantine if an infection is diagnosed from the medical examination.	The employer needs to immediately report the case to the authorized public intuitions and follow their order or recommendations.	The employee is obliged to inform the employer if there is medical evidence that an employee is infected. Based on decision by the government, on 26 June 2020 all Macedonian borders were opened and from 1 July 2020 all Macedonian airports are open as well. However, following the fact the Macedonia is categorized as a high-risk area, most travel abroad is either prohibited or conditional upon obtaining a negative PCR test or being subject to quarantine rules or other conditions as per the relevant jurisdiction – as indicated on the website of the Ministry of Foreign Affairs: https://www.mfa.gov.mk/mk/page/1706/COVID-19	Yes.

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(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Please note that the employer has general obligations to take care and prevent the risk and hazards at the work place. In the case of COVID-19, other laws regulating public health may be also implemented. The information provided for North Macedonia is a summary of the current employment law and implemented measures, and does not constitute legal advice, especially not advice in medical law or public health law.	No. There were already effective economic measures imposed by the government, which related to direct financial support of certain trading companies affected by the situation, postponement in tax payments, etc. In addition, the government imposed economic measures, such as postponement of social security contributions to support certain trading companies affected by the situation depending on the industry. The North Macedonian government adopted the 'Ordinance for implementation of the Law on labor relations in the state of emergency'. It stipulated the following: ▸ The employees in the private sector that were affected by the imposed measures due to the COVID-19 pandemic should have taken unused annual leave days for 2019 up to 31 May 2020, and should have used two consecutive working weeks (10 working days) as part of their annual leave for 2020 until 30 June 2020, both in accordance with the working process requirements and upon approval from the employer; and ▸ The prescribed period of maternity leave was automatically extended, as well as the salary compensation while the measures imposed due to the COVID-19 pandemic are in force However, this Ordinance is no longer applicable.	Not applicable.	Not applicable.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	**(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;**	**(8(iii) The new hire has been diagnosed with COVID-19.**
Yes, if there is no signed employment contract. If there is a signed employment contract, the postponement can be only done via an annex to the agreement regulating the postponement of the employment start date signed by both parties.	Not applicable.	Yes, if there is no signed employment contract. If there is a signed employment contract, the postponement can be only done via an annex to the agreement regulating the postponement of the employment start date signed by both parties.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
Yes; There are a number of employment obligations, including maintaining health and safety of employees. It should be considered whether the employee can be accommodated (e.g. work from home) during the illness. If the employee is officially registered as an employee, then their absence will be subject to sick leave or the absence is to be covered by the employer (if the sick leave entitlement has not yet commenced). If the employee is not officially registered (the registration is postponed), there is no obligation to cover the absence but this has to properly reflected in the employment contract with an annex.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**	**(10(iii) The employee has been diagnosed with COVID-19.**
The absence is unregulated and the employee's salary may need to be covered by the employer.	Not applicable.	Sick leave should be open in appropriate medical circumstances and those regulations shall take precedence.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
The employer cannot force the usage of sick leave, since the sick leave is prescribed by medical circumstances only. In cases when the employee was employed in the private sector that was affected by the imposed measures due to the COVID-19 pandemic, they should have taken the unused annual leave days for 2019 up to 31 May 2020 and should have used two consecutive working weeks (10 working days) as part of their annual leave for 2020 until 30 June 2020, both in accordance with the working process requirements and upon approval from the employer.	No.	On 10 March 2020, the Government adopted recommendations based on which educational institutions at all levels, including kindergartens, were closed. Thus, the Government recommended one parent of children up to 10 years old (and/or of disabled children up to 26 years old, as result of closing the care centers for these children), to remain at home and to be absent from work, with full salary compensation, irrespective of whether the employment is with a public institution or with a private entity. The measures were also relevant for pregnant women and persons with chronic illnesses. However, on 14 September 2020, the Government adopted a new decision based on which, starting from 23 September 2020, all employees that are parents of children up to six years old have to resume work, since kindergartens have been re-opened from 9 September 2020. In addition, all employees that are parents of children up to 10 years old have to resume work, notwithstanding ~~if~~ whether their child is attending school virtually or physically.	Not applicable.

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(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The companies had the opportunity to apply for financial support for payment of salaries to their employees for April, May and June for an amount of up to MKD14,500 (approximately €230) per employee, per month provided that certain conditions were met.

The North Macedonian Parliament adopted the Law on financial support for employers to support employers affected by the COVID-19 pandemic for payment of wages for October, November and December 2020.

Employers may apply for financial support of up to MKD 21,776 (approximately €350) for each employee while the employers experiencing at least 30% decline in revenues in the respective period from April to October 2020, compared to the same month last year. Employers must apply on or before the seventh day of the current month for the previous month.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

The application should be sent to the Public Revenue Office in electronic form via e-tax local platform, until the seventh day in each month for the previous month.

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(17) What is the legal framework for collective redundancies?	(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?	(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?
The procedure of collective redundancies is primarily regulated in the Law on Labor Relations.	Yes, the redundancy dismissals should be reasoned due to economic, organizational, technological, structural or similar reasons on the employer's side (business reasons). There aren't any measures that restrict or reduce the procedures for laying off of employees due to the COVID-19 pandemic. Based on amendments to the "Ordinance on the Law on Employment Relations in the State of Emergency" adopted on 1 May 2020, the employers that had terminated employment relationships in the period of 11 March to 30 April 2020 had the opportunity to conclude settlement for reinstating those employees until 7 May 2020 at the latest. The employer should have covered all labor obligations that arise from employment during that period as of the date of the dismissal until the conclusion of the settlement. If the affected former employee refuse to sign the settlement, the employer has the opportunity to concluded new employment agreement with new employee for the same position. This provisions were adopted for the purposes of enabling any affected employer from the COVID-19 pandemic to become eligible for applying on the economic measures for financial support imposed by the Government. There is no relief on the redundancies procedure at the moment.	When the employer intends to execute collective redundancies, they shall be obliged to initiate a consultation procedure with the representatives of the employees, at least a month in advance, prior to the commencement of the collective termination and provide all relevant information prior to the commencement of the consultations in order to achieve potential agreement. The Labor Law defines what the consultations should be covering at a minimum. In order to enable the representatives of the employees to constructively engage with the employers during the consultations, the employers shall provide them with all relevant information in a timely manner, such as: ▸ Reasons for the planned redundancies ▸ The number and categories of employees being made redundant ▸ Total number and categories of employees employed; and ▸ The period during which the planned terminations are to take place	The employer shall be obliged, after the completion of the consultations with the representatives of the employees, to inform in writing the competent employment service agency (i.e. the North Macedonian Employment Agency), for the purpose of providing help and intermediation services in employment, in accordance with the law. This notification shall contain all relevant information in connection with the planned collective redundancies and the consultations with the employees' representatives, in particular the reasons for the redundancies, the number of employees being laid off, the total number of employees in the business, and the period within which the redundancies should occur.

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(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
The Law on employment relations does not stipulate specific employee selection criteria. However, the court practices imposes such criteria to be set in advance. Therefore, it is highly advisable that a specialist be engaged in the early stage of the process of collective redundancies.	The consultations with the representatives of the employees should at least cover the manner and means for avoidance of collective terminations, reducing the number of terminated employees or mitigation of the consequences through undertakings toward associated social measures with the purpose of aiding the terminated employees to find other employment or training. It is highly advisable that a specialist be engaged in the early stage of the process of collective redundancies, due its sensitivity, especially in the relevant actions that should be taken in order to possibly limit the negative impact of the redundancy.	The estimated timeline for a collective redundancy process may be made based on mandatory deadlines as per the Law on employment relations, as follows: ▸ Two to three months preparation, depending on the status of the existing documents in the company ▸ One month for the consultation process with the representative of the employees; and ▸ At least three months of ongoing processing following the notification for collective redundancies of the employer, submitted to North Macedonian Employment Agency (which, in some cases, may extend the deadline)	The costs depend on the number of employees planned to be laid off, the length of the procedure itself and the employees' years of service with the same employer.

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(25) Are there any hiring/re-hiring restrictions post-redundancy?

If the employer terminates the employment contract due to business reasons, it cannot employ another worker in the same position, with the same education and profession, within a period of two years from the date of termination of employment.

If the need for carrying out the same work arises prior to the expiry of this deadline, the employer must offer the terminated employee the position as a matter of priority.

(26) What are the risks of litigation caused by the redundancy process?

The risk of litigation depends on whether the process of collective redundancies was conducted in accordance with the mandatory provisions regulating the collective redundancies.

In practice, 70-80% of the laid off employees initiate such litigation.

(27) What are the risks of damages or other remedies due to the redundancy process?

The employee has the following rights:

- Right to lodge a complaint within eight days from the day of receipt of the decision for termination of the employment contract; and
- Right to initiate a civil dispute, if a decision on the complaint is not adopted within the mandatory deadline or when the employee is not satisfied with the decision adopted on the complaint

If the court decision is adopted in favor of the employee, the employee is entitled to compensation of all salaries for the period until the employee's relationship was terminated, plus interest and to be reinstated to the same job position.

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants; and ▸ Technical possibilities as an alternative to physical meetings (e.g. video conferencing)	The employer is responsible for providing a safe and healthy working environment. Denying access to a potentially infected employee in order to protect other employees is a valid reason. In practice, this will usually be resolved by allowing employees to work remotely. If this is not possible, the employee should be put on garden leave with full benefits.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy–with respect to any such infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to appropriately handle information disclosed in connection with the COVID-19 pandemic. Individual information regarding sickness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e. the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?

No. There are no employer reporting obligations in Norway, unless there are regulations made in the Health legislation/disease control. Reporting obligations are prescribed for doctors.

However, The working Environment Act (WEA) section 2-2 states that the employer shall:

- Ensure that their own activities and those of their own employees' are arranged and performed in such a manner that, persons other than their own employees are also ensured a thoroughly sound working environment
- Cooperate with other employers in order to ensure a thoroughly sound working environment

This means that employees who share common areas, such as reception desks and cafeterias will have an obligation to inform their colleagues about health risks. The same obligation to inform about risks exists towards employees hired into the enterprise.

(6) Other remarks

The Parliament has decided, among others, the following six measures related to employment and welfare to mitigate the economic consequences of the COVID-19 pandemic:

- Employees on temporary lay-off/furlough (*permitterte*) will receive 100% of their salary level during the 'employer period'. The employer period, where the employer is obligated to pay salary, is reduced to the first 10 days (formerly 15 days) of such lay-off
- Following the employer period, laid-off employees are ensured an income (unemployment benefit) equal to 80% of their income, up to 6G. For income between 3 G and 6 G, laid-off employees receive 62.4% of their salary. Income above 6 G is not compensated.

NB: The G is short for '*Grunnbeløp*' and is the calculation amount for the National Insurance System and the basis of calculating all benefits. The G is subject to annual adjustments every 1 May. Currently, the G is equivalent to NOK 101 351.

- The threshold for eligibility for salary compensation for laid-off employees is reduced from having an income equal to 1.5 G to 0.75 G during the last 12 months, or 2.25 G (formerly 3 G) during the last 36 months. This helps the part-time workers to secure an income. However, these temporary changes to the threshold for eligibility does not apply to employees that are laid-off after 1 November 2020
- The employer period for paying salary for COVID-19 related sick leave is reduced to three days. Independent workers (*selvstendig næringsdrivende*) and freelancers are entitled to sick leave pay from the Norwegian Labor and Welfare Service/National Insurance System (NAV) from day four. Sick leave pay has not been adjusted by the Parliament
- Independent workers and freelancers may receive compensation for loss of income from day 17 after the start of loss of income. The temporary securing of income is to be equal to 60% of the average income over the last three years, limited to a maximum 6 G
- Employees are given a certain amount of paid days for child care. The paid days for care for young children (12 years and younger) is, for example, 10 days. If an employee has used all paid child care days, the employee may be granted additional paid days if needed due to infection control considerations

The employer may apply to NAV for a reimbursement of any paid child care exceeding 10 days. For paid child care during 13 March to 30 June, the employer may apply for a reimbursement for paid child care days exceeding three days.

(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?

Yes.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?

For all practical reasons, temporary lay-offs (*permittering*) will be the chosen measure by employers in Norway and it has recently enacted several changes in the relevant legislation/rules because of the COVID-19 pandemic. Lay-offs may be carried out either on a full-time or a part-time basis. (Please refer to comments in Q8 regarding the employees' entitlement to benefits from the State, i.e. the employment must be reduced by a minimum of 40% (50% after 1 November) due to a lay-off).

Laying off employees is a temporary measure under which the employee's obligation to work and the employer's obligation to pay salary are suspended, i.e. the employment relationship continues to exist and it is assumed that the work stoppage is temporary.

A lay-off requires reasonable grounds related to the business and not the employee. If the undertaking has a temporary need to reduce its workforce due to the COVID-19 pandemic, e.g. due to lack of work, the employer may consider to temporarily lay-off employees. Furthermore, the employer must act reasonably in the evaluation of who should be laid-off and has to follow a prescribed procedure. The procedure includes, among other things:

- Sending a notification to the Norwegian Labor and Welfare Administration (NAV);
- I/C-obligations towards the employees' elected representatives/the employees; and
- Delivering a notice of lay-off to the employees in questions which include certain information

It is important that the employer ensures that it has sufficient documentation regarding the justification of the lay-offs, and that the selection between the employees, and that the procedure has been carried out in accordance with the applicable rules. Please note that notifying the NAV is only a legal requirement when the business is laying off 10 or more employees.

A lay-off may last for 52 weeks (formerly 26 weeks) within a period of 18 months.

If it becomes clear or highly likely that the situation will be permanent, the employer must give notice of dismissal. If such a notice is given, it should be noted than any other lay-off procedure is paused (e.g., temporary lay-offs) and the employer has to pay full salary during the notice period. Dismissals have to be handled in accordance with the applicable strict rules.

(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.

- Consider whether the undertaking has reasonable grounds to lay-off employees and the potential selection between the employees (which has to be reasonable and objective). Furthermore, the employer must ensure that sufficient documentation is prepared
- The employer must notify NAV as soon as possible (if 10 or more employees are affected), and at the latest at the same time, the employer calls a consultation meeting. Even though it is not a statutory duty for undertakings that are not bound by a CBA, it is recommended that the lay-offs are discussed with the employees' elected representatives / the employees. Undertakings bound by CBA will have to carry out a I/C procedure according to the CBA
- Notice of temporary lay-offs, which, among other things, must include information about the notice period, the reasons for and extent of the lay-offs, the period under which the employer will pay salary etc
- When the notice period has expired, the employer will pay salary during the employer's period before the employee is entitled to unemployment benefits
- Employees must apply to NAV for compensation for loss of income because of a lay-off. The employees must, however, first register as a job seeker

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.	
Yes, the actual start date may be postponed. However, the employment relationship as such, including the employer's obligation to pay salary, may not be postponed unilaterally (there is the possibility to use temporary lay-offs).	No, the employment relationship starts at the agreed date of commencement, but the employee has to respect the self-quarantine period as other employees. The employee may be asked to work remotely if possible. Please note that an employee may be denied sick leave pay if they travel to countries that the Norwegian Health Authority advices against and therefore is obliged to self-quarantine.	No, the employee will start with a sick leave.	Yes, there are a number of obligations including maintaining health and safety of employees. Employers should consider whether the employee can be accommodated (e.g. working from home). NB: Under Norwegian law the employment relationship starts upon the agreed start date. Even if the actual start date is postponed, the employer will be subject to employment-related obligations.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?			(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.	
The employer, in general will be obligated to pay salary. However, if the employee cannot work remotely, the employer will most likely lay off the employee under the Norwegian system of temporary lay-offs/furlough.	The employee may be entitled to sick pay from the NAV during the quarantine period. The condition is that a medical doctor evaluates that there is a risk of the employee being a possible disease carrier. Please note that an employee may be denied sick leave pay, please refer to comments in Q8(ii).	The employee may be entitled to sick pay from the NAV.	An employer cannot force a person to go on sick leave. The decision of visiting the doctor lies with the employee. It is the doctor who decides whether or not a person gets a sick leave.

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?

Due to the spread of the COVID-19 pandemic, the government has now extended the temporary lay-off period from 26 weeks to 52 weeks (within a period of 18 months) from 1 November 2020. The purpose of the extension is to support the business community financially during an uncertain time.

Pursuant to the Act on Obligation to Pay Wages during Temporary Redundancy, the employer must pay lay-off salary and other remuneration for the stipulated time after the lay-off has been decided (Employer Period I). From 1 September 2020, this period is 10 days (formerly 15 days).

After the Employer Period I, the employer is exempt from the wage obligation for 30 weeks (the exemption period) under the current scheme. From 1 January 2021, all employers must pay five days of the employee's salary (Employer Period II). The Employer period II applies to all employees that have been laid off for 30 weeks or more. The purpose of the Employer Period II is for employers to assess whether it is necessary to keep employees temporarily laid off, especially if other companies need access to a supply of labor.

Subsequent to the Employer Period II, the employer's wage obligation exemption will resume again.

Back to the workplace measures

The Norwegian government has passed regulations, guidelines and recommendations related to the restart of business activities in Norway. The Norwegian Regulation relating to infection control measures, etc. in connection with the COVID-19 pandemic (FOR-2020-03-27-470, henceforth Regulation) has been amended on an ongoing basis in order to handle the pandemic in a controlled manner. The Regulation contains both general and sector/activity specific requirements. Current advice, which applies to everyone, is to keep one meter distance from others than your closest family.

All businesses are expected to comply with the applicable regulations and recommendations regarding infection control. Employers should ensure that their employees and their customers can remain at least one meter apart throughout the working hours. In parts of the country where employees need to use public transportation, employers are urged to facilitate remote working as far as possible and to require people to be physically present only when necessary. Furthermore, the Regulation sets out restrictions as to the number of people allowed to meet in groups, etc.

Local regulations

To prevent the occurrence of a communicable disease that is hazardous to public health or to prevent it from spreading, 'local regulations' maybe passed according to the Norwegian Act relating to control of communicable diseases, for example prohibiting meetings and gatherings or imposing other limitations on social contact, closure of establishments where people assemble, stop or curtail communication etc. Such regulations are in force, for example, in the municipalities of Oslo, Drammen and Bergen.

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

Employees are given a certain amount of paid days for child care. The paid days for care for small children (12 years and younger) is, for example, 10 days. If an employee has used all paid child care days, the employee may be granted additional paid days if needed due to infection control considerations.

The employer was entitled to apply to the NAV for a reimbursement of the paid child care days exceeding three days during the period of 13 March 2020 to 30 June 2020.

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

Employers are, to some extent, obligated to pay their employees' salary during the notice period of the lay-offs and the employer's period. Please find more information on the economic consequences of a lay-off below:

- The notice period is generally 14 days during which the employer must pay the employees' salaries as per usual. The notice period may however be reduced to two days in the case of an 'unforeseen event'. The effects of the COVID-19 pandemic could be an unforeseen event and may justify a two days notification period. The length of the notice period must be assessed on a case-by-case basis
- When the lay-offs are in effect, i.e. when the notice period has expired, the employer must pay salary for 10 days (normally 15 days, (Employer Period I), but this has been temporarily changed by the Parliament). Following the Employer Period I, the employer is exempted from the obligation to pay salary for a period of 52 weeks (please refer to comments in Q12) during a period of 18 months. If the spread of the COVID-19 pandemic continues, the Norwegian Parliament may expand this period even further.
- Following the Employer Period 1, (10 days after the lay-offs are in effect) the employee is entitled to unemployment benefits from the State.
- After the Employer Period, laid-off employees are ensured an income from the state equal to 80 % of their income up to 3 G. For income between 3 G up to 6 G, laid-off employees receive 62.4 % of their salary. Salary exceeding 6 G is not compensated. The G is short for '*Grunnbeløp*' and is the calculation amount for the National Insurance System when they calculate the benefits. The G is subject to annual adjustments every 1 May. Currently the G is equivalent to NOK 101 351.
- While employees previously had to wait three days from their employer's payment ending to receive unemployment benefits, they are now entitled to unemployment benefits from the State immediately following the Employer Period and no longer have to wait three days
- Employees must apply to the NAV for compensation for loss of income because of a lay-off. The employees must, however, first register as a job seeker
- If an employee's hours are reduced by a minimum of 40 % (50 % after 1 November, please refer to comments in Q6) due to lay-offs, the employee may, according to the new rules, be entitled to unemployment benefits from the NAV
- The threshold for eligibility for salary compensation as laid-off is reduced from 1.5 G to 0.75 G (Please refer comments in to Q6). This helps the part-time workers to secure an income
- Unemployed individuals are now entitled to unemployment benefits during Easter and Christmas. According to the Regulations on Unemployment Benefit (FOR-1998-09-16-890), it is usually a requirement that unemployment benefit is not disbursed in the period from 20 December until 1 January, and from Palm Sunday to the 2nd Easter Sunday (cf. Section 6-3). Section 6-3 has been temporarily repealed by Regulation 20 March 2020, No. 373
- The Employer Period for paying salary related to sick leave taken due to COVID 19 is reduced to three days (previously 16 days)
- Self-employed workers and freelancers are entitled to sick leave pay from NAV from day four in connection with the COVID-19 pandemic. This is a direct response to the COVID-19 pandemic with the aim to reduce the costs related to sickness benefits; and
- Employees are given a certain amount of paid days for child care from the employer. The paid days for care for small children (12 years and younger) is for example 10 days. If an employee has used all paid child care days, the employee may be granted additional paid days, if needed, due to infection control considerations. The employer was entitled to apply NAV for a reimbursement of the paid child care days exceeding three days during the period from 13 March 2020 to 30 June 2020

It was decided in March that NAV may grant unemployment benefits, without needing the employees' applications to be processed. NAV will pay the unemployment benefit in advance However, the same is limited to approximately 60% of the unemployment benefit basis. The unemployment benefit will be offset against the final decision when the application is processed. It is voluntary for the employees to apply for such payments in advance, and the application form is available via the following link:

https://www.nav.no/dagpenger/forskudd/

An employee is entitled to unemployment benefits during a period of 52 weeks (please refer to comments in Q12) during a total period of 18 months. After the end of this period, the employer's wage obligation will again occur.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Many companies in Norway are experiencing a dramatic decrease in revenue amid the spread of the COVID-19 pandemic. To mitigate the economic consequences of the COVID-19 pandemic, the Norwegian Government has implemented several different measures (please note that the following is prepared on a high-level, and thus is not exhaustive):

- Introduced a state guarantee scheme for new bank loans to SMEs and larger enterprises suffering losses because of the extraordinary situation arising from the COVID-19 pandemic. The initial package of Kr50 bn will be increased, if needed
- Reinstated the Government Bond Fund to increase liquidity and access to capital in the Norwegian bond market, where larger companies typically raise their funding. The Fund will provide up to Kr50 bn, to be invested in bonds issued by Norwegian companies
- Norwegian entities with decrease in revenue (min. 20% in March and 30% in April and May) may have up to 90 % of their fixed costs compensated up to NOK80 mn
- Formula for compensation:
  - Companies that are forced to close by the government: Lost revenue (%) * (Fixed monthly costs) * 0.9
  - For other businesses: Lost revenue % * (Fixed monthly costs – deductible) * 0.8
- The government has prolonged the scheme until August 2020, with a lower compensation rate.
  - Compensation rates:
    - 70 % in June and July 2020
    - 50 % in August 2020

Please note that the application deadline for March, April and May has passed (31 July). The application deadline for June, July and August is 31 October 2020.

A new Kr4.7 bn stimulus package has been announced by the government for pre-existing schemes for small businesses, start-ups and entrepreneurs, managed by the public Innovation Fund. The funds will be allocated to several key aid schemes, including interest support schemes, innovation loans/grants, and other grant schemes.

- A new green package of Kr3.6 bn proposed to promote innovation and research; and
- The Growth guarantee scheme, where 75 % of bank loans to scale-ups are guaranteed by the Innovation Fund

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

The application procedures and prerequisites vary, depending on the individual measure.

(17) What is the legal framework for collective redundancies?

Collective redundancies are governed by the Working Environment Act (WEA).

According to section 15-2 of the WEA, collective redundancies are redundancies in which notice of redundancy is given to at least 10 employees within a period of 30 days for reasons related to the employer or the undertaking. The said provision does also lay out specific requirements as to collective redundancies.

Additionally, CBAs can include provisions applicable in the case of collective redundancies

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

The employer is in general entitled to manage its employees and the business. According to the employer's management prerogative, the employer enjoys freedom to organize, prioritize, control and direct the performance of its work and business. The employer cannot, however, dismiss employees at will. Collective redundancies must be objectively justified on the basis of circumstances relating to the employer or the undertaking.

The WEA does not specify or indicate, by way of example, what constitutes sound reasons sufficient to justify a collective redundancy. This must be determined on a case-by-case basis, based on all circumstances of the case. However, in practice, business considerations such as market changes, loss of important contracts and/or customers, lower commodity prices and technological developments, demands for efficiency and increased profit can constitute sound reasons sufficient to justify redundancy. According to Norwegian case law, the employer must be able to document that it has thoroughly analysed the need for redundancy in order to meet its commercial objectives and considered all other options and that the process is carried out in accordance with the applicable legislation / practice.

Contracting out of an undertaking's ordinary operations to a third party will not constitute justifiable grounds for redundancy unless contracting out is absolutely essential to maintain the continued operation of the undertaking.

(19) What are the consultation requirements with works councils/unions (if any)?

Unions

The employer is required to provide the elected representatives with all relevant information to enable them to enter into a real discussion with the employer on ways of mitigating the negative effects of the collective redundancy. The term 'elected representative' is defined broadly and, in addition to trade union representatives, includes other elected representatives. If the company does not have elected representatives, employees can be elected in order to conduct the required consultation.

As a minimum, the employer must provide the elected representatives (employees' representatives) with the following information in writing:

- Grounds for the redundancies
- Number of employees who may be impacted
- Proposed selection criteria
- Categories of workers to which they belong (specific group, full time or part time)
- Number of employees at the undertaking
- Groups of employees normally employed
- Time schedule for implementing redundancies
- Proposed criteria for selection of those who may be made redundant; and
- Proposed criteria for calculating extraordinary severance pay (if applicable)

The employer must give the employees' representatives a written statement with the relevant information as soon as possible, and, at the latest, at the same time as the employer calls a consultation meeting. The employees' representatives may comment on the notification directly to the labor authorities.

Consultation requirements with other employee representatives

If there is a working environment committee at the workplace, the redundancy plans must also be submitted to the working environment committee by the employer.

Consultation requirements with employees

There are no legal barriers to open communication with employees collectively or individually on a collective redundancy, provided the formal requirements of consultation with and information to the employees' representatives are observed. The information can be provided in writing or at a 'town hall' meeting. However, after the consultation process with the employee representatives but before making a decision regarding the contemplated redundancy/dismissal, the employer is required to hold individual discussion meetings (as far as it is feasible) with each of the impacted employees.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Approval of the NAV is not required to implement the collective redundancy; However, the employer must submit a notification to NAV as soon as possible or at least at the same time as the employer calls for a consultation meeting with the employee representatives. The notification shall provide the same information as must be provided to the elected representatives (please refer to comments in Q19).

A collective redundancy will be effective no earlier than 30 days after NAV has received such notification. NAV may, on certain conditions, extend the period of notice with up to 30 days, if sought necessary. If the employer fails to notify NAV of a collective dismissal it might risk being sanctioned with fines.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

There are no statutory selection criteria in Norway. The selection criteria must, however, be objective and reasonable. Further, applicable CBAs may specify employee selection criteria in the event of any collective redundancy.

Both the selection criteria and the selection of employees who may be made redundant must be objectively justified. Common selection criteria are a combination of the employee's:

- Seniority / Years of service (this is the 'main' criteria in the majority of CBAs, but may be departed from if there are reasonable grounds for doing so)
- Skills or suitability for the position
- Social or personal relationships; and/or
- Age

Certain employees enjoy a special protection against dismissal, for example pregnant employees, employees on sick leave and employees who are serving military service.

(22) Are there any actions required to limit the negative impact of the redundancy?

The employer must consider whether or not less comprehensive measures would be sufficient. Furthermore, the employer is obligated to weigh the needs of the undertaking, against the disadvantage caused by the redundancy / dismissal for the individual employee when deciding, whether to dismiss on the grounds of redundancy and/or determining which employees to be made redundant. The employer must at least take the following measures in order to limit the negative impact of redundancy:

Internal alternative employment/redeployment

The employer is obligated to consider whether there is any suitable alternative work within the undertaking, and such alternative work must be offered to the impacted employees if they are qualified for the position. However, the employer is not obliged to search for alternative work outside the undertaking/organization.

Other measures

There is no legal obligation to provide social benefits but, in collective redundancies, the consultations with trades union / employee representatives shall cover possible social welfare measures. These may typically include outplacement services, job-seeker courses, financial support for re-training, etc.

(23) What is the estimated timeline for a collective redundancy process?

Preparation of any specific documentation required for the process, including the information and consultation process and for the contemplated negotiation, may take four to eight weeks.

The time required to fully implement a large-scale redundancy will vary considerably depending, among other things:

- On the professionalism of the employer in rationalization processes
- The number of employees involved
- The relationship with the trades union and employee representatives
- The negotiations; and
- The notice period to which the employees are entitled to

It is possible, with careful planning, to carry out a collective redundancy within a few months plus the notice period for each employee. However, the period is normally longer.

(24) What are the estimated costs?

Mandatory costs

There is no statutory right to redundancy pay. The only compensation, to which an employee is entitled to according to statute, is salary (and other contractual benefits) during the notice period.

Customary additional costs

Voluntary severance packages may include, for example, support for retraining and education, exemption from duties during the notice period, and severance pay. The right to such benefits is usually conditional upon signing of a termination of employment agreement where the employee waives their rights to instigate legal proceedings according to the WEA.

A termination of employment agreement may be entered into before the employee receives the redundancy notice, or the parties can reach an agreement after the notice is given. In practice, severance packages are usually offered when it is clear which employees will be impacted.

Additionally, costs to legal advisors related to the collective redundancy will accrue

(25) Are there any hiring/re-hiring restrictions post-redundancy?

There is no statutory 'hiring freeze period' following a workforce reduction or collective redundancy.

However, an employee who is dismissed due to a workforce reduction or rationalization has a preferential right to new appointment at the same undertaking, unless the employee is not qualified for the vacant post. The preferential right applies to employees who have been employed by the undertaking for a total of at least 12 months within the previous two years. The preferential right applies from the date when notice is given, for up to one year after the expiry of the period of notice.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

The following interested parties can bring lawsuits related to the redundancy process:

- Employees/trade union: An employee or a trade union can bring legal proceedings at any time, alleging that the redundancy-related provisions of the WEA have been breached and can apply for an injunction. This would effectively stop or at least slow down the collective redundancy process. However, such proceedings are rare
- Impacted employees: Impacted employees can initiate legal proceedings on the grounds, that the redundancy was unlawful and could seek reinstatement and/or compensation. Such legal proceedings must be initiated within specified time limits. However, if the redundancy notice does not comply with the statutory requirements as to form and content, there is no such time limit for initiating legal proceedings

An employee who alleges that the redundancy is unlawful is entitled to demand negotiations with the employer in writing no later than two weeks after the redundancy notice is received. Negotiations shall then be initiated as soon as possible and no later than two weeks after the request was made.

If an employee initiates court proceeding, or informs the employer that they intend on filing court proceedings without demanding negotiations, the employer may demand negotiations within two weeks of the date when the employee informed the employer.

The employee will normally be entitled to remain in their post until the court's ruling is legally binding. The court may, following a demand from the employer, find that it is unreasonable that the employment shall continue while the case is in progress, and therefore decide that the employee shall leave their post during the case.

The right of an employee to remain in their post pending the outcome of legal proceedings means that a collective redundancy process may be unreasonably delayed, particularly if there are numerous legal claims.

(27) What are the risks of damages or other remedies due to the redundancy process?

If the dismissal is contested, this can potentially lead to two types of remedies:

Damages for unfair dismissal

The court may order the employer to pay damages for economic and non-economic loss (alternatively, and in addition to reinstatement). If the employee's claim is successful, the employer must normally also pay the employee's legal costs. If the employee's claim is not successful, the employee is rarely ordered to pay the employer's legal costs.

Reinstatement

If the employee's claim is successful, the employee will normally be granted an order of reinstatement. Since an employee who disputes the lawfulness of a redundancy will normally remain in their post pending the outcome of the case, reinstatement normally means continuation of employment.

Criminal sanctions

There are no criminal sanctions applicable in Norway for failure to follow the law regarding workforce transformation.

Panama

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
The Employer obligations are as follows: - Create a Special Committee on Health and Hygiene, which will be made up of a maximum of six persons - Apply the protocols established by the company to assure the hygiene and health in the labor sphere for the prevention and spread of COVID-19, and the recommendations and protocols indicated in the Circular of 27 February 2020 issued by the Ministry of Health and Ministry of Labor and Employment Development - Provide disinfectants, personal protection equipment and technical possibilities as an alternative to physical meetings (e.g. video conferencing and remote working)	The employer can prohibit the entry to the workplace of an employee under suspicion of being COVID-19 positive or that have been in areas declared as risk zones. Executive Decree 78 (Decree) issued by the Ministry of Labor and Labor Development states that the employer must provide the employee with the option to work from home, to remain at home for a 14 day period or grant a 15 day vacation. The employee must follow the employer´s instructions under the Decree and if the employee does not comply, the employer can apply sanctions pursuant to internal labor by-laws. If the employer does not have internal labor by-laws in place, the Decree allows the employer to suspend employees without pay for one to three days.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard that other individuals are not infected at the workplace. Employee privacy in respect of COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. Individual information regarding illness must always be handled carefully. Information regarding one diagnosed individual shall not be divulged unless necessary. However, if there is a valid reason, i.e., it needs to be examined if more individuals who have been in contact with the diagnosed individual; Then this can be communicated to such larger group of people. The employer must notify other employees by any official means and follow the protocols elaborated by the Special Commission of Health and Hygiene created by the company.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment, as indicated in the protocols issued by Ministry of Health and Ministry of Labor and Labor Development.

Panama (continued)

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
As indicated in the official protocol, to preserve hygiene and health in the workplace for prevention against COVID-19 infection, the employer must keep the competent authorities duly informed of any suspected COVID-19 positive cases.	The Panama Solidarity Plan, which is regulated by the Executive Decree 400 of 27 March 2020 and expanded by Law 152 of 4 May 2020, which assists people who had been affected directly by the COVID-19 pandemic. The Executive Decree 298 of 27 May 2020 adopts tax measures to alleviate the economic impact produced by the State of National Emergency resulting from the COVID-19 pandemic. The government has also started ordering the gradual reopening of shops and business in stages, via blocks declared by Resolution 423 and 453 issued by the Ministry of Health.	Yes.	In February, the Panamanian Government enacted a law that allows companies to utilize remote working in their business. On 13 March 2020, under Executive Decree 71, the Panamanian Government declared a state of national emergency and shortly afterwards the Ministry of Labor and Employment Development authorized companies to suspend their labor contracts where they could not carry on business as usual via telecommuting, or were directly affected by the curfew declared by the government. Executive Decree 81, authorizes the suspension of labor contracts of companies that closed due to the COVID-19 pandemic and stipulates COVID-19 as a force majeure or hardship event. The employees whose contracts are suspended don't need to render service or receive salary from their employers but the suspension must be notified to the Ministry of Labor and Employment Development. The Ministry of Labor and Labor Development issued the Decree 85 on 2 April 2020 that modifies the second article of Decree 71 of 13 March 2020. It indicates that the agreements for reduction of working hours must be registered and sent by electronic means to the competent authority, it must be attached to other documentation - the operation notice and a simple copy of the last pre-prepared social security form.	The agreement between the employer and employee must be formalized in a consent agreement that must be registered by electronic means with the Ministry of Labor and Employment Development. The Ministry of Labor and Employment Development will notify the trades union and work councils.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
Yes.	Yes.	Yes.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
Yes, there are a number of employment obligations including maintaining health and safety of employees. Employers should consider whether the employee can be accommodated (e.g. working from home)

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
In such cases, the company must pay wages, regardless of whether the employee is unable to work, and recognize the acquired rights. If the employer decides to suspend the contracts or paralyze operations because of the COVID-19 pandemic, as stated in Executive Decree 81 of 20 March 2020, the employer must notify the Ministry of Labor and Labor Development of the suspension of the contracts. The employer does not have to pay salary during the suspension of the contract, and the employee does not have an obligation to provide services to the employer.		

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
Yes.	The Panamanian Government, under Law 152 of 4 May 2020, created special measures to assist all the workers who, from 1 March 2020, have been affected by the termination or suspension of their employment. The Law supports owners of micro/small enterprises and owners of restaurants, bars, casinos, as well as members of public and private transport entities, whose income has been affected due to the COVID-19 pandemic.	Schools have been closed in Panama since 20 March 2020. The Executive Decree ordering such closures states that employee contracts, pursuant to the preventive measures ordered by the government within the decreed state of emergency, will be considered suspended for all labor effects. In other words, the employers do not have the obligation to pay salary and the workers do not have the obligations to provide services to the employer. Its important to highlight that the suspension of contracts neither implies its termination, nor does it exempt other obligations of both parties that arose previously in the labor contract. It will also not affect the employees' historical record with the employer. Despite the above, in practice the private sector is mostly operating by remote working.	The Panama Solidarity Plan, which is regulated by the Executive Decree 400 of 27 March 2020 and expanded by Law 152 of 4 May 2020 which assists people who had been affected directly by the COVID-19 pandemic.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?	(18) Does the employer need to have a legal justification to carry out redundancy dismissals?
The Panamanian government promulgated, on 3 April 2020, Executive Decree 400 that creates the Panama Solidarity Plan. This plan is only applies to the following groups: - Persons with multidimensional poverty - Vulnerable families - People living in areas of difficult access; and - People dedicated to their own economic activities (e.g., self-employed)	There is no application procedure for such state aid. The benefits can only be availed by Panamanians showing their Identification Cards, and involve receiving food parcels or money.	It is necessary to indicate the reason for dismissal of every individuals to be dismissed. If the workers have less than two years of service, it is possible to justify the dismissal using the Article 212 of the Labor Code. At the same time, the legal framework for collective redundancies can be found in the Article 213, clause C, of the Labor Code, regarding dismissal for economic reasons, which is described in the Panamá Labor Code.	Yes.

(19) What are the consultation requirements with works councils/unions (if any)?	(20) Does the employer need to notify labour authorities or other government authorities? Is approval required before moving forward with any redundancies?	(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?
No, there are no statutory provisions in the legislation reviewed regarding consultation requirements. Regardless, its necessary to verify any collective agreement.	No; Notifying the labor authorities is not required, except for the cases contemplated by the Labor Code. If an employer contemplates dismissing a worker for any of the reasons stated in art. 213, clause C (valid grounds for dismissal based on economic reasons), the employer must furnish evidence to the labor administration authorities. Dismissal carried out without the fulfilment of that requirement is considered wholly unjustified. However, if after 60 calendar days the labor administration authorities have not issued a decision on the application, the employer may proceed to give notice of dismissal, which will be considered entirely proper but which will require the payment of the compensation prescribed by the Labor Code.	No. There are no specific selection criteria. Employers may choose which employees are to be made redundant depending on each situation. The only exception to this rule is located in the Article 213, clause C, of the Labor Code, regarding cases of dismissals for economic reasons. The following rules will apply: ▸ It will start with the most junior workers within the respective categories ▸ Once the previous rule has been applied, employers must next consider whether the employees are Panamanian or foreign ▸ Unionized with respect to those who are not ▸ The most efficient to the least efficient ▸ Pregnant women, even if they are not preferably covered by the previous rules, are to be dismissed as a last resort, only if is absolutely necessary and after completing the legal formalities; and ▸ Other things being equal, after applying the previous rules, workers covered by the jurisdiction's union will have preference over others for their permanence in employment

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(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
No.	It is not possible to indicate a estimated timeline for the collective redundancy process because it will depend on the circumstances of the process . Regardless, its necessary verify any collective agreement.	It will depend on the number of employees that will be dismissed, the complexity of each case and the circumstances of each process, to be determined on a case-by-case basis.

(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
Rehire of an employee is not expressly prohibited by the Labor Code; That is, the employer may rehire the worker under a new employment contract at any time, provided that it is not done in bad faith with the intention of violating the rules on work continuity.	It is difficult to generalize on the risk of litigation. A case-by-case analysis is required, since it will depend on the cause invoked according to the grounds the Labor Code establishes, namely: ▸ Mutual consent ▸ Exceptions ▸ Justified cause; or ▸ Unjustified cause As long as a justified dismissal is not carried out, there is a risk of a labor demand process, which may involve higher costs, including the reinstatement of the worker.	None, as long as a mutual agreement is reached or the worker is compensated in the case of unjustified dismissal.

Paraguay

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include:

- Providing disinfectants;
- Technical possibilities as an alternative to physical meetings (e.g., video conferencing).

To date, the Ministry of Health has issued some sanitary protocols to be implemented in some industries, like civil constructions, corporate workplace, public transport, medical centers, etc.

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace.

In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits

Everything related to obtaining information when there is a new infection or managing contact tracing activities of the workers are part of the Workplace Protocol issued by the Ministry of Health.

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?

Action Protocol for the Detection of COVID-19, approved by the Ministry of Labor, Employment and Social Security of Paraguay, was the first instruction manual at the beginning of the COVID-19 pandemic, and recommended:

- When symptoms of COVID-19 are detected in a employee, the employer will immediately notify and call public health authorities (call 154)
- The employer must evacuate the employee from the workplace and they must be at home/isolated
- The employee must receive permission for five days leave, or the time that the Ministry of Health considers necessary, to receive medical diagnosis
- The employee must communicate the results of the diagnosis, by digital means, to the employer
- If the employee is COVID-19 positive, the employer must take all preventative measures and ensure that there are no other employees suffering the same symptoms
- The employee diagnosed with COVID-19 will receive a subsidy for medical leave from the IPS (Social Security for Health). That means the right to coverage of medical expenses
- Medical leave for the employee will last as long as possible i.e., while the illness and the medical treatment is necessary. During the medical leave, the employee may not be fired, except when the conditions for the medical leave and treatment have ended and the employee does not return to work without giving just cause
- The Employer may pay high fines for the violation of this Protocol; and
- The Ministry of Health can monitor positive cases. The employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard that other individuals are not infected at the workplace

The Ministry of Health has recently issued a Workplace Protocol which has recommendations for filters at the entry to offices, obtaining information when there is a new infection or tracing activities of workers, establishing a team responsible for the COVID-19 measures at the office, social distancing, and recommending remote working.

(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?

Yes, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information in accordance with the underlying duty of loyalty which forms part of the employment.

But it is important to clarify that the information requested will be processed principally for a specific purpose – safeguarding the health condition of the rest of the people in the workplace.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?
The Workplace Protocol issued by the Ministry of Health establishes that if there is a suspected case of COVID-19 in the office, the employer must contact and inform public health (call 154).	Please refer to the below websites for further information: - https://www.mtess.gov.py/ - https://www.mspbs.gov.py/portal/20552/covid19-medidas-preventivas-que-se-deben-tomar-en-el-trabajo.html - http://www.gacetaoficial.gov.py/ - https://portal.ips.gov.py	Yes. Telework was specifically regulated by Law N° 6524/2020. There is no established procedure for the formalization of telework contracts, more than an agreement between the employees and the employer. The Ministry of Labor established a mechanism for recording and reporting these contracts through the digital platform of the Ministry of Labor.	All the following options are regulated in the current Labor Code. The Ministry of Labor has issued advisories stating that, as part of business continuity plans, employers are encouraged to: - Allow employees to work from home where feasible, or allow for split team arrangements - Employees can make use of time credits or outstanding holiday entitlements - Utilize short-term contract labor; and - Suspension of the labor contract (unpaid by the employer) The Paraguayan Government has enacted a new Law N° 6524/2020 that establishes new administrative, finance and fiscal measures for both private and public sector during the COVID-19 pandemic. This law regulates, among other matters, the legal regime of 'telework' in dependency relationships for both private and public sectors.

(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.

- According to the Labor Code, all employees have the right to organize and manage the work in their commercial establishments
- Allowing employees to work from home where feasible or allow for split team arrangements
- Employees can make use of time credits or outstanding holiday entitlements. This measure ensures the payment of wages to the employees
- Utilize short-term contract labor: The Labor Code permits the use of contract labor for 16 or 32 hours of work per week. The employee receives all benefits (social security, familiar assignation, holiday, etc.)
- Collective contract: The employer may request the revision of the collective contract before the expiration of the duration or revision period. When there are economic circumstances that endanger the activity or existence of the company, the employer may propose that the workers accept certain modifications in the working conditions
- Suspension of the labor contract (unpaid): According to the Resolution SG 90 of the Ministry of Health enacted on 10 March 2020 all schools, public shows, and other activities of mass attendance were suspended. Regarding offices and work centers, the resolution established that they must implement hygiene, safety and health measures to mitigate the spread of COVID-19. In other words, they are not obliged to close if they can comply with health and safety measures
- However, if a company decides to close and suspend its normal activities, they must give notice of their decision to the employees and the Administrative Authority. The Company must justify the 'force majeure' and explain the circumstances that forced them to close. For example:
  - Lack of infrastructure that meets sanitary measures - less space than the mandatory distance between people; or
  - Lack of commercial activity that makes it impossible to face the payment of workers' wages
- Labor Code, Art. 71: "The causes of suspension of employment contracts are: f) The hardship case or force majeure, when it has as a necessary, immediate and direct consequence the interruption of the tasks; the lack of commercial activity that makes it impossible to face the payment of workers' wages duly justified by Employer..."

During the suspension of an employee's contract, the employer is exonerated from having to pay salary, but everything related to seniority remains in force and once the cause that prevents compliance with the contract has been finished, labor contract relations are normalized

- Paid leave: Companies with the possibility to close their office or industries and can pay wages to their employees, would not have to carry out any suspension of the contract, only communicate the license to the Ministry of Labor. In this case, the company would be required to make Social Security (IPS) payments as usual

While the health emergency lasts, the Ministry of Labor has established an accelerated method for the suspension of labor contracts in MSMEs.

- Telework: According to the Law N° 6524/2020, there is no established procedure for the formalization of telework contracts, other than an agreement between employees and employer

Paraguay is currently carrying out the gradual lifting plan of the general preventive isolation, which means the reactivation of the economic sector in phases. Decree N° 4220/2020 is in force from 26 October 2020 to 15 November 2020 by which new specific measures are established within the framework of the plan to gradually lifting the general preventive isolation. Corporate offices must work with 50% of their employees and implement rotating teams. The Ministry of Labor is also continuously promoting the implementation of remote work.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
No, the start date of employment is typically set out in the employment agreement between the employer and employee. Generally, employers cannot make changes without the employee's consent. However, given the exceptional circumstances surrounding the spread of COVID-19 worldwide, employers should make every effort to come to an agreement with the employee as to a change in the start date of employment if the above scenarios happen. A new employment agreement with the new terms and conditions agreed between parties should be signed. Or employers may ask employees to work from home from the start date established in the contract.	No, generally, employers cannot make changes without the employee's consent. In this case, employers may ask employees to work from home from the start day established in the contract, or change the start date of employment in the above scenario.	No, generally, employers cannot make changes without the employee's consent. In this case, employers may ask employees to work from home from the start day established in the contract, or if the above scenario occurs and it is impossible to work from home, change the start date in the contract of employment.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
In this situation, employers should make every effort to come to an agreement with the new employee as to a change in the start date of employment. But if it's about an employment contract for an existing employee, according to the Ministry of Labor, the employee should be paid their normal pay.	If employee is able to work from home during the period of isolation it is recommend that they will receive a salary as usual.	The employees will receive sick leave from the Social Security Office during medical leave.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?

No. But employees could take their vacation days (with the agreement of the employer).

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?

Decree Nº 4220/2020 provided new specific measures within the framework of the gradual plan for lifting the general preventive isolation.

- It is permitted to provide professional and non-professional services at the client's or work home, as long as they comply with the sanitary measures dictated by the Ministry of Health and state authorities
- Stores and gastronomic establishments are permitted to open during restricted hours, with prior scheduling, and in compliance with the established health protocol
- Physical activity is allowed in academies, gyms, sports centers and other enclosed spaces.
- All companies and stores whose services involve attending to a client for more than 30 minutes inside the building must implement prior scheduling/appointments
- Corporate offices can operate with up to 50% of their total employees, respecting the protocol and maintaining the distancing of workers. Likewise, it is recommended that all work that can be done without being onsite be done remotely (remote work)
- The Ministry of Labor has established an accelerated method for the suspension of labor contracts in MSMEs
- Economic compensation for active Social Security workers will be granted when their labor contracts have been suspended or their companies are closed due to the COVID-19 pandemic. The economic compensation also covers part-time and fulltime domestic workers, part-time workers
- The IPS, through Resolution 059/2020, provides the payment of subsidies for suspected cases of COVID-19 to individuals that must stay in isolation/quarantine, or people who are in the risk group and cannot carry out their work activities; This is only applicable in cases where employees are not receiving their salaries due to the above mentioned causes. The subsidy for isolation/quarantine is equivalent to 14 days of daily wages calculated on a legal minimum wage - approximately USD150, regardless of the worker's salary. The allowance for suspected COVID-19 spread is paid in monthly periods, equivalent to 50% of the current legal minimum wage, approximately USD150
- The Ministry of Labor is currently implementing an economic reactivation plan with private sector companies and SMEs.

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

Initially, the Paraguayan government decided that all schools, including universities, shall be closed until 30 March 2020.

However this measure was extended and the Ministry of Education has mentioned that suspension of classroom learning could be extended until the end of the year.

If there is no other possibility to take care of their children, employees could take vacation days (with the agreement of the employer) or employers are encouraged to adopt flexible work arrangements to allow the employee to work from home and minimize work disruptions. Where this is not possible and the employee cannot perform work due to the fact that they need to take care of their child/children, the employer has to excuse the employee's absence. The employer does not need to pay salary to the employee during such absence.

In the case that employee has symptoms of COVID-19, employer must provide them five days leave to carry out the medical tests, with remuneration.

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

Public Sector

Central Bank of Paraguay (BCP) issued a set of regulations aimed at dealing with the effects of the COVID-19 pandemic on Paraguayan families and companies that carry out commercial, productive, industrial, service and other activities.

Among other measures, the BCP introduced the following:

- The legal resolutions modify and extend the current regulatory regime, favoring - in the first instance - the formalization of the renewals, refinancing and restructuring of the credits granted
- To avoid inadequate pressure on the price of real estate assets, facilities are granted to financial intermediaries by extending terms for the sale of real estate that is awarded in payment of credits
- Efforts have been made to allow the appropriate use of funds deposited as legal reserve in foreign currency; and
- The interest rate of the Permanent Liquidity Facility (FPL) has been reduced by 100 basis points (from 4.50% to 3.50%)

National Development Bank (BNF): The Bank grants Short-Term Operating Capital to individuals and companies that carry out productive activity in the agricultural, industrial, commercial and service sectors. The purpose of these credits is to obtain operating capital and facilitate remuneration to dependent workers.

Financing and Guarantee: For credit amounts up to G. 5,000,000,000. the bank will determine the guarantees in each case (securities, joint debtor).

National Institute of Cooperativism (INCOOP): By exception, until 31 December 2020, cooperative entities may consider the special situation of its members in default, whose income has been affected by the risk from the spread of COVID-19.

It is established that a request for modification of terms and conditions set out in a credit agreement interrupts the computation of the term in default until the new transaction is formalized.

For operations in instalments, the obligation to cancel the entire obligation will not apply, and the application of any modification of terms and conditions and a grace period of one year for the amortization of capital and interest may be agreed.

There is also the possibility of deferring the charges generated by the provisions to be established from the current month, which may be recognized within a period not exceeding 30 days.

By exception, it is established that movable and immovable property, awarded or received in payment by cooperatives in the period between 1 January 2019 and 31 December 2020 inclusive, may be disposed of up to 36 months.

According to the Law Nº 6524/2020, among other initiatives:

- The Paraguayan government may establish a trust to support MSMEs, which will be administered by the Development Finance Agency (AFD)
- Active Social Security workers will be granted economic compensation when their labor contracts have been suspended or their companies are closed due to the COVID-19 pandemic. The economic compensation also covers part-time and fulltime domestic workers, part-time workers and is subject to the moonlighting regime
- The government will grant a subsidy of 25% of the current legal minimum wage to independent workers in MSMEs, who are over 18 years old, and do not have Social Security and are not obligated to the payment of the personal income tax

Private Sector

Banks Association of Paraguay: The Association decided that individual clients or small and medium size enterprises who have credits proceed with the extension of their quotas corresponding to the months of March, April and May 2020. This extension will be offered with refinancing of up to 24 months and 36 months. The interest rate will be 9% per year, for operations in national currency and 7% per year for operations in foreign currency.

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(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Please refer to comments in Q14.

The state aid is mainly for natural persons or legal entities carrying out productive activity in the agricultural, industrial, commercial and service sectors, which, have suffered a negative impact because of the preventive measures ordered by the National Government.

Prerequisites include the obligation to not have outstanding lawsuits, inhibitions, summons of creditors, bankruptcy or related matters.

According to Law Nº 6524/2020:

- Until 1 July 2020, banks did not apply or communicate to the Superintendent of Banks (BCP department) sanctions for disabling bank current accounts, which derive from checks rejected due to insufficient funds
- The non-payment of rent was not grounds for eviction until June 2020, provided the payment of at least 40% of the monthly rental value was made prior to that
- New deadlines regarding the schedule for the mandatory shareholders' meeting or ordinary meeting in companies, which would have been conducted up until April, was postponed to 30 June 2020
- In tax matters, exceptional extensions have been established in relation to the presentation of certain documents and the payment of taxes before the Tax Authority

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

Please refer to comments in Q14 and Q15.

The government has indicated that it intends to bring in new legislation and regulatory updates over the next few months.

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(17) What is the legal framework for collective redundancies?	(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?	(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?
The legal framework of collective contract and its termination is in the Labor Code.	According to Labor Code, all employees have the right to organize and manage the work in their commercial establishments. The Code also provides the right to proceed with the suspension of contract labor or the collective redundancy; These latter situations must be duly justified and authorized by the Ministry of Labor (MTESS). The Labor Code establishes that the collective labor contract may end: ▸ By mutual consent of the parties ▸ For the agreed causes; and ▸ Due to hardship event or force majeure A hardship event or force majeure may be justified as follows: ▸ Because the company is prohibited from opening during the preventative social isolation established by the government through Decree or Law and cannot implement another alternative means to carry out its tasks (such as remote working). ▸ The lack of commercial activity that makes it impossible to face the payment of workers' wages; and ▸ Change(s) in technology that would render certain job position(s) obsolete Then the collective redundancy will be valid if it was duly justified. The employer may request the revision of the collective contract before the expiration of the duration or revision period, when there are economic circumstances that endanger the activity or existence of the company. In this case, it will propose to the workers to accept certain modifications in the working conditions.	The collective labor contract without a fixed term can be terminated by either party, with prior written notice given to the other, 30 days in advance. There is no obligation to consult with other employee representatives, but it is important to proceed with an explanation of the measures that the company proposes to take to overcome the crisis or mitigate its effects and the due causes that includes the hardship event or force majeure.	Yes.

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(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
The employer must follow the objective selection criteria stipulated by law. Female employees on maternity leave are excluded from the selection criteria; Workers with job stability are the last in the queue to be dismissed by the employer.	The employer must do everything possible to limit the negative impact of the collective redundancy on the employees. This includes: ▸ Allowing employees to work from home where feasible or allow for split team arrangements ▸ Use of time credits or outstanding holiday entitlements ▸ Utilize short-term contract labor; and ▸ Suspension of contracts There is no legal obligation for the employer to seek alternative positions or redeployment position for the impacted employees. However, this is generally one of the items negotiated with the union.	Approximately two months.	The worker has the right to receive compensation, which the employer will pay in the following segments: ▸ Payment toward notice period ▸ Pending salary ▸ Seniority Compensation: Compensation at the rate of 15 days for each year of service or fraction of time greater than six months. In the case of stability, the compensation rate is double ▸ Payment of unused annual leave (holiday) ▸ Proportional vacations; and ▸ Proportional Christmas bonus Where a trial/probation period is in operation, either party may terminate the employment contract, without incurring any liability. However, workers are entitled to all benefits, with the exception of notice and severance pay (Article 60 of the CT).

(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
There are no hiring restrictions post-redundancy.	Work councils/unions/employees can file labor lawsuits for unfair dismissal or breach of contract.	Any damage caused by the employer to the employee, if not solved through an out-of-court negotiation, can be filed with the court system. The latter decides on the relevant remedies which can be civil, not criminal. If the employer does not act in compliance with the legal provisions in place stipulating the redundancy procedure, it is obligated to pay the worker compensation, pursuant to concepts established by law. Additional cost: Such costs will depend on the negotiation process between the two parties. Workers with job stability: In the case of total closure of the company, or definitive reduction of the tasks, verified before the Ministry of Labor, the stable worker will be entitled to the payment of a compensation equivalent to double the one that would correspond to them for unjustified dismissal.

Peru

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?

It is mandatory that every company prepare an internal biosafety protocol, based on the Work Surveillance, Prevention and Control Protocol COVID-19 (announced by the Health Ministry). The main rules are:
▸ The cleaning and disinfecting of the workplace
▸ Evaluation of the worker's health condition prior to returning or re-entry to the workplace
▸ Mandatory hand washing and disinfection
▸ Training to raise awareness in order to prevention of contagion in the workplace
▸ Preventive measures to reduce spread of infection, including:
  ▸ Distribution of the physical work space: The organization of the work area should be reconsidered and / or shifts should be established to guarantee social distance
  ▸ Personal protection measures: Mandatory use of personal protection items, including masks and antibacterial hand sanitizer
  ▸ Worker health surveillance, including assessment of the worker before their return to work via an official questionnaire and checking body temperature
▸ Workers in risk categories due to their age or medical conditions cannot return to the workplace before 7 September 2020. If the worker wishes to return to the workplace, they must submit an application to the employer, who must issue a medical qualification certificate to ensure that the level of risk will not be increased
▸ The employer must email this internal biosecurity protocol to the Ministry of Health. After that, the Labor Authority will initiate the verification of the implementation of the said protocol
	Yes.	The employer must request the names of the employees with which the employee diagnosed with COVID-19 had contact, and then inform the employees involved.	Yes. It is mandatory for employees to answer the official questionnaire before returning to the workplace.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Yes, when the employer performs the COVID-19 medical test and the result is positive.	No.	Yes.	During the quarantine, the employer must implement home working or temporary leave with payment if home working is not suitable, agreeing how to resolve the work not performed. In addition, the employer can agree with employees regarding taking vacation, working hours reductions, salaries or labor benefits reductions or temporary leave without payment. If there is no agreement, the employer can request a temporary leave without payment to the Ministry of Labor until the ending of the emergency measures to mitigate the effects of the COVID-19 pandemic in Peru, scheduled to be on 7 October 2020. The employer can agree with employees regarding vacations, working hours reductions, salaries or labor benefits reductions or temporary leave without payment (up to 90 days). There is no extraordinary governmental support.	No contacts with trades union and/or works councils unless employer decides to request the temporary leave without payment with the Ministry of Labor. In this case, prior to this request, the employer and trades union must try to agree an alternative solution. There is no special procedure to be followed.

Peru (continued)

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
Yes.	Yes.	Yes.	No.	Not applicable.	Not applicable.	Not applicable.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
Yes.	For employers: ▸ The government has granted lines of credit via special programs administered by private banking and finance entities, which allow companies to obtain funds to meet their obligations to employees and suppliers ▸ The government has also permitted an exceptional subsidy from Social Security for the first 20 days of temporary disability for employees diagnosed with COVID-19 ▸ There is also a special 35% subsidy for the compensation paid to each employee (as defined in January 2020) that earned up to approximately USD425 For employees: ▸ Free withdrawal up to approximately USD685 from private unemployment insurance ▸ Free withdrawal up to USD570 from the private retirement pension plan ▸ No withholding of the monthly pension plan in April 2020	Not applicable.	No.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?
Not applicable.	Not applicable.	The legal framework is regulated in Supreme Decree No. 003-97-TR. The Peruvian Government established a new cause of suspension due to COVID-19 that permits employers to request temporary leave without payment up to 7 October 2020.

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(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?	(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?
Yes. Collective redundancy can only proceed under the following reasons: ▸ Hardship event or force majeure ▸ Economic, technological, structural or similar reasons (affecting at least 10% of the workforce) ▸ Dissolution or liquidation of the company, or bankruptcy; and ▸ Wealth restructuring	Only in the case of collective redundancy on the first two grounds referred to in comments in Q18 is it necessary to enter into negotiations with the union, and unaffiliated employees, in order to seek limits or prevent the collective redundancy.	Only in the case of collective redundancy on the first two grounds referred to in comments in Q18 is it necessary for the employer to have obtained prior authorization from the Ministry of Labor. In the other cases, the employer should have notified the Ministry of Labor of its decision.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
There are no specific selection criteria. However, employers should use objective and reasonable criteria to avoid acts of discrimination or affect trade union rights.	Only in the case of collective redundancy on the first two grounds referred to in comments in Q18 is it necessary to enter into negotiations with the union, and unaffiliated employees, to seek limits or prevent the collective redundancy, with other alternatives to be discussed such as working hours reductions, salaries or labor benefits reductions or temporary leave without payment.	In the case of collective redundancy on the first two grounds referred to in comments in Q18, between three to six months.	Depends on the reasons and the number of employees involved in the collective redundancy.

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(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
Yes, only in the case of collective redundancy on the first two grounds referred to in comments in Q18 where the employer cannot hire employees as of 12 months in the same or similar positions of the dismissed employees.	Only in the case of collective redundancy on the first two grounds referred to in comments in Q18 can dismissed employees impugn the administrative resolution that approved the collective redundancy and request their reinstatement to their employment.	Only in the case of collective redundancy on the first two grounds referred to in comments in Q18 can dismissed employees request salaries and labor benefits unpaid during the collective redundancy process and their temporary reinstatement to their employment.

Poland

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14 December 2020

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants; and ▸ Technical possibilities as an alternative to physical meetings (e.g. video conferencing)	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. Individual information regarding sickness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?

The employer is obliged to inform *Sanepid* (sanitary inspection in Poland) about any diagnosed case of COVID-19, and then follow *Sanepid's* instructions in this regard.

(6) Other remarks

Due to the fact that the possibility of providing remote work was not regulated under the generally applicable regulations before the COVID-19 pandemic, the Act of 2 March 2020 on special solutions related to the prevention, counteraction and combating COVID-19, other infectious diseases and emergencies caused by them (Act) introduced a solution. In order to counteract the spread of the COVID-19 pandemic, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work).

The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.

Poland (continued)

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(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Yes.	Yes but the regulations are no longer valid. The Act was adopted by Polish Sejm and Senate, as well as signed by the President on 7 March 2020. The Act indicated that in the case of closing the nursery, children's club or school at which the child is attending, due to the COVID-19 pandemic, the employee (being insured) exempted from performing work due to the need to personally take care of the child is allowed to receive an additional care allowance. The final rendition of the aditional care allowance expired on 26 July 2020 and, from that date onwards, the parents are only allowed to take care leave on standard rules, irrespective of the COVID-19 pandemic.	No special procedure is described in the Act.

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
(8(i) The office is closed due to the COVID-19 pandemic;	**(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;**	**(8(iii) The new hire has been diagnosed with COVID-19.**	
In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work). The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.	In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work). The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.	In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, if possible and not otherwise instructed by *Sanepd,* the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work). The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.	In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work). The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**	**(10(iii) The employee has been diagnosed with COVID-19.**
In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work). The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.	In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work). The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.	In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, if possible and not otherwise instructed by *Sanepd,* the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work). The above-mentioned regulations concerning remote working officially expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?

In accordance with the Act, in order to counteract the spread of the COVID-19 pandemic, the employer may instruct the employee to perform, for a fixed period, work specified in the employment contract, outside of the place of its permanent performance (remote work).

The above-mentioned regulations concerning remote working expired on 4 September 2020; However the equivalent of the cited regulation, allowing for the issuance of remote working orders during a pandemic and in the subsequent three months, is included in the currently pending legislation awaiting the President's signature.

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?

Not applicable.

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

The Act indicated that in the case of closing the nursery, children's club or school at which the child is attending, due to the COVID-19 pandemic, the employee (being insured) exempted from performing work due to the need to personally take care of the child is allowed to receive an additional care allowance. The final rendition of the aditional care allowance expired on 26 July 2020 and, from that date onwards, the parents are only allowed to take care leave on standard rules, irrespective of the COVID-19 pandemic.

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

The Polish Parliament has adopted special regulations for entrepreneurs who are affected due to the spread of the COVID-19 pandemic (general programme for companies).

The new regulations for entrepreneurs include improvement in the financial liquidity of companies (financial instruments for companies, including guarantee support up to 80% and additional payments to credit interest from a disaster fund), protection and support of the labor market, including solutions for unplanned work stoppage.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The new regulations include:

- Payment of downtime pay by Social Insurance Institution (ZUS) in connection with downtime caused by the COVID-19 pandemic for persons conducting business activity as well as persons working on the basis of civil law contracts.

In the case of persons conducting business activity, they are entitled to a downtime service if:

- They have no other social security title
- Started operating before 1 February 2020; and
- Their income achieved in the month preceding the submission of the application was lower than the income obtained in the month preceding that month by at least 15%

Persons performing civil law contracts are entitled to apply if such a contract was concluded before 1 April 2020.

The downtime benefit is paid by the Social Insurance Institution (ZUS) at the request of the entrepreneur, principal or contracting authority. The relevant application by the authorized person is submitted to the Social Insurance Institution.

Exemption from social security contributions

Cancellation of contributions of unpaid debts for the period from March to May 2020.

Contributions for:

- Social insurance
- Retirement
- Disability
- Sickness
- Accident (no matter whether they are mandatory or voluntary)
- Medical insurance
- Labor Fund
- Guaranteed Employee Benefits Fund; or
- Pensions Fund Bridge Bridges and the Solidarity Fund known as at the date of considering the application, i.e. resulting from settlement declarations submitted to ZUS

Employers submitting applications to social security for 10 to 49 employees are entitled to dismissal payments from ZUS. These companies will be able to benefit from a three-month write-off of 50% of the contribution receivables resulting from the settlement declarations submitted to the Social Insurance Institution and known as at the date of considering the application.

Co-financing of part of the costs of running a business for self-employed people

- To benefit from funding, it is necessary to demonstrate a decrease in economic turnover; A reduction in sales of goods or services in quantitative or value terms should be demonstrated
- The decrease in sales is illustrated by comparing the turnover of any two calendar months in 2020 to the corresponding two months of 2019. The selected months should fall after 1 January 2020 and end no later than on the day preceding the submission of the application
- The co-financing cannot be used by entrepreneurs whose employees are under an employment contract. It is available to those who employ employees only under civil law contracts and to those who do not employ employees at all

Financial Shield implemented by the Polish Development Fund (PFR).

The PFR program is targeted at both micro-enterprises and small, medium and large companies The Financial Shield will not cover self-employed workers, i.e. entrepreneurs who do not employ full-time employees. The Financial Shield consists of three parts with a total value of PLN100 bn.

The aid is divided as follows:

- PLN25 bn: For micro-enterprises
- PLN50 bn: For small and medium enterprises; or
- PLN25 bn: For large companies
- 5000 PLN micro-loan

This refers to a one-time loan granted by the *Staroste* from the Labor Fund, based on a contract, to a micro entrepreneur who conducted business activity before 1 March 2020.

To obtain such a benefit, a loan application must be submitted to the *poviat* labor office after the recruitment has been announced by the Regional Labor Office (*Powiatowy Urząd Pracy*, or PUP) director competent for the place of business. The loan:

- May be granted up to the amount of PLN 5,000
- Has a fixed interest rate; and
- It can be repaid within a period of no later than 12 months

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable *(continued)*

Aid from social security fund for employers

The aid may be granted in the case of turnover decrease over one month:

- By 25% from one month (or 30-day period) compared to the previous one in 2020; or
- 15% decrease in turnover in two months (or two 30-days periods) in 2020 by comparison of the same months in 2019

These conditions shall be met to obtain the Government aid. The company should also not be subject to bankruptcy and should have paid all public liabilities as of the last quarter of 2019.

Additionally, during the period which the company receives aid, the company is not allowed to terminate employment agreements due to economic reasons.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

The downtime benefit is paid by the Social Insurance Institution (ZUS) at the request of the entrepreneur, principal or contracting authority. The relevant application of the authorized person is submitted to the Social Insurance Institution.

An application for co-financing of part of the costs of running a business for self-employed and those with employees on fixed term contracts should be submitted to the *poviat* labor office competent for the place of business within 14 days from the day on which the recruitment was announced to the director of the PUP. The application can be submitted through the form available at https://www.praca.gov.pl or directly at PUP. After approval of the application for financing, the *Staroste* and the entrepreneur conclude a contract. The date of payment of funds will be specified therein. The condition for paying out the tranche of co-financing is submission by the entrepreneur of a statement on running a business in each month for which the co-financing is paid.

The application for a micro-loan may be submitted in electronic form via the https://www.praca.gov.pl platform or in paper form to the office (e.g., by post). In the case of sending via the https://www.praca.gov.pl platform, the application should be provided with a qualified electronic signature or trusted profile.

Applying for aid from the social security fund requires:

- Negotiation of a CBA with unions or with staff representatives
- Filing of the agreement with the Labor inspector; and
- Filing a motion to the authority to receive the Government aid

This aid is granted for the period of three months until September 2020, which means that in order to obtain co-financing for three months, applications should have been submitted by July at the latest.

Applying for aid to employees' remunerations from a county office requires:

- Suffering an appropriate level of turnover decrease in two consecutive months, compared to those months of the previous year
- Preparation of the calculation of the turnover decline and the list of employees; and
- Submission of application for a grant of aid

The applications for this aid are processed by counties employment offices.

The application may be submitted within 14 days from announcement of an open call for applications. The aid may be granted for maximum period of three months.

(17) What is the legal framework for collective redundancies?

The collective redundancy procedure is governed by the Act on specific terms and conditions for terminating employment relationships with employees for reasons not related to the employees, of 13 March 2003 (consolidated text of 2018, Journal of Laws of 2018, item 1969, henceforth Act on Terminating Employees).

The collective redundancy procedure is triggered in the case of termination by an employer, employing at least 20 persons, of employment relationships for reasons not attributable to the employees. It is triggered by way of termination notice by the employer, as well as by way of mutual consent, if over a period not exceeding 30 days, the redundancies affect:

- At least 10 employees, while employing 20-99 employees
- At least 10% of employees, while employing 100-299 employees; or
- At least 30 employees, while employing 300 or more employees

If the employer employs fewer than 20 persons and/or the above thresholds are not met, the collective redundancy procedure is not triggered.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Polish law does not stipulate specific legal grounds for redundancy. The employment relationships could be terminated due to reasons not attributable to the employees (for instance, such as economic difficulties of the employer, reorganization of business and closing of the work establishment).

(19) What are the consultation requirements with works councils/unions (if any)?

Unions

The employer must consult with trades union in meetings/and or through exchange of official letters. If there is no trade union acting at the employer, the employer is obligated to consult with the employees' representatives (elected by all the employees in the manner adopted at the employer). Prior to the consultation process, the employer must provide the following information to the trade union/employees' representatives:

- Reason for the intended collective redundancies
- Number of employees and professional groups affected
- Proposed criteria for qualifying the employees
- Sequence of giving notices on redundancy
- Proposed time period of implementation
- Proposal for remedy of the employment matters connected with the intended collective redundancies; or
- Method of calculation of the value of severance payment or additional payments (if any)

Further, the employer is obligated to provide any other information material for the process of consultation in the due course. A protocol for every meeting with trades union or employees' representatives should be established for evidentiary purposes. There is no prescribed deadline for consultation; However, the employer must propose a deadline for consultation and enter into an agreement with trades union no later than after 20 days from formal notification to the trade union. The consultation should concern, in particular, the possibility of avoiding or limiting the scale of group redundancies, or changing professional qualifications of employees, or employing them elsewhere.

At the end of the consultation period, the employer and the company's trade union must enter into an agreement stipulating the following:

- Terms and conditions governing the implementation of the redundancies in the matters related to the employees who are impacted by the planned collective redundancies; and
- Obligations of the employer necessary to resolve other employment matters connected with the planned collective redundancies

In the event no trades union are operating within the employer, the above issues should be covered by collective redundancy regulations (i.e., internal by-laws) issued by the employer after consultation with the employees' representatives.

Works councils

In general, irrespective of the obligations toward the trade union, the employer must provide the information to the works council on matters relating to the following:

- Activities and the economic situation of the employer and changes envisaged in relation to the economic situation
- Employment structure and anticipated employment changes, as well as activities aimed at maintaining the level of employment; and
- Activities that may lead to significant changes in the work organization or the employment basis

The employer must provide information within the deadline proposed by the employer, in the form and within the scope enabling the works council to familiarize itself with the case, to analyze the information to prepare for consultations.

In addition, the redundancies would trigger a specific obligation to consult with the works council. Such consultations should be carried out:

- Within the deadline proposed by the employer, in the form and scope enabling the employer to undertake measures with respect to the matters covered by consultations
- Depending upon the topic of the discussion at the relevant managerial level
- On the basis of the information provided by the employer and the opinion presented by the works council
- In a manner enabling the works council to meet the employer in order to learn its position, together with a justification of its opinion; and
- Consultations that provide opportunity to reach an agreement between the works council and the employer

(19) What are the consultation requirements with works councils/unions (if any)? *(continued)*

The employer should forward the information in writing to the trades union/employees' representatives in time that enables the unions/employees' representatives to notify their proposals related to matters of redundancies (with regard to the consultation process). It is necessary to conclude an agreement with the trade union within 30 days from the date of notification.

Consultation requirements with other employee representatives

The employer is obliged to consult with the employees' representatives if there is no trade union or works council acting at the employer. The employees' representatives are elected by all the employees in the manner adopted at the employer (usually by general elections). Once elected, the employees' representatives must be engaged with in the same manner as stipulated for trades union and works councils.

Consultation requirements with employees

No legal barriers apply to open communication with employees on a collective redundancy. The employees may be communicated with in any manner chosen by the employer.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Approval of the PUP or other government authority is not required for implementing collective redundancy; However, the employer must notify the Regional Labor Office during the consultation period with regard to the collective redundancy process, as follows:

The first notification: Should contain the same information as delivered to the trades union/employees' representatives, except for the information on payments. The first notification must be delivered in writing as soon as possible.

The second notification: Must include information on the rules applicable to collective redundancies defined by the agreement with the trades union/employees' representatives (or in the collective redundancy regulations), including the following:

- Reason for the intended collective redundancies
- Number of all employees and the number of employees intended for dismissal
- The professional groups affected by collective redundancies
- Sequence of giving notices on dismissal
- Proposed time period for implementation
- Confirmation of completion of the consultation process with the employees' representatives; or
- Proposal for remedy of the employment matters connected with the intended collective redundancies

The second notification must be delivered in writing after the conclusion of the agreement/ issuing of the regulations.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

Polish labor laws do not stipulate any specific employee selection criteria. The employer must propose and communicate the employee selection criteria; However, the proposed selection criteria must not be discriminatory.

Further, the selection criteria proposed should be clear and objective. For example, the amount of remuneration is an admissible main criterion in case the redundancies are conducted due to economic reasons; However, other criteria such as seniority and skills should also be taken into account.

During collective redundancies, the employer may only terminate work and remuneration conditions (and not the employment relationships) of certain employees who are protected. This applies, for example, to an employee who is a:

- Member of the management board of an enterprise trade union
- Member of an enterprise trade union entitled to represent the trade union at the employer or of an authority or a person acting in the name of the employer in matters concerning labor law
- Member of a special bargaining group or a European works council; or
- Social labor inspector

In the case of a decrease in remuneration, such employees mentioned above should be provided with an equalizing benefit (a monetary benefit amounting to the difference between their remuneration before and after the decrease).

The selection criteria used by the employer may be assessed by Polish courts in the case of a dispute.

(22) Are there any actions required to limit the negative impact of the redundancy?

The mandatory actions include consultation with the trades union/employees' representatives.

Internal alternative employment/redeployment

The employer must consult trades union/employees' representatives on measures concerning, in particular, the possibility of avoiding or limiting the extent of group redundancies and providing opportunity to employees to acquire the required professional qualifications or employing them elsewhere (alternative employment). Please refer to comments in Q19 for further information.

Other measures

In the case of collective redundancies concerning at least 50 employees within three months, the employer is obligated to agree with the relevant PUP on the scope and forms of support for the dismissed employees, in particular with regards to job placement, occupational counselling and training.

(23) What is the estimated timeline for a collective redundancy process?

In general, the preparation of any specific documentation required for the information and consultation process and for the contemplated negotiation with trades union/employees' representatives takes between two to three months; However, this period may vary depending on the standpoint of the trades union and the structure of the entire process.

Delivery of termination notices may not be commenced prior to the delivery of the second notification to the PUP. Furthermore, an employment contract may not be terminated earlier than after 30 days from the delivery of the second notification to the PUP.

In practice, the usual period for the entire process takes about three to four months.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory key HR legal costs are as follows:

- Cash in lieu of unused vacation time: The calculation should be conducted pursuant to the methods indicated by the Labor Code and the executive provisions
- Severance pay: Must be paid on the day of termination of employment. The statutory severance pay amounts to:
  - One month's remuneration, for an employee who was employed with the employer for less than two years
  - Two months' remuneration, for an employee who was employed with the employer for two or more years but not more than eight years; or
  - Three months' remuneration, for an employee who was employed with the employer for more than eight years

The amount of the severance pay may not exceed the amount of 15 times the minimum remuneration for work, determined on the basis of separate regulations, in force on the date of termination of the employment relationship.

Customary additional costs

Customary additional costs may include:

- Bonuses
- Retirement benefits (to be paid on the day of termination of employment)
- Non-compete compensations (if any); or
- Any other benefits to be paid on the day of termination of employment

(25) Are there any hiring/re-hiring restrictions post-redundancy?

In the case of hiring in the same work category, the employer must rehire an employee with whom the employment relationship was terminated during collective redundancy, if such redundant employee notifies their intention to take up the employment at such employer within one year of the termination of their employment relationship.

In the case of hiring employees in the same group of employees (i.e., employees in similar job positions), the employer should re-employ the impacted employee within 15 months of the date of terminating their employment relationship during the collective redundancy only if the impacted employee expresses their interest to be re-employed within one year from the date of termination of their employment relationship.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Claims may be brought by the employees and/or the labor inspector in the name of an employee. The time period in which the employee (or the labor inspector, as the case may be) is entitled to bring a claim depends on the subject of such claim.

The claim may concern, for example:

- Compensation or reinstatement to work on the grounds of unfair dismissal (unjustified termination of an employment relationship)
- Payment of remuneration components and/or severance pay; or
- Compensation for violation of the collective redundancy proceedings (in case damage is inflicted on an employee)

According to the Labor Code, as a general rule, claims arising out of an employment relationship are barred after a limitation period of three years from the date on which the claim became enforceable. Limitation periods cannot be shortened or extended by a legal action (for example, through an employment contract).

The litigation may not stop or slow down the redundancy process; However, in certain cases such as unjustified termination of an employment relationship, the court may declare the termination of employment relationship null and void.

(27) What are the risks of damages or other remedies due to the redundancy process?

Action may lie for reinstatement, damages, payment of severance pay, etc.

Damages for unfair dismissal

The amount of damages for unjustified dismissal is predetermined in the Labor Code. In the case of wrongful termination of the employment contract concluded for an indefinite period, an employee is entitled to:

- A non-pecuniary claim for considering the termination ineffective, or for reinstatement to work; or
- A claim for pecuniary compensation amounting to the employee's remuneration from two weeks up to three months, but not lower than the remuneration for the notice period applicable to such employee

An amount of claim for compensation for violation of the collective redundancy proceedings depends on whether damage is inflicted on an employee.

Reinstatement

The court may award reinstatement for unfair dismissal if the impacted employee claims for such reinstatement.

The impacted employee is entitled to claim either for reinstatement or for monetary compensation. If a reinstatement is decided by the court, the employee is entitled to remuneration for the period of being out of work, but not more than two months' remuneration; If the notice period was for three months, then not more than one month's remuneration.

Criminal sanctions

No criminal sanctions are applicable to the employer.

Portugal

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Portugal

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include:

- Regular cleaning of facilities and social physical distancing;
- Providing disinfectants; and
- Technical possibilities as an alternative to physical meetings. (e.g., remote working)

Remote working, when possible, is mandatory in 121 Portuguese municipalities (including Lisbon and Porto), while the state of emergency is in force (presently until 23 November, but likely to be extended).

However, Portuguese Health authorities have issued guidelines on contingency plans for the COVID-19 pandemic, and each employer is advised to adopt and implement a contingency plan.

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. Bearing the above in mind, and using the necessary discretion, the employer may exercise their powers of direction and authority to prohibit the diagnosed employee from entering the workplace, provided that such employee may work on a remote basis.

In practice, this will usually be resolved by allowing employees to work from home, on a remote working regime. If this is not possible, the health authorities should be called to the worksite while the employee is put in a separate / isolated area. If there are valid reasons for suspicion and working from home is not possible, employee shall be put in quarantine by the health authorities, which is equivalent to sick leave (with sickness allowance). However, if the quarantined employee is able to keep working remotely, they shall still be entitled to normal remuneration during such period.

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?

As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic.

Individual information regarding sickness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people

Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.

(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?

In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment relation with the company.

Furthermore, the employee is obliged to comply with safety and health requirements at workplace, as well as safeguard their own safety and health, pursuant to the Legal Regime for the Promotion of Work Safety and Health.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?
No, as the employer has no access to health data of the employee, it is the doctor that diagnoses COVID-19 that shall make the appropriate reports. However, the official guidelines from the Health Authorities are to inform them immediately if there is a valid suspicion of infection, which will be present if: ▸ The employee shows sign of fever/coughing/has trouble breathing; and ▸ The employee has travelled to an affected region at least 14 days before the symptoms, or has been in contact with an infected person at least 14 days before the symptoms	Official guidelines for all employers in worksites states that they should have a designated isolation site (e.g., bathroom, store room) where the employee who is suspected to be infected may wait for the Health Authorities to arrive.	Yes.	After a short term state aid program in the form of partial payment of wages in a simplified lay-off procedure and financial support, under which companies could send employees on leave or reduce their working time and wages, a new state aid program in the form of partial working time reduction has been put in place (*Apoio extraordinário à retoma progressiva de atividade em empresas em situação de crise empresarial com redução temporária do período normal de trabalho*). Under the new state aid program, only working time reduction is possible, depending on the reduction of the company's business. Employers with a break in invoicing equal to or higher than 75% may reduce the working hours up to 100%. Social Security shall pay a compensation corresponding to 88% of the reduced working hours. Please refer to comments in Q16. Application to be made via a form to be filled in and submitted to Social Security with the applicable supporting documents. The Council of Ministers Resolution no. 33-C/2020 entails the possibility of partial remote working with, for example, off-peak schedules or mirror teams, from 1 June 2020.

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(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.	(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
	8(i) The office is closed due to the COVID-19 pandemic;	8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	8(iii) The new hire has been diagnosed with COVID-19.	
In order to implement the partial working time reduction measure, the employers have to consult/inform the union representatives and it should be documented. The period taken for their opinion should not exceed three days. It is not necessary to follow formal consultation procedures, as more expedited informal procedures are permitted (e.g., meeting, notice to comment on a reduced deadline).	No.	No.	No, although the referred employee must notify their employer in order to be in quarantine or on sick leave.	Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?			(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?
10(i) The office is closed due to the COVID-19 pandemic;	10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	10(iii) The employee has been diagnosed with COVID-19.	
If the situation is qualified as a lay-off/temporary employment suspension, the employer must: ▸ Pay the subsidies to its employees; and ▸ Pay the respective contributions to social security in regard to the workers subsidies received During the lay-off/temporary employment suspension, the employee has the right to: ▸ Be rewarded monthly with a minimum amount equal to two thirds of their gross standard retribution or with an amount corresponding to their guaranteed monthly minimum retribution in relation to the regular working period, depending on which is higher ▸ Maintain their social advantages or social security benefits to which the employee is entitled, as well as to maintain the respective calculation basis, regardless of the lay-off/temporary employment suspension; and ▸ Compensation during the relevant period, in the amount necessary to guarantee the monthly amount referred to above, up to three times the guaranteed monthly minimum retribution, in combination with working benefits within or outside of the company If the office is closed solely due to the employer's direction, and no voluntary suspensions of the employment agreements are agreed, then full payment of wages is due and should be paid to the employees.	The employee should obtain a certificate for mandatory quarantine from the health authorities and should be considered on sick leave. The company shall not bear any cost. If the employee has insisted on working, the Health Authorities should be informed of a potential COVID-19 infection in order to determine mandatory quarantine, if applicable.	In this situation, the employee will be on sick leave, with payment of sick allowance by social security and the company shall not bear any cost.	The employer may inform Health Authorities, who might in turn impose mandatory quarantine.

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(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
No.	In the case of school and kindergartens interuption periods (excluding school vacations) established by applicable law or the educational institutions, the employees' absences motivated by the care of a child or other dependent under 12 years of age or a spouse are considered justified, unless the employees may perform their work on a remote work basis.	Companies may resort to lay-off under the general labor laws. ▸ Under this lay-off, employment contracts may be suspended or reduced, provided that the company is facing a severe crisis (to be assessed on a case-by-case basis). Employees under this procedure shall receive up to 2/3 of their monthly wages, with a minimum of €635 and a cap of €1,905, with 70% of the remaining 2/3 being supported by Social Security ▸ In an alternative, a new state aid measure allowing for partial working time reduction is available. With this new measure, employees are not sent on leave, but rather have a reduction of working time and receive payment for the same. State aid shall be in accordance with both reduction in company's business (invoicing) and working time reduction ▸ In August and September 2020, Companies with a reduction in invoicing between 40% and 60% may reduce the employee's working time up to 50%. Affected employees shall receive at least 83% of their monthly net income. If the reduction in invoicing is of 60% or higher, the employee working time may be reduced up to 70%, with employees receiving at least 77% of their monthly net income. In both cases, employees shall not receive less that minimum wage, currently set at €635. Social Security shall pay compensation corresponding to 70% of the reduced working hours ▸ The rules for the measure changes in October through December 2020; Although the thresholds for reduction in invoicing remain the same, the reduction of employees working time is only allowed up to 40% (invoicing reduction between 40 and 60%) and up to 60% (invoicing reduction of 60% or higher). As to employee wages, they shall be of at least 92% of their monthly net income in the first case and of at least 88% in the second case ▸ If the reduction in the company's business (invoicing) is higher than 75%, Social Security shall pay an additional 35% over the effective working hours of the employees (i.e., those not affected by the reduction). A Social Security payment reduction is also contemplated.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Presently, the mechanism that is available is the partial worktime reduction measure.

A company may apply for this measure provided that it complies with the following:

- The company must be facing the breakdown of at least 25% of its business (invoicing) regarding:
  - A 60-day period before the request of this incentive, based on the average billing
  - The month before the measure is adopted; or
  - The same period in the previous year
- The company must have its contributory and tax situations duly regularized before Social Security and tax authorities, respectively
- The company must notify in writing all employees of its decision to apply to this incentive, informing them as well of the probable duration of this period, after consulting with the works council or labor delegates (if they exist); and
- The company must fill in and submit the forms deemed necessary, which are available on the Social Security department's website, and any other supporting documentation required

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

Application to be made through a form available on the Social Security department's website, to be filled in and submitted to the Social Security department with the applicable supporting documents.

The abovementioned site includes guidelines for the employers to fill in and submit the necessary forms.

(17) What is the legal framework for collective redundancies?

Workforce transformation, also referred to as collective redundancies, is governed by Article 359 and subsequent Articles of the Portuguese Labor Code (*Código do Trabalho*).

CBAs can modify the rules regarding the criteria to set compensations due to employees, deadlines for the mandatory stages of the procedure and notice periods and, within the legal thresholds, the amount of the compensations due to employees.

The rules governing the collective redundancy procedure vary based on the number of impacted employees.

For companies with at least 50 employees, a complex collective redundancy (*Despedimento Coletivo*) procedure is applicable for redundancy of five or more employees. For redundancy of less than five employees, a simplified procedure must take place.

For companies with less than 50 employees, the collective redundancy procedure is applicable when it impacts two or more employees.

The collective redundancy (*Despedimento Coletivo*) procedure has the following stages:

- Legal justification
- Works council consultation
- Labor administration (*Ministério Responsável pela Área Laboral*) intervention; and
- Termination

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Collective redundancy must be justified by the following economic or financial grounds:

- Economic or financial difficulties of a long term nature
- Change(s) in technology that would render certain job position(s) obsolete
- Company reorganization necessary to safeguard its competitiveness; and/or
- Closure of business

(19) What are the consultation requirements with works councils/unions (if any)?

At the outset, the employer shall notify in writing, for information and consultation, the workers' collective representation structure in place. Under the Portuguese labor law, employee representative structures are the works council, the inter-union committee (employee representative body composed by representatives of all the unions represented in the company) and the union committee (employee representative body composed by representatives of a single union represented in the company). The existence of these structures is not mandatory, and depends on the verification of representation thresholds of the unions among the workers, in the case of the union and inter-union committees, and an election called upon by a minimum number of workers, in the case of the works council.

This notification shall include the following:

- Legal and business justification of the collective redundancy
- Workforce broken down by organizational structures
- Selection criteria process
- Number of employees to be made redundant, and categories covered; and
- The method of calculating compensation for the employees to be made redundant

In the absence of any of these collective representation structures, the employer must notify, in writing, each of the impacted employees, who may then, within a five-day period, appoint an ad hoc committee of three to five employees who will represent the remaining employees in the subsequent negotiations.

Within five days of the notification, a mandatory consultation procedure with the employees' representatives must take place, with the purpose of reaching an agreement to limit the impact of the measures to be adopted and/or the number of employees to be dismissed.

Whether or not an agreement is reached, after 15 days from the initial communication to a works council or union (or to the ad hoc committee or to each of the impacted workers, in the absence of works council or union), the employer is allowed to notify each affected employee, in writing, of its final decision to terminate the employment agreement. However, the employment agreement will only terminate after the expiration of the notice period and the duration of which varies between 15 and 75 days according to the length of service of the employees.

Consultation requirements directly with employees

There is no obligation to consult the employees themselves or to obtain their consent. The employer is free to communicate directly with the employees, although after the notification has taken place, all negotiations are done via the appointed employee representatives.

In the absence of employee representatives, the employer must notify, in writing, the same information to each of the impacted employees, who may then, within a five-day period, appoint an ad hoc committee of three or five employees who will represent the remaining employees in the subsequent negotiations .

After the works council (or other workers' collective representation structure) consultation, the employer must notify each of the impacted employees of the final termination decision, stating the reason and date of effective termination of their employment agreement and an indication of the total amount, payment method, time and place of compensation payment, credits overdue or other claims stemming from the termination of employment with a prior written notice, depending on the time of service of each employee, from 15 to 75 days for employee between one to more than 10 years of service.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

No approval of the labor authorities is required to implement collective redundancy procedure. However, at the outset of the consultation stage of the collective redundancy procedure, a copy of the notification of the projected collective dismissal must be sent to the Ministry of Labor, which, through a designated representative, will take part in the negotiation stage of the procedure between the employer and the works council or unions, to promote an agreement between the parties as to the measures to be adopted and confirm the material and procedural regularity of the procedure.

In addition, when the final decision is notified to each of the impacted employees, the employer must send to the Ministry of Labor the minutes of the meetings with the works councils held in the negotiation stage, and also the information regarding each of the impacted employees (e.g., name, residence, date of birth, hiring date, social security situation, occupation, category, wage, the measures decided and their intended date of redundancy).

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The employee selection criteria is based on the employer's discretion, provided it is objective (as required by the Labor Code) and not biased. The use of biased criteria, or of criteria that is not in accordance with the collective redundancy justification, constitutes grounds for the procedure to be invalidated.

Special protection is granted to certain categories of employees, namely:

- Works council and union delegates
- Pregnant workers
- Workers who have recently given birth; and
- Workers who are breastfeeding

The final decision of termination may only be issued when authorized by the Portuguese gender equality authority (CITE), following required notification to that effect.

(22) Are there any actions required to limit the negative impact of the redundancy?

Following the initial legal justification, a negotiation with the works council or unions is required to take place, with participation of a representative from the Ministry of Labor. The purpose of this is to find alternative measures to the collective redundancy, notably:

- Suspension of the employment agreements
- Reduction of normal working periods
- Professional training and reclassification; or
- Early retirement

Although these measures must be discussed, as well as any other measures aiming at limiting the impact of the redundancy procedure, the employer is not under the obligation to implement them, provided the refusal is justified in the sense that it would not avoid the redundancies.

During the notice period following the final decision to terminate the employment agreements, each impacted employee may take up to two days of paid leave per week. Effects of this leave in the work plans of the employer should be considered when implementing the procedure.

(23) What is the estimated timeline for a collective redundancy process?

Preparation for the procedure may take up to two months, depending on the complexity of the project.

The time required to fully implement a collective redundancy depends on the number of redundancies contemplated, as well as the years of service of the impacted employees, since the employment agreements in question only cease after the notice period following the final decision to lay-off, and notice periods vary in accordance with the employees' years of service, ranging from 15 to 75 days.

The legal time frame for the works council's or union's negotiation stage is not determined, but normally takes about one month.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Notice of termination, if the employees are released from working during the notice period
- Works council expert fees (if applicable); and
- Compensation to the impacted employees (minimum compensation is legally set in the value of 12 days' worth of base contribution per year of service)

For employment contracts executed after October 2013, there are mandatory contributions to the public Work Compensation Fund (*Fundo de Compensação do Trabalho*).

Customary additional costs

Usually, there are no customary additional costs, but these may include, at the discretion of the employer, outplacement and additional benefits to the impacted employees.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

Under the Labor Code, a collective redundancy must be undertaken on reasonable grounds, meaning that the employer is not allowed to simultaneously operate a collective redundancy and hire employees through outsourcing or temporary employment to the same work positions. This would be deemed as a violation of constitutional principles such as employment safety, equality and employee right to representation.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Once the final termination notice is issued, and not before, the impacted employees, either acting autonomously or represented by their works councils or unions, can bring law suits to challenge the legal justification, including, but not limited to, the selection criteria process and the reclassification process, before the labor courts, within six months from the date of effective termination.

(27) What are the risks of damages or other remedies due to the redundancy process?

Challenges could lead to two types of civil remedies, as well as sanctions for administrative offences.

Damages for unfair dismissal

Damages could be awarded to employees based on notably:

- Absence of a legal justification
- Failure to apply the selection criteria properly
- Failure to follow the legal procedure, notably the consultation procedure with the works council, inter-union committee or union committee, or the notification to the labor and government authorities
- Failure to respect the 15 days' interval from the initial communication to the works council or union (or, in the absence of these structures, to the ad hoc committee or to each of the impacted workers) before issuing the final decision to terminate the employment agreements, as set out in the law; and/or
- Failure to pay compensation due to the impacted employees

The amount of the damage varies depending on the employees' age, years of service, salary and the damages suffered. Without prejudice to any claim for damages, the employee is entitled to a compensation corresponding to interim salaries, interest and also to a compensation in lieu of the employee's reintegration, corresponding from 15 to 45 days of base salary and seniority payments for each full year of service.

There are no punitive damages under Portuguese law.

Reinstatement

If the procedure is found invalid, the impacted employees are entitled to reinstatement within the company and the employer cannot refuse the reinstatement, except in the following cases:

- Company with a workforce under 10 employees; or
- Employee in a managerial position

In such cases, the impacted employees are entitled to a compensation set by the court ranging from 30 to 60 days of base salary and seniority payments for each full year of service.

Sanctions for administrative offences

Failure to comply with certain legal requirements, in particular, those of the workers' representation structure consultation, may expose the employer to sanctions ranging from €612 up to €9,690.

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

Currently, due to the spread of the Covid-19 pandemic, the Romanian authorities have directed that employers must implement remote-work (also known as telework) where feasible.

In cases where remote working is not possible due to the nature of the activity carried out by the employees, the employer must manage the work programs in such a way as to divide the staff into groups that begin and end the working day at least one hour apart.

In any case, the employer must evaluate the work environment and continuously act on potential risks. Appropriate occupational health and safety measures must be taken, such as:

- The employer must provide hand sanitization station(s) for all employees and visitors, located prior to entering the employer's offices;
- The workspace must be organized such that a minimum distance of one and a half meters is ensured among employees;
- Desks must be separated with partitions that will be disinfected daily with alcohol-based solutions

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

The employer must prohibit access into its premises for any employee/ any other person who is diagnosed with COVID-19.

If during the working hours an employee is observed to have respiratory symptoms (e.g., cough, sneezing, etc.) and/or fever greater than 37.3°C and/or altered general condition, they must be immediately isolated from the rest of the colleagues and sent home or to sanitary units, depending on the person's condition. In the vast majority of cases, it is not necessary to close the offices/building.

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?

As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. For example, in countries for which GDPR applies, personal health data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.

Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such a larger group of people.

In this situation, the Romanian authorities provided that the person with whom the employee suspected/confirmed to be diagnosed with COVID-19 has come into prolonged contact (more than 20 minutes, at a distance of less than 1.5 meters and without a mask) must be informed and isolated at their home for 14 days. During this period, the isolated persons must monitor for signs and symptoms of respiratory infection.

This implies that the employer must keep a close record of all employees' possible interactions, not only those with the colleagues with whom the potentially infected employee shares the office.

Romania (continued)

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- Last updated: 14 December 2020

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(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?
In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment. However, upon entering the country, the Romanian authorities check each traveler and establish if a person must be quarantined. If a person travels to Romania from a country that is considered to be "high risk" and that is included in the yellow zone list, the person will be sent into quarantine at home/the location declared by the person, for 14 days. This list of countries is updated periodically, and a country is included on this list depending on the number of confirmed cases of COVID-19 in that country.	Yes, the employer shall alert the local Department of Public Health.	Not applicable.	Yes.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?

- **Working from home/telework:** If feasible, given the nature of the activity carried out by the employees, as of 9 November 2020, remote working or telework is mandatory. At this moment, as a temporary derogation, the measure shall be established through the unilateral decision of the employer. Given the recently introduced provisions, the employer is not obliged by law to implement remote working except through an addendum to the individual employment contract
- **Flexible working hours: I**f it is not possible to implement remote working due to the nature of the activity carried out by the employees, the employer must manage the work programs in such a way as to divide the staff into groups that begin and end the working day at least one hour apart
- **Reduced working time:** In the case of temporary reduction of the activity determined by the establishment of the state of emergency, employers can reduce the working time of their employees by no more than 50% of the duration provided in the individual employment agreement. During the reduced working time, the employee is entitled to an indemnity that will be paid by the unemployment insurance budget after the employer fulfils the declaratory obligations
- **Short working week:** In the case of temporary reduction of activity for economic, technological, structural or related reasons for periods exceeding 30 working days, the employer has the possibility to reduce the working hours from five days to four days per week, with the corresponding reduction of salary, until the situation that caused the reduction of the program is remedied
- **Annual paid leave:** This measure can only be taken with the employee's consent. This measure can be most appropriate for those employees that have days of annual leave left untaken from previous years
- **Granting paid days off to compensate for overtime** that the employee will perform in the next 12 months, with the consent of the employee
- **Technical unemployment:** It represents a temporary suspension of the individual employment contract in the case of temporary reduction or discontinuance of the company's activity caused by economic, structural, technological, or similar reasons. During technical unemployment, the employee is entitled to an indemnity. At this moment, the technical unemployment indemnity is borne by the state's budget only if the employer operates in areas where the restrictions were maintained (such as restaurants) and only until these restrictions are lifted
- **Unpaid leave:** This measure can only be taken with the consent of the employee and according to the provisions of the CBA and/or Internal Regulation

(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.	(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
	(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.	
▸ In the case of the short working week measure, the employer can implement it only after prior consultation with the union or the employees' representatives; ▸ If the employer decides to adopt a Remote Work Policy or to set out rules and procedures for flexible working hours, it must be done after consulting with the trades union/employee representatives; ▸ In the case of reduced working time, the employer must implement this with prior information to, and consultation with, the trade union, employees' representatives or the employees directly. Additionally, apart from these cases, please note that: ▸ If the employer plans mass lay-offs because it can no longer sustain the salaries of all its employees and opts for downsizing and restructuring, the Romanian Labor Code provides that it must engage in prior consultation with the unions/employees' representatives; ▸ When implementing and developing workplace health and safety measures, the employer consults with the union/employees' representatives and the occupational health and safety committee.	No.	No.	No.	No. However, the effective date cannot be postponed, implying that the employment contract will be enforceable but will be suspended: ▸ During isolation based on the medical certificate; ▸ When, due to economic reasons, the business activity is interrupted.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?			(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**	**(10(iii) The employee has been diagnosed with COVID-19.**	
If the Department for Public Health orders the suspension of the activity of a company after conducting an epidemiological investigation, all employees will benefit from the technical unemployment indemnity. The technical unemployment indemnity, which is borne by the unemployment insurance budget, is 75% of the base salary corresponding to the job occupied, but not more than 75% of the gross average wage (approximately €1,120). This measure does not apply to employees that benefit from sick leave and receive the corresponding indemnity.	If a person travels to Romania from a country that is considered to have a high epidemiological risk that is included in the yellow zone list, the person will be sent into quarantine at home/at the location declared by the person for 14 days. During this time, the employment contract is suspended, and the employee is entitled to an allowance of 100% of the average monthly salary of the employee taking into consideration a reference period of six months, which is borne by the State. The amount of the allowance is capped at a maximum of 12 times the minimum monthly gross salary at country level.	The employment contract is suspended by operation of law due to the employee's temporary incapacity for work (medical leave). The employee is entitled to an allowance, borne for the first five days by the employer and the rest of the period (until returning to work) by the State. The allowance is 100% of the average monthly salary of the employee, taking into consideration a reference period of six months. The amount of the allowance is capped at a maximum of 12 times the minimum monthly gross salary at country level. In Romania, the minimum monthly gross salary is of RON 2,230 (approximately €465) and RON 2,350 (approximately €490) for employees with higher studies/qualifications.	No.

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?

Apart from the state aid granted in cases of flexible workforce planning, the Romanian authorities also grant state aid in other scenarios, such as:

- Governmental support if the company implemented remote working during the state of emergency established in Romania between 16 March 2020 and 14 May 2020
- Companies hiring specific categories of unemployed persons will also be reimbursed with 50% of each employee's salary, but not more than RON 2,500 per month
- Employers who conclude fixed-term employment contracts for a period up to three months can benefit from a partial reimbursement of 41.5% of the salary rights, but no more than 41.5% of the average gross income

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

If day care centers and educational units are temporarily closed, or in cases when partially or fully remote learning scenarios have been established, for the days when the classes are held online, the employee is entitled to paid days off for which they shall receive an allowance of 75% of their gross base salary for each working day, but not more than 75% of the average gross wage in Romania (approximately €1,120). The state shall reimburse the allowances paid by employers during these periods.

If an employee requires paid days off, the employer must grant them. Failure to observe this obligation shall be sanctioned, with a fine of between RON 1,000 (approx. € 205) and RON 2,000 (approx. € 410) for each employee refused by the employer, but, cumulatively, any fine cannot surpass RON 20,000 (approx. € 4,108).

Employees shall not benefit from paid days off if their work can be performed remotely, or if the other parent has paid leave/unpaid leave/benefits themselves from paid days-off when day care centers and educational units are closed. Further, employees shall not benefit from paid vacation days if one of the parents has their employment contract suspended due to the temporary interruption of the employer's activity, or if the other parent does not obtain income from different activities (i.e. independent activities, intellectual property rights) which are subject to income tax.

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

Yes.

Technical unemployment

If the company temporarily needs to close (partially or totally) due to economic, technological, structural, or other similar reasons, the employer can unilaterally decide to suspend all or part of the employment contracts.

The technical unemployment indemnity, which is borne by the unemployment insurance budget, is 75% of the base salary corresponding to the job undertaken, but not more than 75% of the gross average wage (approximately €1,120). However, if the employer has the financial capacity, it has the option to supplement the indemnity received from the State with additional amounts representing the difference, up to the minimum of 75% of the base salary, paid to the employee according to their employment contract.

At this moment, the technical unemployment indemnity is borne by the state budget only if the employer operates in areas where the Romanian authorities maintain restrictions (such as restaurants) and the same shall be granted until these restrictions are lifted.

Reduced working time

If companies experience a temporary reduction of the activity due to the state of emergency, employers have the possibility to reduce the working time of their employees by no more than 50% of the duration provided in the individual employment agreement. The reduction of working time is established by the employer's decision, for a period of at least five consecutive working days, and the employer has the obligation to establish the work schedule for the entire month. The employer's decision shall be communicated to the employees at least five days before the measure becomes effective and shall be registered in the general register of employees no later than the day before its effective date.

During the reduction of working time, the employees affected by the measure shall receive an indemnity of 75% of the difference between the gross base salary provided by the individual employment agreement and the gross base salary corresponding to the hours actually worked as a result of the reduction of working time, in addition to usual salary rights, calculated for the actual worked time. The indemnity is borne by the employer and is paid on the date of payment of the salary for the respective month and will be settled from the state unemployment insurance budget after the employer fulfils the declaratory obligations.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Reduced working time

The employer may decide to reduce working time and may request the settlement of the allowance if the following conditions are cumulatively met:

- The measure affects at least 10% of the employees of the unit; and
- The reduction of the activity is justified by a decrease in the turnover corresponding to the month prior to the application of the measure or, at most, from the month prior to the month preceding it, by at least 10% compared to the similar month of the previous year

During the application of the measure:

- The employees affected by this measure cannot perform overtime for the same employer;
- It is forbidden to hire staff to perform activities identical or similar to those performed by the employees whose working time has been reduced, as well as the subcontracting of activities performed by employees whose working time has been reduced;
- The work schedule of the affected employees cannot be reduced based on Article 52 para. (3) of the Romanian Labor Code (Labor Code);
- The granting of bonuses, as well as of other additions to the base salary for the employer's management structure, is made after the measure ends; and
- The employer cannot initiate collective dismissals.

Measures regarding remote working

In order to implement remote working, until 31 December 2020, employers are granted, as an ad hoc one off for each remote worker, financial support in the amount of RON 2,500 (approximately €515) to purchase packages of technological goods and services necessary to facilitate such remote working.

The amount is granted to employers to support employees who worked remotely during the state of emergency for at least 15 working days and to those employers who promptly implemented remote working.

Hiring specific categories of employees

Employers hiring persons over 50 years who had their employment contracts terminated for economic reasons during the state of emergency, or people between 16 and 29 years, will be reimbursed 50% of each employee's salary, but not more than RON 2,500 per month (approximately €513).

The employment contracts must be in operation between 1 June 2020 and 31 December 2020.

The incentives are granted only to employers hiring indefinite full-time employees registered as unemployed individuals at the Romanian unemployment authorities.

The incentive is granted for 12 months from the employment date. Companies must keep the employment contracts for at least 12 months after the incentive payments cease. Otherwise, the incentives must be reimbursed, together with interest paid at the National Bank of Romania designated rate.

Concluding fixed-term employment contracts

Employers concluding fixed-term employment contracts for a period of up to three months may benefit from a partial reimbursement of 41.5% of the salary, but no more than 41.5% of the average gross income. The working period must be eight hours per day. This financial support is granted until 31 December 2020, but for no more than three months.

The employer must pay in full for the work performed based on the fixed-term individual employment contract. The amounts shall be subsequently settled from the unemployment insurance budget, within a maximum of 10 days from the submission date.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

Technical unemployment indemnity

Employers must submit the following documents in the current month for payment of the previous month's indemnity:

- Formal request
- Affidavit issued by the company's legal representative, declaring that the company incurred a temporary reduction or discontinuance of the activity; and
- List of employees receiving compensation

The documents shall be filed electronically with the county workforce agency where the company has its registered office, using the platform provided by the Government at https://aici.gov.ro/. The Romanian authorities have adopted the template for these documents, which are available on this platform. The employers should make the indemnity payment to the employees within a maximum of three days from the date they received the amounts from the unemployment insurance budget.

Measures regarding remote working

The first step required for government support is to submit a formal request, an affidavit issued by the employer's legal representative and a list of employees for which the employer intends to request the aid. The documents shall be filed electronically with the county workforce agency where the company has its registered office, using the platform provided by the Government at https://aici.gov.ro/. The Romanian authorities have adopted the template for these documents, which is available on the platform. The payment shall be made in the order in which the applications are received, within the limit of the State's allocated budget, until 31 December 2020.

The second step takes place after the payment is made. The companies must submit, within 30 days, the requisite proof that the goods for which they received the money were purchased. In the case of failure to observe this last step, the company is obligated to repay in full the amount granted.

Hiring specific categories of employees

The companies must conclude an agreement with the county workforce agency where the company has its registered office no later than 31 December 2020. To conclude this agreement, they must first submit a formal request accompanied by an affidavit issued by the company's legal representative, copy of the ID and the document through which the employment relationship was established. For the agreement, the formal request and the affidavit, the Romanian authorities adopted a template. The documents shall be filed electronically with the county workforce agency where the company has its registered office, using the platform provided by the Government at https://aici.gov.ro/.

Concluding fixed-term employment contracts

The amounts are settled by the National Workforce Agency, at the employers' request based on an affidavit proving the fulfilment of the required conditions and the list of employees for which the reimbursement is requested. The documents shall be filed electronically with the county workforce agency where the company has its registered office, using the platform provided by the Government at https://aici.gov.ro/.

(17) What is the legal framework for collective redundancies?

Workforce transformation, also referred to as collective redundancy, is governed by Article 68-74 of the Labor Code.

CBAs can modify the rules governing collective redundancies and grant more favourable rights to the employees.

Rules regarding collective redundancy are triggered when an employer proposes to terminate the following number of employees within 30 calendar days, depending on the specified threshold:

- At least 10 employees, in a company with 21-99 employees
- At least 10% of the total number of employees, in a company with 100-299 employees; or
- At least 30 employees in a company with 300 or more employees

This complex process this triggers has the following features:

- Legal justification
- Employee representatives' consultation
- Information requirements to the territorial labor inspectorate and unemployment agencies throughout the process
- Selection criteria process and dismissal documentation requirement; and
- HR legal costs

Redundancies that fall below the abovementioned thresholds are not considered collective redundancies and a simplified process applies for such instances.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Collective redundancy may occur for one or more reasons not related to the employee. The restructuring must be effective and have a real and serious cause.

Romanian law does not establish specific situations when a redundancy is justified. In practice, workforce transformation may be justified by the following economic or financial grounds:

- Economic or financial difficulties
- Change(s) in technology that would render certain job position(s) obsolete
- Company reorganization necessary to safeguard its competitiveness; and
- Closure of the business.

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with union and/or employees' representatives

They play an important role in the collective redundancy processes and must be informed and consulted on the following matters:

- Total number and categories of employees
- Number and categories of employees impacted by the collective redundancy
- Reasons for the contemplated restructuring
- Selection criteria
- Envisaged measures to limit the number of dismissed employees
- Contemplated timing
- Social plan measures to limit the negative impact of the redundancy; and
- Period in which the union or the employees' representatives may submit proposals for avoiding or limiting the redundancy

If there is a union with representation rights at the company level, it must be informed and consulted with respect to the abovementioned matters. If no union is established at the company level, the employees' representatives must be informed and consulted accordingly. If at the company level, the employees have established a union and have also elected employees' representatives (this situation may occur in case for unions with no representation rights), the employer should approach both the union and the employees' representatives.

Romanian law does not provide for a specific timeframe for the information and consultation process (i.e., should occur 'within due time and with the scope of reaching an agreement'). In practice, the employer cannot proceed with the collective dismissal prior to the consultations with the union/employees' representatives or within a term which does not effectively allow the union/employees' representatives to express their opinion and provide valid proposals to limit the negative effects of the proposed dismissal.

The union/employees' representatives can propose measures to avoid the redundancy or to reduce the number of impacted employees within 10 calendar days from the receipt of the abovementioned notification from the employer.

The employer must reply in writing to the proposal of the union/employees' representatives within five calendar days from its receipt.

The concept of works council does not have a legal equivalent under the Romanian law.

Consultation requirements with other employee representatives

Employers are required to inform and consult with the employees' elected representatives prior to implementing the contemplated collective redundancy.

Consultation requirements with employees

Although there is no express legal obligation for employers to inform and consult its employees individually, it is a leading practice for the employers to provide information and consult with the employees directly on matters affecting their employment if there is no existence of union representation or if the employees did not elect their representatives.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

The employer has the obligation to notify the territorial labor inspectorate and the unemployment agency with respect to the collective redundancy and the measures envisaged to limit the negative consequences of the collective redundancy.

The unemployment agency must suggest remedies and communicate them to the employer and to the unions/employees' representatives.

If, after the consultation with the union or the employees' representatives, the employer decides to continue the redundancy process, it must inform the territorial labor inspectorate at least 30 days before issuing the dismissal decisions to the employees. The approval of either the unemployment agency or territorial labor inspectorate is not required to implement the contemplated collective redundancy (i.e., the employer is free to implement the redundancy process after 30 days of notification to the territorial labor inspectorate).

At the grounded request of any of the parties, the territorial labor inspectorate may postpone the issuance of the dismissal decisions for a maximum of 10 days, or reduce the 30-day period, without prejudicing the employees' right to termination notice.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The Labor Code provides that the employees to be made redundant must be selected based on certain criteria established by law and/or by the provisions of applicable CBAs. The selection of the employees should be done in a transparent manner based on the criteria pertaining to the employee such as:

- Family situation
- Number of years of service with the company
- Existence of factors increasing their difficulty to find a new job (e.g., disability, age); and
- Specific professional skills

The purpose of these criteria is to differentiate the employees and shall be applied only after the assessment of their professional performance. This means that the professional performance of the dismissed employees should be firstly appraised and afterwards the additional criteria shall be applied. In conclusion, the employer may dismiss the employees with lower professional performance first.

Certain employees are afforded special protection against employment termination during the redundancy process, particularly pregnant women, employees on maternity or child care leave, employees with employment contracts suspended due to temporary work incapacity, etc.

(22) Are there any actions required to limit the negative impact of the redundancy?

The Romanian Labor Code establishes the general principle that employers have the obligation to apply protective measures in order to limit the negative impact of collective redundancies on the impacted employees.

Such measures may be decided in the context of the redundancy or otherwise, prior to such events, in a CBA. A CBA can, for example, include protective measures applicable in case a redundancy occurs in the future.

In this respect, the employer may propose or negotiate a social plan including measures which may vary depending on the size of the company, the means of the company and its group, previous social plans and the employer's ability to provide for a large range of measures to limit the negative impact of the redundancies, including outplacement.

Internal alternative employment/redeployment

The social plan or CBA negotiated with the union/employees' representatives may provide measures such as professional retraining of the impacted employees and/or redeployment of the impacted employees to another legal entity within the group or to a new working site.

Other measures

The social plan or CBA negotiated with the union/employees' representatives may provide measures such as outplacement and additional financial compensation, for example, for those employees approaching retirement and may have difficulties in finding a new job, or assistance for those who need to move locations to find jobs.

If within 45 days as of the dismissal date, the activity performed by the impacted employees is re-established within the company, the employer has the obligation to reinstate the impacted employees. For more information, please refer to Q25.

(23) What is the estimated timeline for a collective redundancy process?

The time required to fully implement a collective redundancy depends on a variety of factors, such as the extent of the restructuring and whether a CBA was concluded or not.

In practice, the legal timeframe necessary for collective redundancies to be finalized may vary from three to five months.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Notice, or an indemnity in lieu of notice, if the employee is released from working during the notice period;
- Termination indemnity, if such an indemnity is established in the individual employment contract or applicable CBA. (No legally prescribed amount or methods of calculation. However, in practice employers usually grant at least one month's salary as a termination indemnity. Further, this amount may vary depending on the seniority of the impacted employees).

Customary additional costs

The measures proposed or negotiated by the employer (within a social plan or not) may vary depending on the size of the company, the means of the company and its group, previous social plans and the employer's potential to provide for a large range of measures to limit the negative impact of the redundancies, including outplacement, which is one of the main customary additional HR costs.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

If, within 45 days as of the dismissal date, the activity performed by the impacted employees is re-established within the company, the employer has the obligation to reinstate the impacted employees. A specific process is applicable in such situations.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

The following interested parties can bring lawsuits related to the redundancy process:

- Impacted employees:

The impacted employees may challenge their termination in court within 45 days from the date of notification.

The impacted employees may also challenge the employer's breach of their rights and entitlements guaranteed by the applicable CBA within six months from the date the right accrued.

- Unions:

Unions are legally entitled to represent their members in a court of law during labor litigations if requested by the members. For example, unions may claim for annulment of the dismissal decision if the correct procedure was not observed.

(27) What are the risks of damages or other remedies due to the redundancy process?

Damages and other remedies

Challenges could lead to two types of civil remedies.

Damages for unfair dismissal

Damages could be awarded to employees based on:

- Absence of a legal justification or the mandatory elements of a dismissal decision;
- Failure to apply the protective measures and grant the compensations negotiated and mentioned in the CBA, if applicable;
- Failure to comply with the rehiring obligation within the legal term if the jobs are reinstated.

The amount of the damages shall be at least equal to the amount of the indexed salaries (i.e., increase in the salary due to, for example, inflation and legislative changes) to which the dismissed employee would have been entitled if the dismissal had not occurred (together with any other additional rights negotiated in the individual labor agreement or applicable CBA), calculated from the date of dismissal and until the reinstatement of the employee (if the employee requests reinstatement) or the final ruling of the court.

Reinstatement

Employees are entitled to reinstatement within the company. The employer cannot refuse the reinstatement in cases where the dismissal decision is declared by the court as unlawful and therefore null and void, and the employee has specifically requested to be reinstated.

Litigation cannot stop or slow down the collective redundancy process.

Criminal sanctions

There are no criminal sanctions applicable in the context of redundancies.

Russia

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
The measures generally recommended by the Russian Federal Service for Supervision of Consumer Rights Protection and Human Welfare include: ▸ Separation of work flows and staff (e.g., shift work, separate offices) ▸ Hand sanitizer at the entrance to office premises ▸ Testing the body temperature of employees at the entrance to office premises and during the working day ▸ Mandatory suspension from work of employees with elevated body temperature and signs of infection ▸ Check whether the employee has called for a doctor at home ▸ Ensure those employees who return from high-risk or restricted areas comply with self-isolation rules ▸ Inform employees about personal and public hygiene rules ▸ Deep cleaning of the business premises ▸ Availability at least a five day stock of disinfectants and antiseptics, masks and respirators for employees ▸ Regular (every two hours) ventilation of the working premises ▸ Use of bactericidal lamps, etc Additional measures have been established by the state authorities in the regions.	The employer should monitor an employee's temperature at the entrance to the office premises and during the working day. In the case of an elevated body temperature and signs of infection, the employee should be prohibited from entering the workplace or should be suspended from work. The employer shall also prohibit from entering the workplace and/or office premises those employees who have recently visited high-risk or restricted areas, or employees who live with such individuals. For avoidance of doubt, the employer shall prohibit any diagnosed individual entering the workplace and/or office premises.	In Moscow, on receipt of a request from the state authorities, the employer shall immediately provide information on all contacts of the individual diagnosed with COVID-19 during the performance of their employment functions and ensure disinfection of the premises where the diagnosed individual was working. However, there is no direct obligation to alert other employees if there is a diagnosed individual at the workplace.	In Moscow, any citizen who has visited foreign high-risk or restricted areas is obliged to: ▸ Report their return to Russia, including place, dates of stay in these areas and contact information via a specially designated hotline ▸ Observe self-isolation at home for at least for 14 days; and ▸ In the case of initial respiratory symptoms, to seek immediate medical attention at home without visiting a hospital or medical center The employer shall prohibit the above individuals (as well as those who live with such individuals) from entering the workplace and/or office premises. The employer should transfer such employees, with their consent, to 'remote working' or provide them with an annual paid vacation.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
No, such an alert will be done by a medical organization. Please refer to comments in Q3 - in Moscow, on receipt of a request from state authorities, the employer shall immediately provide information for all contacts of the individual diagnosed with COVID-19 during the performance of their employment functions.	In Moscow, employers are required to provide regular random testing of their employees for COVID-19 infection, by organizations authorized to conduct such tests, in accordance with the legislation of Russia. For the period from 12 May to 31 May 2020 testing was to be carried out for at least 10% of employees; From 1 June 2020 and for every 15 calendar days afterwards, they shall continue carry out those tests for at least 10% of employees.	The period from 25 March – 11 May 2020 (inclusive) was announced by the Russian President as a 'non-working days' period for everyone; Employees, however, were to receive full payment of salary. The organizations which continued to work within this period included: ▸ Medical organizations and pharmacies ▸ Grocery stores and outlets selling essential goods ▸ Banks ▸ Organizations performing emergency repair and maintenance operations ▸ Organizations that worked to counter the spread of COVID-19; and ▸ 'Continuously operating organizations'. These include enterprises with a continuous technological process that ensure the life of a city: Housing and communal services, transport, builders, energy, logistics, etc. However, even these organizations should have switched to remote working to the maximum extent possible during the 'non-working days' period (Please note that the 'non-working days' period has now concluded.)	Generally, reduction of working time (and accordingly proportional reduction of salary) is subject to the employee's consent, since change of any substantial conditions of employment is possible only by mutual agreement of the employer and employee. As an alternative to agreement on part-time working, an employer and employee may also reach an agreement on (unpaid) vacation. In exceptional cases, in situations where due to changes in working conditions (organizational or technological), there is a threat of dismissal of a large number of employees, the employer may switch to a 'reduced working hours regime'.	The 'reduced working hours regime' is an exceptional measure. Such a reduction can be introduced for no longer than six months; The respective decision should be adopted after consultations with the employees' representative body (labor union, if any) and the employment authority should be notified.

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
Generally, there are no legally binding job offers in Russia. The employment start date is specified in the employment contract, the contract is effective upon signature by both parties. Therefore the practical need to postpone may arise only when the parties have signed a contract ahead of the first working day (which is not a widespread practice in Russia). Unilateral postponement of an employment start date is not possible, this can be done by agreement of the parties. However, under the law, the employer has the right to cancel an employment contract if the employee is absent on the first day of work. There are no special COVID-19-specific rules, apart from those as already noted (e.g., 'non-working days' period).	Not applicable.	Not applicable.	Not applicable.	The Russian Labor Code gives the employer the right to cancel an employment contract if the employee is absent on the first day of work. This is not the obligation but the right of an employer. If the employer does not use this opportunity, the employer is obliged to provide a new hire with the same employment and social guarantees as any other employee (including payment of salary, sick leave, if applicable, etc.).	Not applicable.	Not applicable.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.
Please refer to comments at Q2.	The regulation of the COVID-19 pandemic is a mixture of centralized measures (e.g. announcement of 'non-working days') and regional measures. The Russian President has given the heads of the regions additional powers enabling them to take necessary measures to prevent the spread of the COVID-19 pandemic, depending on the level of danger and the 'objective epidemiological situation' in a region. Therefore, related COVID-19 restrictions and rules may vary slightly from region to region.	Kindergartens are not closed across Russia by central government order due to COVID-19. For example in Moscow, kindergartens continue to work in a 'duty groups' regime, with strict observance of sanitary rules and regulations in such groups. Schools had to be switched either to the same 'duty groups' regime (for children attending primary school) or to e-learning. Schools plan to reopen on 1 September 2020.The general rules related to leaves of absence and paying salary, which could potentially be applicable in this situation, are as follows: ▸ An employee may take a leave due to quarantine if a child under the age of seven who attends pre-school educational organizations is subject to quarantine; Temporary disability allowance is paid to an employee (to one of the parents) for the entire period of quarantine ▸ An employee may take a sick leave due to their child's illness (the duration of the sick leave and terms of payment vary depending on a number of factors) ▸ An employee may, due to family circumstances or other grounds, be granted leave without pay upon their written request to an employer; or ▸ An employer could authorize an employee to work from home (if it is customary in the company)	▸ Salary aid: Companies are to be given interest-free loans to pay salaries to their employees. There is 'co-financing' of salaries for the amount of the minimum salary – 12 130 ₽. Companies may receive grants for payment of salaries. The main condition for receiving the grant is that the company must retain at least 90% of its employees ▸ Delayed payment of rent: Small and medium-sized companies are able to postpone the payment of state or municipal property rent to 2021 ▸ Deferred taxes: Entrepreneurs working in industries most affected by the COVID-19 pandemic will receive a six-month grace period on all taxes except VAT. The deferred payments must be repaid from 1 October 2020 to 1 October 2021. For other entrepreneurs, insurance premiums will be reduced from 30 to 15%.	Please refer to comments in Q14.

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(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

Direct subsidies are provided upon application to the tax authorities, which verify whether the applicant satisfies the established criteria. The form of the application has been approved/published. The application may be filed by post or electronically via a taxpayer's personal account.

(17) What is the legal framework for collective redundancies?

Workforce transformation, also referred to as redundancy, is governed by the Russian Labor Code (Articles 81, 82, 178, 179, 180 and related provisions). Russian Labor Code differentiates between 'redundancy' and 'collective redundancy' (also referred to as mass redundancy). Collective redundancy is subject to stricter rules and imposes certain additional obligations on the employer.

The legal criteria for a collective redundancy is set out in the Government Resolution of 5 February 1993 No. 99 "On Organizing the Promotion of Employment under Mass Release of Work Force."

A redundancy qualifies as a collective redundancy if it meets one of the following criteria:

- Liquidation of an enterprise having 15 or more employees
- Staff redundancy of:
  - 50 or more employees within 30 calendar days
  - 200 or more employees within 60 calendar days; and
  - 500 or more employees within 90 calendar days
- Termination of 1% of employees due to liquidation or redundancy within 30 calendar days in regions where the total number of employed persons are less than 5,000

(Regional legislation stipulates additional rules for the protection of employees' rights.)

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Formally, there is no requirement to provide justification for a redundancy. However, the employer must indicate the reason for collective redundancy in the notice provided to the employee representative body and State Unemployment Service.

In practice, collective redundancies may not be perceived favourably by local authorities, especially in regions with the presence of a large enterprise that is a significant local employer. In such cases, the company management may have to conduct consultations with regional administration and/or trades union and must justify the redundancy by citing economic reasons.

It is very important to complete all these procedures by the last day of employment, since any procedural drawbacks may compromise the whole redundancy process. To avoid any legal risks, the employer must comply with the redundancy procedure, which must be duly documented.

The same applies to a standard termination process. The employer must follow a set of standardized procedures applicable to termination of employment. The employer must:

- Pay the outstanding amounts (unused vacation, salary, etc)
- Issue a calculation memo (standard form)
- Issue an HR order on termination according to a standard form; and
- Complete each employee's workbook (a special document held by each Russian employee reflecting employment history)

(19) What are the consultation requirements with works councils/unions (if any)?

Employer must notify the trade union at least three months prior to the employees' termination date. The notice should include:

- Employer details
- Total number of employees
- Number of impacted employees
- Reason for redundancy
- General information on impacted employees such as position, titles and number of employees for each redundant position
- Planned termination date for each position; and
- First and last planned dates of redundancy procedures (employees' termination dates)

Consultation requirements with other employee representatives

No consultation is required with other employee representatives except for the requirements mentioned above.

Consultation requirements with employees

There is no legal requirement to consult with employees prior to executing collective redundancies. However, the employer must notify each impacted employee at least two months prior to the redundancy and obtain signed acknowledgement. An employee may be made redundant before expiration of the notice period, subject to their consent in writing and payment in lieu of the notice.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

No approval of the labor authorities is required to implement a collective redundancy. However, the employer is required to file two notices with the State Unemployment Service. The first notice must be filed at least three months prior to the planned termination date of the employees. The notice should indicate:

- Employer details
- Total number of employees
- Number of impacted employees
- Reason for redundancy
- General information on impacted employees such as position, titles and number of employees for each redundant position
- Planned termination date for each position; and
- First and last dates of redundancy procedures (employees' termination dates

The second notice must be filed at least two months prior to the planned termination date of the employees. The notice should indicate, with respect to each redundant employee:

- Name
- Education
- Profession or specialization
- Qualification; and
- Average salary

In practice, collective redundancies may not be perceived favourably by local authorities, especially in regions with the presence of a large enterprise that is a significant local employer. In such cases, the company management may have to conduct consultations with regional administration and/or trades union and must justify the redundancy by citing economic reasons.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The employer does not have unfettered discretion to choose the employees to be made redundant.

Employees with a higher productivity and skill have a preferential right to remain employed. In the case of equal productivity and skill, preference is given to employees:

- With two or more dependents
- Whose family has no other workers with independent earnings
- Who sustained a labor injury or occupational illness while working for this employer
- Who are invalids of the Great Patriotic War or certain other combat operations; and
- Involved in skill/training improvement while remaining in full-time employment

A CBA may grant a preferential right to other categories of employees to remain employed in the case of equal productivity and skill.

Certain employees are afforded special protection during the redundancy process, particularly pregnant women or women with young children, single parents and trade union members or members and former members of a union's collegial bodies.

(22) Are there any actions required to limit the negative impact of the redundancy?

Internal alternative employment/redeployment

The employer is required to offer impacted employees any vacant positions in the given region which correspond to the employee's qualification or require a lower qualification. The applicable CBA may stipulate additional conditions, such as an employer's undertaking to offer similar vacancies in other regions.

Other measures

The impacted employees are entitled to a severance payment (Please refer to Q24 for further information).

A CBA may provide for a list of actions for the prevention of a collective redundancy or for mitigating its consequences on the impacted employees. If there is no such agreement or it does not cover redundancy issues, the employee representative body may initiate the process of discussion on such actions, which, after agreement by the parties, becomes part of the CBA. The employee representative body may also involve regional authorities in such discussions.

The Government Resolution of 5 February 1993 No. 99 "On Organizing the Promotion of Employment under Mass Release of Work Force" provides a list of sample 'anti-redundancy' actions set out below which could be incorporated into a CBA:

- Reduction of working time without decrease of headcount
- Benefits and compensation for impacted employees in addition to that established by law
- Professional training and education of impacted employees prior to termination
- Assistance to certain categories of impacted employees to find new employment
- Insurance against unemployment
- Suspension of new hires to vacant positions; and
- Granting of unpaid leave

(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?	(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?

There is no specific timeline. Usually, if a redundancy process qualifies as collective redundancy, the process may take four to six months.	**Mandatory costs**
	The key components of mandatory HR legal costs are as follows:
	▸ Salary during the two months' notice period or payment in lieu of notice
	▸ Payment of accrued vacation; and
	▸ Severance payment of salary for up to three months (this amount is up to six months in the Far North region and other, similar regions) as given below:
	  ▸ First monthly salary on the termination date
	  ▸ Second monthly salary, if the employee fails to find new employment within two months after termination; and
	  ▸ Third monthly salary, if the employee was registered with the unemployment service within two weeks after termination and failed to find new employment for three months after termination.
	Customary additional costs
	Additional costs could be triggered by additional anti-redundancy actions as may be agreed in a CBA.
		Formally, there are no hiring restrictions.
		In practice, however, it is not recommended to hire new employees to the terminated positions within a reasonable time. If an employer hires an employee following a collective redundancy, it may face litigation risk as the terminated employees could claim that redundancy was not justified and claim reinstatement.
			Interested parties
			The impacted employees may file a claim for reinstatement in court. Employee representatives may file court claims only if requested by an employee or a group of employees but not at their own initiative.
			The statute of limitation is one month following the last working day. However, the court may extend the period if the employee can provide justification for the delay.
			Litigation is unlikely to slow down the collective redundancy process.

(27) What are the risks of damages or other remedies due to the redundancy process?

The only remedy available to an employee is a claim for reinstatement.

The employer and/or its officers, usually the Chief Executive Officer or the Head of HR, could be subject to an administrative fine.

Damages for unfair dismissal

No damages for unfair dismissal are applicable. However, an employee may claim for 'moral damages'.

Reinstatement

An employee may file a claim for reinstatement at work if they believe that the termination due to redundancy was not justified or the correct procedure was not duly observed by the employer.

If the court decides in favor of employee, they may be:

- Reinstated at work
- Awarded compensation for the period of absence at work, based on the previous average monthly salary
- Awarded compensation for 'moral damage', usually significantly smaller than requested; or
- Awarded compensation for attorney's fees, usually less than the amount invoiced by the employee's attorney

If the employee's claim is rejected, they cannot be required to pay court fees or compensate the employer's litigation expenses.

Criminal sanctions

Criminal sanctions are imposed only in the following cases:

- Deliberate termination of employment of a pregnant woman or a woman with a child under the age of three; or
- Deliberate non-payment of amount due by an employer to the employee

Serbia

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14 December 2020

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?
There are no specific rules prescribed by the law regarding the COVID-19 pandemic. Nevertheless, the employees are obliged to follow instructions of the employer regarding the hygiene procedures, as they may be a part of disciplinary rules.	If the employee is infected, the employer can place them on sick leave.	There are no mandatory or prescribed steps. Please also note that employers cannot disclose any personal information regarding the diagnosed individual, since this information is considered as sensitive personal data, and as such are protected by the law.	Employee does not have to answer these specific questions.	Such obligation has not been prescribed.

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(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
No.	There are no regulations in place as of yet.	Not applicable.	Not applicable.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.	
No.	No.	No, but an employer can place an employee who has been diagnosed with COVID-19 on sick leave.	Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**	**(10(iii) The employee has been diagnosed with COVID-19.**
▸ The employer could send the employee to work from home, if the employer can provide the conditions for such work. The employer can issue a decision in which they will prescribe the job positions eligible for working from home, duration of such work, work obligations, etc. In such cases, the employer must pay 100% of employees' salaries ▸ The employer can remove employees from the office if it is obliged to suspend business operations as a result of not providing correct health and safety at work. In this situation, the employee would be entitled to a renumeration determined by their employment contract or the employer's by-laws (please note that even though this remuneration has not been prescribed by the law, it cannot be lower than prescribed state salary minimum) ▸ If the business operations of the employer are suspended, which have occurred without any fault of the employee, the employee could be removed from work and entitled to a remuneration in the amount of 60% of the average remuneration of the employee in the previous 12 months. Such suspensions could last up to 45 working days in one calendar year. In exceptional cases, such suspension could be prolonged, in accordance with the consent of a competent ministry	▸ The employer could send the employee to work from home, if the employer can provide the conditions for such work. The employer can issue a decision in which they will prescribe the job positions eligible for working from home, duration of such work, work obligations, etc. In such cases, the employer must pay 100% of employees' salaries ▸ The employer can remove employees from the office if it is obliged to suspend business operations as a result of not providing correct health and safety at work. In this situation, the employee would be entitled to a renumeration determined by their employment contract or the employer's by-laws (please note that even though this remuneration has not been prescribed by the law, it cannot be lower than prescribed state salary minimum) ▸ If the business operations of the employer are suspended, which have occurred without any fault of the employee, the employee could be removed from work and entitled to a remuneration in the amount of 60% of the average remuneration of the employee in the previous 12 months. Such suspensions could last up to 45 working days in one calendar year. In exceptional cases, such suspension could be prolonged, in accordance with the consent of a competent ministry	▸ The employer could send the employee to work from home, if the employer can provide the conditions for such work. The employer can issue a decision in which they will prescribe the job positions eligible for working from home, duration of such work, work obligations, etc. In such cases, the employer must pay 100% of employees' salaries ▸ The employer can remove employees from the office if it is obliged to suspend business operations as a result of not providing correct health and safety at work. In this situation, the employee would be entitled to a renumeration determined by their employment contract or the employer's by-laws (please note that even though this remuneration has not been prescribed by the law, it cannot be lower than prescribed state salary minimum) ▸ If the business operations of the employer are suspended, which have occurred without any fault of the employee, the employee could be removed from work and entitled to a remuneration in the amount of 60% of the average remuneration of the employee in the previous 12 months. Such suspensions could last up to 45 working days in one calendar year. In exceptional cases, such suspension could be prolonged, in accordance with the consent of a competent ministry

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.
The employer can force an employee to use sick leave if the employee has been diagnosed with COVID-19.	No.	There are no prescribed employers' obligations in case schools and kindergartens are closed due to the COVID-19 pandemic. Nevertheless, these obligations may be prescribed in the case of a state of emergency.	There are no specific governmental programs if a company needs to close totally or partially for a certain time period. Nevertheless, there were some incentives for companies during the state of emergency in Serbia due to the COVID-19 pandemic (such as compensation in the amount of minimum salary for every full-time employee, tax incentives, etc.).	Business entities in the private sector were entitled to use the fiscal benefits and direct benefits, provided that starting from 15 March until 10 April 2020 they have not reduced the number of employees by more than 10%, not counting employees who concluded a fixed-term employment contract with a business entity in the private sector starting before 15 March 2020 and ending in the period from 15 March until 10 April 2020.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

Companies may apply for state aid via the tax registration platform ("*e-porezi*"). By submitting the tax registration for deferred tax payment, the company is automatically registered for direct benefits in the amount of the minimum salary for every full-time employee for the period of three months, for micro, small and medium companies, and direct benefits in the amount of 50% of the minimum salary for every full-time employee, which has been suspended due to employers' suspension of work operations, for large companies. The companies were eligible to apply for such aid during the months of March, April and May 2020.

(17) What is the legal framework for collective redundancies?

Workforce transformation, also referred to as collective redundancy, is governed by the Serbian Labor Law (Article. 153-160).

CBAs usually provide a higher level of protection for the employees and can modify the redundancy procedure under the Labor Law. However, the execution of CBAs is not a common practice of employers in the private sector.

The redundancy of a large number of employees requires a special collective redundancy procedure. The complexity and duration of the redundancy procedure depends on the total number of employees of an employer, the number of impacted employees and trade union activity at the employer.

The employer is required to follow the mandatory collective redundancy procedure if, within a period of 30 days, the following thresholds are met:

- At least 10 employees are made redundant, in companies with 21-99 employees
- At least 10% of the employees are made redundant, in companies with 100-300 employees; or
- At least 30 employees are made redundant, in companies with more than 300 employees

Regardless of the total number of employees in a company, if at least 20 employees are made redundant within a 90-day period, the employer is obliged to undertake the mandatory redundancy procedure.

The mandatory collective redundancy procedure has five main features:

- Legal justification
- Adoption of Redundancy Program
- Consultation with representative trade union (if any)
- Consultation with Republic Employment Agency (Agency); and
- Severance payment

A simplified redundancy procedure applies to redundancies which fall below the thresholds detailed above.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Employment can be terminated on the basis of redundancy, provided that the need for the particular employees' work has ceased due to:

- Technological reasons
- Economic reasons; or
- Organizational changes within the employer

At the beginning of the redundancy procedure, the employer must amend its Rulebook on Organization and Systematization of Working Positions (i.e., the mandatory internal by-law for all employers having more than 10 employees), and eliminate the work position or limit the number of employees employed at a particular work position in this rulebook.

(19) What are the consultation requirements with works councils/unions (if any)?

In the case of a collective redundancy, the employer must adopt a Redundancy Program. A draft must be communicated to the representative trade union (if any) with the following information:

- Explanation of the reasons triggering the need for the elimination of work of the impacted employees
- Total number of employees at the employer's workplace
- Number, education, age, years of service and work positions of the employees to be made redundant
- Applied selection criteria (if applicable)
- Proposed measures to reduce impact (i.e., transfer to other work positions, transfer to another employer, transfer to part-time work, enabling additional qualification and similar measures)
- Financial means to resolve the social position of the redundant employees; and
- Timeframe within which the employment will be terminated

Subsequently, the representative trade union must give its opinion on the draft Redundancy Program, especially the measures proposed by the employer, within eight days from the receipt of the draft Redundancy Program.

The employer must take into consideration the opinion of the representative trade union and cannot implement any redundancy before obtaining such opinion (as well as the opinion of the labor authorities). However, there is no obligation for the employer to implement any of the measures proposed by the representative trade union or to negotiate an amended Redundancy Program, it does not matter if the representative trade union refuses the draft Redundancy Program prepared by the employer.

In practice, CBAs usually envisage a more active role of the representative trade union. In certain cases, the employer is not entitled to terminate any employment agreement without:

- An explicit consent of the representative trade union
- Adoption of a social plan; or
- Without reaching an agreement on the amount of redundancy compensation to be paid

The Labor Law does not impose a mandatory role for the works council in the redundancy process. However, a works council may be organized by the employees working for an employer that has 50 or more employees, and it is usually organized in order to facilitate the resolution of social and economic issues.

In practice, it rarely happens that a trade union or works council are organized within privately held companies; These are more common for state-owned entities.

Consultation requirements with other employee representatives

There is no such requirement applicable to Serbia.

Consultation requirements with employees

There is no obligation to consult the impacted employees before or during the representative trade union consultation process. However, in the absence of representative trades union, the employer must notify the employees by publishing information on the official notice board.

In any event, during the collective redundancy process, the employer must notify each of the impacted employees of alternative positions, social plan measures and, potentially, their redundancy, in accordance with the notification requirements imposed by the Labor Law.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

In general, employers do not need an approval from Agency or any other government authorities to implement the contemplated collective redundancy; However, employers must communicate the draft Redundancy Program to the Agency (in parallel with the communication to the representative trade union).

Within a 15-day period as from the date of receipt of draft Redundancy Program, the Agency must communicate the employer proposing measures aimed at:

- Eliminating or reducing the number of redundant employees
- Giving additional education to the impacted employees in order to enable their employment in alternative available positions; and
- Enabling self-employment or similar measures for new employment of the impacted employees

The employer has an obligation to review the proposed measures and notify the Agency about its view. It is up to the discretion of the employer whether any of the proposed measures will be adopted or not. However, the employer cannot implement any redundancy before notifying the Agency.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

Selection criteria apply only if the employer reduces the number of employees at certain work position, not if all employees in a certain position are terminated. The employer is free to determine the selection criteria; Serbian Labor Law does not impose any mandatory selection criteria. However, in the case of a dispute, the Labor Inspectorate or competent court will examine the objectivity of the applied criteria.

In addition, CBAs usually contain specific selection criteria, such as performance quality, years of service, education and professional experience, family status, health conditions and similar criteria.

Serbian Labor Law provides special protection for employees who are on sick leave, maternity leave or paternity leave as the termination of employment of such employees will be effective only upon the employee's return from such leave. Further, in practice, applicable CBAs usually exclude these categories of employees from the redundancy process.

CBAs or Employment Rulebooks, as the case may be, usually exclude some additional categories of employees from redundancy, as follows:

- Employees with disabilities
- Trade union representatives; or
- Single parents with minor children

(22) Are there any actions required to limit the negative impact of the redundancy?

Prior to the adoption of the Redundancy Program, an employer has an obligation to apply appropriate redundancy mitigation measures.

The Labor Law does not set out particular measures that an employer is obliged to undertake, but the general principle is that the termination of employment should be the ultimate measure. The employer should do everything possible to limit the negative impact of the collective redundancy on employees. All such measures should be included in a social plan, if any. However, the Labor Law does not impose any sanctions for failing to implement any mitigation measures.

Internal alternative employment/redeployment

The employer could search for appropriate alternative positions for the impacted employees within the company in Serbia in order to avoid the termination. This is determined on the basis of the organizational structure of the employer and the potential available work positions determined under the Internal Rules on Organization and Systematization of Working Positions.

Other measures

The social plan and/or the Redundancy Program could include other external measures, such as financial aid for the impacted employees, and additional training or education of impacted employees. Further, it is a leading practice that the employers offer higher severance payments to employees who, at the moment of redundancy, have less than two years until being eligible for retirement.

(23) What is the estimated timeline for a collective redundancy process?

The time required to fully implement a large-scale redundancy depends on the number of redundancies contemplated and whether a CBA is applicable or not. CBAs usually provide higher levels of protection for the employees and thus, collective redundancy, which is regulated in more detail under CBAs, is generally more time-consuming.

In addition, the selection process (when applicable) can significantly increase the redundancy procedure.

The preparation of the Redundancy Program and the contemplated negotiation with unions or the Agency may take one to three months, depending on the complexity of the project.

Although the Labor Law sets out deadlines for the consultation procedure, in practice, significant delays can occur, especially if the Agency renders a negative opinion about the Redundancy Program.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Severance payments to redundant employees:

At a minimum, one-third of the impacted employee's average monthly salary per year of service, taking into account years of service at any related parties.

- Social plan costs as required by the applicable CBA

Customary additional costs

The measures of a social plan may vary depending on the size of the company, the means of the company and its group, previous social plans and the employer's potential to provide for a large range of measures to limit the negative impact of the redundancies, including outplacement, which is one of the main customary additional HR costs.

It is a leading practice that the employers in Serbia offer higher severance pay to the redundant employees, especially to the ones who have less than two years until being eligible for retirement.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

The employer is prohibited from hiring employees in the same work positions as those of the redundant employees during three months following the termination of employment. In case a work position becomes available during this period of three months, the redundant employees will have priority.

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(26) What are the risks of litigation caused by the redundancy process?

Interested parties

The following interested parties can bring lawsuits related to the redundancy process:

- Impacted employees: If an impacted employee considers that their rights were violated during the redundancy procedure, they can initiate court proceedings against the employer within 60 days of termination of employment. For example:
  - If an individual decision does not contain particular reasons for termination of employment of the particular employee
  - If an employee was terminated in violation of special protection for employees on sick leave, maternity or paternity leave; or
  - If there is no legal justification for termination
- The representative trade union: The representative trade union is also authorized to initiate court proceedings on behalf of the impacted employee or other employees, within 60 days of termination of employment.
- Labor Inspection department: The Department is generally authorized to inspect the general and individual acts of employers related to the employment and labor law. If an employee initiates a court dispute, they may request that the Department become involved. If the Department determines that there has been apparent violation of the employee's right during the redundancy process, it is authorized to delay the termination of the employment and order reinstatement of the employee until a final court decision is rendered. It should be noted that, in practice, this happens in a majority of the cases and employees are generally reinstated while labor disputes are pending.

Litigation cannot stop or slow down the process as it is usually initiated following the termination of employments (i.e., once the process is completed).

(27) What are the risks of damages or other remedies due to the redundancy process?

In addition to civil proceedings, the employer could be held liable for a misdemeanour. If an employee considers that the employment has been terminated in violation of the Labor Law, they can initiate court proceedings to obtain annulment of the termination, reinstatement and/or damages in the amount of lost earnings.

Damages

The amount of damages depends on the impacted employee's claim:

- If the employee successfully claims annulment of the termination (for absence of legal grounds) and reinstatement: In addition to reinstatement, the employee is entitled to damages in the amount of the total earnings (including social and health security contributions) which they would have earned during the period of unemployment from termination until the court decision (including deduction of the salary earned from any other employer during this period)
- If the employee successfully claims annulment of the termination but did not claim reinstatement: The employee is entitled to compensation up to a maximum of 18 months' gross salary (the amount varies depending primarily on years of service at the employer, age of the employee and family status); or
- If the employee's claim for annulment of the termination is unsuccessful while successfully claiming violation of procedural requirements: The employee is entitled to damages of up to six months' gross salary (the amount varies depending primarily on years of service at the employer, age of the employee and family status)

Reinstatement

Employees are entitled to reinstatement if their termination is deemed unjustified (without legal cause). Employees can also claim damages in addition to reinstatement.

Sanctions

An employer who fails to adopt a required Redundancy Program is liable for a misdemeanour and a monetary fine in the amount of up to РСД2m for the legal entity and a monetary fine in the amount of РСД100,000 for the responsible person, usually the director, in the legal entity.

Singapore

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

The Covid-19 (Temporary Measures) (Control Order) Regulations 2020) (CTCOR) imposes obligations on various parties such as owners/occupiers of premises, some of whom may be employers. The CTCOR provides, inter alia, that:

- Owners and occupiers of non-residential premises must ensure that their premises are closed to entry by any individual unless permitted under the Regulations (Reg 9)
- Persons who were not Permitted Enterprise Workers (PEWs, as defined by the CTCOR) may only work from home (Reg 11); and
- Employers which are permitted enterprises must:
  - Provide facilities necessary for all PEWs to work remotely. A permitted enterprise must not cause or permit more than 50% of the relevant PEWs to work from the workplace (Reg 13D)
  - Not permit PEWs to be deployed to work in any premises at which the PEW does not ordinarily perform duties at work (Reg 13DA)
  - Implement safe distancing measures for PEWs, such as minimizing physical interaction between PEWs and ensure that every PEW at work wears a mask, as far as is reasonably practicable (Reg 13E)
  - Not cause an event involving an organized gathering of PEWs to take place for an occasion or a purpose that is substantially recreational or social in character, or is not wholly or exclusively for the production of income from an authorized service provided by the permitted enterprise to customers. (Reg 13F)
  - Communicate to all PEWs the arrangements, steps or measures applicable to them under the CTCOR (Reg 13G); and
  - Employers must also take note to comply with the various advisories released by the Ministry of Manpower (MOM) from time to time: https://www.mom.gov.sg/covid-19/additional-responsibilities#for-employers

Employers of Foreign Employees

- For pass holders who spent the last 14 consecutive days in Australia, Brunei, Mainland China, New Zealand or Vietnam, before entering Singapore, and did not transit through other countries / regions, they must take a COVID-19 test upon arrival at the airport. After the test, the pass holders must remain isolated in their accommodation until they have obtained a negative test result. If tested negative, they are not required to serve a Stay-Home Notice (SHN)
- For pass holders who spent the last 14 consecutive days in Hong Kong, Macao, Malaysia, excluding Sabah and Taiwan, before entering Singapore, and did not transit through other countries / regions, they must serve a seven day SHN at a suitable place of residence that is occupied only by them or their family or a hotel and take a COVID-19 test before their SHN is over. Employers must pay for the COVID-19 test
- All other pass holders must, upon arrival in Singapore, serve a 14-day SHN at a dedicated SHN facility. Once they arrive, they will be informed of the location and sent directly to the facility. Pass holders who meet certain conditions, may request to serve their 14-day SHN at a place of residence during the entry approval application, instead of the dedicated SHN facilities. They must also take a COVID-19 test before their SHN is completed. Employers must pay for the stay at the dedicated SHN facility, and the COVID-19 test

(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?*(continued)*

Employers of foreign employees entering or returning to Singapore also have the following additional responsibilities: https://www.mom.gov.sg/covid-19/additional-responsibilities#for-employers

Before the foreign employee leaves for Singapore, the employer must ensure:

- They have a SIM card with a Singapore number for MOM to contact them
- A suitable accommodation has been secured for them to serve SHN, unless they are required to serve SHN at dedicated SHN facilities
- They fully understand and agree to comply with the additional conditions imposed for the SHN period

After the foreign employee arrives in Singapore, the employer must:

- Ensure they comply with SHN upon arrival, unless they are not required to serve SHN
- Arrange for them to travel from the airport (or any other place of disembarkation) directly to their SHN accommodation upon arrival using the designated transport, unless they are serving SHN at dedicated SHN facilities
- Pay for their COVID-19 tests and stay at the dedicated SHN facility, if applicable
- Ensure they download WhatsApp on their mobile telephones and respond to MOM's telephone calls, WhatsApp video calls or text messages within one hour during the SHN period. This includes ensuring that their prepaid telephone cards have sufficient credit and they are able to make video calls using WhatsApp
- For foreign employees who are issued an electronic monitoring device at the checkpoint: Ensure they wear the device and charge it throughout their SHN
- For foreign employees who are not issued an electronic monitoring device: Ensure they follow the instructions in the MOM's text message to download the Homer mobile app and have a thermometer to record their temperatures using the app
- Provide them with food and other daily essentials during their SHN, unless they are serving SHN at dedicated SHN facilities
- Reschedule non-emergency medical needs (e.g. follow-up visits for chronic conditions or refilling of prescription)
- Ensure they take a COVID-19 test during their assigned slot
- Arrange for them to travel between their SHN accommodation and the testing facility using the designated transport, unless they are serving SHN at dedicated SHN facilities. They must return to their SHN accommodation after the test

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

Yes. Under Reg 9 of the CTCOR, owners and occupiers of premises other than residential premises must ensure that those premises are closed to entry for any individual.

If an employee is, or is suspected to be, diagnosed with COVID-19, they will be issued a quarantine order by the government under the Infectious Diseases Act. When under the quarantine order, they are to be isolated either at home, at government quarantine facilities, or at a hospital for 14 days. A quarantine order is a directive with legal force and severe penalties for non-compliance apply.

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?

If someone at the workplace is confirmed to have tested positive for COVID-19, the Ministry of Health's (MOH) contact tracing officers will engage the employer to identify any persons at the workplace, including business associates, who may have had close contacts with the confirmed case. Employers should cooperate with the contact tracing officers and provide them with the necessary assistance and support. MOH's contact tracing officers will assess who among such persons should be placed on quarantine. Upon being notified of the confirmed case, employers should also adopt the following precautionary measures:

- Immediately vacate and cordon-off the immediate section of the workplace premises where the employee worked. There is no need to vacate the building or the whole floor if there had been no sustained and close contact with the confirmed case; and
- Carry out a thorough cleaning and disinfecting of that section of the workplace premises

Some employees may not be able to remain physically at their workplaces if they have been asked to vacate their work stations or are pending assessment by MOH's contact tracing officers. If it is not feasible for such employees to work from home, employers should exercise flexibility and treat such absences as paid hospitalization leave or paid outpatient sick leave. Employers are encouraged to provide timely information to employees on the latest developments and reassure employees of the measures being taken to ensure their well-being at the workplace.

In general, MOM encourages employers to provide timely information to employees on latest developments and reassure employees of the measures being taken to ensure their well-being at the workplace.

(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?

Unless it is specifically provided for under the terms of the employment agreement that the employee is required to disclose to the employer their travel history, the employee may not be in breach of any duty if they refuses to disclose their travel history to the employer. However, because the Singapore government has been proactively managing the spread of the COVID-19 pandemic in Singapore, even if an employee does not notify the employer of their travel history to high risk regions, there are processes imposed by the government which would cause the employer to be made aware. These include quarantine orders and SHNs.

The employee should notify the employer if they have been issued with a quarantine order or SHN, which would put the employer on notice of the employee's close contact with infected persons or travel history to affected regions. This will also allow the employer to make any necessary arrangements for the employee (such as, in the case of a foreign employee, securing a suitable place for the foreign employee to serve their SHN).

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?

Given that the Singapore government is closely monitoring the spread of the COVID-19 pandemic in Singapore, it is highly probable that it would have notice from a clinic or hospital if an individual has been diagnosed. However, in the unlikely event that the government is not made aware of the diagnosis but the employer is, the employer is strongly advised to notify the government.

(6) Other remarks

Not applicable.

(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?

The Tripartite Guidelines on Managing Excess Manpower released by the MOM encourages employers with excess manpower to employ measures such as reducing working hours, implementing wage adjustments, or putting employees on no-pay leave, instead of resorting to retrenchments.

MOM has also released an advisory on salary and leave arrangements for affected businesses, which states, among other things:

- Cost-saving measures that employers have already implemented and agreed with unions and employees (for example, asking employees to take leave without pay for a few days each month) should continue, as necessary
- Local employees who continue to work as usual must be paid their prevailing salaries, including the employers' contributions to Central Provident Fund (CPF)
- Employers that cannot resume operations may continue to receive Enhanced Jobs Support Scheme (JSS). They should pay local employees a baseline monthly salary, including the employers' contributions to CPF

If an employer is unable to pay its employees' prevailing monthly salary despite implementing salary arrangements suggested by MOM, it could consider other measures such as sending the employee on approved training courses, granting additional paid leave, or allowing the employee to exhaust their existing leave entitlements. Where possible, employers are encouraged to allow their employees to take on a second job to make up for lost income.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?
Not applicable.

Singapore (continued)

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(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.	(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
	(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.	
Not applicable.	The start date of employment is typically set out in the employment agreement entered into between the employer and employee. The employer would be entitled to unilaterally change the start date of employment if it is expressly authorized to do so under the employment agreement. Apart from that, generally, employers cannot make changes without the employee's consent. However, given the exceptional circumstances surrounding the spread of the COVID-19 pandemic worldwide, employers should make every effort to come to an agreement with the employee as to a change in the start date of employment in the above scenario. A new employment agreement should be signed incorporating the new terms and conditions agreed between the parties.	Please refer to comments in Q8(i).	Please refer to comments in Q8(i).	Please refer to comments in Q8(i).

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(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?	
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**

MOM had previously issued guidance stating that all employers should facilitate remote working for their employees. Special attention should be paid to vulnerable employees (e.g., older/pregnant employees and employees who have underlying medical conditions) to enable them to work from home, including temporarily redeploying these employees to another role within the company that is suitable for remote working (if required).
 	
Employers will have to continue complying with their obligations under their employment agreements (including in relation to pay and benefits), unless the agreement allows them to do otherwise. Employers should discuss with their employees, as well as union representatives (if any), and mutually agree on the appropriate leave and flexible work arrangements to be adopted.
	▸ Singapore citizens / permanent residents, and long-term pass holders / in-principle holders from Australia, Brunei, China Mainland, New Zealand and Vietnam will be allowed entry, but have to take a Covid-19 swab test upon arrival
	▸ Singapore citizens / permanent residents, and long-term pass holders / in-principle holders from Hong Kong, Macao, Malaysia (excluding Sabah) and Taiwan will be allowed entry, but subject to a seven-day SHN at their own accommodation, and must take a Covid-19 swab test during the SHN period
	▸ Singapore citizens / permanent residents, and long-term pass holders / in-principle holders from India, Indonesia and Philippines will be allowed entry. However:
	  ▸ Singapore citizens and permanent residents will be subject to a 14-day SHN at dedicated facilities, and must take a Covid-19 swab test during the SHN period; and
	  ▸ Long term pass holders / in-principle approval holders with a valid letter for entry must:
	  ▸ Have a negative Covid-19 swab test taken 72 hours before departure from place of disembarkation
	  ▸ Serve a 14 day SHN at dedicated facilities
	  ▸ Take a Covid-19 swab test during the SHN period
	▸ Singapore citizens / permanent residents, and long-term pass holders / in-principle holders from Fiji, Finland, Japan, Republic of Korea, Sri Lanka, Thailand and Turkey will be allowed entry, but will be subject to a 14-day SHN at dedicated facilities, and must take a Covid-19 swab test during the SHN period
	▸ Singapore citizens / permanent residents, and long-term pass holders / in-principle holders from all other countries including Sabah, will be allowed entry, but will be subject to a 14-day SHN at dedicated facilities, and must take a Covid-19 swab test during the SHN period
	
	Employers may adopt flexible work arrangements to allow employees on SHN to work from home. Please also refer to our response to Q1 above.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?	
(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days; *(continued)*	**(10(iii) The employee has been diagnosed with COVID-19.**
If working from home is not possible, employers are encouraged to provide additional paid leave on top of employees' annual leave entitlements for the Leave Of Absence (LOA)/ SHN, especially if the travel was work-related. If that is not feasible, employers can consider the following options, or a combination of the options, for the employees on LOA/SHN: ▸ Treat employees' LOA/SHN as paid hospitalization leave or paid outpatient sick leave ▸ Allow employees to apply for annual leave ▸ Allow employees to use advanced paid leave or apply for leave without pay, for employees who have exhausted their leave entitlements; or ▸ Other mutually agreed arrangements between the employers and employees / unions Employers and employees have a joint duty to ensure that employees behave responsibly during the LOA/SHN period. MOM reserves the right to take action against the employer or employee if they fail to discharge their duty.	An employee who has tested positive for COVID-19 will be entitled to paid hospitalization leave or paid sick leave as stipulated in the Employment Act and/or their employment contract.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?
For Q10(i) – Please refer to our comments in question 10(i). Given that where an employee is able to work remotely, this should be the default mode of work, the employer should not force the employee to take leave where they are able to continue working. For Q10(ii) – Please refer to our comments in question 10(ii). For Q10(iii) – Where an employee is, or is suspected to be, diagnosed with COVID-19, they will be issued a quarantine order. This would qualify the employee for hospitalization leave (if admitted), or paid sick leave.	No.	There are no special obligations owed by employers to employees whose children's schools are closed.

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

The Singapore government has announced a multi-billion dollar relief package to support businesses. These measures include, among other things:

- Job Support Scheme (JSS): The Singapore government will help employers by paying 25% of the first S$4,600 of monthly salaries of local employees on the employer's CPF payroll until the end of 2020. The JSS has been extended for eligible businesses until March 2021, where the Singapore government will help pay up to 50% on the first S$4,600 of monthly salaries of local employees. Businesses in the aviation and tourism sector as well as food services sector will receive higher support of 75% and 50% respectively
- Enhanced Wage Credit Scheme: The Singapore government will increase the amount that it co-funds for wage increases in 2019 and 2020, from 15% and 10% respectively to 20% and 15% respectively, for Singapore Citizen employees who were paid CPF contributions for at least three calendar months in the year
- Deferred Income Tax Payments: All corporate income tax payments are automatically deferred for three months
- Freeze on all Government Fees and Charges for one year, from 1 April 2020 to 31 March 2021
- Enhanced Property Tax Rebate for Non-Residential Properties: Certain non-residential properties such as hotels, convention centers, and offices, will enjoy property tax rebates of between 30% and 100%
- Enhanced Rental Waivers: Stallholders of hawker centers and markets will be granted three months' rental waiver, while commercial and other non-residential tenants of government properties will be granted up to two months' rental waiver
- Enterprise Financing Scheme (EFS): The Government has raised the maximum loan quantum for the
  - EFS-SME Working Capital Loan, which provides loans to Singapore-based small and medium enterprises for financing their operational cash flow needs from S$600,000 to S$1,000,000 per borrower, and
  - EFS-Trade Loan, which provides loans to Singapore-based enterprises for trade financing needs from S$5,000,000 to S$10,000,000 per borrower group
- Loan Insurance Scheme: The Government will increase its subsidy on insurance premiums for loan defaults from 50% to 80%
- Temporary Bridging Loan Programme: Provides loans as additional cash flow support for eligible enterprises from all sectors for one year, up to a maximum loan quantum of S$5,000,000; and
- Sector Specific Support Programs: There are support packages specific to the aviation, tourism, land transport, cruise ship and regional ferry operators, and arts sectors

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The pre-requisites in relation to particular governmental support programs are as follows:

Job Support Scheme:

The Singapore government will help employers by paying between 25% to 75% (depending on when the business is allowed to resume operations and its sector) on the first S$4,600 of monthly salaries of local employees on the employer's CPF payroll, until August 2020.

Criteria

All employers who have made CPF contributions for their resident (Singapore Citizen and Permanent Resident) employees will qualify for the pay-out.

This is with the exception of certain employers, such as unregistered local/foreign entities, representative offices of foreign companies, financial representative offices, international organizations, and entities that pay CPF but are not registered in Singapore.

Note that wages paid to business owners (including sole proprietors of a sole proprietorship or partners of a partnership) or employers trading in their own personal capacity (such as hawkers with no UEN number) will not be eligible for the pay-out.

Enhanced Wage Credit Scheme (WCS)

The Singapore government will increase the amount that they co-fund for wage increases in 2019 and 2020, from 15% and 10% respectively to 20% and 15% respectively, for Singapore Citizen employees who were paid CPF contributions for at least three calendar months in the year.

Criteria

Employers will be eligible for the WCS if they gave wage increases in a Qualifying Year (i.e., any year from 2013 to 2020) to Singapore Citizen employees who:

- Received CPF contributions from a single employer for at least three calendar months (which need not be continuous) in the year preceding the Qualifying Year
- Have been on the employer's payroll for at least three calendar months (which need not be continuous) in the Qualifying Year (i.e., employer must have paid employee CPF contributions for at least three calendar months, which need not be continuous, in the Qualifying Year)
- Have at least received a S$50 gross monthly wage increase, up to S$5,000; and
- Must not also be the business owner of the same entity (i.e., sole proprietor of the sole proprietorship, or a partner of the partnership, or both a shareholder and director of a company)

However, local government agencies, international organizations and businesses not registered in Singapore do not qualify for WCS.

An employer is not eligible for a pay-out under any of the circumstances below:

- The employer is an entity that has no substantial trade or business
- The employer had given, in the opinion of the Inland Revenue Authority of Singapore (IRAS), false or misleading information to IRAS in order to obtain a pay-out or a higher amount of pay-out
- The employer (either singly or with another person) had used, in IRAS' opinion, one or more artificial, contrived or fraudulent steps in order to obtain a pay-out or a higher amount of pay-out; or
- The employer was convicted in the qualifying or preceding year for making CPF contributions to Singaporeans who were not actively employed by the firm

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable. *(continued)*

An employer is not eligible for a pay-out for a wage increase given to a particular employee who:

- Did not carry out any substantive work for the employer
- Effectively controls the employer (i.e., controls decision making power and management of the business or company)
- If the total wages paid by an employer for a period is not commensurate with the volume or nature of activity carried out by the employer in that period, then the employer is only eligible for an amount of pay-out that, in IRAS' opinion, corresponds to the increase in the total wages that is commensurate with such volume or nature of activity
- If the total wages paid by an employer to a particular employee for a period is not commensurate with the volume or nature of work carried out by the employee in that period for the employer, then the employer is only eligible, in respect of that employee, for an amount of pay-out that, in IRAS' opinion, corresponds to the increase in the total wages paid to that employee for that period that is commensurate with such volume or nature of work; or
- If an employer fails to give to IRAS, by the time specified by IRAS, any information requested by IRAS for the purpose of determining the employer's eligibility for a pay-out or the amount of pay-out the employer is eligible for, with respect to one or more employees, then the employer will not be given the pay-out for these employees

Deferment of Higher CPF Contribution Rates

Increases in CPF contribution rates for senior workers have been deferred by one year from 1 January 2021 to 1 January 2022.

Expanding Rental Relief for SMEs

A government cash grant will be given to offset the rental costs of SME tenants (with not more than S$100 mn in annual turnover based on the corporate and individual income tax returns for 2019) of commercial and non-residential properties, calculated based on the annual values of properties for 2020. This can be between 0.64-0.8 months' of rent. This cash grant will be automatically disbursed by the IRAS to property owners of qualifying SME tenants from the end of July 2020. Landlords are required to pass on the new cash grant benefit to their qualifying SME tenants.

Enhancing financing support for startups

To support promising startups, S$285 mn will be set aside to catalyze and stimulate another S$285 mn in matching private investments. This is in addition to the S$300 mn set aside under the Unity Budget for deep-tech startups. EDBI, the corporate investment arm of Economic Development Board, and SEEDS Capital, the investment arm of Enterprise Singapore, will administer the S$285 mn Special Situation Fund for Startups (SSFS) to provide financing support for promising startups based in Singapore. Under this scheme, EDBI and SEEDS Capital will invest in selected startups with private sector co-investors on a 1:1 basis. The startups should be incorporated as a Private Limited company with headquarters and key value-added activities in Singapore and possess strategic capabilities such as technology and innovation competencies and/or sustainable competitive advantages. In addition, the startups should have the following key business attributes:

- Substantial innovative and/or intellectual property content developed or owned in-house
- Able to demonstrate a commercially-viable business model from its products and/or services
- Able to articulate clearly its value proposition and potential for scalability in their target customer segment(s) and across international markets
- Have a committed and capable management team with relevant experience and business acumen skills (e.g., business, industry, technical capability) for their sector, and are receptive to guidance from investors; and
- Able to demonstrate strong corporate governance

Interested early-stage startups can apply for the funding via ssfs@enterprisesg.gov.sg, while later-stage startups can apply via ssfs@edbi.com

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable. *(continued)*

Rental Relief for Government Tenants

Tenants of government agencies will get a rental waiver of between one to four months, depending on the type of property they are renting. This includes five months' rental waiver for stallholders in hawker centers and markets, with a minimum waiver of S$200 per month, four months' rental waiver for commercial tenants in government-owned/managed residential premises, and two months' rental waiver for non-resident tenants in government-owned/managed residential premises. No application is necessary for this.

Support for E-Payments

A bonus of S$300 per month over five months will be provided to encourage stallholders in hawker centers, wet markets, coffee shops and industrial canteens to adopt e-payments. For more information, organizations can contact the Infocomm Media Development Authority (IMDA) using the URL (info@imda.gov.sg)

Support to digitalize basic payment and invoicing functions

Eligible businesses in the F&B and retail sectors can receive a payout of up to S$5,000 from the Digital Resilience Bonus if they adopt PayNow Corporate and e-invoicing, as well as business process or e-commerce solutions. For more information, organizations can contact the IMDA using the URL (info@imda.gov.sg)

Support for more advanced digital tools

F&B and retail businesses will have an additional tier of S$5,000 as part of the Digital Resilience Bonus when they adopt advanced digital tools (such as establishing a digital presence, or adopting data-driven operations). For more information, organizations can contact the IMDA using the URL (info@imda.gov.sg)

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

JSS:

Application is not required. The IRAS will notify eligible employers by post of the JSS pay-out due to them.

Employers eligible for the additional tiers of support will be informed closer to the date of the first pay-out.

WCS:

Employers may submit an online request for the WCS via my Tax Portal from the last week of March until 31 October of the pay-out year (which is the year immediately after the Qualifying Year).

Qualifying employers benefitting from the enhancements to the WCS for wage increases in 2019 were notified by end June 2020, and should have received a supplementary pay-out thereafter. Therefore, employers can only submit their next requests after receiving the supplementary pay-out in June 2020. NB: Each request with qualifying employee records exceeding 100 will be subject to a fee.

(17) What is the legal framework for collective redundancies?

The Employment Act (Cap. 91) of the Singapore Statutes is the main legislation governing labor law in Singapore. It covers all employees who are under a 'contract of service' with an employer except seafarers, domestic workers and those who are employed by the Government or a statutory board. Provided that they do not fall under the exceptions to the Employment Act (Cap. 91) of the Singapore Statutes, foreigners also enjoy the protections granted by the Employment Act (Cap. 91) of the Singapore Statutes.

While there is no specific legislation in Singapore governing collective redundancy, the following four statutes should be considered:

- The Employment Act (Cap. 91) of the Singapore Statutes, specifically where it addresses termination or transfer of employees and provides for restrictions on the dismissal of female employees during confinement leave
- The Retirement and Re-employment Act (Cap. 274A) of the Singapore Statutes, that requires employers to offer re-employment to eligible senior employees up to the age of 67
- The Industrial Relations Act (Cap. 136) of the Singapore Statutes, that requires employers to uphold the terms of any collective agreement reached between a trade union of employees and the employer
- The Employment Claims Act 2016 (No. 21 of 2016) of the Singapore Statutes, that facilitates the expeditious resolution of employment disputes

The Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment is the key guideline relating to retrenchment exercises in Singapore. While it is not legislation and hence does not constitute law, employers are strongly advised to adopt the principles set out in the regulatory guidance.

Furthermore, employers should abide by the Tripartite Guidelines on Wrongful Dismissal, the Tripartite Guidelines on Re-employment of Older Employees and the Tripartite Guidelines on Mandatory Retrenchment Notifications.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Legal justification for dismissals is strongly encouraged. Employers should communicate to their employees the efforts undertaken to manage business challenges and the intent to retrench, before the public notice of retrenchment and before the serving of retrenchment notice to any individual employees. In these communications, employers should cover the company's efforts to manage business challenges and the business situation faced by the company resulting in the need for a retrenchment exercise.

Employers must ensure objectivity in the selection of employees for retrenchment. Selection should be based on objective criteria such as the ability, experience, and skills of the employee to support the employer's sustainability, workforce transformation and/or future business needs. Any discriminatory employment practices (be it in termination or hiring) may attract regulatory scrutiny and errant employers may have their work pass privileges curtailed.

Employees may also file complaints with the Tripartite Alliance for Dispute Management and the Employment Claims Tribunals for wrongful dismissal on discriminatory grounds.

(19) What are the consultation requirements with works councils/unions (if any)?

If the company is unionised, the relevant union(s) should be notified in advance of the affected employees. Where it is not provided in the collective agreement, the norm is one month before notifying the employees. Once consensus is reached, both the union and the employer should follow through with the agreement and help the affected employees accordingly.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Pursuant to the Employment (Retrenchment Reporting) Notification 2019 (henceforth, Retrenchment Notification), an employer with more than 10 employees must give to the Commissioner for Labour a retrenchment report if:

- The employer gives any of its employees a notice of their retrenchment, regardless when the notice takes effect or when the employment ends, and
- Within the preceding period of six consecutive months ending on the date the notice given (known as the 'reporting period'), the employer has given five or more of its employees notices of their respective retrenchments

Every retrenchment report for a reporting period must be given to the Commissioner for Labour not later than five working days after the last day of the reporting period.

Every retrenchment report must be in the form provided at the website of the MOM (http://www.mom.gov.sg), unless the Commissioner for Labour allows otherwise in any particular case. Information required for submission include the following:

- Company name and Unique Entity Number of the company
- Company contact person details
- Name of union (if company is unionized), and whether union was consulted
- Number of employees on the date of submission of the retrenchment notification to MOM
- Details of employees to be retrenched
- Payment of retrenchment benefits and quantum; and
- Provision of employment facilitation assistance

Non-compliance may result in an administrative penalty of S$1,000 for the first occasion and S$2,000 for each subsequent occasion.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

There are no statutory requirements relating to the criteria for selecting employees for termination on the grounds of redundancy or reorganization of the employer's profession, business, trade or work.

However, Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment (TAMERR) provides that Employers must ensure objectivity in the selection of employees for retrenchment. Selection should be based on objective criteria such as the ability, experience, and skills of the employee to support the company's sustainability, workforce transformation and/or future business needs.

MOM will investigate complaints of discriminatory employment practices and take enforcement actions for substantiated complaints, such as curtailing work pass privileges of the employer.

Employers are also required to abide by the Tripartite Guidelines on Fair Employment Practices (as appropriately modified to apply to a retrenchment exercise), consider the merits of each employee, and not discriminate against any particular group of employees on the grounds of age, race, gender, religion, marital status and family responsibility, or disability. For example, older, re-employed as well as pregnant employees should not be unfairly selected.

(22) Are there any actions required to limit the negative impact of the redundancy?

Where there is a collective agreement, employers are required to abide by the provisions of any collective agreement reached with a trade union or employees.

Tripartite Advisory on Managing Excess Manpower and Responsible Retrenchment (TAMERR)

Employers should also consider the excess manpower management measures and the employment facilitation measures set out in the TAMERR. While implementing these measures, employers should consult the unions and the employees early and communicate the impact of the measures clearly so that a mutually agreeable arrangement can be agreed, given that the livelihood of employees are at stake. Some examples of the measures are set out below:

Excess Manpower Management Measures

- Redeployment or rotation when the job scope is enlarged, enriched or restructured: When there is no other available job for them within the organization, companies can consider outplacing the impacted employees to suitable jobs in other companies, taking into account each employee's physical and mental conditions, skill and experience
- Flexible work schedule (FWS) allows employers to optimise the use of manpower resources when they go through cyclical troughs and peaks in manpower demands, while employees are assured of a stable monthly income during the period of FWS. Under FWS, employers can reduce weekly working hours without adjusting wages, by creating a 'timebank' of unused working hours. These banked hours can then be used to offset the increase in working hours in subsequent periods
- Direct adjustment to wages: If the employer has in place a flexible wage system and a reduction in manpower cost is required to avoid redundancy, the employer may consider adjusting the various wage components in consultation with the union or workers concerned. Some measures include reducing variable bonus payments, annual wage supplements or monthly variable components

Employment Facilitation Measures

- As responsible employers, companies should help affected employees look for alternative jobs in associate companies, in other companies or through outplacement programs
- Employers are urged to go beyond advisory assistance and make practicable efforts to place affected employees in their next jobs, possibly with the help of intermediaries such as employment/placement agencies. Supporting documentation (such as referral letters, service records and past training certificates) should also be provided where relevant to facilitate the job search of affected employees. Employers can work with the unions, SNEF, Singapore Business Federation (SBF) and agencies such as Workforce Singapore (WSG), NTUC's Employment and Employability Institute (e2i), Job Security Council and U PME Centre, to provide employment facilitation services to the affected employees.
- To help retrenched local employees maintain or build up relevant skills, employers should also consider providing these employees with a training package post-retrenchment. Employers who require assistance to do so can seek help from SNEF, SBF, other trade associations & chambers, the unions as well as training providers, such as NTUC LearningHub

(23) What is the estimated timeline for a collective redundancy process?

The time taken to execute a retrenchment exercise is dependent upon the terms of the employment agreements of the employees - in particular, the stated notice periods. Where the company is unionised, the timeline for a retrenchment exercise may vary depending on the negotiations and consultations with the relevant trades union.

(24) What are the estimated costs?

Costs include contractually required payments such as notice payments, annual wage supplement, payment in lieu of accrued but unused annual leave, and payments required under applicable advisories, such as retrenchment benefits.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

Employers should be cautious that hiring a new employee to fill a position which was terminated by reason of redundancy may give rise to claims for wrongful dismissal.

Where an employee has been terminated by reason of redundancy and was explicitly informed that their position has been eliminated, employers should not hire a new employee to carry out the same job scope. Providing a reason for termination which is later proved to be false can constitute the basis for a wrongful dismissal claim.

Employers should also note that any discriminatory employment practices (in termination or hiring) may attract regulatory scrutiny and errant employers may have their work pass privileges curtailed.

(26) What are the risks of litigation caused by the redundancy process?

Employers should comply with their obligations under the various employment-related statutes and Tripartite Guidelines (such as providing the requisite leave entitlements to their employees, the payment of CPF contributions, and payment of retrenchment benefits).

Some risks that may arise in a retrenchment exercise include:

- The risk of claims by employees arising from a breach of the terms of an employment agreement; or
- The risk of claims by employees arising from allegations of wrongful dismissal, or salary-related disputes

Salary-related and wrongful dismissal claims can be registered by the employee for mediation at the Tripartite Alliance for Dispute Management. If the dispute remains unresolved after mediation, it will be referred to the Employment Claims Tribunal. Employers should seek legal advice as soon as a retrenchment exercise has been planned to attenuate such risks.

(27) What are the risks of damages or other remedies due to the redundancy process?

Where an employer breaches the terms of an employment agreement with an employee, the impacted employee may obtain damages and/or other remedies pursuant to contract law.

If an impacted employee succeeds in a claim of wrongful dismissal at the Employment Claims Tribunal, the Tribunal may do the following:

- Order the employer to reinstate the impacted employee, notwithstanding any rule of law or agreement to the contrary; and/or
- Order the employer to pay to the impacted employee an amount that is equivalent to the wages that the impacted employee would have earned had they not been dismissed by the employer, or, alternatively, direct the employer to pay such amount of wages as compensation, as may be determined by the Tribunal.

In practice, as long as the employees are provided with their statutory and contractually entitled payments, it is unlikely that the Tribunal will order for reinstatement or compensation.

Civil Penalties

Failure to notify the MOM of a retrenchment exercise within the required timeline is a civil contravention and companies may be liable for an administrative penalty of S$1,000 for the first occasion and S$2,000 for each subsequent occasion.

Slovakia

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14 December 2020

Slovakia

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

Due to the COVID-19 pandemic, employers must follow standard general rules on the employer's obligations which are laid down by the Slovak Labor Code and by the Act on Safety and Health Protection at Work, and certain specific rules adopted by the Slovak Public Health Authority on a regular basis. Employers are obliged to consistently ensure health and safety at work, and introduce necessary measures, including prevention, necessary equipment and an appropriate system of work safety.

Specific measures regarding the COVID-19 pandemic are adopted regularly by the Slovak Public Health Authority and may also impose duties upon employers. Slovakia has undergone general testing of the whole population in November 2020 and state authorities imposed on employers in selected regions a duty no to allow entrance to employees not having a negative test. We recommend monitoring the situation and the adopted measures on the website https://korona.gov.sk/.

Generally, any employer, regardless of the number of employees, should take appropriate measures against the COVID-19 infection at the workplace, such as ensuring prevention, necessary equipment and continuous monitoring and evaluation of the situation development. Recommended measures include, in particular, the provision of relevant information on COVID-19, which is regularly updated by the Slovak Public Health Authority, as well as the World Health Organization (WHO), and placement of additional protective equipment such as disinfection of hands, face masks and respirators at the workplace. Increased disinfection of work areas, ordering employees to work from home, measurement of the body temperature at the entrance to the employer's premises, evaluation of travel history and employees´ vulnerability to the disease, lower concentration of employees at the workplace and restrictions on third party visits are recommended. Face masks are still mandatory in internal areas (exceptions apply, such as maintaining a two meter distance between employees).

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

In general, in a case an employee is suspected of being diagnosed with COVID-19, but no official medical certificate was issued by a medical professional or Public Health Authority, an employer may refuse to assign work tasks to the employee and effectively prohibit the employee from entering the workplace. However, the employee receives 100% of their average salary.

In the period before 15 November 2020, the employer must restrict the entrance to his internal and external premises to persons who do not dispose with negative result from the COVID-19 test (with certain exceptions). Such employee can perform remote work or, in cases where the nature of the work does not allow them to do so, the employee and employer can agree, for example, on taking vacation (the employer can also order taking vacation), paid/unpaid leave or uneven distribution of working time or use of 'substitute holiday time' (See point (7(i)). The above obligation may be prolonged.

In the event the employee is accepted as being sick or is subject to mandatory quarantine or isolation as ordered by the measure of the Public Health Authority, or as specified in the medical certificate issued by a medical professional, the employer is obliged to refuse to assign work tasks to such employee and must excuse employee´s absence at work. In case the employee is ill, the employer pays salary compensation for the first 10 days, then the employee receives social security support. In the case of quarantine or isolation due to COVID-19, the employee receives social security support from the first day and employer has no outlay.

If it is possible, due to the nature of work performed, the employer may order the employee to work from home, while assigning the employee with standard work and providing standard remuneration. This is possible only during the effectiveness of the Public Health Authority´s measure against the spread of COVID-19. However, if employee is accepted as temporarily incapable to perform work by a medical professional, the employer may not allocate work to the employee.

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?

As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. An infected employee´s identity should not be disclosed unless necessary. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. For example, in countries for which GDPR applies, personal health data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.

Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, e.g., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people. If necessary, the employer may also communicate the name of the infected employee to other employees, in particular if they need to identify other persons who have been in close contact with the infected person.

Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.

Slovakia (continued)

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(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?
Yes. An employee has a general notification duty towards the employer and an obligation not to act contrary to employer´s legitimate interests. Furthermore, an employee is obliged to ensure their health and safety, as well as health and safety of other persons. An employee also has a duty to follow instructions of the employer (issued in accordance with law). It can be therefore concluded that an employee must answer relevant questions regarding their travels to high-risk or restricted areas.	No. The authorities, through their network of medical testing centers, are able to identify individuals diagnosed with COVID-19. The medical testing centers are obliged to notify the National Health Information Centers about the patients who test positive.	No.	Yes.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?

In the case of a situation such as the spread of the COVID-19 pandemic, the employer has the following possibilities. Some of them (e. g., *Kurzarbeit* or shortened notification periods with respect to taking holiday) have been introduced by a recent amendment to the Labor Code and they can only be implemented temporarily, during the extraordinary situation in Slovakia and up to two months following its recall.

- **A Slovak model of "*Kurzarbeit*"**

If the employer closed down the operation on the basis of a decision of the Slovak Public Health Authority (e.g., retail, sports facilities or service providers) or the employer restricted or totally prohibited the presence of employees in the workplace due to preventive measures against the spread of COVID-19 or because of lack of work for employees due to decrease in number of customers or supplies and the conditions for working from home are not met, the employee cannot perform work because of obstacles to work on the employer's direction. Normally, an employee is entitled to wage compensation in the amount of their average earnings even though the employer will not allocate work to such employee.

The National Council introduced on 25 March 2020 a certain form of *Kurzarbeit* to the Labor Code. The amendment to the Labor Code explicitly states that a situation when an employee cannot perform work wholly or in part due to cessation or limitation of the employer's activity resulting from the decision of the competent authority or as a result of extraordinary situation, state of emergency or state of crisis constitutes an impediment to work from the employer's side.

During that period, the employee is entitled to wage compensation, reduced to at least 80% of average earnings and at least to the amount of the statutory minimum wage. This measure is without prejudice to the special arrangements contained in the agreement with the employees' representatives.

If employees representatives have been formally appointed, they may conclude with the employer a written agreement which defines serious operational reasons for which the employer will not be able to allocate work to the employees and for which the wage compensation can be reduced up to 60% of the average earnings.

The employer may reclaim the paid wage compensation from the state

- **Changes to the Labor Agreement**

The employer may agree with the individual employees on the reduction of the working time and the associated wage reduction. The employer may also agree with the employee to take unpaid leave or paid leave whereas they may also specify time for which the employee will make up the work at a later time (if at all)

- **Taking paid vacation**

According to the legislation, taking holidays is determined by the employer who must take into account the legitimate interests of the employee. Pursuant to the novel amendment to the Labor Code that was adopted as the result of the COVID-19 pandemic, the employer is obliged to announce the enforced taking of vacation to their employees at least seven days in advance (instead of the standard 14 days) and at least two days in advance in the case of unused overdue vacation. This period may be shortened with the employee's consent. The employee's legitimate interest condition does not need not be met under the current circumstances, such as the closure of tourism operations, the closing of borders and travel restrictions, or the need to pursue children's home education due to the closure of schools

- **Uneven distribution of working time and working time account**

If the nature of the work or the operating conditions do not allow working hours to be divided evenly in particular weeks, the employer may, after the agreement from the employees' representatives or with the employee, schedule the working time unevenly. Pursuant to the amendment to the Labor Code, the employer is obliged to announce the working time schedule to the employee at least two days in advance, unless a shorter period of time has been agreed with the employee and remain valid for at least a week. The average weekly working time must not exceed the established weekly working time within a maximum period of four months, and the working time must not exceed 12 hours within a 24 hour period. If an employee is remunerated by a monthly wage and works for a scheduled number of hours, their monthly wage stays unchanged

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support? *(continued)*

A similar option for a flexible organisation of working time is a working time account. An employer may only implement a working time account by a CBA or by a written agreement with the employees' representatives, for which an equalization period of no more than 30 months must be agreed. If the employer does not have employee representatives, the employer cannot substitute an agreement on working time account with the agreement with the employee. When implementing a working time account, the employer provides the employee with a basic salary component, which corresponds to the established weekly working time of the employee, while the obligation to provide additional salary components is not affected.

- **Prolongation of work contracts for defined period**

According to the latest amendment to the Labor Code, if the work contract for a defined period ceases to exist during the extraordinary situation or two months following the extraordinary situation revocation, such contract may be extended or renewed once up to one year, provided the contract cannot be prolonged or renewed under standard provisions of the Labor Code. Such prolongation or renewal has to be in consultation with the employee's representatives. Otherwise, the contract will be considered to be agreed for an indefinite period.

As a result of the COVID-19 economic impact, Slovakia introduced a system of state aid. Its objective is the support maintenance of jobs, including the operation of self-employment activities. According to the Explanatory Memorandum, these contributions are intended solely to offset financial costs for those employers and self-employed persons who retain jobs despite the obligation to interrupt or limit their operations on the basis of a measure of the Public Health Authority, or if they had to do so for the sake of protecting their employees' health or due to dropped orders or decreased supplies. The advantage of this support is that the applicant will be legally entitled to it upon fulfilment of the stated conditions.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support? *(continued)*

The Government has approved the following categories of state contributions:

- Contributions to employers whose operations have been compulsorily closed or prohibited from opening. The state shall reimburse 80% of employee's total labor costs, up to a maximum of €1,100, to those employers, whose operations have been compulsorily closed by a decision of the Slovak Public Health Authority (i.e., not applicable to companies and self-employed persons which closed their operations at their own discretion).
- Contributions for compensation of loss of income to self-employed persons whose operations are, or have been, compulsorily closed, or who have suffered a decline in sales at least in the amount of 20%. The amount of these contributions will depend on how much they have been affected by the sales decrease. The state will contribute to the applicant as follows:
  - If sales declined between 20 to 39.99% - €270
  - If sales declined between 40 to 59.99% - €450
  - If sales declined between 60 to 79.99% - €630; and
  - If sales declined by 80% or more - €810
- Contributions to employers who have interrupted or restricted their activities and, despite that, maintained jobs. In this category, the employer will be allowed to choose between the following contribution forms:
  - Contribution in the amount of 80% of employee's total labor costs to whom the employer cannot allocate work due to obstacles at work due to the employer's challenges, up to a maximum of € 1,100; or
  - A flat-rate contribution for the reimbursement of the part of the labor costs for an employee, depending on the sales decrease. The employer should be entitled to this second form of contribution even if the employee is not subject to reduction in work due to the employer's challenges.
- Contributions to other individuals without income who temporarily suspended or limited their business activities. The sum of the contributions for this group is in a fixed amount of ~~€210~~315 for one calendar month. This contribution is designed, for example, for self-employed individuals, as well as for one-member LLC shareholders and executives. A self-employed individual's trade license must be active (i.e. not be suspended). NB: A one-member LLC shareholder and executive cannot be a shareholder in another LLC, or employed by the LLC
- Contributions to natural persons with no income from entrepreneurial, non-entrepreneurial or dependent activities and who ceased to conduct such activities at the time the COVID-19 pandemic. The sum of the contributions for this group is a fixed amount of €300 for one calendar month
- Contributions to maternity schools, whose operations have been compulsorily closed and, despite that, maintained jobs. The state shall reimburse 80% of an employee's gross monthly salary, up to a maximum of €1,100

In addition to the abovementioned support, the possibility for employers to apply for contributions to maintain jobs remains in place. This contribution can be applied for by the employer who will not allocate work between 6% and 40% of the established weekly working time to the employees for serious operational reasons, as defined in a written agreement with the employees' representatives. An application can be filed no earlier than after three months of the continuation of the operational reasons, provided that the employer has maintained the jobs. The monthly amount of the contribution is 50% of the employees' wage compensation, but not more than 60% of the average wage of an employee in the economy of the Slovak Republic, and for a maximum of 12 months.

(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.

Standard rules on employee participation apply. Employees participate either directly or through employee representatives, e. g. trades union. Generally, the employer must discuss introduced measures, expected employment development and other important issues with the employee representatives in advance, including closure or restriction of the employer's operation and termination of employment contracts. Apart from the general rules, specific rules concerning points as outlined in Q7(i) are as follows:

- A situation when an employee cannot perform work due to a cessation or limitation of the employer's activity as a result of an extraordinary situation, state of emergency or state of crisis constitutes an obstacle to work from the employer's side (please refer to comments in Q7(i)). Subsequent reduction in the employee's wage compensation to no less than 80% of the average earnings is not subject to approval (or acknowledgement) of the trade union.

However, a CBA may stipulate that due to a serious operational reasons due to which the employer cannot allocate work to the employees (please refer to comments in Q7(i)), the employees' wage compensation may be reduced to no less than 60 % of their average earnings.

- Changes to a bilateral labor agreement (employment contract) are not subject to the approval or acknowledgement of the employee representatives. However, if a CBA stipulates more favorable conditions for the worker than a bilateral labor agreement, the more favorable conditions apply. If employee remuneration is not included in the bilateral labor agreement, it is agreed in the CBA and therefore cannot be changed unfavorably for the employee by amending the labor agreement
- If the employer intends to order collective vacation due to operational reasons, such decision must be discussed in advance with the employees' representatives
- An employer may schedule the working time unevenly with the agreement with the employees' representatives or with an employee directly. An employer may only implement a working time account under a CBA or by a written agreement with the employees' representatives; and
- The employer may extend or renew the fixed term work contract for a defined period, which ceases to exist during the extraordinary situation or two months following its revocation, after consulting the employee representatives. The work contract may be extended/renewed once, up to one year. Failure to consult will result in the work contract being regarded as agreed for an indefinite period

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.	
No.	No.	No.	Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**	**(10(iii) The employee has been diagnosed with COVID-19.**
A situation when an employee cannot perform work wholly or in part due to cessation or limitation of the employer's activity resulting from the decision of the competent authority or as a result of extraordinary situation, state of emergency or state of crisis constitutes a challenge for the employer. Pursuant to the amendment to the Labor Code, the employers can in this case provide employees with wage compensation at a reduced rate, at least 80% of their average monthly earnings and at least in the amount of the statutory minimum wage. Until the amendment to the Labor Code took effect, the employer could decide to reduce wage compensation only upon the agreement with employees' representatives. If employees representatives have been set-up, they may conclude with the employer a written agreement which defines serious operational reasons for which the employer will not be able to allocate work to the employees and for which the wage compensation can be reduced up to 60% of the average earnings. This option remains unaffected by the amendment. The measure allowing the payment of wage compensation of 80% during the challenges for the employer (or in the amount agreed upon in agreement with employees' representatives) is further complemented by a system of financial support for employers (please refer to comments in Q7(i)).	If the employee has been quarantined for this reason, the employer must grant them leave/time off, as if the employee is recognized as temporarily incapable for work by a medical doctor. Quarantine can only be ordered by a medical doctor or the Public Health Authority, it is not subject to the employer's decision. There is a mandatory isolation for the persons who were in a 'high risk country' in the previous 14 days prior to entrance to Slovakia and lasts until the result of COVID-19 test proves that they are not positive (or after ten days in the case of persons with no symptoms who are travelling from EU countries). These persons also have to notify the doctor and the regional health authority of the entrance to Slovakia from the high risk country. The employee is obliged to submit to the employer a confirmation on temporary incapability for work and confirmation of the quarantine order. As for the temporary incapability for work or quarantine of the employee in connection with COVID-19, the doctor sends the respective confirmation to the branch of the Social Insurance Agency, which subsequently sends the confirmation to the employer. The employer may conduct an inspection as to whether the employee is in fact in the specified place during the temporary incapability for work. As a result of the spread of the COVID-19 pandemic, an amendment to the Social Insurance Act mitigated the negative financial consequences for employers. According to this amendment, the employee is entitled to receive a sickness social security contribution from the Social Insurance Agency in cases of enforced quarantine and isolation in connection with COVID-19 since the first day of temporary incapacity for work. It means that in these cases, employer bears no wage costs. The sickness social security contribution is in the amount of 55% of the daily assessment base.	In the case of an employee being positively tested for COVID-19, the employee will be ordered to a mandatory quarantine. The Employer must grant them leave/time off. The Employee will receive sickness social security contribution from the Social Security Agency and employer will bear no wage costs for the employee. Please refer to comments in Q10(ii).

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?

Please refer to comments in Q10(i): If there is closure of employer's business, the employer may agree with the employee on an unpaid or paid leave but cannot force an employee to accept it. However, what an employer can do unilaterally is to state that there are 'obstacles to work on the employer's side' due to COVID-19 during which employees will not perform work as usual. The employer must continue to provide employees with salary in that case, although at a reduced rate, at least 80% of their average monthly earnings and at least in the amount of the statutory minimum wage as described in Q10(i).

Please refer to comments in Q10(ii) & Q10(iii): Where an employee is quarantined or tested COVID-19 positive, the employer cannot force the employee to take sick leave, since the sick leave can be ordered only by a medical professional or Public Health Authority. For detailed information on how the sick leave functions during COVID-19, please refer to comments in Q10.

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
Since the start date is a mandatory part of the Labor Agreement, in the case of any change to the start date, the employer and the employee must agree on an amendment to the Labor Agreement. Furthermore, the Labor Code allows the employer and the employee to agree on a three months long probationary period (or six months in the case of executive employees) during which the employer (or the employee) can unilaterally terminate their employment relationship. Therefore, if the employer is not able to assign work to a new employee due to COVID-19, the employer may terminate unilaterally the employment with the new employee within probationary period with immediate effect.	In the event schools and kindergartens are closed and no other measures are introduced (e.g. working from home or paid vacation), the parent who stays at home with a child and cannot work may apply for a 'pandemic nursing benefit' at the Social Security Agency, provided that respective social insurance contributions have been paid. The employer must accept the care of children by the employee, which is considered as impediment to work on the employee's side and during which the employee does not perform work. The employer is obliged to excuse the absence of the employee at the workplace for this reason. The employer has no wage costs for this period as the employee receives a nursing benefit. Parents taking care of children below the age of 11, or in the case of severely disabled children, below the age of 18, are eligible for the pandemic nursing benefit if the child's school or kindergarten was mandatorily closed. In the case of children in the age group of 12-15 who are not able to take care of themselves, a medical practitioner's confirmation is necessary. The pandemic nursing benefit applies also to individuals taking care of children who do not attend kindergartens yet due to fear from corona virus. Pandemic nursing benefit is equivalent to the standard nursing benefit available when parents need to take care of a sick child. No medical certificate stating the child is sick is usually needed (it is substituted by an affidavit attesting the fact that the parent was taking care of a child. The parent applies directly to the Social Insurance Agency and must notify the employer that an impediment to work has arisen. According to standard rules, the Social Insurance Agency pays the nursing benefit for a maximum of 10 days. Due to the current situation, however, it will automatically extend the payment during the whole period of the need for care. Parents may switch after 10 days at the earliest, however, a new application must be submitted. The pandemic nursing benefit is provided in the amount of 55% of the daily assessment base of the employee. In practice, employees may now prefer not to claim the nursing benefit and rather accept remote working or impediments to work on employer's side, for which they receive salary compensation that is higher that the nursing benefit. Therefore, the employer can also provide employees with additional voluntary payments to the nursing benefit in order to motivate them to claim the social security benefit. This is one option for the employer to share the financial burden of labor costs during the COVID-19 pandemic.	Please refer to comments in Q7(i).

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The exact prerequisites depend on the type of the contributions No. 1 - 6. as described in Q14(i).

- **Contribution No. 1**: An employer who was obliged to close / restrict operations based on a decision of the Slovak Public Health Authority, which pays wage compensation to employees in the amount of 80% of an employee's total labor costs who do not work because of an obstacle to work on the side of the employer and who retains jobs for a minimum two months after the month for which they receive the contribution
- **Contribution No. 2**: A self-employed person, who was obliged to close / restrict operations based on a decision of the Slovak Public Health Authority or who has suffered a decline in sales. The self-employed person must have sickness and old-age insurance in the period until 30 July 2020 (which continues to be valid) or must be entitled to the 'insurance holiday' according to Act on Social Insurance. However, it is not possible to apply for compensation for a self-employed person who has a suspended or terminated trade license.
- **Contribution No. 3**:
  - **Contribution 3A:** An employer who closed or restricted operation at the time of the extraordinary situation voluntarily, who pays wage compensation to employees (in the amount of 80% of their total labor costs who do not work because of an obstacle to work on the side of the employer and who retains jobs for a minimum of two months after the month for which they receive the contribution
  - **Contribution 3B:** An employer who has suffered a decline in sales of more than 20% in a calendar month in comparison to the same month in 2019 (alternatively, compared with average in 2019 overall, February 2020 or September 2020), who pays wages or wage compensation to employees and who retains jobs for a minimum two months after the month for which they receive the contribution. Employees must not be subject to child nursing benefit, sickness benefit or on vacation for more than 50% of working time in the calendar month
- **Contribution No. 4**:
  - **Contribution 4A**: A self-employed person, who temporarily suspended or limited their business activities and did not cancel/terminate their trade license and who has no sickness and old-age insurance obligation and is not entitled to the 'insurance holiday' and/or
  - **Contribution 4B:** The sole shareholder and executive of the one-person LLC (s.r.o.), who is not an employee of the LLC and who is not a shareholder in another LLC. The LLC`s profit after tax in the last accounting period ending on 31 December 2019 must not have exceeded €9,600 and its aggregate turnover was at least €2,400 (this is different in the case of the companies which were established later in 2019 or 2020).
- **Contribution No. 5**: Natural person who had no other income (from entrepreneurial, non-entrepreneurial or dependent activities) at the time of the extraordinary situation and who conducted such activity before the announcement of the extraordinary situation. The person cannot be entitled to social security contributions, state support or social aid (such as old-age pension, unemployment contribution or parental contribution)
- **Contribution No. 6**: An employer who closed or restricted operation of the maternity schools at the time of the extraordinary situation, i.e. since 13 March 2020, which pays wage or wage compensation to employees (in the amount of 80% of their gross monthly earnings) and who retains jobs for a minimum of three months after the month for which they receive the contribution

With respect to some of the contributions, the below conditions need to be fulfilled: the applicant needs to have fulfilled tax and social and health contributions obligations, does not infringe prohibition on illegal employment and cannot have liabilities due with respect to the Labor Office and their employees. The applicant cannot be in bankruptcy, liquidation or forced administration, and cannot be officially banned from receiving subsidies. Further, based on the former previous decision of the European Commission, the applicant cannot be in proceedings for recovery of unlawfully provided aid incompatible with the internal market.

The applicant cannot be an entity which was established or commenced business activities on or after 2 September 2020.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

- Location: Applications for contributions can be submitted via e-mail or via the electronic portal to the locally competent Labor Office (according to the location of an applicant´s respective operation; if the applicant has more operations, then the location where the applicant's registered seat is taken to be the decisive factor). Electronic submission is preferable, however in the case of contributions No. 2, 4 and 5, it is possible to submit the application also by the post office or personally or, in the case of Contributions No. 1, 3 and 6 via the electronic portal only
- Documents: Applicants must download the relevant template for the application for provision of financial contribution, in the case of Contributions 2, 4 and 5 from www.neprepustaj.sk or www.pomahameludom.sk. The templates should be completed electronically and sent to the respective Labor Office; No printing or signature is necessary. The applications for Contribution No. 1, 3 and 6 should be filled in directly on the electronic portal. An affidavit must be attached attesting the fulfillment of the stipulated conditions
- Timeline: The application should be filed before the end of the month following the month in which the salary has been paid to employees, in the case of Contributions No. 1 and 3, and two calendar months following the month for which the contribution is being sought in the case of contributions No. 2, 4 and 5. For the first month, both the Application and the Report should be completed but for subsequent months only the Report is required. All facts which the applicant states in the Application / Report must be true and correct and maybe subject to later review
- Process: The Labor Office will conduct checks of the formal accuracy of the Application and the Report. If the application/report is incomplete, the Labor Office will ask for its completion (in the period of five days from the notice delivery). The Labor Office will subsequently send the Notice on contribution provision and the proposal for the Agreement on contribution provision. The contributions should be provided monthly based on the submitted report containing the data on employees and wage compensation

Please note that the procedures for Contributions differ.

For further details about the Contributions, please refer to the comments in Q15.

(17) What is the legal framework for collective redundancies?

Collective redundancy or workforce transformation is governed by s73 (specifically applicable to collective redundancy) and ss59 to 80 (generally applicable to any employment termination) of the Slovak Act No. 311/2001 Coll. Labour Code as amended (Labor Code).

Collective redundancy is defined as termination of the employment relationship of a number of employees, within 30 days, due to an employer's closure or relocation, organizational reasons or other reasons not relating to the employees. The number of employees terminated varies depending on the following scenarios:

- At least 10 employees, in businesses with 21-99 employees
- At least 10% employees, in businesses with 100-299 employees; or
- At least 30 employees, in businesses employing 300 or more employees

If the above thresholds are not met, the redundancy is not considered collective and is only subject to the general provisions of ss59 to 80 of the Labor Code governing termination of an employment relationship with an individual employee.

If the above thresholds are met, in addition to the general provisions governing individual termination, specific provisions on collective redundancy also apply and trigger the complex process which involves information and consultation procedures as well as notification to the labor authority.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Employees can be made redundant by an employer by serving the notice of termination or by mutual agreement.

If an employer terminates an employee by serving notice, the redundancy must be justified by one of the following reasons:

- Employer's closure or relocation; or
- Reorganization (the employer's written resolution must note a change in duties performed by the employee, technical equipment or reduction in the number of employees with the aim of securing business efficiency, or other organizational objectives)

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

Employees' representatives must be informed and consulted by the employer prior to implementing a collective redundancy; No approval of the employees' representatives is required. However, if the employer intends to dismiss a member of the employees' representatives, then the consent of the representatives is required.

Employees' representatives

The employees' representatives involved in a collective redundancy process can be the trade union for all employees, the works council (in companies having more than 50 employees) or the works trustees (in companies between 13 and 50 employees).

Works council and works trustee have identical rights and duties.

If both a trade union and a works council/trustees operate alongside each other, the employer has to complete the information process on collective redundancy for both, but consult only the works council/trustees.

Information obligation

At least one month prior to serving the first notice of redundancy or proposal for termination agreement to the employees, the employer must provide the employees' representatives with the following information (Initial Report) in writing:

Reasons for collective redundancy

- Number and structure of employees to be made redundant
- Number and structure of all employees employed by the employer
- Period over which collective redundancy shall be implemented; and
- Selection criteria of employees to be made redundant

Consultation obligation: Based on the information provided in the Initial Report and with a view to reaching an agreement, the employer must consult with the employees' representatives regarding:

- The measures to avoid or limit the collective redundancy (mainly via potential alternative work at the employer's other workplaces); and
- The measures mitigating the adverse consequences of collective redundancy

Consultation should be conducted in a reasonable manner and at an appropriate time, with adequate subject matter and intention to reach an agreement. However, failure to reach an agreement following consultation does not alter the collective redundancy process. The employer must only consider the employees' representatives' opinion and deliver a report specifying the outcome of the consultations (Final Report) to the employees' representatives and the labor authority.

The employer may only serve a written notice of redundancy, or a proposal for termination agreement, to the first impacted employee one month after the completion of the information and consultation process and one month following the delivery of the final report to the labor authority. These two-time periods shall be calculated separately and begin (or may begin) on different days; However, these time periods may run parallel and, therefore, it may be that they expire on the same date if the information and consultation process and delivery of the Initial Report and the Final Report were notified on the same date.

Consultation requirements with other employee representatives

There is no specific obligation to inform and consult the employees' representatives for health and safety on collective redundancy unless it raises issues substantially impacting health and safety at work.

Consultation requirements with employees

If there are no employee representatives, the employer must inform and consult the impacted employees directly.

The information and consultation process of the impacted employees is the same as the information and consultation process of the employees' representatives, in particular, the obligation to submit the Initial Report to consult on measures to avoid, limit or mitigate the collective redundancy's impact and the obligation to submit the Final Report, as detailed above. In addition, the employer must provide the legal justification for the redundancy in the notice of termination or, in certain cases, in the mutual termination agreement.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?	(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?
No approval of the labor authority is required in order to implement the collective redundancy but the authorities must be involved. The employer must, in particular, perform the following: ▸ Inform the competent labor authority of the collective redundancy by submitting a copy of the Initial Report, together with the names and addresses of permanent residence of the employees to be made redundant; and ▸ Inform the competent labor authority of the outcome of the consultation process with the employees' representatives (or employees directly, if applicable) by submitting a copy of the Final Report (please refer to comments in Q19 for further details) The employees' representatives are entitled to submit comments regarding the proposed collective redundancy to the labor authority. In the absence of the employees' representatives, the employees themselves cannot exercise this right. The role of the labor authority is to seek ways to limit the impact of the collective redundancy. One month after the delivery of the Final Report to the labor authority, the employer may serve a written notice of dismissal or proposal for termination agreement to the employees. This does not apply if the employer was declared bankrupt by the court. The one-month period may be shortened by the labor authority for objective reasons.	There are no required selection criteria provided by Slovak law. The employer is free to choose the employees to be made redundant; However, they must observe the general principles of non-discrimination enshrined in the Labor Code and in anti-discriminatory legislation. The employer must specify the employee selection criteria in the Initial Report submitted to the employees' representatives (or employees directly, if applicable) and to the labor authority. Certain employee categories are afforded special protection, particularly members of employees' representatives, pregnant women and employees on maternity, parental or sick leave; however, there is no such protection against termination of employment by an agreement with the employee.	The employer must consult with the employees' representatives (or employees directly, if applicable) on the measures to avoid or at least limit the collective redundancy impact – mainly by negotiating the possibility of redeploying employees in suitable job positions at the employer's other workplaces, and the measures for mitigating the adverse consequences of collective redundancy. **Internal alternative employment/redeployment** There is no specific obligation to search for alternative employment. The Labor Code only stipulates a consultation obligation regarding the possibilities of placement of employees in suitable jobs at other workplaces of the employer. If redeployment requires the employee to undergo training or preparation, the employer should enable this process. **Other measures** No specific other measures are prescribed by law, as the law leaves types of such other mitigating measures to the employer's discretion.	Duration of the collective redundancy process depends on its complexity and extent. The first step is usually the preparation of the Initial Report for the employees' representatives (or employees directly, if applicable) and the last step is the notice of termination or conclusion of the mutual termination agreement which is the starting point of the notice period for the impacted employees. Legally, at least one month is required between the completion of information and consultation processes and serving dismissal notices or proposals for termination. Usually, the notice periods range from one to three months depending on the impacted employees' years of service.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Notice period
- Severance payment: This can range from nothing (for employees with less than two years of seniority, terminated by serving notice) to five times the average monthly salary (for employees with more than 20 years of seniority, terminated by mutual agreement). However, the employee must return the severance payment if they are reemployed by the same employer within a specified period in certain situations; and
- Costs associated with preparation of the Initial Report and Final Report and consultation with the employees' representatives or employees themselves (if applicable)

Customary additional costs

Customary additional costs may include severance payments provided by the employer above the statutory minimum or in cases other than those specified by the law.

In general, when employers terminate employment relationships by agreement due to closure, relocation or reorganization, they must provide a severance payment. In other cases of termination by agreement, the employer is not obliged to, but will usually, offer a severance payment (equal to that applicable in the case of dismissal) in order to induce the employee to sign the termination agreement.

Further, customary additional costs may include costs for implementing measures to avoid, limit or mitigate the collective redundancy or its negative consequences, such as costs associated with redeployment process.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

Provisions governing collective redundancy do not contain any specific hiring restrictions post-redundancy. However, general restrictions apply when the employer makes an employee redundant due to reorganization. In particular, the employer is prevented from reopening the cancelled job position and hiring another employee for this position within two months following the employment termination. Breaching this restriction by the employer may result in annulment of the termination.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

The employer must comply with the general rules applicable to individual termination of employment during the collective redundancy process (notably legal cause and procedural rules). In the case of violation of these rules, the impacted employee can, within two months from the date of termination of the employment relationship, claim that their redundancy is declared null and void based on substantive as well as formal grounds (which includes defective delivery of the notice, absence of a written form or insufficient legal justification).

Litigation can stop or slow down the collective redundancy process. The impacted employee may notify the employer that they insist on maintaining the employment relationship and claiming its invalidity in court. The employment relationship will not terminate in such a case unless and until the court rules that the employer cannot reasonably be required to continue it.

(27) What are the risks of damages or other remedies due to the redundancy process?

Violation of the specific rules on collective redundancy process can lead to the following consequences:

- Inspection by the labor inspectorate, which may trigger an administrative fine of up to €100,000. The inspectorate may also penalize the responsible executive directors and managing employees of the employer personally, with a fine of up to four times their average monthly salary; and
- Allowing a claim by any impacted employees for wage compensation of twice the average monthly salary, if the employer breached:
  - Information and consultation obligations toward the employees' representatives
  - Notification of the labor authority; and
  - One-month period for serving a notice of dismissal or proposal for termination agreement after the delivery of the Final Report to the labor authority

Violation of the general rules on individual termination (Legal cause, procedural rules) can lead to the following consequences:

- Continuance of an employment relationship: If the employee is of the opinion that the employer provided an invalid notice, or terminated the employment by an invalid agreement, the impacted employee may notify the employer that they insist on maintaining the employment relationship and claiming its invalidity in court. The employment relationship will not terminate in such a case unless and until the court rules that the employer cannot reasonably be required to continue it
- Wage compensation in the case of an invalid individual termination: The employer is obliged to provide the employee with wage compensation of their average salary from the day that they were notified of the employee's insistence on maintaining the employment relationship. This continues while the employer enables the employee to keep working, or until a court rules on termination of the employment relationship and up to a maximum of 36 months. At the employer's request, the court can limit the compensation to a maximum of 12 months
- Damages: In general, if an employee suffers loss as a result of the employer's unlawful conduct, the employee can claim damages based on general labor and civil law rules. However, there are no punitive damages in Slovakia
- Remedies available under anti-discrimination legislation: If an employee was treated discriminatorily by the employer, especially with respect to the employee selection criteria, they may claim for reparation (potentially including reinstatement) and compensation for both material and non-material harm

Criminal sanctions

Criminal sanctions may be imposed only for failure to pay due wages, wage compensation or a severance payment to the employee. They can be imposed only on an individual or an executive director of an employer.

Slovenia

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks
No specific measures, except following the safety at work rules and recommendation provided by National Institute of Public Health. The employer can send an employee for testing for COVID-19. Notwithstanding the provisions of the Personal Income Tax Act, the employer's payment of testing expenses is not considered as a benefit in kind for the employee. The measure will be valid until 30 June 2021 and can be extended by six months by a Government Decree.	Yes.	Each employer needs to have their own processes in place to ensure safety at work and how to proceed in the case of infected employee.	Yes, in regards to guaranteeing safety at work for the rest of the employees under the Communicable Diseases Act.	No, the obligation is on the doctor not on the employer.	No.

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(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Yes.	There is a general provision within the Employment Relationship Act (ERA) for idle workers and currently there is a special Act in place as of 1 June 2020 determining the Intervention Measures to Mitigate and Remedy the COVID-19 Epidemic (Mega Act 4) that provide for the possibility of part-time idle work. As a general rule, the compensation for idle work is paid as 80% of the individuals average monthly full-time salary for the past three months in accordance with the ERA. Such payment shall not be lower than the minimum salary of Republic of Slovenia. However, based on the Mega Act 4 and the subsequent Act Determining the Intervention Measures to Mitigate Second Wave of COVID-19, Mega Act 5, the employer is partially reimbursed in the case of idle work for full time employees as well as part-time idle work. Certain conditions should be met to apply for state aid in either case. The ERA includes two clauses, which in circumstances such as the COVID-19 pandemic provide the possibility for flexible workforce planning by employers: ▸ "In cases of natural or other disasters, when such are expected, or in other exceptional circumstances when human life and health or the employer's assets are at risk, the type of or place of carrying out the work defined in the employment contract may temporarily be changed even without the worker's consent, though only while such circumstances pertain." Based on this rule, some temporary flexible workforce planning possibilities can be introduced (e.g., working from home, which in normal circumstances requires inclusion in the employment agreement and reporting such workplace to Ministry of Labor). ▸ In addition, temporary leave i.e., 'Idle workers', is also available in situations where the employer is temporary unable to provide work due to business reasons. In the event that an employer temporarily cannot provide work for a worker for a period which may not exceed six months in one calendar year, with the aim of preserving work place, the employer may temporarily send the worker on 'to wait for work'. In such cases, workers are entitled to a salary compensation in the amount of 80% of the average full time monthly salary for the past three months. To better adjust to the situation and help employers keep workers employed, the Government prepared intervention measures (in the form of intervention laws). Please refer to the comments in Q14 & Q15, which provide an overview of state aid rules for companies, employees and self-employed persons, including explanations of compliance procedures which need to be applied in order to receive such aid.	Before ordering part-time work for employees or any change in this regard, the employer must consult with the trade union before the start or change. In case there is no trade union, the employer should consult with the works council. If there is neither one nor the other body at the employer, the employer must inform the employees in advance in the usual manner prescribed by the employer. The law provides for a time limit for the said measure, namely from 1 June to 31 December 2020. Generally, contacts with trades union for the purpose of effectuating such rules are not needed. However, detailed information on measures to be imposed and available rights must be provided to employees before measures are enacted. Additionally, employees need to inform the employer in the case of inability to work due to *Force Majeure*.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
No.	No.	No.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
The employer has the same pay/benefit obligations to the new hire as to all other employees who cannot be present at the workplace.	The employer has the same pay/benefit obligations to the new hire as to all other employees who cannot be present at the workplace. An employee who has been ordered a quarantine due to travel to a country on the 'red list' is not entitled to salary compensation during the ordered quarantine, except in the case of the following personal reasons to visit a red listed country: ▸ The death of a spouse or common-law partner or the death of a child, adopted child or child of a spouse or common-law partner ▸ Death of the parents (father, mother, spouse or common-law partner of the parent, adoptive parent); or ▸ The birth of a child ▸ Summons to court The employee must submit a written statement to the employer no later than one day prior to departure, stating that they are visiting a country on the red list due to one of the above-mentioned personal reasons. If not, the employee is not entitled to compensation for absence for the period of quarantine.	The employee shall receive sick pay.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?
An employer cannot force an employee to use sick leave for any of the circumstances referred to in Q10(i). In the circumstances referred to in Q10(iii) and potentially Q10(ii), a doctor or National Health Institute official should order an isolation for the contaminated employee, meaning they could perform work only if it is possible to do it remotely (e.g., from home). In case remote work is feasible, then an employer is not entitled to force the employee to use sick leave.	Not applicable.	The Slovenian Labor Law currently states that the employees who stay home due to school or kindergarten closures are entitled to at least 50% salary payment but not less than 70% of minimum salary. The Republic of Slovenia shall reimburse the employer in full on a monthly basis for the compensation of salary paid to workers who are unable to perform work due to force majeure. Employers can exercise the right to claimed salary compensation refunds for the previous period from 1 September 2020. Entitlement to reimbursement lasts until 31 December 2020 and may be extended by Government Decree for a period of three months. However, employers are encouraged to find new ways of working if this is possible, such as working from home or other remote work options.

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

On 2 April 2020, the Slovenian Parliament approved the Act on Emergency Measures to Contain the COVID-19 Pandemic and Mitigate its Consequences for Citizens and the Economy (Act on Emergency Measures). The Act was effective from 13 March 2020 until 31 May 2020, and was extended by 30 days as the effects of the COVID-19 pandemic did not reduced as of 15 May 2020. Please refer to comments in Q16 as the measures correspond more appropriately to the same.

Furthermore, on 28 April 2020, the Slovenian Parliament confirmed amendments to the above Act as well as the Act on Provisional Measures for Judicial, Administrative and Other Public Matters to Cope with the Spread of the COVID-19 pandemic. On 29 May 2020, the Slovenian Parliament passed a new Act Determining the Intervention Measures to Mitigate and Remedy the Consequences of the COVID-19 Epidemic (Mega Act 3), with the Act going into force on 31 May 2020. Furthermore, on 9 July 2020, new Act Determining the Intervention Measures to Mitigate Second Wave of COVID-19 (Mega Act 4) was adopted and is in force from 11 July 2020. On 15 October 2020, Mega Act 5 was adopted and is in force from 24 October 2020.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The Act on Emergency Measures intervened in the following areas:

Workers on temporary leave (Idle workers)

- An employee is entitled to a salary compensation while temporary waiting for work, in accordance with the Employment Relationships Act, in the amount of 80% of the average salary for the past three months. The salary compensation may not be lower than the minimum wage in the Republic of Slovenia
- Employers are entitled to a partial refund of the paid salary compensation in the amount of 80% of the wage compensation and is limited by the amount of the maximum amount of cash unemployment benefit set out in the law governing the labor market. The 80% of the amount of compensation covered by the Republic of Slovenia includes salary compensation and contributions for all social security insurance (gross I). The employer covers the difference up to full salary compensation - 20% of salary compensation and social security contributions.
- Workers that are not working due to *Force Majeure* are entitled to salary compensation in accordance with the Employment Relationship Act to 50% of their salary, the cost is fully borne by the employer.
- The employer exercises its right to compensation by applying to the Employment Service within eight days of the posting of the employee to idle time, but no later than 15 December 2020.
- All employers, under certain conditions, can apply for partial reimbursement of salary compensation for idle workers, except the following employers;
    - Direct or indirect user of the budget of the Republic of Slovenia or the budget of the municipality, whose share of revenues from public sources in 2019 was higher than 70%
    - An employer performing activities under the standard classification of activity K that have more than 10 employees on 13 March 2020
    - Foreign diplomatic missions and consulates, international organizations, missions of international organizations and EU institutions, bodies and agencies

Employers are entitled to the measure if, according to their estimates, revenue in 2020 will drop by more than 20% compared to 2019. For cases where employer was not performing business throughout 2019, the reduction in revenue is measured as average monthly revenue in 2020 compared to average monthly revenue from 2019. If the employer has not carried out business in 2019, the employer could still be eligible for the state subsidy, should the average monthly revenue in 2020 decline by more than 20% in comparison to average monthly revenue up to 12 March 2020. In case the conditions are not met when submitting the annual reports for 2020, the employer must return the received state aid.

Mega Act 5 extends the period in which employers are entitled to partial reimbursement of compensation to workers that are assigned to wait for work from home. An employer may assign an individual employee to temporary waiting for work from home status until 31 December 2020 at the latest, however the Government of the Republic of Slovenia may extend this restriction with a decision - but not longer than until 31 July 2021, provided that the Temporary Framework for State aid measures in support of the economy at the outbreak of COVID-19 is extended to 2021.

The employer must not dismiss the employee during the time of receiving the state aid.

Salary compensation for workers absent due to ordered quarantine

The employers that are entitled to this method of reimbursement of salary compensation are those who declare that they cannot organize work from home for the worker(s) that are quarantined. The time limit for salary compensation entitlement is limited to the duration of the quarantine period. Reimbursements of salary compensations for employer due to the ordered quarantine is time limited to a maximum up to 31 December 2020 and may be extended by Government Decree for a period of three months. The law provides for two types of salary compensation in the event of a quarantine ordered to a worker:

- Quarantine is ordered to a worker at a border crossing: In this case, the worker is entitled to a salary compensation in the amount determined by the Employment Relationship Act in *Force Majeure* cases, i.e., 50 percent of regular salary, but not less than 70% of Slovenian minimum salary; and
- The worker was quarantined due to contact with infected individual: An employee who has been ordered to be quarantined after close contact with an infected person while working for the employer, and for whom the employer cannot organize remote working, is entitled to compensation for the salary they would have received if they had worked

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The employee must inform their employer about the order to quarantine within three days from receiving the Decree. The employer should apply for reimbursement of salary compensation via electronic application to the Employment Service within eight days from the beginning of the employee's absence and can exercise the right to claimed salary compensation refunds for the previous period, namely from 1 October, in accordance with the Infectious Diseases Act or Mega Act 5. Reimbursements are paid to the employer, in full, on a monthly basis for the compensation of salary paid to workers who are unable to perform work due to the enforced quarantine.

Penalties provisions

Mega Act 5 also stipulates penalties in the case of calculation of salary compensation which are in conflict with the provisions of Mega Act 5 for cases of idle work or inability to work due to a quarantine or force majeure due to childcare. The fines range from €3,000 to €20,000 for the company, and between €450 and €2,000 for the responsible person at the employer. Fines are lower for companies that employ up to 10 workers.

Partial reimbursement of lost income for the self-employed and company partners during the quarantine period or inability to perform work due to force majeure

Mega Act 5 introduces a partial reimbursement of lost income for the self-employed and company partners during the quarantine period or inability to perform work due to force majeure.

Entitled persons are defined as:

- A self-employed person who is performing an activity on the day the Act enters into force, and is included in the compulsory pension and disability insurance on the basis of Article 15 of Pension and Disability Insurance Act (PDIA)
- A company partner who is a managerial person, and is insured on the basis of Article 16 of the PDIA
- A farmer who is included in the compulsory pension and disability insurance on the day of the entry into force of this Act on the basis of Article 17 or the fifth paragraph of Article 25 of the PDIA

The amount of partially reimbursed lost income is limited to €250 for each quarantine ordered, or for the period of inability to perform work due to force majeure (a lump sum is foreseen regardless of the duration of quarantine).

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable. *(continued)*

Partial subsidies for reducing full time work

Mega Act 3 introduces the possibility of ordering part-time work to full time employees while sending them to temporary 'wait for work'. The subsidy could be awarded to employers based on an application completed to the Employment Service on a monthly basis (for the previous month). The employer has to give consent for the public disclosure of the data regarding recipients of the subsidy and agree not to violate the prohibition on dismissal of workers during the period of receiving the subsidy and for one month after. An employer who received approved subsidy from the ES and provides workers with work for at least part-time work is able to claim a partial refund of the compensation for waiting for work for such employees. Employers who are eligible for this measure are:

- Legal or natural persons who were entered on the Business Register of Slovenia before 13 March 2020 and employs full-time employment contracted employees; and
- According to the employer's estimate, at least 10% of employees cannot be provided at least 90% of work per month

Before ordering part-time work for employees or any change in this regard, the employer must consult with the trade union before the start or change. In case there is no trade union, the employer should consult with the works council. If there is neither of those bodies in the business, the employer must inform the employees in advance in the usual manner prescribed by the employer. The law provides for a time limit for the said measure, namely from 1 June to 31 December 2020.

The employer must inform the employee in writing about the reduced working hours, while the employee reserves the right to:

- Remuneration for work when actually working
- For the difference with full-time work, the employee receives salary compensation in accordance with the Employment Relationships Act (ERA) which sets out 80% of the average salary for the previous three months; and
- To perform full-time work at the request of the employer. The employee may register in the register of jobseekers during the ordered part-time work and may also be included in the measures provided by the Employment Service to registered jobseekers

Slovenia (continued)

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- Last updated: 14 December 2020

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(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?	(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?	(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?
Please refer to comments in Q15.	A special plan needs to be in place with criteria for redundancy. The Employment Service need to be notified in advance as well as trade union or work council. Severance pay should be made to each employee according to the ERA.	Yes, the employer can carry out redundancy dismissals due to business reasons.	Trades union, works council and Employment Services need to be informed in advance.	Yes, the employer is required to notify Employment Services and follow their recommendation with regards to dismissal of employees if a certain threshold of redundant workers is met i.e.,: ▸ At least 10 workers, where total staff is between 20 and 100 workers ▸ At least 10% of workers, where total staff is between 100 and 300 workers; and ▸ At least 30 workers, where total staff is more than 300 workers The employer is required to draw up a redundancy program.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
Yes, the following criteria should be considered among others; - Professional education of the employee or qualification for work and the necessary additional knowledge and abilities - Work experience - Work performance - Years of service - Health status - The social status of the worker; and - That they are the parents of three or more minor children or the sole breadwinner of a family with minor children	The employer shall be obliged to consider and to take into account any proposals submitted by the Employment Service regarding possible measures for preventing or limiting to the greatest possible extent the termination of employment relationships of workers and the measures for the mitigation of harmful consequences of the termination of employment relationships. At the request of the Employment Service, the employer may not cancel employment contracts with workers prior to the expiry of a 60-day period from the day of fulfilment of the obligation.	Maximum 60 days based on request of the Employment Service, otherwise 30 days.	Severance pay in accordance with ERA, depending on years of service of the laid-off employee.

(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
No.	If reasons for lay-offs have not been met, risk of litigation exists. Please refer to comments in Q25, if the employer hires new workers for the same positions contrary to the business reason that was used to justify laying off the previous workers, a risk of litigation arises.	Depending on the reasons for lay-off these can vary from reinstating a worker to their previous job, damages (e.g., salaries that should have been paid plus interest, etc.).

Spain

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken.

Examples of this include:

- Providing disinfectants; and
- Technical possibilities as an alternative to physical meetings (e.g. video conferencing)

In this sense, in accordance with the Labor Risk Prevention Law, the company has an obligation to ensure the safety and health of workers and must:

- Assess the risks and take the appropriate prevention measures according to the risks detected; and
- Provide workers with the necessary protective equipment to carry out their work

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

The employer is responsible for providing a safe and healthy working environment. Denying a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace.

Once the employee confirms that they are diagnosed with COVID-19, the employer shall process their temporary disability with Social Security. Please note that the garden leave solution, is not considered as a general practice in Spain. Instead, there are other measures that could be taken by the companies, such as the following:

- Temporary reduction of working hours
- Irregular distribution of the working day; or
- The temporary suspension of employment contracts

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?

As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic.

Individual information regarding sickness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people.

Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.

(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?

In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment.

In this sense, in accordance with the Labor Risk Prevention Law, employees have the obligation to "*cooperate with the employer so that they can ensure working conditions which are safe and do not entail risks for the safety and health of the employees*".

Non-compliance of the risk prevention obligations by employees shall be considered as a breach of the employment conditions, and may therefore be sanctioned.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?

The occupational risk prevention service, in order to facilitate the processing of temporary disability leave as a result of the COVID-19 pandemic, must draw up a report with the confirmed and suspected cases as well as the close contacts of the confirmed cases and communicate it to the primary care services or to the Mutual Insurance Companies collaborating with the Social Security.

(6) Other remarks

The Spanish Social Security has published criteria in which it is established that the quarantining of employees as a consequence of the COVID-19 pandemic is considered as a temporary disability and the Labor Authority assumes the cost of the benefits due to such employees in the same terms as in other temporary disabilities. Additionally, the Employment Ministry has published a guideline for the companies regarding the prevention and labor measures that could be taken by companies.

(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Yes.	As established in the Royal-decree law 8/2020 of 17 March 2020 related to the urgent extraordinary measures to address the economic and social impact of the COVID-19 pandemic, a company can adopt measures consisting of: ▸ A temporary reduction of working hours, or ▸ The temporary suspension of employment contracts (*ERTE*). These situations could be complemented with unemployment benefit The Royal-decree law 18/2020 of 12 May 2020 on social measures in defense of employment, differentiates between: ▸ Companies undergoing the *ERTE* based on *force majeure* who cannot resume their business activity (Total *force majeure*). For these companies, the regulation establishes that the *ERTE* may be extended as long as the reason for *force majeure* continues, at least until 30 June 2020 for the COVID-19 pandemic; and ▸ Companies undergoing the *ERTE* which can gradually resume their activity (Partial *force majeure*). The regulation establishes that if these companies continued to operate under *ERTE* until 30 June 2020, they must have reinstated the employees that were affected by the *ERTE* and prioritized the use of reduced working hours It is important to point out that the employment measures adopted as a consequence of the aforementioned Royal-decree law will be subject to the condition that the company maintains the workforce employed during the next six months (to at least November 2020) since the reinstatement of the ordinary activity.	The company shall follow different procedures depending on which kind of *ERTE* applies. In order to apply the *ERTE* based on Total *force majeure*, the Company shall send to the Labor Authority a communication enclosing: ▸ The intention of carrying out the procedure; and ▸ The grounds and documentation that evidence the necessity of the measure Once the Labor Authority has adopted a resolution, the Company must decide and inform the Employees' Representatives. No negotiation is required with the Employees' Representatives. On the other hand, when the company intends to implement an *ERTE* based on economic, technical, organizational or production grounds it should be negotiated with the employees' representatives along a consultation period, which can be extended for a maximum of seven days (before the Royal-decree law, it was 15 days).

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
No, The employer cannot unilaterally decide to postpone an employment start date. However, if a situation such as remote working arises, it is possible to apply the same measures which are being applied to the rest of the workforce.	No, The employer cannot unilaterally decide to postpone an employment start date. However, if a situation such as remote working arises, it is possible to apply the same measures which are being applied to the rest of the workforce.	No, The employer cannot unilaterally decide to postpone an employment start date. However, if a situation such as temporary disability arises, it is possible to apply the same measures which are being applied to the rest of the workforce.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
In this case, remote working could be implemented in the company. In case it is not possible, it could be agreed to temporarily suspend the employment contracts.	The quarantining of employees as a consequence of the COVID-19 pandemic could be considered as a temporary disability provided that this employee is under review of the Sanity Authorities.	The quarantining of employees as a consequence of the COVID-19 pandemic is considered as a temporary disability, with the Labor Authority assuming the cost of the benefits due in the same terms as in other temporary disabilities.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?

The employer cannot force an employee to use sick leave but, if some of these situations apply, the employer can prohibit the employee from going to the workplace in the event of risk, from a Health and Safety perspective.

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?

Please refer to the comments in Q7 and Q15.

The Royal Decree Law 30/2020 (RDL) incorporates employment and social security measures which extend and complement those already adopted by means of the previously approved Royal Decree-Laws on social measures for the promotion of employment and the protection of self-employed workers, especially with regard to the ERTEs and their conditions:

- ERTEs due to force majeure: An automatic extension until 31 January 2021 is established for ERTEs due to force majeure, on the grounds referred to in Article 22 of RDL 8/2020 which remain in force at the date of publication of RDL 30/2020
- Impediment ERTE: ERTE applicable to companies that are prevented from carrying out their activities at any work premises because of new restrictions or health containment measures adopted, as from 10 October 2020 by Spanish or foreign authorities. The duration of this proceeding is restricted to the durations of the new restrictions. Employers may benefit from prior authorization by the competent authority in regards to the employees whose activities have been suspended or whose working hours have been reduced, including certain percentages of exemptions
- Limitation ERTE: ERTE applicable to companies belonging to any sector or activity in which the normal development of their activity as a result of decisions or measures taken by the Spanish authorities has been somehow restricted. Employers may benefit from prior authorization by the competent authority in regards o the employees whose activities have been suspended or whose working hours have been reduced, including certain percentages of exemptions
- ERTEs for economic, technical, organizational and productive reasons (ETOP): As a new development, the RDL provides that an ETOP ERTE which is due to end while the RDL is in force may be extended, provided that an agreement is reached in this regard during the consultation period. This extension must be processed with the competent labor authority that processed the ETOP ERTE which is in force
- Sectors that are especially affected by COVID-19 (Special Sector): Two new categories of companies are introduced for the purposes of the RDL –
  - Sectors with a high rate of ERTEs and a low rate of recovery. These are companies in specific sectors that have ERTEs in force which are automatically extended until 31 January 2021 and whose activity falls within the scope of one of the National Classification of Economic Activities codes listed in Annex I of the RDL
  - Companies which indirectly depend on, or are part of, the supply chain of the above. These are companies:
    - For which at least 50% of their revenue during 2019 was generated by transactions carried out directly with those included under one of the National Classification of Economic Activities codes mentioned above
    - Whose actual activity is indirectly dependent on the activity effectively carried out by the companies included under the above-mentioned codes

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

Although there are no specific regulations on this subject, Article. 6 of the Royal-decree law contains measures in this regard:

- It is included as an extraordinary measure that employees who have the necessity to remain at their homes in order to take care of their children or other dependents, as long as it is justified, reasonable and proportionate, without this affecting their work situation, will be able to adjust their working hours or their place of work and the absence can be up to 100%
- To this effect, employees must communicate to the company 24 hours in advance of exercising such right. This right is considered as an individual right of each parent or caregiver
- In the event that special leave is already granted in this case, it may be modified to suit the new situation as long as the change is justified

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

Please refer to comments in Q7 and Q16.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The Spanish Government approved the RDL of social measures to protect employment. The RDL extends the validity of force majeure ERTEs until January 31st 2020.

Furthermore, it introduces new kinds of ERTEs as well as a new system of social security payment exemptions for companies in specific sectors.

Social Security measures: There are different situations depending on whether the company has suspended employment contracts or continues to provide services within the framework of COVID-19.

Extension of ERTEs until January 31st 2021 - Exemptions for social security contributions for companies with ERTEs belonging to certain sectors

All companies with a force majeure ERTE in place on 30 September 2020 will be able to maintain it until 31 January 2021. The extension operates automatically and no social security benefits will apply.

Exemptions for social security contributions for companies with ERTEs belonging to certain sectors

Besides the automatic extension of force majeure ERTEs until 31 January 2021, companies included in the most vulnerable sectors of the economy experiencing a low activity recovery will be eligible for additional exemptions. The vulnerable sectors are listed in Annex II of the RDL and the exemptions being the following: 75% exemption on social security contributions for companies with 50 or more employees, and 85% for companies with less than 50 employees.

Those exemptions will also be available to companies with a force majeure ERTE automatically extended until 31 January 2021, even if their activity is not included within Annex II. The requirement for those other companies being that at least 50% of their 2019 turnover was generated by operations carried out directly with companies included in that Annex.

New ERTEs for impediment or limitation of activity for supervening restrictions of the authorities

New ERTE scenarios are introduced for companies in any sector that are prevented or restricted from carrying out their activities as a result of new health restrictions or containment measures which may be adopted from 1 October 2020.

Those companies will be able to benefit from the following exemptions, during the implementation of their ERTEs:

	Months of accrual contributions	Less than 50 employees	50 or more employees
ERTE for limitation of activity	October	100%	90%
	November	90%	80%
	December	85%	75%
	January	80%	70%
ERTE for impediment of activity		100%	90%

Continuity of simplified ERTE ETOP with Social Security exemptions

Furthermore, companies belonging to sectors listed in Annex II to the RDL, as well as those related, are also eligible for the same social security exemptions (75% for companies < 50 employees and 85% for companies with less than 50 employees, as long as they have an ERTE ETOP in place).

NB: Employers benefiting from Social Security exemptions for their ERTEs are committed to safeguarding their employment level during a period of 6 months. Thus, they are prevented from terminating employment contracts during this timeframe.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable. *(continued)*

If the Company continues providing services

Social Security measures:

Additionally, regarding the possibility of requesting a moratorium on the payment of Social Security contributions and a deferment in the Social Security debts, it is not possible at this time to request them based on the COVID-19 pandemic.

In this regard please note that:

- Moratoriums: This is a rarely deployed mechanism which is only allowed under exceptional circumstances, such as the spread of the COVID-19 pandemic. However, the time to request a moratorium from the Social Security measures elapsed on 10 July 2020
- Deferments in the Social Security debts: The deferment of Social Security debts which are within the statutory period of payment can be requested of the General Treasury of Social Security

  Please note that at this stage, no deferments based on the COVID-19 pandemic can be requested but these may be requested based on other circumstances. The General Treasury will request all the documentation it deems necessary, and after conducting a study, will decide whether the deferment is granted or not and will set a payment schedule. Please note that the deferment involves 0.5% interest and debts cannot be deferred for more than five years
- Social Security benefits exclusively for companies that continue to provide services linked to the tourism, commercial, catering and hotel sectors:

  Royal Decree-Law 25/2020 of 3 July 2020 on urgent measures to support economic recovery and employment contains several measures for companies providing services in the tourism, commercial, catering and hotel sector. Among others, it is foreseen these companies can apply for Social Security discounts for fixed permanent contracts between July and October 2020

  The main characteristics of these discounts are:
- Companies within these sectors can apply for a 50% discount on employers' Social Security contributions for common contingencies, unemployment, FOGASA and Professional training for those on fixed permanent contracts
- Companies must generate productive activity in the months of July, August, September and October 2020
- During the requested months, companies must begin / maintain the activity of the fixed permanent employees
- These discounts are compatible with the reductions in contributions to the Social Security contributions which would had been requested. The amount resulting from the application of both may not exceed 100% of the company's contribution that would have been payable
- The discounts on quotas will be applied by the General Treasury of the Social Security at the request of the company
- As regards application deadlines:
  - March, April, May, June and July: Application no longer permissible
  - August: Application no longer permissible
  - September: The deadline is until 30 October 2020; or
  - October: The deadline is until 29 November 2020

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

In the case of suspension or reduction of working hours due to *force majeure*, companies can be exempted from paying the Social Security contributions. In this regard, the regulation approved by the Government establishes that if a company that wants to apply this benefit, it will have to request it from the Social Security administration, identifying the employees and the intended period of suspension/reduction of contributions.

For the purpose of monitoring the abovementioned exemption, it is sufficient to verify that the National Public Employment Service (SEPE) recognizes the unemployment benefit of the employees for the relevant period.

For greater agility, it was established that the unemployment benefit of employees affected by an *ERTE* due to the COVID-19 pandemic will be processed directly by the company, which will have the obligation to carry it out jointly with the SEPE.

(17) What is the legal framework for collective redundancies?

Collective dismissals are governed by Article 51 of the Workers' Statute, Art. 124 of the Labor Procedure Law, and the Royal Decree 1483/2012. Rules regarding collective dismissal are triggered when an employer proposes to terminate employees in the following thresholds:

- At least 10 employees, in a company with less than 100 employees
- At least 10% of the total workforce, in a company with 100-300 employees
- At least 30 employees, in a company with more than 300 employees; or

However, the jurisprudence of the Spanish Supreme Court has confirmed that the number of dismissals carried out in each of the 'establishments' of the 'company' shall also be taken into consideration when it comes to deciding whether a collective dismissal is necessary

Therefore, the employer should verify the following:

- Whether the threshold for a collective dismissal is exceeded or not at a 'company' level
- Whether the threshold for a collective dismissal is exceeded or not in each of the establishments affected (if the dismissal affects more than one establishment); and
- Whether the threshold will only apply for a particular establishment (i.e., if the collective dismissal will affect exclusively that establishment)

The process has five key features:

- Legal justification
- Consultation with employees' representatives
- Information requirements notified to the Labor inspector (approval not necessary)
- Social plan (if applicable); and
- HR legal costs (i.e., dismissals)

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Workforce transformation must be justified by the following grounds:

- Economic
- Productive
- Technical; or
- Organizational

Termination of employees based on any ground(s) that could be considered contrary to employees' fundamental rights can be declared null and void by Spanish labor courts.

Please note that extraordinary measures have been adopted by the Spanish Government for the protection of employment in the context of COVID-19 pandemic:

- Companies cannot carry out dismissals or terminations of employment contract due to *force majeure* or objective reasons (economic, technical, organizational and production) that justify the temporary suspension of contracts or reduction of working hours due to the COVID-19 pandemic. This measure has been implemented for temporary purposes in connection to the declaration of the state of emergency currently in force, and the termination date for which has not been confirmed
- Companies who have implemented *ERTE*s (temporary suspensions of employment contracts and reduction of working hours) based on *force majeure* grounds are obliged to maintain the workforce employed during the following six months from the reinstatement of usual business activity

(19) What are the consultation requirements with works councils/unions (if any)?

The employer must inform the employee representatives of its intention to implement a collective dismissal. Such communication must be made at least seven or 15 days (depending on whether the company has legal representatives or not) prior to the start of the consultation period. Whatever the grounds for the collective dismissal, the communication must include the following information:

- Reasons for the contemplated collective dismissals
- Number of employees affected and their professional category
- Number of employees hired by the employer during the previous year
- Proposed date of implementation of collective dismissal
- Selection criteria to be applied; and
- Details of all the employee representatives communicated with regarding the contemplated collective dismissal process

The communication must be disclosed together with an explanation memorandum where the reasons for the collective dismissals are duly explained:

- If the collective dismissal is based on economic reasons, the employer should provide, in general terms, an explanatory memorandum that shows the negative economic situation of the company. In particular, the employer must provide the annual accounts of the last two years, including, at least:
  - A balance sheet
  - Profit and loss statement
  - Statement of changes in equity
  - Cash flow statements
  - Report of the exercise and management report.

Additional documentation may be required depending on the particular case of the company; or

- If the collective dismissal is based on productive, technical or organizational reasons, the employer must also provide a technical file (*Technique dossier*) validating the reasons. After receiving the communication from the employer, the employee representatives will have a maximum of seven or 15 days to constitute a commission to negotiate with the employer (depending on whether the company has legal representatives or not)

The consultation period will take a maximum of:

- 15 days for companies with less than 50 employees; or
- 30 days for companies with more than 50 employees

The consultation period is focused on the grounds of dismissal and the possibility to avoid or reduce its effects, as well as on measures to mitigate its consequences for the affected employees. Both parties must negotiate in good faith, with the view to reaching an agreement. However, it is not necessary to obtain a formal agreement. In practice, if the collective dismissal only affects part of the workforce, selection criteria is a key issue during the negotiation process.

There is no obligation to consult other employee representatives.

Consultation requirements with employees

The employer cannot directly communicate with the employees before or during the consultation period.

In this sense, in accordance with the Spanish National Court, the consultation should always be between the employees' representatives and the company. In the companies where there are no employees' representatives, the company must inform its employees that they should appoint a commission in order to negotiate with the employer.

If the employer communicates with the employees and not with their representatives, it could be considered that the employer is not acting in good faith during the negotiation and the collective dismissal could be declared null and void.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

The employer must provide the required information and documents to the labor authority at least seven or 15 days (depending on whether the company has legal representatives or not) before the start of the consultation process with the employee representatives, i.e., at the same time as the information was provided to the employee representatives. The employer must provide the following documents to the labor authority:

- A copy of the initial communication
- Explanatory memorandum and all the supporting documents provided to the employee representatives
- Any additional general information such as presence of employee representatives, composition of the employee representatives, etc; and
- Information about the employer

When the consultation period is over, if the parties did not reach an agreement, the employer must inform the labor authority and the employee representatives about its final decision on the collective dismissal.

If an agreement is reached, the employer will transfer a copy and the mandatory documentation to the labor authority.

The labor authority must forward such information and documents to the Labor and Social Security Inspectorate soon after receiving them from the employer. The Labor and Social Security Inspectorate will, in turn, issue a report declaring whether the consultation process was fairly conducted within 15 days from the date of receiving the information and documents from the labor authority.

The labor authority's approval is not required to carry out the dismissals; However, the labor authority may launch a claim against the employer's decision in the case of malice, fraud or abuse by the employer.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The employer can freely choose the employees to be dismissed in a contemplated collective dismissal. However, the selection process must not violate the fundamental rights of the employees. For example, if the employer includes employees in a special situation (such as employees on maternity leave or paternity leave, employees with working hours' reduction, pregnant employees, etc.) there is a risk that the process is discriminatory and that it would breach fundamental rights, that could result in the courts declaring the collective dismissal null and void.

Additionally, the law foresees that employee representatives will enjoy priority due to their permanence within the company. By CBA or by agreement reached during the consultation period, permanence priorities may be established in favour of some specific employees, such as employees with family responsibilities, disabled employees, among others.

(22) Are there any actions required to limit the negative impact of the redundancy?

The employer should consider alternatives to prevent or reduce the dismissals and mitigate the consequences through the following measures:

Internal alternative employment/redeployment

The employer shall consider the following internal measures in consultation with the employee representatives in order to avoid or reduce the contemplated redundancies:

- Internal relocation of the employees in the company or to another group
- Functional mobility
- Geographical mobility, with consideration of providing compensation
- Not applying the working conditions provided by the CBA
- Provision of training courses for the employees; and
- Any other measure that could help the affected employees to retain their employment

Other measures

The employer shall also consider the following measures in order to limit the negative impact of the collective dismissal:

- If the collective dismissal affects more than 50 employees, the employer must include in the initial documentation provided to the employee's representatives an outplacement plan (*Plan de recolocación externa*)
- The employer must consider rehiring the employees dismissed in the future
- The employer must consider training for the terminated employees
- The employer must promote the self-employment or the employment in companies of the social economy (e.g., cooperatives, mutual insurance companies, foundations, associations to carry out economic activities, labor companies or '*sociedades laborales*,' insertion companies or *'empresas de inserción'* and special employment companies),
- The employer should also compensate the affected employees for possible salary reduction in their next employment
- If employees over 55 years old are dismissed, the employer must make payments to the affected employees in accordance with a special social security agreement; and
- If employees over 50 years old are dismissed, the employer must make a payment to the public treasury

(23) What is the estimated timeline for a collective redundancy process?

The approximate time taken to prepare for the collective dismissal process is between 30 and 60 days. However, the time required to fully implement a large-scale redundancy may be longer depending on the number of redundancies contemplated, the size of the company, the time incurred in the preparation of the documentation by the company itself and third-party experts, etc.

The following terms apply to a collective dismissal process:

- To constitute a commission to negotiate – by the employee representatives:
  - Seven days maximum for companies with employee representatives; or
  - 15 days maximum for companies without employee representatives
- Consultation period:
  - 30 days maximum for companies with more than 50 employees; or
  - 15 days maximum for companies with less than 50 employees

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Termination indemnity: Severance payment of 20 days per number of years worked in the company, up to a maximum of 12 months. Nevertheless, during the consultation period with the employee representatives, the parties can agree on a higher severance or any other more beneficial condition for the employees dismissed.
- Social plan costs:
  - The employer must make payments to the dismissed employees in accordance with a special social security agreement, if the affected employees are over 55 years old; or
  - The employer must make a payment to the public treasury, if the affected employees are over 50 years old

Customary additional costs

The costs for the measures of a social plan may vary depending on how many employees over 50 years old are affected by the redundancy (social plan costs).

The employer may incur additional costs in hiring third-party experts for the mandatory technical and legal report required by law.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

The employer is not obliged to re-hire the employees dismissed (if the employer hires new employees) after a collective dismissal. However, Article. 8 of the Royal Decree 1483/2012 suggests some measures in order to prevent, reduce or limit the negative impact of the collective dismissal, among which the employer may agree during the negotiations with the employee representative to grant a rehiring priority to the dismissed employees to return to the company if there are any future job vacancies.

If the employer hires employees just after implementing the collective dismissal in positions that could be filled by the affected employees, courts in Spain may declare it to be noncompliant with the law and may further declare such collective dismissal process null and void. In such circumstances, the employer could be forced to reinstate the affected employees.

Spanish legislation does not formalize an obligation to maintain a 'no new hire' period after a collective dismissal. Case law does not specify a determined period, either, but it is recommended to wait six months before hiring new employees.

Hiring temporary employees at the same time, or just after, a collective dismissal to perform the same tasks that the employees included in the collective dismissal may perform, can be considered by the Spanish courts as if the employer wants to replace a fixed cost (indefinite employees) for a variable cost (temporary employees). Therefore, the grounds used for the collective dismissal may be considered as not substantiated.

The performance of temporary contracts should be substantiated on a temporary basis (e.g., cover temporary leave, respond quickly to situational requirements). If such temporary reason is not met, temporary contracts could be considered as indefinite.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

The following interested parties can bring lawsuits related to the dismissal process:

- Works council/unions/employees: The employee representatives could collectively challenge the collective dismissal within 20 days from the date of the employer's decision on collective dismissal, if the following conditions exist:
  - The employer has no valid reason to proceed with the collective dismissal
  - The consultation process was not in compliance with the law
  - The employer's decision was a result of fraud, malice or abuse; or
  - The employer's decision was against the fundamental rights of the employees
- Impacted employees: Each impacted employee can challenge their dismissal individually for any of the reasons stated above; or
- Labor authority: The labor authority could challenge the collective dismissal in the case of malice, fraud or abuse by the employer

Litigation cannot stop or slow down the collective dismissal process. However, a collective claim submitted by the employee representatives will stop the possible individual claims that the affected employees may submit until that collective procedure ends.

(27) What are the risks of damages or other remedies due to the redundancy process?

Challenges could lead to the following types of remedies:

Damages for unfair dismissals

The Court may award differing severance pay amounts if the collective dismissals are considered unlawful or null and void, based on the following:

- The employer has no valid reason to proceed with the collective dismissal
- The consultation process was not in compliance with the law
- The employer's decision was a result of fraud, malice or abuse; and
- The employer's decision was against the fundamental rights of the employees

Therefore, the dismissal(s) may be qualified as:

- Fair: No additional compensation has to be paid to the claimant
- Unfair: The employee has the right to receive a dismissal indemnity for an equivalent amount to 33 days of salary per year of service, with the maximum of 24 monthly payments (45 days with the maximum of 42 monthly payments for the period before 11 February 2012)
- Null and void: The employer has the obligation to reinstate the affected employees and pay the accrued 'Interim Salaries' (the salaries that the employee should have received since the dismissal until the pronouncement of the Court).

There are no punitive damages in Spain.

Reinstatement

The Court may order the employer to reinstate the affected employees if the collective dismissal process is declared null and void. If it is declared null and void, the employer has the obligation to reinstate the affected employees and pay the accrued 'Interim Salaries.' In this sense, the employer cannot refuse the reinstatement.

Criminal sanctions

No criminal sanctions exist for breaching workforce transformation laws in Spain.

Sweden

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants; and ▸ Technical possibilities as an alternative to physical meetings (e.g., video conferencing)	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. For example, in countries to which the GDPR applies, personal health data should be processed, stored, secured, accessed and destroyed in accordance with that legislation. Individual information regarding sickness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people. Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
No.	No.	Yes.	The introduction of a system enabling short-time work with governmental support entered into force on 7 April 2020, with retroactive effect as of 16 March 2020. A certain procedure must be followed, which depends on whether there is a CBA in force. The reduction of working hours shall be either 20%, 40% or 60%; and the costs are divided between the state, the employer and the employee.	An introduction of short-time work requires prior trade union consultations with the trade union parties to the relevant CBA . If no CBA applies, individual agreements must be entered into with at least 70% of the workforce.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
No.	No.	No.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
The same for all employees at the workplace who cannot attend; The employer must pay salary and benefits as usual if employees are put on garden leave or are working from home.	The same for all employees at the workplace who cannot attend; The employer must pay salary and benefits as usual if employees are put on garden leave or are working from home. An employee may be entitled to disease control benefit from the government when infected but not incapacitated. In cases where an employee is confirmed as infected by the disease, they are entitled to sick pay under statutory regulations and supplementary regulations in any applicable CBA.	The same for all employees at the workplace who cannot attend; Statutory sick pay provisions will kick in.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
Yes. Sick leave, but only for the employee who has tested positive for COVID-19. Employees can also be asked, but often not forced, to take out accrued compensatory leave or vacation days. However, with certain notice, accrued leave entitlements can be scheduled unilaterally by the employer but this also depends on applicable policies and CBAs.	The Swedish government announced new rules with respect to statutory sick pay on 11 March 2020, according to which sick pay benefits will be available as of the first day of sick leave (rather than the second day). During the period 1 April – 31 July 2020, the Swedish government assumed the entire sick pay costs for employers. As of 1 August, the government will assume the responsibility for any increased sick pay costs due to the COVID-19 pandemic. Further, an employee who is sick does not have to provide a doctor's certificate to the employer (ordinarily, the employee would have to provide such a certificate to their employer on day eight of the sickness period). The Swedish government has announced that these changes to sick pay regulations shall apply until 31 December 2020.	In this case, employees have a right to stay at home if there is no other possibility to take care of their children. From an employment law perspective, it would be considered a valid reason for being absent from work. The employer is, however, not obliged to pay salary during this time. On 23 April, the Swedish government announced that parents forced to stay at home with children in the case of a possible closure of schools would be entitled to temporary parental leave benefits. These temporary parental leave benefits will be available until 31 December 2020.	Yes, please refer to comments in Q7. The cost is shared between the government, the employer and the employees. Currently, the scheme means that the employer's salary costs may be reduced by half, while the employee receives more than 90% of their salary. Note that on 9 November 2020, the Swedish government presented a proposal whereby the scheme for governmental support for short-time work will be extended. If enacted, the proposal would entail revised cost allocation levels as of April 2021.

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(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Companies that can prove difficulties in coping with the financial challenges that arise due to the COVID-19 pandemic can apply for the state aid. However, the financial difficulties must have been caused by a relationship outside the employer's control and negatively impacting the company's business operations. All employers, with the exception of certain governmental entities, may receive support in the event of short-time work if the requirements for the support are fulfilled.

In order to qualify for preliminary support, the employee's working hours must be reduced by 20%, 40% or 60% of regular working hours. This governmental aid is not sector specific as such, however, the rules differ slightly depending on whether there is a sector-wide CBA in place. In order for employers who are bound by a sector-wide CBA on short-time work to be eligible for the support, they also have to enter into a local CBA in which the detailed conditions for the application of short-time work have been established.

Employers who are not bound by a sector-wide CBA on short-time work can apply for support provided that there is a written agreement between the employer and each of the employees affected by the short-time work. Additionally, at least 70% of the employees at the operating unit are required to participate in the short-time work during the period covered by the support.

State aid is capped for monthly salaries up to SEK44,000. Any exceeding amounts are borne by the employer.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

- For employers who are bound by a sector-wide CBA check if you are covered by a CBA on short-time work. For employers who are not bound by a sector-wide CBA, draft and enter into written agreements with at least 70% of the employees at the relevant operating unit
- Submit the application for support to the Swedish Agency for Economic and Regional Growth (*Tillväxtverket*) (Agency). The Agency examines the application against the conditions laid down for the support. If necessary, the Agency may request further information regarding the application. The application can be submitted at the same time as the steps outlined above are undertaken
- Support is provided after approval by the Agency; and
- An employer who has received preliminary support is required to make a reconciliation, which involves a comparison and assessment of whether the average working hours and salary reductions applied are in accordance with the specified levels in the law and the agreements concluded. An obligation of repayment may arise if the employer has received excessive preliminary support

(17) What is the legal framework for collective redundancies?

The redundancy process in Sweden is governed by the Employment Protection Act (1982:80) as well as supporting regulations in the Employment (Co-Determination in the Workplace) Act (1976:580). However, the term 'collective redundancy' is not legally defined. The legal process will remain same for terminating either one employee or the entire workforce.

The only difference is a duty to notify the Swedish Public Employment Service (*Arbetsförmedlingen*) when the redundancy comprises five employees or more.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

A lawful dismissal of an employee requires the employer to establish an 'objective reason' for the dismissal. The objective reason can either be 'redundancy' or 'personal reasons.'

Redundancy dismissals may be carried out due to any economic or organizational reason, as long as it is not discriminatory and does not violate good practice on the labor market.

One implication is that a profitable company may still contemplate a redundancy of its workforce. The Swedish legal phrase for 'redundancy' may be literally translated as 'shortage of work' (*Arbetsbrist*), which is in one way a misleading term as there is no requirement of an actual shortage of work.

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

Prior to deciding upon a redundancy, and regardless of the size of it, if the employer is bound by a CBA, it must consult with the impacted trades union. If the employer is not bound by a CBA, consultation needs to take place nonetheless if any of the impacted employees are unionized.

The employer must consult the impacted trades union and provide them with the following information:

- Reasons for the contemplated dismissals
- Number of employees impacted by the contemplated dismissals and the employment categories to which they belong
- Number of employees generally employed in the company and the employment categories to which they belong
- Time period of the implementation of the contemplated dismissals
- Method of calculation of any compensation to be paid in conjunction with termination, in addition to what is required by law or applicable CBA; and
- Copies of any notices that have been filed with the Swedish Public Employment Service with regard to the proposed dismissals

Upon request, the employer must also provide a written assessment to the impacted trades union detailing the possibilities of transferring the redundant employees to other positions.

Further, the employer has an obligation to perform a work environment risk analysis, in accordance with the Work Environment Act. The risk analysis shall identify any work environment risks (such as increased workload for the remaining employees) due to the planned reorganization and set out risk mitigation steps.

The risk analysis shall be carried out in cooperation with the designated workplace safety officer. The employer is not obligated to provide the risk analysis report to trades union; However, it should be made available at the workplace for review upon request.

Trade union consultations must be initiated and finalized prior to making any decision to reorganize the business or make employees redundant.

Consultation requirements with other employee representatives

No specific consultation requirements with other employee representatives exist.

Consultation requirements with employees

The employer is free to communicate with employees on the contemplated redundancy; However, the employer cannot communicate the final decision on the contemplated redundancy until after the trade union consultation is finalized.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Approval of the Swedish Public Employment Service or other government authorities is not required to dismiss any employees.

However, the employer is obligated to provide a written notification to the Swedish Public Employment Service, prior to the first dismissal, when intending to make five or more employees redundant. The notification period may vary from two to six months depending on the number of impacted employees.

The Swedish Public Employment Service must be notified:

- At least two months before a cutback in operations that affects between five and 25 employees
- At least four months before a cutback in operations that affects more than 25 but no more than 100 employees; or
- At least six months before a cutback in operations that affects more than 100 employees

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

Employers are not free to choose which employees will be made redundant. When dismissing an employee due to redundancy reasons (i.e. the employee's position is made redundant), the employer needs to follow a particular dismissal order. The order in which employees are to be dismissed follows the seniority principle. This principle essentially means that the employer shall offer to transfer the redundant employee to another position if that position is held by someone with a shorter employment history at the company – 'last in, first out'.

The application of the seniority principle on a redundancy is limited to the operational unit (normally geographically limited to a certain office) of the company.

Locally elected trade union representatives may be protected from dismissal provided the employer is bound by a CBA to that effect.

Further, certain categories of employees, such as employees who are remunerated with special state employment support and employees with reduced working capacity, are excluded from the selection process and may be given priority for continued employment.

Employees on parental leave (on maternity leave prior to giving birth or on full-time parental leave) are not exempt. However, if given notice of dismissal, the notice period will not commence until the employee returns from parental leave, which may further delay the redundancy process.

An employer with no more than 10 employees may protect two employees from redundancy subject to such employees being of certain importance for the future business.

(22) Are there any actions required to limit the negative impact of the redundancy?

Internal alternative employment/redeployment

Prior to terminating an employee, the employer must search for any vacant position (within the same legal entity) to offer the impacted employees, subject to the impacted employee having 'sufficient qualifications'.

An employee having 'sufficient qualifications' for a vacancy does not necessarily mean the same thing as the employee being the best suited for the said position compared with other candidates. Basic skills for the role are considered sufficient, and the employer must also provide a training period (generally up to six months).

If there are no vacancies to offer, or if the employee is found to lack sufficient qualifications for the available vacancies, the employer needs to follow the dismissal order based on the seniority principle.

Other Measures

Most Swedish CBAs contain an insurance clause that offers the dismissed employees help with finding new employment. Other than this, the employer has no further obligation to take actions to limit the negative impact of the redundancy.

(23) What is the estimated timeline for a collective redundancy process?

Time anticipated to prepare for the contemplated collective redundancy process could vary between a couple of days to several months, depending on the complexity and extent of the reorganization.

The estimated timeline for the collective redundancy process could vary from a month to a year (or more) depending on the following factors:

- Number of impacted employees: The employer's obligation to provide notice to the Swedish Public Employment Service when five or more employees are impacted due to proposed redundancy process would further delay the process, as the notice period may vary from two to six months depending on the number of the impacted employees.
- Number of trades union involved: The consultation process may usually take three to six weeks from the date of the employer's request for a consultation. If more trades union are involved, more time would be needed to complete the information and consultation process.
- The complexity of the reorganization: Whether or not the trade union accepts the employer's assessment of transfer possibilities and the employees' qualifications (if applicable) will affect the timeline.
- The notice period for each impacted employee: The notice period stipulated by law is between one and six months, depending on the years of service and age of the employees. However, individual agreements or a CBA may prescribe even longer notice periods.

(24) What are the estimated costs?

Mandatory costs

There are no legally required components of HR legal costs; However, the employer may incur costs for the notice period and paid leave.

Customary additional costs

Most CBAs in Sweden provide insurance coverage that would include readjustment assistance and career support, as well as some economic compensation. The cost of the insurance is included in the premiums paid when bound by a CBA. Generally, the terms and conditions of the CBA dictate that the employer incurs this cost.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

The impacted employee has a right of priority for re-employment if they have been employed by the employer for at least 12 months prior to receiving notice of dismissal. This priority right applies during the notice period and for a period of nine months after the cessation of the employment.

If the impacted employees request that they benefit from the re-hiring obligation within the permitted time period, the employer must offer them all job positions corresponding to their skills for which an external hire is being considered.

(26) What are the risks of litigation caused by the redundancy process?

The following interested parties can bring lawsuits related to the redundancy process.

Trades union

If the employer failed to inform and consult with the trades union prior to its final decision on implementing the contemplated collective redundancy, the trade union may initiate litigation against the employer. If the employer does not initiate a consultation, the trade union must first request a consultation before bringing such action. This must be made:

- Within four months of learning of the circumstance on which the claim is based; or
- Within two years of the occurrence of that circumstance on which the claim is based; and
- A claim for damages must be made within four months of finalizing the consultations

Impacted employees

Impacted employees can sue for unlawful termination (termination in violation of redundancy principles established by law – for additional information please refer to 'Required legal justification') and/or for noncompliance with the seniority principle.

For unlawful terminations, the statute of limitation is two weeks after receiving a notice of termination. If the notice did not contain the information regarding the employee's option of appealing to a court, the limitation period is one month. The statute of limitations for a claim for damages is four months. Litigation cannot stop or slow down the collective redundancy process as such.

(27) What are the risks of damages or other remedies due to the redundancy process?

Challenges could lead to two types of remedies:

- **Damages for unfair dismissal**

If the employer failed to comply with the seniority principle, the employee may claim damages for the noncompliance and damages for loss of income of up to 32 months' salary, depending on length of service with the company.

If the employer fails to inform and consult with the trades union prior to its final decision on implementing the contemplated collective redundancy, the employer is liable for damages to the impacted trades union for such noncompliance.

- **Reinstatement**

If a termination due to personal reasons is challenged, the employment will continue until a verdict has been reached in court. Swedish courts may order reinstatement for unlawful terminations. However, it may not reinstate an employee if the termination was challenged only due to violation of the seniority principle.

Criminal sanctions

No criminal sanctions exist.

Switzerland

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Last updated:

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Switzerland

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: - Providing disinfectants; and - Technical possibilities as an alternative to physical meetings (e.g., video conferencing)	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits. Further, the Federal Council and the Federal Office for Public Health (FOPH) recently announced that people who have spent time in a country or area with an increased risk of infection and then enter Switzerland must go into quarantine, since there is a higher risk that these people be infected. The FOPH publishes a list of such countries, which is updated on a regular basis. Since the employer is responsible for providing a safe and healthy working environment, it can deny an employee returning from such a country entry to the workplace, and therefore the employee is obliged to stay in quarantine without access to the workplace.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people. Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment. Please also refer to the comments in Q2.

Switzerland (continued)

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?
No. However, the diagnosed employees themselves have to inform the authorities in accordance with the official local guidelines and should be informed about this obligation by their employer.	In principle, the employer can order business trips even in times of the COVID-19 pandemic. However, directing employees to take business trips to a country which is already high-risk might not be allowed in specific cases, for example if the employee is a vulnerable patient or there is a significant risk of infection. Please refer to comments in Q2. If the employer sends its employees on a business trip in a country or area with an increased risk of infection in accordance with the mentioned list by the FOPH and the affected employee must stay in quarantine upon their return to Switzerland, the employer must not deny continued remuneration during the quarantine period.	Yes.	▸ More than CHF40 bn for financial support, including immediate economic help, short-time work and other compensation. ▸ Short-time work is an instrument to compensate for temporary loss of work that aims to safeguard jobs. The compensation usually amounts to 80% of the relevant earnings (in principle, calculated on the basis of the latest monthly income). Due to the COVID-19 pandemic, the application process for short-time work has been simplified; some simplifications have been lifted by 31 May 2020, others have been lifted by 31 August 2020 and the ones that were not lifted by the end of August will remain in place until 31 December 2020. ▸ The Federal Council has also implemented further measures in the area of loss of earnings compensation, to which both employees and self-employed individuals are entitled. The measure will apply retroactively from 17 March 2020. Depending on the reason for the loss of earnings, it is possible to apply for compensation until 16 September 2020 or even beyond this date (please refer to comments in Q15 for further details). ▸ Further special support measures have been announced for companies and/or self-employed individuals that work in the field of culture, tourism and sport. (Please note further details regarding support measures in Switzerland are outlined in the answers to the questions in this section)

(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Not applicable.

Switzerland (continued)

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
No.	No.	No.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
Not applicable.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
The same for all employees at the workplace who cannot attend.	The same for all employees at the workplace who cannot attend.	The same for all employees at the workplace who cannot attend.

Switzerland (continued)

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?
Yes. Sick leave applies if the employee is prevented from working due to their falling ill, including having symptoms as a result of COVID-19.	Not applicable

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

In this case, employees have a right to stay at home if there is no other possibility to take care for their children. In principle, parents have to look for alternative child care, normally within a period of three days. During this time, there is an entitlement to continued remuneration in accordance with the Labor Act.

Depending on the circumstances, there may be an entitlement to longer lasting continued remuneration in accordance with the Swiss code of obligations because an employee would – in such a case – be prevented from working due to their legal care obligation.

Employees that must care for their children due to school closings and the absence of external childcare are entitled to apply for loss of earnings compensation to the Cantonal AHV compensation funds. If, however, the employer grants continued remuneration during this period, the employer is entitled to receive the reimbursement/subsidy from the Cantonal AHV compensation fund (please refer to comments in Q15).

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

CHF40 bn emergency aid for businesses via loans:

- The Federal Council set up a guarantee program worth CHF40 bn
- This is intended to provide companies with a quick and uncomplicated way of obtaining credit of up to 10% of turnover, to a maximum of CHF20m
- Amounts of up to CHF0.5 mn will be paid out immediately by the banks and 100% guaranteed by the federal government
- Amounts of between CHF0.5 mn and CHF20 mn will also be paid out immediately by the banks. These amounts will be guaranteed by the federal government at 85% and by the banks at 15%. This will encourage the banks to carry out a short bank review
- For amounts in excess of CHF20 mn, a case-by-case decision must be made
- The loans are to be interest-bearing only at a low interest rate
- Loans could be requested until 31 July 2020 from the bank with which a customer relationship already existed

Administrative units are instructed to pay out invoices as quickly as possible without making use of the payment deadlines.

Deferral of payment of social security payments (Temporary, interest-free deferral of payment of social security – AHV/IV/EO/ALV):

- Companies also have the option of having the amount of the regular contributions to the AHV/IV/EO/ALV to be adjusted if the sum of their wages has fallen significantly
- The same applies to self-employed workers whose turnover has collapsed
- The Cantonal AHV compensation fund is responsible

Liquidity buffer in the tax area and for federal suppliers:

- Businesses will be able to extend payment periods without having to pay interest on arrears
- Therefore, the interest rate for VAT, customs duties, special consumption taxes and incentive taxes will be reduced to 0.0% for the period from 21 March 2020 to 31 December 2020
- The same rules apply to direct federal taxes from 1 March 2020 until 31 December 2020

From 19 March 2020 until 4 April 2020, debts were not permitted to be enforced in the whole of Switzerland.

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Short-time work compensation:

If working hours must be reduced or operations must be shut down completely, employees are generally entitled to compensation for short-time work if:

- They are liable for unemployment insurance contributions
- The loss of work is based on economic reasons, inevitable and amounts to at least 10% of working hours normally performed by the employees
- The employment relationship has not been terminated yet; and
- The loss of work is likely to be of a temporary nature and it can be expected that short-time work will maintain jobs

Short-time work is subject to the consent of the concerned employees.

Compensation for the loss of earnings:

Compensation for the loss of earnings can be applied for by employees and self-employed individuals if the loss of earnings is based on one of the following reasons:

- If an employee, or a self-employed individual, must take care of their children up to the age of 12, of minors that are eligible to an intensive care supplement according to Swiss law (IVG), or of children up to the age of 20 years provided they attend a special-needs school, as a result of school closings and the absence of external childcare (due to a prescribed quarantine obligation for the person usually responsible for child care) or a prescribed quarantine obligation for the child and therefore suffers from a loss of earnings. The compensation is not paid during school holidays
- If an employee, or a self-employed individual, must stay in quarantine and therefore suffers from a loss of earnings. The obligation to stay in quarantine must be proved and the compensation is limited to 10 days for both employees and self-employed individuals
- In order to limit the spread of COVID-19, the Federal Council has, among other things, closed certain publicly accessible facilities such as shops and restaurants as well as banned public and private events. If a self-employed individual suffers from a loss of earnings as a result of one of these measures, they are entitled to compensation for the loss of earnings
- The compensation is subsidiary to other compensations (such as short-time work compensation) and to benefits from social and private insurances.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

Short-time work compensation:

If an employer intends to claim short-time work compensation for its employees, it must in principle notify the Cantonal Unemployment Insurance Fund 10 days before the start of short-time work, using the official pre-application form (a simplified version of the pre-application may be used until 31 December 2020). Within three months after the end of each accounting period, the employer must lodge the entire claim for compensation of its employees during the preceding period. When requesting the compensation within the mentioned deadline, the employer has to prove its information by means of a working time record for each affected employee and an evidence of the respective monthly income. An accounting period is usually one month.

The responsible authority is the canton in which the employer has its registered office.

Compensation for the loss of earnings:

Compensation for the loss of earnings must be applied for by the employee to the competent cantonal AHV compensation fund using the official form (which can be downloaded from the website www.ahv-iv.ch). If the employee benefits from continued remuneration, this must be specified when applying. In this case, the employee does not receive the compensation but the employer.

(17) What is the legal framework for collective redundancies?

Collective redundancies are governed by Art. 335d et seq. of the Swiss Code of Obligations (CO). Collective redundancy is defined as redundancy of:

- At least 10 employees in a business normally employing 21-99 employees
- At least 10% of the employees of a business normally employing 100-299 employees; or
- At least 30 employees in a business normally employing 300 or more employees

The above-mentioned thresholds are only fulfilled if the respective number of redundancies occur within a business during a period of 30 consecutive calendar days.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

A collective redundancy is implemented by notice of termination given by the employer to employees of a business for reasons not pertaining personally to the employees, i.e., the collective redundancies must not be tied to individual but to economic reasons (i.e., due to the financial situation of a company).

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

An employer intending to perform a collective redundancy must inform (in writing) and consult with the organization that represents the employees (employees' representatives) or, where there is no such organization, the employees themselves.

The employer must inform and consult on the following matters:

- Reasons for the mass redundancies
- Number of impacted employees
- Total number of employees employed in the business
- Proposed time period of implementation

The first written notification (First Notification) needs to be submitted as soon as the employer intends to perform a collective redundancy. The employer must give the employees or the employee's representative body (where present) an appropriate amount of time, specifically between two weeks and one month, to formulate proposals on how to avoid such redundancies or limit their number and how to mitigate their consequences.

After the consultation process has been concluded, the employees must be provided with a second written notification (Second Notification) about the outcome of the consultation process.

Consultation requirements with other employee representatives

No specific consultation requirements with other employee representatives exist.

Consultation requirements with employees

No other consultation requirements with employees exist except under the circumstances mentioned above i.e., in the absence of employees' representative bodies.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Approval/notification of the labor authorities or other government authorities

The approval of the Cantonal Labor Office is not required for redundancy; However, the employer must inform the Cantonal Labor Office of its intentions to implement a collective redundancy. Even if the number of the planned dismissals does not qualify as a collective redundancy, the Cantonal Labor Office must be informed if an entity terminates 10 or more working contracts.

The first notification needs to be submitted as soon as the employer intends to perform a collective redundancy and is usually a copy of the information letter/First Notification provided to the organization that represents the employees or to the employees themselves in the absence of such representation. It can either be sent by email or in writing.

A second notification to the Cantonal Labor Office must be sent with the outcome of the consultation process and pertinent information on the planned redundancies.

The notice period for the impacted employees can only commence after such notification to the Cantonal Labor Office.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

There is no legally driven selection process.

No categories of employees are protected from collective redundancies.

(22) Are there any actions required to limit the negative impact of the redundancy?

If at least 30 employees are affected by the collective redundancy in companies that regularly employ more than 250 employees, the employer has the obligation to negotiate a social plan with the workers' union (in the case of an applicable CBA), the employee's representative body or the impacted employees themselves. The social plan process may last several months and is independent from the collective redundancy process.

All measures aimed at limiting the negative impact of the collective redundancy are included in a social plan, also called the job-saving plan. The social plan must include the following measures depending on the means available to the company or its group:

Internal alternative employment/redeployment

The measures of a social plan may vary depending of the size of the company and the employer's potential to provide for a large range of measures to limit the negative impact of the redundancies, including outplacement or severance payments, which are the main customary additional HR costs.

Other Measures

The other measures may include severance payments.

(23) What is the estimated timeline for a collective redundancy process?

Preparation of any specific documentation required for the information and consultation process may take about two to four weeks.

Without preparation, the collective redundancy starts with the information (First notification) to the employees and the start of the consultation process (simultaneously). The consultation process and its evaluation take at least two weeks – there is no statutory deadline. Ideally, the entire consultation process including the evaluation is extended to three to four weeks.

The contractual notice periods of the employees (which are generally at least 30 days) start only after the notification of the end of the consultation process to the Cantonal Labor Office.

Based on the assumption that all employment relationships can be terminated with a notice period of three months to expire at the end of a month (noting that termination can only end at the end of a month, not in the middle of a month), the time required to fully implement a large-scale redundancy will normally be four to five months.

If a social plan is negotiated (either mandatory by law or voluntarily suggested), it can take up to several months to reach a settlement. However, the redundancies can be executed independently from such an agreement.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Salary (inclusive of bonus payments, fringe benefits, etc) during notice period; and
- Payment of accrued holidays, overtime, contractual bonus and other contractual benefits (normally covered by the respective accruals).

Dismissals of a large number of employees usually entail additional internal and external costs (e.g., administrative costs, increased human resource management efforts, advisors' fees, etc), the exact amount of which will depend on the circumstances. Further, such mass dismissals might lead to external pressure from labor unions, media and the public. The handling of such pressure will also require additional resources and should be accounted for.

Customary additional costs

The measures of the social plan may vary depending of the size of the company and the employer's potential to provide for a large range of measures to limit the negative impact of the redundancies, including outplacement or severance payments, which are the main customary additional HR costs.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

No hiring restrictions are applicable post redundancy.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Failure to inform/consult the employee representatives and failure to notify the Cantonal Labor Office may expose the employer to litigation risk. In the case of mandatory negotiation of a social plan, a risk exists that this may proceed to a formal court arbitration.

The following interested parties can bring lawsuits (within 180 days of termination) related to the redundancy process:

- Works council/unions/employees: To challenge the dismissal process (e.g., absence of notification/consultation process or abusive dismissal); and
- All interested parties: To challenge the late notification of, or failure to notify, the Cantonal Labor Office.

Litigation cannot stop or slow down the collective redundancy process. In the case of litigation, dismissals will stay effective except for the dismissals during a 'blocking' period (e.g., due to illness, accident or pregnancy).

(27) What are the risks of damages or other remedies due to the redundancy process?

Challenges could lead to the following types of remedies:

- **Damages for unfair dismissal**

Failure to inform/consult in advance with employee representatives exposes the employer to a maximum penalty of two months' salary for each employee involved; However, dismissals will not be invalidated.

Further, an employee may claim damages for wrongful termination (e.g., "on account of an attribute pertaining to the person of the other party, unless such attribute relates to the employment relationship or substantially impairs cooperation within the business") leading to a maximum penalty of six months' salary for each employee.

- **Reinstatement**

Reinstatement is not a remedy as dismissals are not generally invalidated.

- **Criminal sanctions**

A maximum administrative fine of CHF40,000 may be imposed for failure to notify the Cantonal Labor Office.

Taiwan

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include providing disinfectants and technical possibilities as an alternative to physical meetings (e.g. video conferencing). According to the Guidelines for Prevention for Severe Pneumonia with Novel Pathogens issued on 30 January 2020 (Guidelines), the employer shall avoid asking the employee to go on business trips to the infected areas in China Mainland. If the employer asks the employee to go on a business trip to an infected area without providing the adequate protective measures, the employee could reject the requirement; If the employer insists on their requirement, the employee could terminate the employment contract and ask for severance. The employer shall also prepare sufficient facemasks and shall not prohibit the employee from wearing the facemasks. If the employee is under the risk of being infected, the employer shall provide facemasks and ask them to correctly wear facemasks. For high risk working areas like hospitals, railway stations, etc. the requirements of the protective measures for the employees are more strict.	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits. The employer is required to grant 'quarantine leave' to the employee who is officially required to be quarantined by order of the relevant authority, but if the employee is not officially required to be quarantined by the relevant authority but the employer considers that the employee is potentially infected and prohibits the employee from the workplace, the wages shall still be paid to the employee.

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people.	According to the Guidelines, the employee shall notify the employer if they have fever and cough symptoms.

Taiwan (continued)

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
No.	The government has provided various stimulus packages to satisfy different needs of people, including postponing the tax payment period, aids for agricultural workers, taxi drivers and travel agencies, etc.	Yes.	Special Act for Prevention, Relief and Revitalization Measures for Severe Pneumonia with Novel Pathogens (Act) has come into effect on 27 February 2020. According to the Act, the employer shall grant 'quarantine leave' to the employee officially required to be quarantined by the authority. In this case, the employer is not obliged to pay wages to the quarantined employee. If the employee who takes quarantine leave is not paid during the period of isolation or quarantine, they could apply for compensation to their local government; If the employer keeps paying the wages to the employee during the quarantine period, the employer could enjoy tax benefits.	No.

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
8(i) The office is closed due to the COVID-19 pandemic;	8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	8(iii) The new hire has been diagnosed with COVID-19.		10(i) The office is closed due to the COVID-19 pandemic;	10(ii) The employer has visited a 'quarantine city/area' during the last 14 days;	10(iii) The employer has been diagnosed with COVID-19.
No.	No.	No.	Not applicable.	This will be the same for all employees at the workplace who cannot attend.	This will be the same for all employees at the workplace who cannot attend.	This will be the same for all employees at the workplace who cannot attend.

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?
No.	If an employee is not required to be quarantined but needs to take care of a quarantined family member, they shall be deemed as a quarantined employee and qualify for the quarantine leave. The employee could apply for unemployment benefits. If the employee is not qualified to apply for unemployment benefits to social insurance, they could apply to the emergency relief fund.	As of now, there are no obligations on the employer's part in the situation where the schools and kindergartens are closed.

Taiwan (continued)

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(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?
No.	To receive aid for operational funds and wages, the revenue of the company shall have more than 50% deficit when compared to the revenue of the same month last year. There are additional restrictions applying to business depending on the industry.	The requirements vary between different aids. To apply for the wages and operational funds aid, the company should provide evidence to prove that its revenue has reduced more than 50% compared to the revenue of the same month last year and the company has not cut the payroll of its employees. The application should have been made between 21 April 2020 and 31 July 2020.	Collective redundancies in Taiwan means the circumstance where a business entity has a need to lay off its workers on account of any of the conditions set forth the Labor Standards Act, including merger and restructure, and occurs under the following circumstances: ▸ Where a site in the business entity having fewer than 30 workers intends to lay off over 10 workers within 60 days ▸ Where a site in the business entity having more than 30 workers but fewer than 200 intends to lay off over one third of the total number of workers within 60 days, or more than 20 workers within one day ▸ Where a site in the business entity having more than 200 workers but fewer than 500 intends to lay off over one fourth of the total number of workers within 60 days, or more than 50 workers within one day ▸ Where a site in the business entity having more than 500 workers intends to lay off over one fifth of the total number of workers within 60 days, or more than 80 workers within one day; or ▸ The business entity intends to lay off over 200 workers within 60 days or more than 100 workers within one day

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?	(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?
Yes, the employer could only lay off the employee under the following situations: ▸ Where the employer's business is suspended, or has been transferred ▸ Where the employer's business suffers an operating loss, or business contractions ▸ Where *force majeure* necessitates the suspension of the business for more than one month ▸ Where the change of the nature of the business necessitates the reduction of workforce and the terminated employees can not be reassigned to other suitable positions ▸ A particular worker is clearly not able to perform satisfactorily the duties required of the position held; or ▸ Where the employer's business is going to proceed with merger and restructure	Within 10 days from the date of submission of the collective redundancy plan, in accordance with the Act for Worker Protection of Mass Redundancy, the workers and the employer shall enter into negotiations in good faith.	To implement collective redundancy of workers, the business entity shall, at least 60 days prior to the occurrence of collective redundancy, inform the officials / personnel of the competent authority and other relevant agencies of its redundancy plan by a written notice and announce it by publishing an announcement, provided that the forgoing 60-day requirement shall not apply to the case where the cause thereof is due to an act of God, calamity or accident. The employer does not need approval to proceed with collective redundancies.

Taiwan (continued)

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(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
Race, language, social station, ideology, religion, political affiliation, birthplace, gender, appearance, physical/mental handicap, age, and position in a labor union shall not be taken as the cause of discharge.	According to the Act for Worker Protection of Mass Redundancy, in the event that a worker finds a new job during the negotiation period, the original employer shall remain liable for the payment of severance pay or retirement pension. During the negotiation period, the employer shall not arbitrarily transfer or discharge any worker who is on notice to be laid off.	Notice period to the authority is 60 days.	The employer shall pay severance fees.

(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
The business entity that has implemented a mass redundancy plan and subsequently needs to employ workers for jobs of a similar nature shall give priority to the workers previously discharged by the mass redundancy plan.	The employee may file a lawsuit against the employer to claim that the dismissal procedure was illegal or to claim for severance pay.	Not applicable.

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14 December 2020

Turkey

- Contact: Mehmet Kucukkaya

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
The main obligation of the employers under Turkish Law is to protect their employees. This protection has a general meaning and covers both physical and moral protection. Following the COVID-19 pandemic, the main extension of the obligation to protect has been to make sure that the employees remain healthy. Therefore, employers must evaluate the physical conditions of the workplace (e.g., whether the air conditioning is sufficient, whether there is enough space for each employee to work while preserving social distancing etc.), as well as making sure that the workplace has sufficient hygiene standards. The employers may also want to screen the general health of the employees, especially by measuring the temperature of employees. However, additional issues must be taken into account in this regard, especially from the perspective of protection of personal health data.	Yes, it appears to be an obligation for the employers to protect the health of all employees and the general hygiene of the workplace.	Due to the Law on Protection of Personal Data, it is not possible for the employer to alert the employees by naming the diagnosed individual. However, the employer must trace the specific employees that the diagnosed individual had contact with in the last two weeks before diagnosis, and make sure that they do not have further contact with any other employee. The employer also must alert all employees that an anonymous employee has been diagnosed with COVID-19, and direct them on what to do if they feel any symptoms. Depending on the specifics of the case, the employer may require all employees undergo medical testing and even consider closing down the facility for a certain period of time.	Yes. In addition, the obligation extends even further. As this issue pertains to the general health of the employees and the workplace, the Turkish Ministry of Family, Labor and Social Security announced that employers must review the recent travels of all employees.

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(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?
In the case of any illness that makes the employee incapable of working, and lasts more than 3 work days, the employers must notify the Turkish Social Security Institution.	There are sample checklists prepared by the Turkish Standards Institute for different industries and scope of activity, in which some sectors require a license to be obtained under these procedures (i.e.,hotels).	Yes.

7(i) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support? (*continued*)

The employers may prefer certain options:

- First option is to have the employees use their annual paid leave. If the employees have unused annual paid leave, the employer may enforce the use of such leave
- Second option is unpaid leave. Please note that unpaid leave is introduced as a measure to prohibit the employers from terminating the employment agreements (with certain exceptions), utilizing unpaid leave instead. Unpaid leave can be imposed by companies from 17 April to 17 September 2020. The ban on termination of employment agreements has also been extended until 17 September 2020. (Currently, the President has the authority to extend these periods until 30 June 2021.) There is no limit on the number of unpaid leave breaks within this specified period. The employees taking unpaid leave are granted cash wage support from the Unemployment Insurance Fund in the amount of ₺ 39.24 per day
- Third option is 'short working conditions', which can be applied if there is a shortage in business at least at a ratio of one third compared to the ordinary course. The employers must apply to Turkish Employment Agency (ISKUR) for short working, and once it is approved, the employer must give the employees at least two days off in a regular week. Employees will be compensated for the hours not worked with a minimum indemnity of 60% of their gross salary, capped to 150% of the minimum salary, for a maximum period of three months
- Aside from these options, employers also can negotiate with employees and unions, if there is a CBA signed with unions, for reduced hours or time-off
- Depending on the specifics of the case (such as the COVID-19 pandemic), the employer may take a decision at its own discretion to enforce 'excused leave', during which full salary still has to be paid to employees. In the case of a pandemic, excused leave can only be taken at the employer's initiative
- Collective Paid Leave: According to the Labor Law, employers can send all or part of their workers on leave for the period between the beginning of April and the end of October 2020. Therefore, the employer can make the crowded workplace more risk-free by using annual paid leave for some of the employees as of April 2020
- Annual Paid Leave: (Annual leave outside the period between the beginning of April and the end of October 2020): Employees can be encouraged to use their annual leave during these periods, taking into account the extent of the spread of COVID-19. Even though it is accepted that its within the scope of the employer's management right, without workers' requests to use annual leave periods, it will not be possible for the employer to unilaterally enforce annual leave on employees. In the Annual Paid Leave Regulation, it is regulated that the leave request should be made by the employee
- Unpaid leave: All other unpaid leave, except for unpaid leave granted to the worker in Articles 56 (four days unpaid transportation leave, granted upon request to workers who intend to spend their annual leave in another city) and 74 (unpaid maternity leave that can be used up to six months if the female worker who is on leave due to birth requests further time at the end of the standard maternity period) of the Labor Law no.4857 should be used with the consent of the parties
- Therefore, it is one of the options that can be applied in the case of necessity and under mutual agreement for workers that do not have any accrued paid annual leave remaining

7(i) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support? (*continued*)

- Remote working: Working remotely is regulated in paragraph 4 of Article 14 of the Labor Law (Additional clause: 6.5.2016-6715 / 2 Art.) is a relationship established in writing and based on the principle of fulfilling the work of the worker at home or outside the workplace with technological communication tools within the scope of the work organization created by the employer. Since there will be changes in the working principles, it is possible only with mutual agreement. Hence it is for the advantage of the employee. Through including additional provisions for working remotely into the existing contracts, it will be possible for employees to work remotely in the circumstances of the COVID-19 pandemic; and
- Compensatory work: Pursuant to the Article 63 of the Labor Law no.4857, situations where compensatory work may be done can be grouped under two headings:
  - Business interruption for mandatory reasons: Workplace holidays before or after national and public holidays or working significantly below normal working hours at workplace for similar reasons, full holiday or cases in which the worker is given permission upon their request. In these cases, the employer can make compensatory work for periods not worked within two months. Compensatory work cannot be for more than three hours a day, provided that they do not exceed the maximum working time per day
  - Short-time working allowance: Short-time working allowance is another tool that can be used to eliminate the financial problems that may arise if the effects of the COVID-19 pandemic increase for employees' receiving part of their wages. In Law no.4447; it is indicated that in cases where the weekly working hours in the workplace are temporarily reduced or the work is stopped completely or partially temporarily due to a general economic, sectoral or regional crisis and compelling reasons, short-time working may be conducted in the workplace provided that it does not exceed three months

7(ii) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.

Short-time working application shall be made by the employer: The employer should give written notice to ISKUR's units located in provinces and districts and (if there is a signed collective agreement) to the labor union as a party to the agreement. Due to the COVID-19 pandemic, the applications shall be made via e-mail to ISKUR's Provincial Directorates from 23 March 2020 onwards.

In short-time working, if the existence of compelling reasons arising from the situation due to a general economic, sectoral or regional crisis and external effects is claimed by the confederations of workers and employers unions, or if there is a strong sign in this direction, the issue is evaluated and decided by the Board of Directors of ISKUR. The duration of the short-time working allowance is as short as the working period, provided that it does not exceed three months and short-term employment payments are deducted from the unemployment allowance.

In the Presidential Decree of 31 July 2020, it has been extended for one more month for the workplaces that have applied for short work allowance before 30 June 2020. Currently, the President has the authority to extend these periods until 31 December 2020, taking into account the sectoral differences.

In addition, for the usage of unpaid leave, as noted employee approval should be sought but it is also important to inform the unions as well where there is a collective employment agreements. The employer notifies the employee in writing that they want the employee to take unpaid leave and if the employee accepts this proposal in writing within six working days, the employment contract is suspended. If the employee does not accept, the change in working conditions will not bind the employee. If the employer has a valid reason for their desire to ask employees to take unpaid leave, the employer may choose to terminate the employment contract by explaining their reason in writing and complying with the appropriate notice period. In this case, an employee covered by job security provisions can file a lawsuit for invalid termination. This termination is called 'amendment termination.'

The short working option can only be applied if approved by ISKUR. Furthermore, following the initiation of short working, the employers must also notify the employees and unions.

For the other options, the employer must notify the relevant employees and unions.

There are no specific provisions regarding works councils in Turkish Labor Law.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
Yes, however if the employer foresaw that the offices would be closed in that specific date, the start date cannot be postponed. In such case, the parties will be deemed that they agreed to start the employment with the employee working remotely.	Yes.	Yes.	With regards to Q8(i), once the employer decides to reopen the workplace, the employment can begin with the agreement of all parties. With regards to Q8(ii), although it is not compulsory, in order to strengthen the protection of employees, the employer can ask the employee, via the workplace doctor, for health reports after the required quarantine period. With regards to Q8(iii), the employer must make sure that the employee is not infected with COVID-19 any more, to keep all employees safe. Therefore, the employer must ask for regular employee health reports via the workplace doctor.	The employers may prefer to have the employees start on a remote working basis, which will be applicable to all employees who can perform their tasks this way. For the other employees, employers may impose unpaid leave. It should be taken into consideration that the employers have the obligation to treat employees equally. Therefore, the selection of the employees who will work remotely and those on whom unpaid leave will be imposed should be based on objective criteria.	In this case, if the start date cannot be postponed (please refer to comments in Q8(i)), the employee should start employment on a remote working basis.	In this case, if the symptoms are low or non-existent, it can be decided to start the employment on a remote working basis. Another option for the employer is to impose unpaid leave. If the symptoms are apparent at the start date of employment, employers must immediately notify Turkish Social Security Institution about the illness and grant the employees excused leave. In this case, the salary payment obligation of the employer is only for two business days, the remaining payments will be made by the Social Security Institution.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?
Please refer to comments in Q7(i). Employers can force employees to take paid leave or unpaid leave (for a limited period of time). In the annual paid leave option, if the employees have unused annual paid leave, the employer may enforce the use of such leave. In the unpaid leave option, it can be imposed by companies during the period starting from 17 April until 17 September 2020. There is no limit on the number of unpaid leave within this specified months. The employees taking unpaid leave are granted cash wage support from the Unemployment Insurance Fund in the amount of ₺ 39.24 per day.	In Turkey, the normalization process has begun with new implementations. Therefore, re-opening of workplaces is beginning and employers also must implement some new processes. The decision to call the employees back to the workplace must be evaluated with reference to the physical conditions of the workplace, total employee number and all other factors. As it could be dangerous for employees' health to return to pre-pandemic arrangements, a gradual reopening is preferred. During such gradual opening, it is recommended to apply social distancing rules (with reference to the rules adopted for malls, one employee per $10m^2$ can be applied in private workplaces as well), along with implementation of compulsory mask use.	There will be no additional requirement on the employers.

(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?
Short-time working compensation and unpaid leave compensation may be considered as governmental programs related to closure of the workplace due to pandemic for a limited period of time.	In order for the worker to be entitled to short-time work allowance, they must fulfil the conditions for entitlement to unemployment insurance, excluding the termination of the employment contract. The employee shall be entitled to unemployment benefits in terms of working time and number of unemployment insurance premium payment days at the beginning of short time working. The employer must confirm the working arrangements under employment agreements for the last 120 days before the beginning of short-time working and that they have paid unemployment insurance premium for at least 600 days in the last three years. Daily short-time working allowance is 60% of the average daily gross earnings calculated by taking into consideration the insured's earnings, based on premiums for the last 12 months. The amount of short-time working allowance calculated in this way cannot exceed 150% of the gross amount of the monthly minimum wage for workers older than 16, as per Article 39 of Law no.4857. Transactions regarding the transfer of insurance premiums and health services for those benefiting from short-time working allowance are carried out within the framework of the principles set forth in Law no.5510. Payments made for the short-time work allowance are deducted from the initial unemployment benefit period. In the case of short-term work due to compelling reasons, short-working allowance payments start after a one week period as indicated in clause (III) of Article 24, and Article 40, in Law no.4857.	An employer's short-time application request is evaluated by ISKUR for form and looking at the causes as well. The suitability determination of the application is made by the labor inspectors of the Ministry of Family, Labor and Social Services. Such inspection is expected to be made on file without actual physical inspection. Further inspections may be undertaken on the applications which are currently under consideration.

(17) What is the legal framework for collective redundancies?

Collective redundancies are governed by Article 29 of Turkish Labor Code No. 4857 (TLC). Collective redundancy occurs at workplaces where at least 20 employees are employed. Collective redundancy provisions are triggered when dismissals occur in accordance with Article 17 of the TLC on the same date, or at different dates within on calendar month, in the following manner:

- At least 10 employees in establishments with 20-100 employees
- At least 10% of employees in establishments with 101-300 employees; and
- At least 30 employees in establishments with 301 or more employees

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Collective redundancy must be justified by:

- Economic reasons
- Technological reasons; and
- Structural reasons or reasons of similar nature

The grounds must be necessitated by the requirements of the company, the establishment or activity.

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

The employer must inform the union representatives via written notification at least 30 days prior to the intended redundancies. There is no specific documentation legally required but the written notification must include:

- Reason for the contemplated redundancies
- Number and groups of employees affected by the redundancies; and
- Time duration required for implementing redundancy

The employer is legally required to consult with the union representatives in order to avert or to reduce the number of terminations, as well as work on measures to mitigate or limit their adverse effects on the workers concerned. The consultation process must be documented; However, the proposals of the union representative are not binding on the employer.

Consultation requirements with other employee representatives

There are no other consultation requirements with other employee representatives.

Consultation requirements with employees

There is no consultation requirement with the employees; However, the employer can directly communicate with the impacted employees regarding the intended redundancies if no trade union or work council has been formed within the company.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Approval of the labor authorities or other government authorities is not required to implement the collective redundancy; However, the employer is legally required to submit written notification to the relevant Regional Directorate of Labor and the Public Employment Office at least 30 days prior to the intended redundancies. The employer is not legally required to prepare specific documentation for the authorities unless otherwise specified by the relevant authority.

The notices of termination will take effect only after 30 days of notification to the Regional Directorate of Labor concerning the intended redundancies.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?	(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?
The employer is free to choose the employee to be made redundant; However, there must be a valid legal reason (e.g., based on the capacity or the conduct of the employee, or based on the operational requirements of the establishment or service) for such employee to be chosen for redundancy, in accordance with the general provisions of the TLC.	The employer is legally required to consult with union representatives in order to avert or to reduce the number of terminations, as well as work on measures to mitigate or limit their adverse effects on the workers concerned. The consultation process must be documented; However, the proposals of the union representatives are not binding on the employer. **Internal alternative employment/redeployment** There is no obligation to offer alternative employment or redeployment under the TLC. **Other Measures** There is no obligation to offer other measures under the TLC. Having said that, it is important to bear in mind that the redundancy should be the option of last resort.	Negotiation between the union representatives and the employer may take about a month, depending on the scope of the matter. Notices of termination will only take effect after 30 days of notification to the Regional Directorate of Labor concerning the intended redundancies by the employer. In the event of closing the entire establishment, which involves a definite and permanent shut down of activities, the employer shall notify, at least 30 days prior to the intended closure, the Regional Directorate of Labor and the Public Employment Office and shall post the relevant announcement at the establishment.	**Mandatory costs** There are no mandatory costs for employers in Turkey. **Customary additional costs** There are no customary additional costs for employers in Turkey.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

There are no hiring restrictions or any 'freeze period' applicable post-redundancy. Furthermore, there is no rehiring obligation with regard to the terminated employees when implementing a collective redundancy.

However, if the employer wants to employ workers for similar jobs within six months from the finalization of the collective dismissal, redundant employees will receive priority for re-employment (at the same working conditions as before) only if the employer intends to re-employ a redundant employee. This right of priority is not mandatory but optional for the employer.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Under Labor Law, only the impacted employees can challenge the dismissal within one month from the date of their termination (i.e., within one month following the service of notice of termination for failure in providing a valid cause or for wrongful termination) by applying to take the matter to mediation.

As per the amended TLC No. 4857 and with the Labor Courts Code No. 7016 (dated 25 October 2017), application for mediation is accepted as a statutory prerequisite for action in certain labor cases under the Labor Law (as on 1 January 2018). Accordingly, the impacted employees must apply for mediation for reimbursement and compensation claims relating to labor contracts (whether individual or collective) and for reinstatement, before resorting to court.

(27) What are the risks of damages or other remedies due to the redundancy process?

Damages for unfair dismissal

Where a mediation is filed for reimbursement and compensation, the parties may agree on the amount of damages, including the monetary compensation payable to such impacted employees, along with the benefits acquired, and the monetary amount of the compensation in the event that the worker will not be reinstated (non-commencement indemnity).

If no agreement is reached at the end of the mediation process, the impacted employee may resort to court by filing a lawsuit within two weeks, following the signing date of the final non-agreement minute. If the court concludes that the termination was unjustified because no valid reason was given or the alleged reason was invalid, the employer must reemploy the impacted employee within one month and pay them compensation of up to four times of the current gross monthly salaries for the period during which the employee was not working. Failure to do so will result in the employer paying an additional compensation between four and eight months of the employee's gross salary along with the substantive rights.

Reinstatement

If an agreement is reached at the end of the mediation for the reinstatement of the impacted employee to their last position, the employee will be under an obligation to commence work. If the impacted employee does not start work on the agreed date, the termination becomes valid and the employer will only be responsible for the legal consequences of dismissal thereof.

If no agreement is reached at the end of the mediation process, the impacted employee may resort to court by filing a lawsuit within two weeks following the signing date of the final non-agreement minute by the mediator. If the court concludes that the termination was unjustified because no valid reason was given or the alleged reason was invalid, the employer must reemploy the impacted employee within one month and pay them a compensation of up to four times of the current gross monthly salary for the period during which the employee was not working. Failure to do so will result in the employer paying an additional compensation of between four and eight months of the employee's gross salary, along with what is owed as part of the substantive rights.

Employees who are not protected by the provisions regarding job assurance (i.e., an employee with less than six months of service or the employer has less than 30 employees in total) will not be entitled to request for reinstatement or compensation as mentioned above; However, instead of reinstatement or compensation, they will be entitled to an indemnification due to abuse of the employer's rights in case their employment agreements are not terminated on valid grounds. Under those circumstances, such impacted employees are entitled to claim severance payment and indemnification in the amount equal to three times of the notice payments foreseen in the law.

Criminal sanctions

There are no criminal sanctions against the employer.

Ukraine

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants ▸ Technical possibilities as an alternative to physical meetings (e.g., video conferencing) ▸ Obliging employees to wear a face mask while in the workplace Local state administrations may decide on the requirement for employers to take certain measures to prevent the spread of epidemics, pandemics. For example, in Kyiv, employers are recommending temperature screening of employees, disinfection measures, physical distance between the employees at workplaces, etc.	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. For the period of quarantine and within 30 days from the date of its cancellation, the processing of personal data without the consent of the person is allowed for counteracting the spread of COVID-19. Such data includes: the state of health, place of hospitalization or self-isolation, name, date of birth, place of residence and work (or study). Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such a larger group of people.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information in accordance with the underlying duty of loyalty which forms part of the employment.	No.

(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
No.	Yes.	On 10 March 2020, the State Labor Service of Ukraine (SLS) issued recommendations to Ukrainian employers on the preventative measures against the spread of COVID-19 at workplaces. Other government bodies (e.g., local city authorities) are issuing similar recommendations. According to the recommendations, it is advisable for employers to introduce the possibility for employees who show signs of illness (such as fever) to stay home or work from home. The SLS also recommends employers to utilize existing options for workforce planning /work arrangement, such as part-time work, paid and unpaid vacations. However, utilization of these options may only be by agreement with the affected employee. Regarding working from home, the Ukrainian Parliament adopted the Law of Ukraine #540, which entitles Ukrainian employers to introduce remote working in companies. On 3 November 2020, the Parliament of Ukraine adopted at the first reading the draft law № 4051 which introduces differentiation between the two separate forms of work - remote and from home. In case it is not possible to implement the above measures, the SLS suggest implementing entity downtime for the period of quarantine. For the period of downtime, the employees shall be paid not less than two-thirds of established compensation rate (salary). If working hours are reduced due to the quarantine, the employees shall be entitled to partial unemployment aid from the government. Please note that, like other jurisdictions, in Ukraine the situation is rapidly changing and there are currently other legislative developments, which may be adopted in the near future.	No specific regulations due to the COVID-19 pandemic in this regard, so general principles should be followed (e.g., part-time arrangement or unpaid vacation may be taken only upon the employee's request).

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
The approach may vary depending on the stage of employee hiring. In case there is no employment order and signed employment agreement in place (e.g., only the job offer was signed), the employer could postpone employment start date without any obligations. If the employment agreement was signed, general rules established by the Ukrainian labor law, employment agreement and any relevant CBA shall apply (i.e., no possibility to unilaterally postpone employment start date).	Please refer to comments in Q8(i).	Please refer to comments in Q8(i).

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
No.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
Employer's pay/benefit obligations with respect to a new hire are the same as for all other employees at the workplace.	Please refer to comments in Q10(i).	Please refer to comments in Q10(i)

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(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?

The employer could suspend an employee from work, with pay, in the following cases:

- The employee returns from an overseas trip; or
- If the employee is currently diagnosed positive for COVID-19

However, in the latter case, the respective employee should seek medical assistance and obtain an official medical certificate.

(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?

Quarantine measures have been extended until 31 December 2020 and the territory of Ukraine is divided into several zones: Green, yellow, orange and red, where different rules apply depending on the epidemiological situation.

Self-isolation or medical testing might be required, depending on the number of COVID-19 cases in the country of origin/arrival of the foreigner.

(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?

Starting from 1 September 2020, Ukrainian schools began functioning as usual and the closure of schools is possible only in the designated 'red zones'. Furthermore, considering the COVID-19 pandemic, a switch to blended or distance learning in schools was recommended by the Ukrainian Government.

Kindergartens are also functioning as usual in regions with low level of COVID-19 spread. From 1 June 2020, all other educational institutions were permitted to reopen, on condition that no more than 10 students are in the same group.

No special measures were introduced in this regard from an employer perspective.

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(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.	(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?
If a company needs to close totally or partially for a certain period due to the quarantine announced by the government, without termination of employment, the employees of the entity are entitled to partial unemployment.	Recently, the Ukrainian Parliament introduced changes to the "Law on employment of the population", announcing the provision of state financial aid to companies that fulfill the following conditions: ▸ Small and medium companies that took measures to prevent the spread of infection caused by the COVID-19 pandemic ▸ The entity has no arrears for salary and social security contributions; and ▸ The entity has submitted a claim to the employment center within 90 calendar days from the date of reduced activities due to state measures to mitigate the COVID-19 pandemic The law permits, in such cases, for financial aid to be claimed for all affected employees (except employees who receive pensions).	In cases where the financial aid is claimed by small and medium-sized entities under new regulations, a decision on provision of financial aid to cover partial unemployment is taken by the state employment authorities within three working days from the date of application package submission by the employer and is covered for the period of quarantine. (The period is determined by the Cabinet of Ministers of Ukraine). The aid for partial unemployment is established for every reduced working hour in the amount of two thirds of compensation rate (salary) of the respective grade of employee. The amount cannot exceed one minimum wage, as established by the law (currently ₴5000 or approximately €149.73). After the funds are transferred to the entity's account, the employer shall pay salary within three working days, with an obligation to create separate payslips for each transfer. The copies of payslips shall be further submitted to the competent state authorities within 10 calendar days from the funds transfer.

(17) What is the legal framework for collective redundancies?

Workforce transformation, also referred to as redundancy, is governed by the Labor Code of Ukraine No. 322-VIII of 10 December 1971 (Labor Code), the Law of Ukraine "On Employment of the Population" No. 5067 VI of 5 July 2012 (Law on Employment) and the Order of the Ministry of Social Policy of Ukraine "On the approval of the reporting form No. 4-ПН 'Information of the scheduled mass redundancy' and its filing procedure" No. 317 of 31 May 2013 (Order).

The Labor Code differentiates between 'redundancy' and 'collective redundancy' (also referred to as mass redundancy). Collective redundancy is subject to stricter rules and imposes certain additional obligations on the employer.

- The legal criteria for a collective redundancy are set out in the Law on Employment. A redundancy qualifies as a collective redundancy if there is a one-time staff redundancy or staff redundancy during a one-month period:
  - Of 10 or more employees in a legal entity with the headcount of 20-100 employees
  - Of 10% or more of employees at a legal entity with the headcount of 101-300 employees
- During a three-month period:
  - Of 20% and more percentage of employees at any legal entity, regardless of the employee headcount

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Formally, there is no requirement to provide legal justification for redundancy. However, the employer must indicate the reason for collective redundancy in the notice provided to the elected body of the trade union and consult with the trade union on the set of measures that could be taken to reduce redundancy and its negative effects.

It is very important to complete all the procedures by the last day of employment, since any procedural drawbacks may compromise the whole redundancy process. To avoid any legal risks, the employer should comply with the redundancy procedure, which must be duly documented.

The same applies to the standard termination process. The employer should follow a set of standardized procedures applicable to termination of employment relations. The employer should:

- Issue an order of dismissal and give a copy of the order to each employee concerned
- Pay outstanding amounts (such as unused vacation, and salary); and
- Complete employees' labor books and return them to the relevant employees

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(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

The employer should notify the trade union at least three months prior to the planned redundancy date. The notice should include:

- Reasons for redundancy
- Categories and the number of impacted employees; and
- Terms of redundancy

The employer must conduct consultations with trades union on the measures aimed at preventing or reducing the number of dismissals and to mitigate unfavourable consequences of any dismissal.

Trades union are entitled to make proposals to the employer with respect to the extension of time, temporary suspension and cancellation of measures connected with dismissal of employees.

Termination of employment relations with an employee on the ground of redundancy may be done only with the prior consent of the elected body (via the trade union representative) of a primary trade union organization of which the employee concerned is a member.

The elected body of a primary trade union organization (or the designated trade union representative) should consider a written application of an employer for termination of an employee within 15 days.

The elected body of a primary trade union organization (or the trade union representative) should inform an employer on the taken decision in writing within three days. In the case of a delay, it is deemed that the trade union gave its consent for the termination of the employee. An employer should terminate an employee within one month from the day of receiving consent from the labor union.

Consultation requirements with other employee representatives

No consultation is required with other employee representatives.

Consultation requirements with employees

There is no legal requirement to consult with employees prior to the execution of collective redundancies. However, the employer must notify each impacted employee at least two months prior to the redundancy by issuing an order on notification of redundancy with the employee's signed acknowledgement.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

No approval of the labor authorities is required to implement a collective redundancy. However, the employer is required to notify the State Employment Service of Ukraine two months prior to the scheduled collective redundancy (i.e., to file a report on the scheduled redundancy according to the statutory established form).

The report should contain the following information:

- Employer details (state registration code, legal name, address)
- List of positions facing redundancy
- Number of employees engaged in each position facing redundancy
- Date of the order on the notification of the employees of the scheduled redundancy; and
- Planned termination date for each position

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The employer is not free to choose which employees are to be made redundant.

Employees with a higher productivity and skill have a preferential right to remain employed in the case of redundancy. In the case of equal productivity and skill, preference is given to the employees:

- With two or more dependents
- Whose family has no other workers with independent earnings
- With long-term employment with the given employer
- Who study at higher and secondary specialized educational institutions outside of work hours
- Who are participants in military operations, disabled veterans and persons to whom the Law of Ukraine 'On the status of disabled veterans, guarantees of their social protection' applies
- Who are authors of inventions, utility models, industrial standards and rationalization proposals
- Who sustained a labor injury or occupational illness while working for this employer
- Who were forcibly displaced from Ukraine, and who would be made redundant within five years after their return to permanently reside in Ukraine
- Who were engaged in military/alternative (non-military) service – within two years from the date of their retirement from such service
- Who are less than three years from the pension retirement age
- Certain employees are subject to special protection during the redundancy process, particularly:
  - Pregnant women
  - Women with children under three years
  - Single mothers with children under the age of 14 or disabled children under the age of 18
  - Employees under 18 years of age
  - Current members of a trade union body, or former members, who are within one year after the expiration of the term for which they were elected
  - Recent graduates working in their degree field (within three years after graduation); and
  - Employees aged 15 to 28 years who have been given their first job after completion of studies or after being released from a regular military service or an alternative (non-military) service

(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?	(25) Are there any hiring/re-hiring restrictions post-redundancy?
Internal alternative employment/redeployment The employer is required to offer the impacted employees vacant positions within the same legal entity. Together with the notice of dismissal, an employer should offer an employee another job at the given legal entity. If there is no vacant position in the respective profession or specialty, or if the employee refuses to transfer to another job at the given legal entity, the employee, at their own discretion, should apply for assistance from the State Employment Service or find a new job by themselves. At the same time, the employer should inform the State Employment Service about the scheduled collective redundancy. The State Employment Service should offer the employee a position in the same or other location according to their profession, specialty and qualification. If there is no such vacant position, the State Employment Service should find another job, considering the individual's preferences and social needs. If required, upon the employee's consent, they may be assigned for professional training or a qualification upgrade. **Other measures** The impacted employees are entitled to a mandatory severance payment, as mentioned in Q24.	There is no specific timeline. Usually, the process of collective redundancy may take three to six months.	**Mandatory costs** The key components of mandatory HR legal costs are as follows: - Salary paid during two months' notice period - Severance payment in the amount not less than employee's average monthly salary; and - Payment for unused annual leave **Customary additional costs** Additional costs could be triggered by anti-redundancy actions that may be agreed upon the consultations with trades union.	Formally, there are no hiring restrictions. In practice, however, it is not recommended to hire new employees to the terminated positions until a reasonable length of time has passed from the effective date of the relevant redundancy. If the employer hires employees following a redundancy, it may face litigation risk as the terminated employees could assert that the redundancy was not justified and claim reinstatement. Additionally, the Labor Code prescribes that the employee with whom employment relations were terminated due to a redundancy (except for the case of liquidation of a legal entity) has the predominant right to re-enter into employment if there is a vacancy for a similar position within one year after redundancy.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

The impacted employees may file a claim for reinstatement in court. Employee representatives may file court claims only if such action is requested by an employee or a group of employees, but not at their own initiative.

The statute of limitation is one month following receipt of the order for termination or the employment record book (a special document held by each Ukrainian employee reflecting their employment history). The court may extend the period if the employee can provide a justification for the delay.

Litigation is unlikely to slow down the collective redundancy process.

(27) What are the risks of damages or other remedies due to the redundancy process?

The only remedy available to an employee is a claim for reinstatement.

The employer could be subject to financial sanctions prescribed by the Labor Code for the violation of labor law requirements (i.e., a fine in the amount of minimum statutorily established wage).

Damages for unfair dismissal

No applicable damages for unfair dismissal. However, an employee may claim for compensation for 'moral harm' (i.e., losses of a non-monetary nature caused by mental or physical suffering).

Reinstatement

An employee may file a claim for reinstatement at work if they believe that:

- The termination in the form of redundancy was not in fact connected with the changes in production and labor organization
- Their preferential right to continue employment (for more information, please refer Q21)
- Their right to special protection for being in a certain category of employees was violated during the redundancy; and
- The relevant redundancy procedure was not duly observed by the employer

If the court decides in favour of the employee, they may be:

- Reinstated at work
- Awarded compensation for the period of absence at work, based on previous average monthly salary
- Awarded compensation for moral harm; and
- Awarded compensation for their legal fees

Criminal sanctions

Criminal sanctions are imposed only in the following cases:

- Unlawful dismissal of an employee for personal reasons; or
- Deliberate non-payment of an amount due from employer to employee

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken.

Provisions (notably Resolution No. 32 of 1982 on determining prevention means and measures to protect workers from work hazards) in the federal Law on employer obligations cover matters including:

- Personal protective equipment
- Safety equipment
- Sanitary facilities
- Workplace layout (passageways, surfaces, staircases, etc)
- Occupational health; and
- Notification of and compensation for occupational injuries and diseases

Private sector establishments must take serious precautionary measures adhering to public health rules, cleaning and disinfection of surfaces, and provide disinfectants and sterilization methods accessible for workers at the workplace, employer-provided accommodation and transport, as part of preventive measures against the spread of the COVID-19 pandemic.

Establishments registered with Ministry of Human Resources and Emiratization (MOHRE) will lay down plans to ensure business continuity in facilities where diagnosed individuals are identified.

In case any diagnosed employees are identified, the establishment must take the necessary precautions and immediately contact the competent authorities to take the applicable measures.

Establishments must engage competent staff, and all employees must be provided with information about the COVID-19 pandemic, the symptoms that appear in people who contract it, and the procedures that must be followed to prevent its spread. This information must be in accordance to the instructions issued by the Ministry of Health and Prevention.

Additionally, key things that establishments need to focus on include:

- Providing sufficient supply of hand sanitizer and disposable masks in the workplace
- Preparing educational posters in the languages that workers understand on prevention and procedures to be followed
- Avoiding performing work tasks collectively unless necessary
- Sterilization of the means of employer-provided transportation carefully every day and the provision of hand sanitizer at bus doors for use by workers upon boarding; and
- Sterilize all the facilities of employer-provided labor housing thoroughly and provide screening points to measure the temperature of workers at the entrances and exits of labor housing

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. Additionally, the employer is also under an obligation to report suspicious cases to the UAE's health facilities to allow the relevant health authority to take the necessary measures.

However, an employer in the UAE does not have a legal right to unilaterally place an employee on unpaid leave and doing so could give rise to a breach of contract claim against the company. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, a period of unpaid leave could be agreed upon with the employee (in which case, such agreement should be recorded in writing).

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?	(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks
If an employer becomes aware that one of its employees is diagnosed with COVID-19, there is currently no obligation for the employer to inform all employees, customers and any third parties (such as visitors to the employer's premises) of this information. Therefore, although the employer has a duty to inform the authorities about any confirmed case(s) of COVID-19 among its workforce, it has the discretion to decide whether to disclose this information internally and/or externally. If the employer decides to make such a disclosure, it is important that any communication made is taken with due regard to the balance between protecting the privacy and data of the diagnosed employee involved, with the public interest in avoiding the spread of the COVID-19 pandemic. The identity of the employee should not be disclosed as far as possible.	Currently there is nothing in the laws of the UAE that prevents an employer from requesting travel or health information from an employee (such as requesting an employee to disclose whether they have visited a country which has reported cases of COVID-19 infections, and their exposure to COVID-19). Pursuant to the UAE Labor Law, employers in the UAE are under a duty to provide a safe and secure working environment for its employees. It could be argued that the collection of data relating to employees' actual or potential exposure to COVID-19 may be necessary to protect the health, safety and welfare of all other employees at the workplace. Employees have a statutory duty to comply with reasonable instructions or requests from its employer, and an employer may take actions, including disciplinary actions, where an employee fails to do so. Based on the aforementioned, employers should be able to ask an employee to confirm and specify their travel history in order to assess the level of risk to the wider workforce.	If an employee is diagnosed with COVID-19, the employer (the direct superior of the employee) is required to immediately report the incident in writing, by phone or any electronic means to the UAE Ministry of Health and Prevention (Contact Number: 800 11111) or the nearest health authority such as Dubai Health Authority (Contact Number: 800-342); Estijaba Service at the Operation Centre of the Department of Health Abu Dhabi (Contact Number: 800 1717). The employer/direct superior of the employee shall report an employee suspected of being diagnosed with COVID-19 in the same manner as a diagnosed employee.	Not applicable.

(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?

Yes.

The key legislation issued by MOHRE in response to the Government's precautionary measures to combat the spread of the COVID-19 pandemic are contained in:

- Ministerial Resolution No. 279 of 2020 (MR 279): Relevant to non-UAE national employees in the Private Sector
- Ministerial Resolution No. 280 of 2020 (MR 280): Relevant to UAE national employees in the Private Sector; and
- Ministerial Resolution No. 281 of 2020 (MR 281): Regulation of Remote Working in Private Sector Establishments

These Resolutions supplement, but take precedence over, the rights and obligations outlined in Federal Labor Law (Federal Law No. 8 of 1980, as amended) and existing employment agreements and introduce additional factors for employers to consider when dealing with their employees during this period. They apply to all entities in the private sector registered with MOHRE.

NB: In general, this position is not provided for in UAE Law, it is a developing jurisdiction which has enacted measures dealing specifically with the spread of the COVID-19 pandemic. It has not yet provided measures for analogous situations. It is anticipated that, the UAE Government will use the measures implemented in response to the spread of the COVID-19 pandemic as a template for future situations, as they have proven to be effective.

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(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?

Private sector non-UAE national employees

- Remote Work Strategy - Determining and classifying the jobs that must be available in the workplace and the jobs that can be continued via remote work
- Absence due to infection can be treated in the same way as any other sickness absence in terms of payment, i.e., the UAE Labor Law provides that an employee is entitled to 90 calendar days of sick leave in any 12-month period. The first 15 days are payable at full pay, the next 30 at half pay and the remaining 45 days are unpaid. No state aid is available if the employee is involved in paid work
- If an employee is not sick (at risk of infection), the default situation is that no sick pay is payable. There is no legal obligation to pay an employee for not attending work which is not covered under any current contractual provision, there would be no entitlement to pay unless the contract provides otherwise
- An employer in the UAE does not have a legal right to unilaterally place an employee on unpaid leave and doing so could give rise to a breach of contract claim against the company. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, a period of unpaid leave could be agreed with the employee (in which case, such agreement should be recorded in writing)
- In the UAE, employees could be required to take paid annual leave (this is permitted under the Labor Law) provided that they have sufficient leave balance available
- There is no right to lay-off employees without pay in these circumstances, and any period of unpaid leave would need to be agreed with the employees
- Companies based in the Dubai International Financial Centre (DIFC) can introduce several emergency employment-related measures during the spread of the COVID-19 pandemic to expeditiously deal with the impact of the pandemic, which many have done. For example, employers in DIFC can impose reduced working hours, paid or unpaid leave, reduced pay, restrict workplace access and put in place remote working conditions without the consent of their employees, for the duration of the Emergency Period

(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.

An employer could use its rights under the UAE Labor Law to determine the time and periods of annual leave and hence impose a period of forced annual leave on its employees, assuming the employee has sufficient annual leave balance. Employers operating in the Abu Dhabi Global Market (ADGM) and DIFC have an obligation to give an employee seven days' prior notice before starting any (imposed) annual leave. In a situation where the annual leave entitlement is exhausted and an employee cannot return to work due to the spread of COVID-19 pandemic, employers may as a last resort have to request the relevant employee to take unpaid leave, assuming they cannot work remotely. It is, however, important to note that there is no legal right to unilaterally place an employee on unpaid leave in the UAE and doing so could give rise to a breach of contract claim against the employer.

If an employer voluntarily closes its business premises in the UAE, the employer should encourage working from home where possible and if duly introduced in the company. Generally speaking, employers are obliged to continue complying with their contractual obligations towards their employees (e.g., paying their employees' salaries) even when the workplace is closed. This is because it would be the employer's decision to close the business premises (and the non-performance of duties will in any event not be due to a cause attributable to the employees). There is no right to lay-off employees without pay in these circumstances, and any period of unpaid leave would need to be agreed with the employees.

Please note, trades union are not regulated or recognized by UAE Federal Labor Law or other statutes, and organizing or participating in a trade union is liable for a criminal offence.

There is no statutory system of elected employee representatives or works council equivalent bodies.

(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
(8(i) The office is closed due to the COVID-19 pandemic;	**(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;**	**(8(iii) The new hire has been diagnosed with COVID-19.**	
There is no legislation in place which specifically deals with this point. However, in general, the date on which the employment starts is a required term within employment contracts, the terms of which may only be changed by agreement between the employer and worker. If the employer seeks to make unilateral changes to the contract, this may, depending on the circumstances, constitute a breach of its contractual obligations to the worker, entitling the worker to terminate the contract without notice and seek compensation. Please Note, this is the position under Federal Labor Law and may vary in the various Free Zones within the UAEE. Employers are advised to follow best-practice approaches in dealing with these situations and to have regard to the guidance issued by the Federal Government, each Emirate and each Free Zone depending on where the employing company is registered.	There is no legislation in place specifically dealing with this point. The employers are advised to follow best-practice approaches in dealing with these situations and to have regard to the guidance issued by the Federal Government, each Emirate and each Free Zone, depending on where the employing company is registered. The employer should also consider whether the new hire has visited a 'quarantine city or area', either on the instruction of the employer, or of their own volition.	There is no legislation in place specifically dealing with this point. However, the employer could consider treating the delay in the employee starting work as unpaid leave. In the UAE, employers are entitled to place new employees under probation for a period not exceeding a certain period of time, which varies depending on the jurisdiction in the UAE in which the employer is based. Under the UAE Labor Law, an employee who is under probation is not entitled to statutory sick leave until they have completed at least three months in continuous service with his employer after they have successfully completed their probation. Therefore, should a new hire in a UAE mainland company need to take any COVID-19 related sick leave during the above mentioned initial periods, this leave would need to be taken as unpaid leave. In DIFC, an employee is entitled to statutory sick leave unless their contract of employment is for a month or less. However, where an employee is either diagnosed with COVID-19 or has been placed in quarantine as confirmed by a medical certificate, that individual is entitled to 100% of their wages and may not be made subject to any emergency measures according to the DIFC Presidential Directive regarding the COVID-19 pandemic. No distinction is made in the Directive between an employee on less than a month's contract and one who is on a longer contract, and the above mentioned protective measure applies to any DIFC employee who falls into the definition of COVID-19 related sick leave. Employers are advised to follow best-practice approaches in dealing with these situations and to have regard to the guidance issued by the Federal Government, each Emirate and each Free Zone, depending on where the employing company is registered.	Please refer to comments in Q8 and Q10(iii).

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(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	**(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;**	**(10(iii) The employee has been diagnosed with COVID-19.**
Please refer to comments in Q8(i).	There is no legislation in place specifically dealing with this point. Employers are advised to follow best-practice approaches in dealing with these situations and to have regard to the guidance issued by the Federal Government, each Emirate and each Free Zone depending on where the employing company is registered. However, the employer company should take a best practice approach, be reasonable in the circumstances, and consider whether the employee has visited a 'quarantine city/area' on the instruction of the employer, or of their own volition.	Please refer to comments in Q8(iii). As an example of how the position can differ in the Free Zones, in the DIFC, any sick leave taken by an employee during the Emergency Period as a consequence of either ▸ Being diagnosed with COVID-19; or ▸ Being placed in quarantine shall not count towards any sick leave entitlement that an employee is entitled to under the DIFC Employment Law. Additionally, in DIFC, it is not permissible to terminate the services of an employee who has taken more than the maximum aggregate 60 working days of annual sick leave entitlement under the DIFC Employment Law due to COVID-19 related sick leave.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?

Yes that is the case for new joiners in a DIFC company, provided the employee meets the conditions for COVID-19 related sick leave (i.e. the employee is either diagnosed with COVID-19 or has been placed in quarantine as evidenced by a medical certificate). Where the new joiner is a UAE mainland employee, no special provisions have been issued and the individual would need to take unpaid leave.

If an employer determines that there is a need for an employee to remain away from the workplace, for example, where they have come into contact with someone who is diagnosed with COVID-19 or has travelled to a country that is deemed to be at high risk:

- The employer will require the employee to work from home. The Business Continuity Readiness Guidelines for UAE Organizations published by the UAE Supreme Council for National Security and National Emergency Crisis and Disasters Management Authority specifically provide for the introduction of a remote work strategy; or
- An employer could use its rights under the UAE Labor Law to determine the time and duration of annual leave and hence impose a period of forced annual leave on its employees. Employers operating in the ADGM and DIFC have an obligation to give an employee seven days prior notice before starting any (Imposed) annual leave. However, it should also be noted that new joiners who have not yet commenced employment would not have accrued any annual leave and so it is not clear whether an employer can in these circumstances force an employee to take annual leave which they have not yet accrued

In a situation where the annual leave entitlement is exhausted (leaving aside the issue of whether the employee has accrued any such leave) and an employee cannot return to work due to the spread of the COVID-19 pandemic, employers may as a last resort have to request the relevant employee to take unpaid leave, assuming they cannot work remotely. It is however important to note that there is no legal right to unilaterally place an employee on unpaid leave in the UAE and doing so could give rise to a breach of contract claim against the employer.

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(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?	(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.
Not applicable.	The employer's obligations are not specifically provided for in UAE Federal Labor Law. Circumstances should be reviewed on a case-by-case basis and employers should use good judgement and try to be reasonable in such situations and ensure they communicate effectively with their employees.	The UAE Government has imposed lockdown procedures to differing extents, and instituted various practices through Ministerial Resolutions 279 and 281 of 2020, including limiting the numbers of employees, guests, and/or customers in their establishments. Exceptions exist in relation to the vital sectors.	The Federal Government, each Emirate, and each Free Zone, have announced some support measures. Although, each of them are implementing slightly different measures, the common themes are: ▸ Reduced licensing fees ▸ Rent reductions; and ▸ Increased flexibility with employees with respect to the Free Zones in which individuals are permitted to work The Targeted Economic Support Scheme, various fee reduction measures and attempts to relax employment measures (whilst protecting employees, by providing formal means of agreeing pay reductions), provide a series of relief measures that are intended to support private companies registered in the UAE and its Free Zones during the spread of the COVID-19 pandemic. When assessing the UAE's COVID-19 pandemic response measures (particularly against the measures that have been introduced in other jurisdictions), it must be kept in mind that the UAE already has a favorable tax regime in place for businesses, and has for many years attracted and sustained companies registered onshore and in various Free Zones. It is yet to be seen what further actions will be taken and whether changes will be made to the UAE's Bankruptcy Law in particular.

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(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?	(17) What is the legal framework for collective redundancies?
Not applicable.	Where private sector employers have exhausted all measures outlined in the Ministerial Resolution 279 of 2020 on 26 March 2020 (MR 279), and still have a surplus of non-UAE national employees, they may register the said employees on the Virtual Labour Market System (VLMS) - a jobseeker portal operated by MOHRE (please refer to: https://mohre.hyrdd.com/). However, the employer must continue to provide the employees' housing and entitlements in full (save for their 'wages' which is understood as their basic salary and possibly other allowances) until: ▸ The employee leaves the UAE ▸ The employee obtains authorization to work for another establishment; or ▸ The repeal of MR 279; Whichever is earlier. Employees that register on the VLMS will continue to be sponsored by their current (or 'primary employer') but can be re-employed during this period by establishments operating in sectors facing an increase in demand for candidates, which may struggle to find such candidates elsewhere given the suspension on foreign recruitment. MR 279 grants (secondary) employers registered on VLMS a range of options for hiring employees who are registered on VLMS: ▸ Secondary employers can either apply for a work permit as a 'new employer' for a particular employee ▸ Apply for only a temporary work permit for that employee (of between one to six months in duration); or ▸ Apply for a part time work permit so that all three parties (the primary employer, secondary employer and the employee) would be subject to Ministerial Resolution no.31 of 2018 relating to Part Time Employment Employers should compensate the employee for unfair dismissal (usually three months' salary) and pay employees for: ▸ Their notice period as per their employment contract ▸ Their EOSB (End of Service Benefit), essentially in the same manner the employer would have before the issuance of MR 279 ▸ Accrued, but untaken, annual leave ▸ A ticket home (if the employee has not found any other employment within 30 days of visa cancellation); and ▸ Any other contractual entitlements

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(18) Does the employer need to have a legal justification to carry out redundancy dismissals?	(19) What are the consultation requirements with works councils/unions (if any)?	(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?	(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?
The position for onshore companies (and some Free Zones) in the private sector, in relation to non-UAE national employees, is that employers, in order to justify making redundancies, must go through the options set out in MR 279 in the following order: ▸ Implement working remotely or from home where possible ▸ Put employees on paid leave (this can be via use of annual holiday entitlement) ▸ Put employees on unpaid leave ▸ Apply a temporary reduction in salary; and/or ▸ Apply a permanent reduction in salary The concept of redundancy outside of the above scope is not acknowledged under UAE Law.	None.	For onshore private sector companies (and some Free Zones) in relation to non-UAE national employees, the employer should notify the MOHRE of redundancies and register the employees on the VLMS.	None. There are currently no express provisions in the Labor Law regarding redundancy. However, as mentioned, the UAE government has recently introduced various procedures, including putting 'excess' employees on a virtual labor market to mitigate the effects on businesses in certain sectors being required to shut their premises during the government mandated lockdowns and curfews to combat the spread of COVID-19 pandemic. Employers should take a best practice approach and be able to show that the procedure which they followed was reasonable in the circumstances.

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(22) Are there any actions required to limit the negative impact of the redundancy?	(23) What is the estimated timeline for a collective redundancy process?	(24) What are the estimated costs?

There are currently no express provisions in the Labor Law regarding redundancy. However, as mentioned, the UAE government has recently introduced various procedures, including putting 'excess' employees in a virtual labor market to mitigate the effects on businesses in certain sectors being required to shut their premises during the government mandated lockdowns and curfews to combat the spread of COVID-19 pandemic.
 	
For mainland private sector companies ~~(~~and some Free Zones as well~~)~~, in relation to non-UAE national employees, the employer must:
- Continue to provide the outgoing employees' housing and entitlements in full (save for their basic salary) until the earliest of:
  - The employee leaving the UAE
  - The employee obtaining authorization to work for another establishment; or
  - The repeal of MR 279
- Offer outgoing employees the option of registering on VLMS
 	
Employers should compensate the employee for unfair dismissal (usually three months' salary) and pay employees for:
- Their notice period as per their employment contract
- Their EOSB, essentially in the same manner, the employer would have before the issuance of MR 279 (calculated at 21 calendar days' basic pay for each year of the first five years of service and 30 calendar days' basic pay for each additional year of service)
- Accrued, but untaken, annual leave
- A ticket home (if the employee has not found any other employment within 30 days of visa cancellation); and
- Any other contractual entitlements
	Not applicable.	This will vary from company to company, Emirate to Emirate, and the type and salary of the employee.
		
		(Please refer to comments in Q22 for the costs employers are obliged to cover.)

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(25) Are there any hiring/re-hiring restrictions post-redundancy?	(26) What are the risks of litigation caused by the redundancy process?	(27) What are the risks of damages or other remedies due to the redundancy process?
For onshore private sector companies (and some Free Zones), employers should, in general, hire employees that are registered on the VLMS.	This will depend on where the company is registered, and whether the employer can show they acted reasonably during the given circumstances.	This will depend on where the company is registered, and whether the employer can show that the redundancy process was reasonable in the circumstances. Although, the UAE Labor courts may be sympathetic to employers due to the economic impact of the spread of the COVID-19 pandemic on businesses, termination for the reason of the COVID-19 pandemic is not a guaranteed defense in the event an employee files a case for unfair dismissal. Balance and mutual agreement can certainly help, as well as the following points: ▸ Imposing compensation requirements on employers, when they are complying with the government regulations on lockdown or not operating goes against public policy; and ▸ The MRs offer employers numerous methods of coping during the lockdown Therefore, the Labor Courts will determine matters on a case-by-case basis. If employers have followed all the steps before making redundancies, then the Labor Courts may be sympathetic.

United Kingdom

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?	(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?	(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?	(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?
An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include: ▸ Providing disinfectants ▸ Keeping at least a one meter distance whilst implementing appropriate additional mitigating measures (e.g., markings on the floor to remind employees of social distancing measures, employees to work back to back or side to side); and ▸ Technical possibilities as an alternative to physical meetings (e.g. video conferencing)	The employer is responsible for providing a safe and healthy working environment. To deny a potentially infected employee access in order to protect other employees is a valid reason for prohibiting this person access to the workplace. In practice, this will usually be resolved by allowing employees to work from home. If this is not possible, the employee should be put on garden leave with full benefits.	As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic. Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people. Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and that the data is deleted when no longer required.	In spite of the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer and the employee must reveal this information, in accordance with the underlying duty of loyalty which forms part of the employment.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?
There is no obligation on an employer to report one positive case of COVID-19. However, if there is more than one case of COVID-19 in a workplace, the employer should contact their local Health Protection Team to report the suspected outbreak. Employees who self-isolate will be eligible for statutory sick pay from day one of their absence (under the previous regime an employee needed to have four consecutive days of absence before being eligible).	Not applicable.	While there are no regulations in place regarding workforce planning, there are the following options for employers to consider regarding this issue: ▸ Consulting with employees and trades union or other representative bodies to reach an agreement on temporary reduction in pay and benefits for the duration of the COVID-19 pandemic. Under normal circumstances, employees and their representatives would be unlikely to agree to such measures. However, an employer may be able to offer an incentive to reach agreement (such as guaranteed minimum pay or a one-off payment) or, if the alternative is closure and/or job losses, there may be an appetite from employees/their representatives to reach an agreement ▸ Considering lay-off/short-term working, If the employer has the contractual right to undertake this approach: ▸ Laying off employees means that the employer provides employees with no work (and no pay) for a period, while retaining them as employees; and ▸ Short-time working means providing employees with less work (and less pay) for a period, while retaining them as employees If the employer does not have the contractual right to lay-off, then it may either take the risk in doing so, in breach of contract, or try to obtain consent for the same. Lay-offs may need to be considered where there is a downturn in work due to the effect of the COVID-19 pandemic on suppliers and customers, meaning that fewer employees are required on a temporary basis and/or a temporary closure of the workplace due to insufficient employees being able to work. Short-time working may need to be considered where there is a downturn in work due to the effect of the COVID-19 pandemic on suppliers and customers meaning that, the business does not need all employees to work their contracted hours. Employees who are already unable to work, for example due to sickness or medically advised self-isolation, cannot be laid-off. ▸ The employer may ask for volunteers to take unpaid leave; or ▸ Give notice to workers to take their vacation entitlements. Employers are entitled to give notice to workers to take statutory annual leave, provided there is no contrary contractual right.

(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Not applicable.	Not applicable.

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.
Yes, please refer to comments in Q9.	Yes, please refer to comments in Q9.	Yes, please refer to comments in Q9.

(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.
The right to postpone the start date will be dependent on: ▸ The legal status of the offer of employment ▸ Whether the prospective employee has signed terms; and ▸ What the defined start date is in the employment contract If terms that have been entered into provide for a definite start date, then the employer will not be able to unilaterally amend the start date.

(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
The employee should be paid their normal pay.	If employees are quarantined, then they will be entitled to statutory sick pay (or contractual sick pay depending on the contract terms).	The employee will be entitled to statutory sick pay (or contractual sick pay depending on the contract terms).

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?
No.	No	▸ Employers should check their contracts and policies to ascertain whether paid leave is provided in the above circumstances ▸ If there is no contractual entitlement to paid leave, employees have a statutory right to a reasonable amount of unpaid time off to care for their dependents ▸ There is also a statutory right to unpaid time off to deal with emergencies and parents have a statutory right (subject to certain conditions) to unpaid parental leave, which they could use ▸ Employers may allow employees to take holiday during some or all of this period Employees who are refused permission to exercise their statutory rights to take time off, or are subject to a detriment and/or are dismissed for doing so, can bring claims in the employment tribunal.

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(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?

The UK government has announced several measures to help employers who are struggling with the economic consequences of the COVID-19 pandemic, including:

- The Coronavirus Job Retention Scheme (CJRS), where all employers regardless of size or sector can claim a grant from Her Majesty's Revenue & Customs (HMRC) to cover 80% of the wages of employees who are not working but to be kept on the payroll, up to £2,500 a calendar month for each employee. The CJRS has been extended until the end of March 2021
- A statutory sick pay relief package for SMEs
- Business rates holiday for all retail, hospitality, leisure and nursery businesses in England. These sectors could claim up to £2,100 per month and will not have to pay business rates for the 2020 and 2021 tax years
- A 'bounce back loan' scheme to help small and medium sized businesses to borrow between £2,000 and £50,000. The government guarantees 100% of the loan and there will not be any fees or interest to pay for the first 12 months. After 12 months, the interest rate will be 2.5% a year
- The Coronavirus Business Interruption Loan scheme (CBILS), offering loans of up to £5 mn for SMEs via the British Business Bank
- The Coronavirus Large Business Interruption Loan scheme (CLBILS), offering loans of up to £200 mn for companies with a turnover of more than £45mn
- The Coronavirus Future Fund will issue convertible loans between £125,000 to £5 million to innovative companies
- COVID-19 Corporate Financing Facility (CCFF) to help support liquidity among larger firms, helping them bridge COVID-19 disruption to cash flows via loans
- The HMRC 'Time to Pay' scheme for businesses that pay tax to the UK government and have outstanding tax liabilities
- Local Restrictions Support Grant (LRSG), designed to help those businesses that are required to close under local lockdown restrictions. Eligible businesses can receive up to £3,000 per month, and are now eligible for payment after only two weeks of closure
- Local Authorities in England will receive one off funding of £1.1bn to support local businesses more broadly over the coming months as a key part of local economies. They can use this at their discretion. This will be distributed to local authorities on the basis of c.£20/head of population
- Backdated cash grants for businesses in Tier 2/3 areas in England: Businesses in the hospitality, leisure and accommodation sectors that suffered from reduced demand due to local restrictions introduced between 1 August and 5 November 2020 will receive backdated grants at 70% of the value of closed grants, up to a maximum of £2,100 per month for this period

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

The necessary prerequisites are:

- The statutory sick pay relief is available to UK based employers with fewer than 250 employees as at 28 February 2020 (and continuing)
- The business rates holiday is available to businesses in England in the retail, hospitality and/or leisure sector. Properties that will benefit from the relief will be occupied properties that are wholly or mainly being used:
  - As shops, restaurants, cafes, drinking establishments, cinemas and live music venues
  - For assembly and leisure
  - For hospitality, as hotels, guest & boarding premises or self-catering accommodation; or
  - The additional funding will be available for those who may be adversely impacted by the restrictions in high-alert level areas
- The eligibility criteria for nurseries for the business rates holiday are:
  - The business must be based in England
  - The properties that will benefit from the relief will be hereditaments occupied by providers on Ofsted's Early Years Register or wholly or mainly used for the provision of the Early Years Foundation Stage
- To be eligible for the Bounce Back Loan Scheme, the business must be UK based and established by 1 March 2020, adversely impacted by COVID-19 and not using other government loan schemes
- To be eligible for the CBILS the business must be
  - UK-based in its business activity
  - Have an annual turnover of no more than £45 mn
  - Have a borrowing proposal which the lender would consider viable, were it not for the current COVID-19 pandemic; and
  - Self-certify that it has been adversely impacted by the spread of the COVID-19 pandemic
- The eligibility criteria for the CLBILS is largely the same as the CBILS
- The CCFF is available to companies who make a 'material contribution to the UK economy' and meet the criteria set out on the Bank of England's website
- The Time to Pay scheme is available to all businesses that have outstanding tax liabilities
- The LRSG may apply to a business if it:
  - Occupies property on which it pays business rates
  - Is in a local lockdown area
  - Has been required to close for at least three weeks because of the lockdown; or
  - Has been unable to provide its usual in-person customer service from its premises
- The eligibility criteria for the Coronavirus Future Fund is:
  - UK-incorporated - If the business is part of a corporate group, only the parent company is eligible
  - Raised at least £250,000 in equity investment from third-party investors in the last 5 years
  - None of its shares are traded on a regulated market, multilateral trading facility or other listing venue
  - It was incorporated on or before 31 December 2019; and
  - At least one of the following is true:
    - Half or more employees are UK-based
    - Half or more revenues are from UK sales

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

The application procedure varies depending on the support that is being sought.

To obtain a grant under the CJRS, an employer will have to submit information to HMRC about furloughed employees and their earnings through an online portal.

(17) What is the legal framework for collective redundancies?

Collective redundancy in the United Kingdom is governed by the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA).

An employer proposing to dismiss/make redundant 20 or more employees at an establishment (defined by the courts as the entity or unit to which employees are assigned to carry out their duties) within a period of 90 days or less would trigger the requirement to collectively consult.

As well as being required to collectively consult, an employer will also have to undertake individual consultation with each of the individual employees whom it is proposing to dismiss as redundant, pursuant to the Employment Rights Act 1996.

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

As part of the collective consultation process, the employer must provide legally justifiable reasons for the proposed dismissals, e.g., closure of a factory.

There is conflicting case law on the issue of whether or not the employer is required to consult on the underlying business reasons or rationale for the redundancies, e.g., why the factory is closing and whether there are any alternatives to the closure.

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

The employer must inform and consult appropriate representatives of the affected employees. 'Appropriate representatives' are the following:

- If the employer recognises an independent trade union in relation to the affected employees, then 'appropriate representatives' will be representatives of that trade union; or
- In any other case, whichever of the following employee representatives the employer chooses:
  - Employee representatives appointed or elected by the affected employees, otherwise than for the purposes of the current collective consultation, who have authority from those employees to receive information and to be consulted about the proposed dismissals on their behalf; or
  - Employee representatives elected by the affected employees for the current consultation process

The employer must provide to the appropriate representatives of the affected employees the following information, at a minimum, in writing:

- Reasons for the proposed dismissals
- Numbers and descriptions of employees who are proposed to be dismissed as redundant
- Total number of employees of any such description employed by the employer at the establishment in question
- Proposed method of selecting employees who may be dismissed
- Proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect
- If the employer is intending to voluntarily pay redundancy payments over and above the statutory redundancy payment, the proposed method of calculating the amount of such redundancy payments
- Certain required information about the employer's use of agency workers; and
- Notification (the Form HR1) provided to the Secretary of State that the employer is proposing to make redundancies

The information must be in writing and must be delivered individually to the appropriate representatives, mailed to the address provided to the employer by the appropriate representatives or, where the appropriate representatives are trade union representatives, mailed to the trade union's head office.

There is no specified time by when the information must be provided. However, the provision of information is required before the consultation process can commence. After this information is provided, the employer is required to undertake consultation with the appropriate representatives of the affected employees, with a view to reaching agreement on means to do the following:

- Avoid the dismissals
- Reduce the number of employees to be dismissed; and
- Mitigate the consequences of the dismissals

Consultation requirements with other employee representatives

Please refer to the 'Consultation requirements with works council/unions' for more information on information and consultation requirements with 'appropriate representatives.'

Consultation requirements with employees

As well as being required to collectively consult, an employer will also have to undertake individual consultation with each employee whom it is proposing to dismiss as redundant. Individual consultation will not satisfy the requirement to collectively consult with the appropriate representatives of the affected employees.

There are no express legal barriers to open communication with employees on a collective redundancy. However, it is recommended that the employer and the appropriate representatives should seek to agree on a procedure in this regard, including provision for individual meetings (in order to undertake individual consultation) as well as collective consultation.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

Approval of the labor authorities or other government authorities is not required to dismiss any employees; However, an employer that is proposing to make redundancies must notify the Secretary of State using Form HR1 by providing the following information:

- Employer's details
- Employer's contact details
- Establishment where redundancies are proposed
- Timing of redundancies
- Method of selection for redundancy
- Number of redundancies at the establishment
- Nature of the employer's main business
- Whether the establishment will be closed
- Reasons for the redundancies; and
- Information on the consultation process

Form HR1 must be received by the Secretary of State at least:

- 30 days before the first dismissal takes effect, when the employer is proposing to dismiss as redundant between 20 and 99 employees at an establishment within a period of 90 days or less; or
- 45 days before the first dismissal takes effect, when the employer is proposing to dismiss as redundant 100 or more employees at an establishment within a period of 90 days or less

Form HR1 must be delivered or sent by post to the address notified by the Secretary of State. The form is not required if the proposal is to dismiss as redundant 19 or fewer employees at one establishment.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

The employer must undertake a fair selection process in order to determine which employees are to be made redundant. The selection criteria must be applied objectively and capable of independent verification. Unless there is a collectively agreed or customary selection pool/criteria, the employer has a degree of flexibility as to how selection takes place. If possible the selection pool/criteria should be agreed upon with the employee representatives or trade union (and must be consulted on in any event).

Potentially fair selection criteria include:

- Needs of the business (skills)
- Performance and ability
- Years of service
- Attendance records; and
- Disciplinary records

There is no special protection afforded to particular employees. However, the employer must implement the selection process without any discrimination.

An employee's dismissal will be automatically unfair if they are selected for redundancy on a number of grounds, including pregnancy, maternity leave or their status as an employee representative.

In the event that employees on maternity leave are selected for redundancy, they will be afforded certain preferential rights to be automatically offered a suitable alternative vacancy (where one is available).

(22) Are there any actions required to limit the negative impact of the redundancy?

The employer is required to consult with the appropriate representatives of the affected employees with a view to reaching agreement on means to do the following:

- Avoid the dismissals
- Reduce the number of employees to be dismissed; and
- Mitigate the consequences of the dismissals

However, there is no obligation to reach an agreement and the employer is not necessarily required to take any action as a result of this consultation.

Individual consultation should also take place with affected employees announcing the reasons for the proposed redundancies, the selection criteria to be applied and its application to that employee, and the existence of suitable alternative employment.

Internal alternative employment/redeployment

The dismissal of an employee for redundancy may be unfair if the employer fails to undertake a reasonable search for suitable alternative employment.

(23) What is the estimated timeline for a collective redundancy process?

The time taken to prepare for a collective redundancy process will depend upon both the nature of the workforce and the nature of the redundancies being proposed. It could range from a number of weeks to a number of months.

There is no prescribed legal timeline in the legislation for either an individual or a collective redundancy process. However, the consultation process must begin in 'good time' (with a view to reaching agreement either with the individual or with the appropriate representatives). For an individual process, the timing need only be 'reasonable in the circumstances'. For a collective process, the consultation must start no later than:

- 30 days before the first dismissal takes effect, when the employer is proposing to dismiss as redundant between 20 and 99 employees at an establishment within a period of 90 days or less; or
- 45 days before the first dismissal takes effect, when the employer is proposing to dismiss as redundant 100 or more employees at an establishment within a period of 90 days or less

The legal timeline required will depend on various factors and all of the circumstances and is fact-specific. For example, the approach and expected time taken for a consultation process will depend on whether trade union representation is present. The presence of trade union representation can significantly increase the amount of time required for consultation and can make individual consultation more difficult. If there are no appropriate representatives already in place for the affected employees, an election process will be required and this will further increase the time required.

(24) What are the estimated costs?

Mandatory costs

The employer is required to pay statutory redundancy compensation to employees with two years' continuous employment, calculated using the following formula:

- One and a half weeks' pay for each complete year of service in which the employee was aged 41 or over at the beginning of the year
- One week's pay for each complete year of service in which the employee was aged 22-40 at the beginning of the year; or
- Half a week's pay for each complete year of service in which the employee was under the age of 22 for any part of the year

In addition to this, the employer will be required to give (or pay in lieu where applicable) statutory notice of:

- One week, for employees with at least one month but less than two years' service; or
- One week for each year's service, up to a maximum of 12 weeks, for employees with at least two years' service

Customary additional costs

There may be customary additional HR legal costs associated with redundancies, if the employees have a right (whether contractual, implied or through custom and practice) to a longer notice period or enhanced redundancy compensation.

The employer may also provide (in addition to what the employees are entitled) additional notice, redundancy compensation or some other payment on the condition that employees sign settlement agreements in which they waive claims they may have against the employer. However, such a settlement agreement cannot waive claims for failing to inform and consult.

It is also common for outplacement support to be provided to redundant employees.

Additionally, the consultation process would also incur HR legal costs.

Legal costs may also arise if the employer chooses to seek legal advice, which is recommended.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

There are no legislative barriers restricting hiring after implementation of a collective redundancy. However, rehiring immediately following a collective redundancy may indicate that the employer did not undertake a reasonable search for alternative employment for the employees dismissed as redundant, which could potentially lead to the employees' dismissal being found to be unfair. It could also potentially undermine the original grounds or rationale for the redundancy reason.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Once the process is over, the following interested parties can bring lawsuits related to the redundancy process:

- Unions/other representatives: A claim for failing to inform and consult in accordance with the TULRCA must be brought in the Employment Tribunal before the last of the proposed dismissals takes effect or within the period of three months starting with the day on which the last dismissal occurs

There are restrictions as to who can bring a claim for failing to inform and consult:

- A claim of a failure to inform and consult a recognized trade union can only be brought by the trade union
- A claim of failure to inform and consult other appropriate representatives can only be brought by one or more of the representatives to whom the failure relates
- A claim relating to a failure to arrange an election of employee representatives or to comply with the rules on elections can be brought by any affected employee, or any of the employees who has been dismissed as redundant; or
- In any other case (i.e., in any other circumstance of failure to inform and consult), a claim may be brought by any of the affected employees, or any employee who has been dismissed as redundant

Impacted employees can claim for unfair dismissal on the following grounds:

- If the impacted employees are not individually consulted or the consultation process was generally unfair
- If the impacted employees were selected for redundancy for an unfair reason; or
- If the impacted employees were selected for redundancy for any discriminatory reason

The right to bring a claim for unfair dismissal is available to employees who have been dismissed (provided that they are an employee and qualify to bring such a claim by virtue of having two years' continuous service or through the circumstances of their dismissal, meaning that the two-year qualifying period does not apply). Broadly, the employee must bring a claim for unfair dismissal within a period of three months starting with the effective date of termination.

Litigation cannot stop or slow down the collective redundancy process as all potential claims would arise following the completion of the collective redundancy process.

(27) What are the risks of damages or other remedies due to the redundancy process?

Litigation could lead to two types of remedies, as well as criminal sanctions.

Damages for unfair dismissal

A successful claim for unfair dismissal could result in a basic award of:

- One and a half weeks' pay (capped) for each year of employment in which the employee was aged 41 or over at the beginning of the year
- One week's pay (capped) for each year of employment in which the employee was aged 22-40 at the beginning of the year; or
- Half a week's pay (capped) for each year of employment in which the employee was under the age of 22 for any part of the year

The basic award is not payable where a statutory redundancy payment has already been paid.

A compensatory award (which in some circumstances may be capped) and an additional award may also be made; It will also be made where an order for reinstatement has been made and the employer refuses to comply with such an order.

The court may also order a protective award of up to 90 days' gross pay (which is uncapped) in respect of each employee for failure to inform and consult.

Compensation awarded for dismissals based on discriminatory grounds is uncapped.

Reinstatement

The court may also make an order for reinstatement or re-engagement. As set out above, an additional award will be made where an order for reinstatement is made and the employer refuses to comply with such an order.

Criminal sanctions

Failure to provide the appropriate notification to the Secretary of State, as set out above, is a criminal offense and the employer may be subject to a criminal conviction and a fine. Directors, managers or officers of the employer may also be liable.

It is a criminal offense if the employer fails to provide a written statement showing how a redundancy payment has been calculated. The penalty for this offense is a fine.

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(1) What are the employer's obligations due to the spread of the COVID-19 pandemic?

An employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken. In Vietnam, the National Steering Committee for COVID-19 Prevention and Control issued Decision No. 2194/QD-BCDQG on guidelines for COVID-19 prevention and infection risk assessment in workplaces and worker dormitories on 27 May 2020.

Examples of this include:

- Providing disinfectants; and
- Technical possibilities as an alternative to physical meetings (e.g., video conferencing)

(2) Can the employer prohibit an employee who is diagnosed with COVID-19 from entering the workplace?

Under Vietnamese law, the employees' obligation is to comply with the regulations, internal rules, procedures and requests of the employer as well as the competent State authorities on occupational safety and hygiene at the workplace. Hence, the employer is entitled to prohibit the employees who may be infected from accessing the workplace. The salary paid during the employment suspension period must be agreed by both parties, but must not be lower than the regional minimum salary stipulated by the Vietnamese Government.

(3) What steps need to be taken by the employer to alert other employees if there is a diagnosed individual at the workplace?

As the employer is responsible for providing a safe and healthy working environment, adequate actions need to be taken in order to safeguard the workplace so that other individuals are not infected. Employees' privacy in respect of any infection should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the COVID-19 pandemic.

An individual's information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people.

In addition, under Vietnamese law, discriminating against, and publishing negative images of, and information about, diagnosed employees is prohibited. Such negative images and information might be images, information which is untruthful or slander, distortion, insulting the diagnosed employee's reputation, honour, and dignity. The employer publishing such images or information may be fined from ₫10 mn to ₫20 mn, or even face imprisonment of up to three years.

(4) Does an employee need to answer the employer's questions about whether the employee has recently spent time in high-risk or restricted areas?

Vietnamese law is silent on this question.

However, under Vietnamese law, employees have obligation of complying with the internal rules, and requests of employer. Moreover, they take responsibility for promptly reporting to the employer when discovering risks in workplace.

Therefore, employees should expect to answer the employer's questions on whether they have recently spent time in high-risk or restricted areas.

(5) Does the employer have a duty to alert the Government if an employee has been diagnosed?	(6) Other remarks	(7) Are there any regulations in place providing an employer with the possibility for flexible workforce planning, such as part-time/temporary leave which would be triggered in a situation similar to the COVID-19 pandemic?	(7(i)) If 'Yes' on Q7, please describe what type of regulations. Please confirm if, and to what extent, such leave can be supported by state aid (including sick pay, etc.) and/or other extraordinary governmental support?	(7(ii)) If 'Yes' on Q7, please specify if there is a need to initiate communication with trades union and/or works councils. Also specify if there are any special procedures that need to be followed.
Under Vietnamese law, upon the occurrence of an pandemic, if an employer detects or suspects an employee is infected, they must report them to the nearest health agency within 24 hours.	Please notice that directing employees to take business trips to a country in which the COVID-19 pandemic has already spread is not allowed under the Notification of the Ministry of Labor, War Invalids and Social Affairs (MOLISA).	Yes.	Under Vietnamese law, employers are able to decide whether employees should temporarily leave work due to the spread of the COVID-19 pandemic. During such leave, the salary will be paid subject to each type of leave, as well as the employer's decision, during their leave period. Under Vietnamese law, several regulations provide an employer with the possibility for flexible workforce planning: ▸ Annual Leave: The employer has the right to fix the timetable for annual leave after consulting the employee and must notify the employee in advance about the timetable. In case the employer has not yet decided the timetable for annual leave in the current year, they can discuss with the employee to take their annual leave during the COVID-19 pandemic; Full salary is paid during this leave ▸ Home Based Work: Under agreement between the employer and the employee, full salary is paid during this leave ▸ Suspension of work: To be applied in the case of a pandemic, salary as agreed by the employer and employee, but must not be lower than the regional minimum wage stipulated by the Government ▸ Unpaid Leave: Under agreement between the employer and the employee - Not applicable	No, there is no special procedure involved in taking the above leave. This is just an agreement between employer and employee which does not need to be initiated via the trade union. However, the trade union can discuss, communicate and negotiate on labor and employment issues in the company, such as participating in negotiation and supervising the implementation of CBAs, salary scales and tables, labor norms, salary and bonus payment regulations, internal labor regulations and democracy regulations of the employer.

Vietnam (continued)

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(8) Can an employer unilaterally decide to postpone an employment start date in cases where;			(9) If 'Yes' on Q8(i)-(iii), please confirm if the employer has any obligations with respect to employees prior to the employment start date.	(10) If existing employees are prevented from attending the workplace, what are the employer's obligations in the below cases?		
(8(i) The office is closed due to the COVID-19 pandemic;	(8(ii) The new hire has visited a 'quarantine city/area' during the last 14 days;	(8(iii) The new hire has been diagnosed with COVID-19.		(10(i) The office is closed due to the COVID-19 pandemic;	(10(ii) The employee has visited a 'quarantine city/area' during the last 14 days;	(10(iii) The employee has been diagnosed with COVID-19.
Yes.	Yes.	Yes.	Yes; There are a number of employment obligations including maintaining health and safety of employees, considering whether the employee can be accommodated (e.g., working from home). In the case of business suspension, employers have to implement administrative procedures with the competent business registration authorities and complete all pending financial obligations to employees under the signed employment contracts and under Vietnamese law. The employer is required to give the employees prior notification of the actions in accordance with Vietnamese law. Employers also need to give the employees prior notification in a timely manner and require such employees to comply with the 14 days-quarantine by working from home with a re-negotiated salary for this suspension period.	Please refer to comments in Q9.	Please refer to comments in Q9.	Please refer to comments in Q9.

(11) Can an employer force an employee to use sick leave (or other types of leave) for any of the reasons set out in Q10(i)-(iii)?	(12) Other: Anything else that should be highlighted for your jurisdiction regarding state aid?	(13) What are the employer's obligations in situations where schools and kindergartens are closed due to the COVID-19 pandemic (i.e., allowing leave of absence and paying salary/benefits throughout such period)?	(14) Are there any governmental programs announced to support a company if it needs to close totally or partially for a certain time period?
Sick leave may be suggested to the employee in the circumstances described in 10(ii) and 10(iii). However, in the case of 10(i), it is not relevant for any type of leave. The employee's absence at workplace is due to the business suspension decided by the employer.	No.	Due to spread of the COVID-19 pandemic, in some provinces in Vietnam, children are required to stay at home under the Notification of the provincial Departments of Education and Training. So, many employees choose to take leave in order to care for their children. Nevertheless, it this cannot mean that the COVID-19 pandemic is the direct reason for their employment suspension. As a result, under Vietnamese law, such employees shall not be paid any remuneration in this case.	Yes. Enterprises may be entitled to benefit from several programs provided that they meet certain conditions and statutory requirements, in particular: ▸ Decrease of 10% of the electricity retail price to the manufacturing and business sectors ▸ Tax support, i.e., extension of tax payment or an exemption of late payment interest as a relief for those diagnosed with COVID-19, and extension of deadlines for payment of taxes and land rents ▸ Temporary suspension of contribution paid as social insurance premiums to the pension and death benefit fund ▸ Extension of deadlines for payment of trade union dues ▸ Interest and fee exemption or reduction granted according to internal rules and regulations of credit institutions; and ▸ Employer's entitlement to loans for paying employees wages and salaries during the period of their temporary suspension of work

(15) Describe the necessary prerequisites to qualify for state aid and/or other extraordinary governmental support, if applicable.

Authorities have enacted the new official letters to expand the subjects entitled to this support as follows:

Regarding suspension of social insurance payment, Official Letter No.1511/LDTBXH-BHXH of MOLISA and Official Letter No. 2533/BHXH-BT of Social Insurance Agency dated 10 August 2020 on guideline regulations, allowing organizations which are seriously affected by the spread of the COVID-19 pandemic to suspend the payment to the retirement and survivorship allowance fund without being charged interest up to December 2020.

Moreover, an organization may suspend paying retirement and survivorship allowance if they are under one of the following cases:

- The business and manufacturing operation has been suspended for at least one month due to changes in structure, technology, or crisis, economic depression or execution of State policies regarding economic restructuring or fulfillment of international treaties; or
- Difficulties caused by a natural disaster, conflagration, epidemic or crop failure

Regarding bank support: The State Bank of Vietnam (SBV) issued Circular No. 01/2020/TT-NHNN, dated 12 Mar 2020, directing credit institutions, including foreign bank branches, to restructure the repayment periods, waive and reduce interest and fees, and maintain the debt classification to support those enterprises affected by the COVID-19 pandemic. Moreover, SBV has instructed commercial banks not to raise interest rates because of the COVID-19 pandemic.

(16) If applicable, describe the application procedure for such state aid and/or other extraordinary governmental support (e.g., application details and filing requirements)?

Regarding suspension of social insurance payment:

Where a business has suffered damage due to the COVID-19 pandemic, enterprises are encouraged to submit an application dossier for suspension of social insurance payments. Under Vietnamese law, this application dossier should include the following documents:

- Letter of request for such suspension; and
- Evidentiary documents (e.g., list of employees before and at the suspension period, list of employees who have to temporarily leave and a report on the inventory of assets)

The approval procedure is expected to take approximately 10 working days from the date of completing the full set of application documents.

Regarding bank support:

Internal regulations providing specific guidance on debt rescheduling and the suspension or reduction of interest rates will be issued by credit institutions and foreign bank branches. The SBV provided general principles and regulations for credit institutions and foreign bank branches' implementation of this policy. The detailed procedures and applications dossiers will be issued by each credit institution or foreign bank branch due to differences in:

- Classification of client groups
- Lending procedures
- Credit procedures
- Interest rates; and
- Scale among institutions

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(17) What is the legal framework for collective redundancies?

Workforce transformation, also referred to as collective redundancy, is governed by Articles 38 and 44 of the Labor Code of Vietnam (National Assembly, 18 June 2012) Decree No. 05/2015/ND CP, which was amended and supplemented by Decree 148/2018/ND-CP and Official Letter 1064/LDTBXH-QHLDTL (MOLISA, 25 March 2020). Under these regulations, an employer may unilaterally terminate employment contracts of employees due to 'organizational restructuring' or 'economic reasons' or 'any reason of *Force Majeure* as prescribed by law.' The Labor Code of Vietnam is silent on the threshold that triggers a collective redundancy.

In the event that an employee is terminated due to 'organizational restructuring' or 'economic reasons' pursuant to Article 44 of the Labor Code, the termination must be carried out in accordance with the following procedures:

- Preparation of a restructuring plan
- Consultation with the trade union of the business; and
- Notification to the competent labor authorities about the termination

In the event that an employee is terminated due to 'any reason of *Force Majeure*' pursuant to Article 38 of the Labor Code, the termination must be carried out in accordance with the following procedures:

- Having taken all necessary measures to remedy the problem, the employer still needs to reduce production and the number of jobs; and
- Providing advance notice of termination to the employees, subject to the labor contract type, i.e., three days or 30 days, or 45 days for seasonal or specific job labor contract, fixed-term labor contract and indefinite-term labor contract respectively

(18) Does the employer need to have a legal justification to carry out redundancy dismissals?

Workforce transformation must be justified on one or more of the following grounds:

- For restructuring due to change in structure or technology:
  - Changes of organizational structure, reorganization of employment
  - Changes of products/product structure
  - Changes of technology process, machinery, business manufacturing equipment, associated with production, business activities of the employer
  - For restructuring due to economic reasons
  - Economic crisis or recession
  - Implementation of government policy on restructuring the economy or implementing international commitments; or
  - Mergers, acquisitions, divisions, separations, or transfers of the assets of a business
- For unilateral termination of employment due to *force majeure*:
  - Enemy destruction or an epidemic (COVID-19 was declared as an epidemic, pursuant to Decision 447/QD-TTg from the Prime Minister on 1 April 2020);
  - Relocation or reducing the production or business location, at the request of a competent State authority; or
  - With respect to the COVID-19 pandemic, Official Letter 1064/LDTBXH-QHLDTL requires 'the difficulties in materials and market which result in the insufficient employment arrangement' as one of the ground to implement Articles 38 and 44 of the Labor Code

(19) What are the consultation requirements with works councils/unions (if any)?

Consultation requirements with works council/unions

Employers must consult with their respective trades union at the enterprise regarding the circumstances causing redundancy, specifically:

- **For termination due to changes of structure or technology:**

The employer must announce the list of impacted employees, if it intends to terminate multiple employment contracts at the same time. The termination due to changes of structure or technology shall only be carried out by the employer after discussion with the representative organization of the grassroots-level employees' collective and providing notification to the provincial-level state management agency of labor.

- **For termination due to economic reasons:**

If an employer intends to terminate multiple employment contracts due to any economic reason, the employer shall elaborate and implement a labor utilization plan, with the participation of the representative organization of the grassroot-level employees' collective. Such labor utilization plan is required to compulsorily include identified principal contents.

Consultation requirements with other employee representatives

There is no statutory requirement to consult with other employee representatives. In addition, the trade union at the business (or the provincial-level trade union, if the business does not have a trade union) is the sole representative of employees or collective labor in Vietnam. Hence, it is sufficient if the consultation requirements with the trade union are satisfied.

Consultation requirements with employees

There is no statutory requirement to consult with the employees to execute a collective redundancy. However, the company is required to serve notice in advance to the impacted employees.

(20) Does the employer need to notify labor authorities or other government authorities? Is approval required before moving forward with any redundancies?

When a Workforce transformation due to 'organizational restructuring' or 'economic reasons' adversely affects employment and results in two or more employees having to be retrenched, the employer must notify the provincial-level state management agency of labor 30 days prior to the contemplated collective redundancy. The notification must be made in writing with all mandatory contents as required by law.

In the case of a restructuring due to a merger, acquisition, a transfer of use rights or ownership of assets, there is no statutory requirement to notify the labor authorities. However, it is best practice in Vietnam for the employer to notify, liaise and consult with the competent labor authority in order to reduce any legal risks.

(21) Are there any selection criteria that need to be followed by the employers when choosing the employees to be made redundant?

There are no legally prescribed selection criteria in a collective redundancy. However, in practice, the employer must consult with the trade union in its business and the following criteria are usually considered:

- Employee's family situation
- Years of service
- Specific qualifications and professional skills; and
- Other criteria proposed by the trade union (if any)

The criteria stated above are for reference purposes only. Employers may base their decision for termination on other criteria not mentioned above, which may differ from business to business or employee to employee (e.g., professional attitude).

(22) Are there any actions required to limit the negative impact of the redundancy?

The Labor Code of Vietnam makes it mandatory for employers to develop and implement labor utilization plans. A labor utilization plan must include the following significant contents:

- The names and number of the employees to be maintained in employment and those to be re-trained for continued employment
- The names and number of employees to retire
- The names and number of employees to be maintained in employment on a part-time basis and those to be dismissed; and
- The measure and financial sources to implement the plan

The labor utilization plan, or social plan, shall be developed with the participation of the representative organization of the worker's collective at grassroots-level.

Internal alternative employment/redeployment

If there is a new vacancy, priority shall be given by the employer to re-training the terminated employees for the purpose of reemployment.

Other measures

The employer must take other measures such as providing financial aid to the impacted employees. The impacted employees are entitled to a redundancy allowance in the case of restructuring due to 'organizational restructuring' or 'economic reasons' or a severance allowance in the case of unilateral termination of employment due to *force majeure;* Please refer to comments in Q24 and Q27 with respect to 'Mandatory costs' and 'Reinstatement' under 'Litigation risk.'

(23) What is the estimated timeline for a collective redundancy process?

The time required to fully implement a redundancy depends on various factors such as:

- Number of redundancies contemplated
- Time period of advance notification to the redundant employees (maximum of 45 days, depending on the type of labor contracts)
- Time period of consultation with the grassroot trade union (usually one to three months);
- Time period for the competent labor authority, to respond to the notice of the employer (maximum of 30 days); and
- Time period of advance notification to the provincial-level state management agency of labor (mostly 30 days)

Therefore, the entire process of collective redundancy may take about four to five months approximately but it varies from case to case.

(24) What are the estimated costs?

Mandatory costs

The key components of mandatory HR legal costs are as follows:

- Redundancy allowance: One month's salary for each year of employment, for which the employer has not contributed unemployment insurance but must be a minimum of two months' salary for every redundant employee who has worked for a full 12 months or more, in the case of a workforce transformation due to 'organizational restructuring' or 'economic reasons'
- Severance allowance: A half month salary for each year of employment, for which the employer has not contributed the unemployment insurance for every employee having worked for full 12 months or more in the case of unilateral termination of employment due to *force majeure*
- Payment of salary in lieu of any accrued annual leave that has not been taken by the employee prior to the termination; and
- Any other amounts payable under existing labor contracts and collective labor agreements (if any)

Customary additional costs

The measures of other costs, such as the social plan, may vary depending on the size and means of the company, and the employer's potential to provide for a large range of measures to limit the negative impact of the redundancies.

(25) Are there any hiring/re-hiring restrictions post-redundancy?

There are no restrictions on hiring post-redundancy. Employers are free to hire new employees to meet their needs.

(26) What are the risks of litigation caused by the redundancy process?

Interested parties

Labor disputes, such as individual labor disputes, disputes between an individual employee and their employer, or collective labor disputes may arise. In collective labor disputes, a representative from the representative organization of employees' collective will be the defense counsel for the employees' legitimate rights and interests.

However, if there is only one representative defending for the employees' collective, the rights and interests of each represented employee shall not be in conflict with those of the others.

There are two forms of collective labor disputes:

- Disputes regarding employee rights, which are disputes between a group of employees and their employer regarding the implementation of labor laws, CBAs, or internal labor rules that have been registered with the labor authorities; or
- Disputes involving employees' interests, which involve disputes between a group of employees and their employer where the employees request the employer to give them new, better labor conditions with respect to salary, bonuses, working time or other benefits

Therefore, the impacted employees may take legal action against the employer for settlement of the above disputes.

(27) What are the risks of damages or other remedies due to the redundancy process?

Claims could lead to civil remedies as well as criminal sanctions against the employer. For example, in the case of civil remedies, the employer who has illegally and unilaterally terminated a labor contract shall be subject to a stipulated amount of money as compensation. In the case of criminal sanctions, depending on the circumstances, the employer may be subject to a monetary fine, community sentence or imprisonment.

Damages for unfair dismissal

There is no statutory regulation governing unfair dismissal of an impacted employee. However, Vietnamese law has a similar concept that applies about illegal employment termination by the employer and means that impacted employees are entitled to wages, social insurance and health insurance premiums for the period during which the employees were not allowed to work, including at least two months' wages in accordance with their respective labor contracts. The impacted employees can also file a lawsuit against unilateral termination of their employment.

Reinstatement

The impacted employee has a right to choose between being reinstated or receiving a severance allowance from the employer who unilaterally terminates the labor contract illegally.

Employees are entitled to reinstatement within the company when the terminations are declared null and void by the court due to non-compliance with the applicable laws.

Where the employees refuse the reinstatement, those employees with at least one year of service are entitled to a severance allowance based on the period equalling the total number of years employed, excluding the period of the compulsory unemployment insurance scheme in which the employee participates (applicable since 1 January 2009 per the Law on Insurance of Vietnam).

Where the employer refuses to reinstate the employees, excluding the claimed severance allowance and damage as above, there may be an additional compensation of at least two months' wages that is negotiated and agreed mutually by both the employer and employees.

Criminal sanctions

Any person who, for self-seeking purposes or another private motive, commits any of the following acts that cause serious consequence shall be liable to a fine ranging from ₫10,000,000 to ₫100,000,000:

- Issuing illegal decisions on dismissal of an official
- Laying off a worker in contravention the law; or
- Forcing or threatening an official or worker to resign

In addition, the person who commits any of the abovementioned illegal acts may also face a penalty of up to one-year community sentence or 3–12 months' imprisonment.

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