



## EY Law - Return to Office tracker

COVID-19: Labor and employment  
law requirements and considerations

**16 February 2021**



**EY**

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working world

# Important notes

- ▶ This document provides a snapshot of the legal requirements around the world for employers formulating policies.
- ▶ 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.

As organizations around the world adapt to the COVID-19 pandemic, employers in many jurisdictions start preparing for a “beyond” phase. Unlike ever before, key reputational, strategic and human resources questions must be answered about whether the organization can ask all, some or certain employees to resume working from the office or on official business premises.

Collected and consolidated by our labor law professionals from more than 60 jurisdictions, the *COVID-19: return to office – legal requirements and considerations* tracker captures answers to questions regarding the existing legal framework for returning to the office, enforceability of employment contract obligations, statutory limitations, employees’ obligations, protocols regarding vaccines for employees and other relevant considerations. It is designed to help organizations in their decision-making at this critical time.

Given the dynamic nature of this topic, 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 light.

With best wishes,



**Cornelius Grossmann**  
EY Global Law Leader  
[cornelius.grossmann@de.ey.com](mailto:cornelius.grossmann@de.ey.com)



**Paula Hogéus**  
EY Global Labor and Employment Law Leader  
[paula.hogeus@law.se.ey.com](mailto:paula.hogeus@law.se.ey.com)

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

- ▶ [Immigration](#)
- ▶ [Force majeure](#)
- ▶ [Transfer pricing](#)
- ▶ [Mobility](#)
- ▶ [Global tax policy](#)
- ▶ [Global trade](#)
- ▶ [Tax controversy](#)
- ▶ [Indirect tax \(United States\)](#)
- ▶ [Labor and employment](#)

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

# 63 Jurisdictions

|                            |  |                                    |                           |
|----------------------------|--|------------------------------------|---------------------------|
| <a href="#">Albania</a>    | <a href="#">Bosnia and Herzegovina</a> | <a href="#">Czech Republic</a>     | <a href="#">Georgia</a>   |
| <a href="#">Argentina</a>  | <a href="#">Brazil</a>                 | <a href="#">Denmark</a>            | <a href="#">Germany</a>   |
| <a href="#">Australia</a>  | <a href="#">Bulgaria</a>               | <a href="#">Dominican Republic</a> | <a href="#">Greece</a>    |
| <a href="#">Austria</a>    | <a href="#">Canada</a>                 | <a href="#">El Salvador</a>        | <a href="#">Guatemala</a> |
| <a href="#">Azerbaijan</a> | <a href="#">China Mainland</a>         | <a href="#">Estonia</a>            | <a href="#">Honduras</a>  |
| <a href="#">Belarus</a>    | <a href="#">Colombia</a>               | <a href="#">Finland</a>            | <a href="#">Hong Kong</a> |
| <a href="#">Belgium</a>    | <a href="#">Costa Rica</a>             | <a href="#">France</a>             | <a href="#">Hungary</a>   |
| <a href="#">Bolivia</a>    | <a href="#">Cyprus</a>                 | <a href="#">Gabon</a>              | <a href="#">India</a>     |

# 63 Jurisdictions

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

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. In this respect, the Ministry of Health has adopted a guideline that classifies businesses into three categories:

- ▶ Low risk
- ▶ Medium risk
- ▶ high-risk

According to the risk that each business presents, it is subject to the requirements included in the respective protocol that the Albanian Government has adopted (green protocol for low-risk businesses, yellow protocol for medium-risk businesses and red protocol for high-risk businesses). The employer has the obligation, among others, to ensure ventilation and disinfection three to five times a day (the frequency depends on the level of the risk), perform temperature checks, inform the competent state authorities if an employee shows clinical signs, and ensure access to soap, water, alcohol-based sanitizer with at least 60% alcohol, and disposable paper towels or towels.

1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

An employee whose workplace contractually is set to the office location of the employer can be contractually required to work from this location. As such, in a case when an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.

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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings, however, has temporarily been limited due to the COVID-19 pandemic.   |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. In order to ensure the health and safety of employees, the employer can request that such measures are put in place.   |
| 4 | Can employees be required to take a temperature test when entering the office?  | Yes. For the health and safety of employees, the employer can request that such measures are put in place. It is important, however, that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19. |

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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>The employer is responsible for providing a safe and healthy working environment by law; adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of good faith, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.   |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. Rather, the return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements (CBA). This means implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

## Question



## Response

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| <p>1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?</p>                                   | <p>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, such as providing disinfectants as well as technical alternatives to physical meetings (e.g., video conferencing).</p> <p>On 11 August 2020, the “Recommendations guide for a responsible gradual return to work” was published in the Official Bulletin Ruling No. 16/2020 from the Argentine workers compensation insurance regulatory agency (SRT). It is not aimed at higher risk sectors, such as health services.</p> <p>Moreover, it is established that the environmental health and safety services of each employer should not be limited to the adoption of the recommendations detailed in this guide, which may be supplemented with measures deemed pertinent to the particularities of the processes involved in the tasks carried out in each establishment.</p> |
| <p>1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?</p> | <p>Employees can be required to return to the office if the employer's activity has been authorized by the authorities. However, workers considered as a “risk population” (i.e., people over 60 years of age, pregnant or other included within the “risk population” defined by the Health Ministry) and workers whose presence in the home is essential for the care of children or adolescents are exempt from the duty to attend the workplace in the terms of the Resolution of the Ministry of Labor, Employment and Social Security of the Nation 207/2020, extended by Resolution 296/2020.</p>  |

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| 2 | Are there any statutory limitations with respect to returning to office (e.g., statutory limits of number of people allowed in the same location at the same time)? | No. However, employers have to guarantee safe distance between people, at least two meters, and must avoid crowding people.   |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.                          |
| 4 | Can employees be required to take a temperature test when entering the office?  | Yes. According to the "Recommendations guide for a responsible gradual return to work," it is recommended to carry out body-temperature controls prior to entering the establishment. |

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| 5(a) | Upon returning to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>According to the “Recommendations guide for a responsible gradual return to work,” prior to return to the office, workers must complete a one-time COVID-19 security questionnaire as an affidavit. For this, it is necessary for the employer to establish the questions to be asked in advance and make the questionnaire available to workers.</p> <p>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 good faith, which forms part of the employment.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |

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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

- ▶ The reinstatement of personnel must be gradual, with a minimum number of people defined for each area to resume face-to-face activity
- ▶ For the selection of workers who are going to restart activities, prioritization can be given to those who can commute by means of their own
- ▶ Establish staggered entry and exit times to avoid crowds of people
- ▶ Arrange a specific place (at the entrance to the establishment) for people to clean their hands, footwear and personal items (wallets, backpacks, bags, etc.) before arriving at the workplace and reiterate the operation upon leaving the establishment
- ▶ Sanitize and disinfect the entire work environment before, during and at the end of the work day
- ▶ Stagger meal shifts as long as possible, maintaining the minimum established distance, or create or condition other spaces to function as a dining room to maintain distance
- ▶ Discourage the use of commonly used appliances (microwave, water heater, refrigerator, water dispenser, etc.)
- ▶ Limit entry to changing rooms and dining rooms in batches, in order to avoid overcrowding of personnel while maintaining the minimum recommended distance

Employers and unions will be responsible for the dissemination of the “Recommendations guide for a responsible gradual return to work” through permanent training and communication by the mass media available. However, this guide constitutes a standard of minimum conditions, which may be complemented with additional and specific measures that are pertinent, taking into account to the particularities of each establishment and the specificity of the processes developed there. Labor unions and employers must work to establish particular protocols.

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|---|---|
| <p>1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?</p> | <p>By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors.</p> <p>An employer has a duty under the work health and safety (WHS) law to ensure, so far as reasonably practicable, the health and safety of workers and others (e.g., clients) at the workplace. Australia has nine WHS law jurisdictions, so the requirements vary depending upon location.</p> <p>The COVID-19 pandemic is an obvious risk in many businesses. Employers are expected to proactively take steps based on guidance material such as mentioned in the following link: <a href="https://www.safeworkaustralia.gov.au/covid-19-information-workplaces">https://www.safeworkaustralia.gov.au/covid-19-information-workplaces</a></p> <p>Some of the key and emerging issues are:</p> <ul style="list-style-type: none"><li>▶ Premises may be required to create and comply with COVID-19 safety plans (e.g., New South Wales and Victoria). For examples, please refer to the link: <a href="https://www.nsw.gov.au/covid-19/covid-safe-businesses#industries">https://www.nsw.gov.au/covid-19/covid-safe-businesses#industries</a></li><li>▶ Public health orders may require employers to allow employees who are capable of working from home to work from home (e.g., New South Wales and Victoria)</li><li>▶ From 2 August 2020, Stage 4 restrictions were enforced in the state of Victoria, which meant that employers in Victoria were required to provide employees with work permits if they were required to attend a work site. Employers were only able to issue permits to certain categories of employees, and only if the employee could not work from home. Employers that breached these requirements could face penalties of up to A\$99,132 per breach, or on-the-spot fines of A\$9,913. Workers who failed to carry a permit could be fined up to A\$19,826, or A\$1,652 on-the-spot</li><li>▶ From 11:59pm on 8 November 2020, businesses no longer need to issue permits to workers who are travelling between metropolitan Melbourne (Capital city of Victoria) and regional Victoria for work. Workers do not need permits to travel to work anywhere in Victoria. However, all businesses operating in Victoria must have developed and implemented a COVID-19 Safe Plan to reduce the risk of COVID-19 spreading within the workplace (unless they have no employees on site). Several industries still have additional obligations in order to stay safe</li><li>▶ In Victoria, face masks are only required to be worn in workplaces where employees cannot maintain one and a half meter distance from one another. Face masks must always be carried when leaving home, except with a lawful excuse. Face masks are mandatory on public transport</li></ul> |
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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work. However, before an employer takes any such disciplinary action, employers should consider whether this may constitute discrimination or adverse action under Australia's discrimination and general protections laws. Any such action should be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. As stated above, public health orders may require employers to allow employees who are capable of working from home to work from home (e.g., New South Wales and Victoria). Employers are also required to make reasonable adjustments up to the point of unjustifiable hardship to accommodate an employee with a disability (including a disease or illness that may exist in the future). |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | The number of people allowed to participate in public gatherings has temporarily been limited due to the COVID-19 pandemic. In addition, there are some statutory limitations regarding the number of people allowed on premises, which impacts employees returning to the office. For example, under the public health orders, depending on jurisdiction, occupiers of premises must generally follow a four square meter rule (i.e., one person per four square meters), which helps to determine the maximum number of people who can be on a premises at one time. In some types of businesses and organizations, it is mandatory to have a comprehensive COVID-19 safety plan in place and be registered as "COVID Safe." In New South Wales, COVID-19 safety plans include comprehensive checklists designed by New South Wales Health and approved by the chief health officer. Physical distancing is also recommended to reduce the spread of COVID-19.   |

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| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |
| 4 | Can employees be required to take a temperature test when entering the office?                   | <p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>The employer is responsible for providing a safe and healthy working environment and to adequately monitor the work environment for employees, which may involve requiring an employee to take a temperature test in order to enter the workplace. Adequate actions need to be taken to safeguard individuals from infection at the workplace.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19.</p> |

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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

Despite the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question may be raised by the employer, and the employee must reveal this information in accordance with the underlying duty of good faith, which forms part of the employment. Employees also have duties to coworkers under workplace health and safety legislation. As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation to employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.

Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.

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5(b) Can employers make obtaining a vaccine a condition of continuous employment?

This will depend on the state or territory of Australia and whether the employee works in the health care industry:

- ▶ In Victoria, in March 2020, the Health Services Amendment (Mandatory Vaccination of Healthcare Workers) Bill 2020 was passed by the Victorian Parliament and took effect from 25 March 2020 to amend the Health Services Act 1988 and the Ambulance Services Act 1986. The Amendment enabled the Victorian Department of Health and Human Services to direct certain healthcare providers to require their employees to be vaccinated or demonstrate immunity against specified diseases. Healthcare workers with direct patient contact in hospitals, ambulance services and those working in aged care were required to be vaccinated. Vaccination requirements made by healthcare employers in compliance with the Department's directions to require vaccination of employees will likely not constitute discrimination against the employee's political or religious beliefs under equal opportunity legislation
- ▶ In other industries, the law remains unclear. There is no legislative basis for employers to require employees to be vaccinated; however, employers have a statutory duty to provide a safe workplace and working conditions for their employees. Employers may be able to issue a direction to employees but any direction given by an employer to an employee to be vaccinated must be lawful and reasonable in the circumstances. The direction must be justified and necessary for the employee to perform the inherent duties of their position safely. The test of reasonableness must be considered on a case-by-case basis

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| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>In Victoria, the amended Health Services Act 1988 enables the Department of Health and Human Services to direct healthcare employers to require employees to be vaccinated to enhance protection of the health and safety of patients and employees.</p> <p>As stated in Q5(b), as for other industries, there is no legislative basis for mandatory vaccination; however, the Department of Health and Human Services has provided guidance to employers on implementing vaccination programs, particularly if workers have a significant occupational risk of acquiring a vaccine-preventable disease.</p> <p>The recommendations consist of:</p> <ul style="list-style-type: none"><li>▶ Employers considering implementing a vaccination policy</li><li>▶ Reviewing current staff vaccination records</li><li>▶ Providing information about relevant vaccine-preventable diseases</li><li>▶ Implementing a policy for managing vaccine refusal</li></ul> <p>Any direction given by an employer to an employee to vaccinate must be lawful and reasonable.</p> |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>In addition to matter set out in the preceding responses, it may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable health orders. This could mean implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p>  |

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | Arising from the duty of care, an employer is responsible for the working environment, including the health and safety of employees. An employer must therefore regularly follow up and assess employees' working environment to mitigate risk factors. Since COVID-19 is an obvious risk factor, appropriate occupational health and safety measures must be taken (e.g., providing disinfectants and technical alternatives to physical meetings).  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace is contractually set to the office location of the employer is contractually required to work from this location if it is requested by the employer. If the employee opposes coming to the office, an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. Please note that special rules apply for pregnant employees and employees in high-risk groups.   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | According to the Third COVID-19-Emergency Measures Ordinance, a distance of at least two meters must be maintained between people at the place of work and a face mask must be worn in closed rooms, unless the risk of infection can be minimized by suitable protective measures (e.g., formation of fixed teams, plexiglass walls). If the distance of at least two meters between persons cannot be maintained due to the nature of the professional activity, the risk of infection must be minimized by other suitable protective measures. It is, however, generally recommended that work is carried out remotely. Further special rules exist e.g. for customer areas, for employees with direct customer contact and for certain industries, such as hospitality. |

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| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | According to the Third COVID-19-Emergency Measures Ordinance generally a face mask must be worn in closed rooms, unless the risk of infection can be minimized by suitable protective measures. In certain cases, face masks are mandatory (e.g. in customer areas of business premises).  |
| 4    | Can employees be required to take a temperature test when entering the office?   | From a data-protection point of view, compulsory temperature measurement is inadmissible if there are less severe measures to check the state of health of the employee (e.g., interviewing the person). If the employee agrees, temperature measurement is possible. Data-protection law has to be considered if data is processed. |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Due to the duty of loyalty, the employee is obliged to report a COVID-19 infection to the employer immediately. It can be argued that the same applies if a person in the employee's household is diagnosed with COVID-19.   |

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.<br>However, the current law provides for certain possibilities to order a compulsory vaccine (e.g. in the field of nursing).  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | As of now, It is not possible to confirm this requirement due to the differences in opinions.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | Once back in the office, the employer needs to continuously evaluate the work environment and act on potential risks, which includes observing possible changes of laws and regulations. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. It may further not be suitable for all employees to return to work at the same time. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace. Assessing the possibilities to return to work and preparing the organization for such a return might also involve the appointment of safety representatives. |

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## Response

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|      |   |   |
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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic.   |

## Question



## Response



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|   |  |   |
|---|--|---|
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |
| 4 | Can employees be required to take a temperature test when entering the office?                   | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.<br><br>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Azerbaijan, where the General Data Protection Regulation (GDPR) applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation. |

## Question



## Response



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Azerbaijan, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.   |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

## Question



## Response



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|      |   |   |
|------|---|---|
| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | In Belarus there are methodological guidelines for the prevention of COVID-19 at the workplace, developed by the Ministry of Health, which contain steps for measuring body temperature, cleaning the premises, providing workers with protective equipment in offices and more. But these guidelines serve only as advice. Therefore, employers can decide on their own whether they will comply with such measures. |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | If an employee opposes coming to the office, it can legally be regarded as absence from work, which may lead to dismissal.  |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations.  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | No. There is no legal regulation in regard to this situation.   |
| 4    | Can employees be required to take a temperature test when entering the office?  | No. There is no legal regulation in regard to this situation.   |

## Question



## Response



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | If an employee is diagnosed with COVID-19 or is in immediate contact with a person who is diagnosed with COVID-19 (e.g., an employee lives with a diagnosed person), a doctor must issue a medical sick-leave certificate, and the employee is obliged to be self-isolated for 14 days and inform the employer. When the period of self-isolation expires and an employee is obliged to start working in the office, the employee is not obligated to inform the employer about contracting COVID-19 or being in close contact with someone who had COVID-19. |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.<br>As of now, vaccinations in Belarus are very limited and there are no effects on the labor law requirements.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.<br>Please refer to comments provided in Q5(b).  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?  | There are no other aspects that should be considered from a legal and regulatory perspective when planning for a return to office.  |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | <p>By law, employers have a duty of care for their employees. This implies that an employer must apply the necessary preventative measures to mitigate the risk of spread of COVID-19. The Federal Public Service (FPS) Employment, Labour and Social Dialogue has introduced General Principles regarding return to work. More sectors have expanded the sector-specific guidelines. The Committee for Prevention and Protection at Work (in the absence thereof, the Trade Union Delegation or employees directly) should be consulted on risk assessments of the work environment.</p> <p>Remote working is currently still mandatory for all businesses. In cases where, remote working is impossible because of the employee's functions, the continuity of the business, the activities or the delivery of services by the undertaking, a certificate from the employer is required to travel to the office/workplace. This certificate includes mandatory mentions allowing for identification and the reasons for the presence at the workplace. The <i>Contrôle des Lois Sociales/Toezicht Sociale Wetten</i> has been tasked to monitor compliance with these measures.</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>In principle, there is no legal right for the employee to remain off-site. However, under the current sanitary measures mandating remote working, a certificate from the employer stating the reasons for the return to the workplace is required.</p>   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>Yes.</p> <p>Currently remote working is mandatory and the return to the office is subject to the following two conditions:</p> <ul style="list-style-type: none"><li>▶ The presence of the worker at the workplace is necessary, as evidenced by a certificate from the employer</li><li>▶ That the social-distancing rules contained in the FPS guidelines or sector-specific guidelines have been duly implemented</li></ul>   |

## Question



## Response

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| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | Yes.   |
| 4    | Can employees be required to take a temperature test when entering the office?   | <p>In principle, the employer is not allowed to measure the temperature of its employees as this is considered a medical act. Moreover, measuring the temperature constitutes processing of personal data and is considered as an invasion of the employee's privacy.</p> <p>However, in the fight against the spread of the COVID-19 pandemic, the FPS guidelines permit temperature tests to be introduced, on condition that the workplace regulations have been amended to cover all possible consequences. The introduction of temperature tests may also require a review of the company's compliance with the applicable data protection rules as to how the test results are processed, stored and accessed.</p> |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>No.</p> <p>However, while an employer may not require the employee to provide proof of a negative COVID-19 test or prohibit them from coming to work when illness is suspected, the employer may request the intervention of the work physician. The work physician should be empowered to trace high-risk contacts in workplaces and employees are obliged to collaborate with the work physician in this context.</p>   |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | To limit the spread of the COVID-19 pandemic, the Belgian Government uses contact-tracing services. When employees have been in contact with a COVID-19 patient, they are required to spend seven days in quarantine. If remote working is possible, the employee can continue to work while quarantined. If not, the employee will receive a “quarantine certificate” from a physician mandating quarantine, allowing entitlement to temporary unemployment benefits, provided that remote working is not possible. The employee must inform the employer about their mandatory quarantine as soon as possible. |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | There are no specific legal requirements. However, the employer must comply with the biosecurity measures and protocol established in labor regulations issued by the Labor Ministry.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>Yes, they can. However, in cases when employees are considered to be in vulnerable groups (pregnant women, people over age 65 years and people with serious illness), remote working should be chosen.</p> <p>A new measure has been introduced which states that on site and remote working must be alternated every one or two days each week, according to working conditions and the number of people in the workplace, in order to avoid crowds and allow distance between employees.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Yes. There are legal limits established by each state and municipality in the country (e.g., the municipality of La Paz allows only 50% of personnel in the workplace).   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. It is enforceable in accordance with biosecurity measures and current labor regulations issued by the Labor Ministry.  |
| 4    | Can employees be required to take a temperature test when entering the office?  | Yes. It is enforceable in accordance with biosecurity measures and current labor regulations issued by the Labor Ministry.  |

## Question



## Response



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Yes. Employees are obliged to disclose information regarding questions that are aimed to mitigate contagion risks to safeguard the health of other employees who share the same work space.  |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.<br>Employers cannot make it a condition of employment that their workers have to obtain a vaccine in order to continue their work. However, the Bolivian government provided, through Supreme Decree No. 4451 of 13 January 2021, that Short-Term Social Security Management Entities are responsible for ensuring vaccination against COVID-19 free of charge to their insured. |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.<br>The recently issued labor measures do not specifically refer to new hires. Therefore, vaccination is not mandatory and each citizen must be vaccinated freely and voluntarily.  |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

The following aspects should be also considered:

- ▶ The regulations (restrictions) issued by each municipality regarding the limit of personnel that can attend the workplace
- ▶ A biosafety protocol that must be submitted to the Labor Ministry
- ▶ The compliance with general biosafety measures approved by the Labor Ministry (e.g., maintaining distance of one and a half meters between workers, use of a face covering, alcohol-based hand sanitizer)
- ▶ The restrictions on the movement of people and the operation of public transport in each city, since they are not operating at their full capacity (e.g., circulation hours, circulation restriction by license plate and ID numbers)

# Bosnia and Herzegovina

- ▶ Contact: Adela Rizvic
- ▶ Last updated: 15 February 2021

## Question



## Response



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|      |   |   |
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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees and to continuously evaluate the work environment. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. Accordingly, appropriate occupational health and safety measures must be taken, such as providing disinfectants as well as technical alternatives to physical meetings (e.g., video conferencing).   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. Employees are allowed to refuse performing their work duties if appropriate occupational measures are not undertaken. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic. However, certain activities may have their own regulations prescribed for maintaining the business during the pandemic.   |

## Question



## Response



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| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.   |
| 4 | Can employees be required to take a temperature test when entering the office?                   | <p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>Given the spread of COVID-19, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>It is, however, important that these tests are handled adequately. Keeping in mind that health data is considered sensitive personal data, it is important to note that the collection and processing of such data is allowed when these actions are necessary for the protection of lives and is considered to be in the best public interest. Accordingly, an employer would be allowed to collect and process such data related to COVID-19.</p> |

## Question



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Bosnia and Herzegovina, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | <p>No.</p> <p>However, this is still an open question for Bosnia. There are general rules in employment legislation preventing employers from discriminating against their employees due to the health status. In addition, various states within the country have already implemented vaccination programs and did not impose these as mandatory upon their citizens but rather as voluntary. Therefore, the current position is that it would be inadvisable for an employer to insist on mandatory vaccinations when the government does not. Given vaccination drives are planned in the near future, this advice may be subject to change.</p>   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | <p>No.</p> <p>Please refer to comments provided in Q5(b).</p>   |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces.

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | Sector and location requirements must be observed, since there are both local and federal rules that may apply. Specific regulations determine measures related to social distancing, transportation measures and hygiene, among many others.  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | There are some regulations that recommend companies to allow employees from higher-risk groups to remote work. But in general, there is no specific prohibition by law for an employee to return to the office. However, those who present any COVID-19 symptoms or who had contact with a diagnosed person should isolate at home for 14 days.                        |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | According to the regulations published by the federal government as well as by local governments (states and cities), depending on the sector, employers need to observe minimum distance among workstations and employees. Therefore, depending on the mandatory distance, employers are obliged to reduce the number of employees in the workplace at the same time. |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. According to the recommendations of the health and labor authorities, employees, third parties and visitors should wear face masks (made of fabric) while in the office.  |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. According to the recommendations of the health and labor authorities, employers should establish procedures to identify COVID-19 suspected cases, which may include temperature checks before employees and third parties enter the workplace.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer if they are or have been infected, or are at risk of being infected. Additionally, Ordinance 20/2020, which brings general recommendations regarding the prevention of COVID-19 in the workplace, determines the obligation to request and control this type of information to prevent an infected employee from going to the office and spreading the disease to other employees.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19.</p> |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>Given a vaccine is yet to be widely available in Brazil, there is no express regulation to support the imposition of work contract limitations due to the lack of vaccination. There is a recent decision from the Supreme Federal Court determining that the government may define the vaccine as mandatory and it is allowed to establish the restriction of some rights, even though it is not possible to oblige a person to take the vaccine.</p>  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>Please refer to comments provided in Q5(b).</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. Employees from the higher-risk groups should also remote work as much as possible. Therefore, employers may evaluate the feasibility to adopt remote work policies either to all employees if possible, or to specific groups, evaluating the activities performed, technology aspects, benefits package and other elements that will allow both employer and employees to succeed in this new working model.</p> <p>For those who may need to return to the office, it is important to plan the procedures in advance and structure return-to-office policies, assuring all health and safety measures are taken. It is also important to implement a methodology to control and manage work at the office in relation to COVID-19 risks, for example, using digital tools and apps. The office itself may also need to be adapted before employees return (different layouts for workstations, more ventilation, adapting eating areas).</p> |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. In addition, the employer must be informed about all orders issued by the Minister of Health. These orders include obligations of the employer regarding the workplace environment for the prevention and limitation of COVID-19.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, such refusal can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. In addition, the order of the Minister of Health, in force as of 14 January 2021, provides that remote working should be established in entities where this is possible, permitting work in the employer's premises with a maximum of 50% of staff. Employees are entitled to refuse to come to work if the employer has failed to procure a healthy and safe working environment; such an assessment would be made on a case-by-case basis. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Employers should organize the work in the office to limit the number of employees on site to 50% of staff.<br><br>The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic and employers should take care not to exceed any maximum limits the authorities may decree.   |

## Question



## Response

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| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. No legal requirements related to the wearing of face masks exist in relation to private spaces as of <b>14 January 2021</b> . However, the employer is obliged to provide all the necessary protective equipment, such as face masks and gloves, in the workplace depending on specific activities and the risk assessment of the workplace.  |
| 4 | Can employees be required to take a temperature test when entering the office?                   | The Bulgarian Commission for Personal Data Protection has issued a statement in May 2020, declaring that employers are given the opportunity to check the temperature of employees who visit their workplace and, in the presence of symptoms, remove the presumably diagnosed employee. The employer is obliged to introduce an access regime to ensure the control and prevention of employees and outsiders on the business premises who have symptoms. If a diagnosed employee is found on the premises, the employer may notify the health authorities. |

## Question



## Response



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>The Bulgarian Commission for Personal Data Protection has issued a statement in May 2020, which includes a note that it is not appropriate for set measures (measures introduced by the Minister of Health) to be applicable to home conditions, based on the fact that employer control cannot be extended to the home and family of its employees. In this sense, there is no legal basis for the employer to require the provision of such health information by employees, as they are in isolation and thus do not endanger the health of the team. This depends on the mode of work and meetings between employees. It is possible, due to the peculiarities of the disease, that employees may not know they have COVID-19, therefore the information they provide would not be accurate.</p> <p>In general, the provision of such health information depends on the working environment and the specifics in each case. The necessity of such information should be assessed in a case-by-case manner.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.   |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

The employer must be familiar with the orders by the Minister of Health. These orders include employer obligations, regarding the workplace environment, to minimize risk of COVID-19. All government policies in relation to control of the pandemic must be observed by the employer, including when new regulations are introduced. The Minister of Labor and Social Policy may also issue orders or instructions for employers in relation to the COVID-19 pandemic, which also must be observed by employees.

## Question



## Response



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|------|---|---|
| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | The key requirement to ensure employees' health and safety is maintained. In addition, employers must ensure they do not discriminate on the basis of prohibited grounds (e.g., family status or disability) when deciding, among other issues, which employees must return to the office.                  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | Employers may require employees to work from the office pursuant to an employment contract, subject to employers ensuring the health and safety of their employees.   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Yes. These vary by municipality.  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Employers have a duty to maintain the health and safety of their workers. As a result, if such measures (e.g., wearing a face mask or protective gear) are required to maintain the health and safety of workers and the employer implements the policy, the employees would be required to follow it. |
| 4    | Can employees be required to take a temperature test when entering the office?  | Yes. Employers have a duty to maintain the health and safety of their workers. As a result, if such measures (e.g., taking a temperature test) are required to maintain the health and safety of workers and the employer implements the policy, the employees would be required to follow it.              |

## Question



## Response



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Yes. Employers have a duty to maintain the health and safety of their workers. As a result, if such measures (e.g., requiring employees to disclose their contact with COVID-19-positive people) are required to maintain the health and safety of workers and the employer implements the policy, the employees would be required to follow it.  |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | This condition is dependent on the circumstances. Employers have an obligation to maintain the health and safety of their workers. The employer may have an argument to mandate the vaccine, if it is required in order to maintain health and safety of the workers. However, some employees may decide not to obtain the vaccine due to a medical condition or other reasons (e.g., religious) that may be protected by human rights. In such case, the employer would have an obligation to accommodate the employee to the point of undue hardship. |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | Please refer to comments provided in Q5(b).   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?  | Not applicable.   |

## Question



## Response



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|      |   |   |
|------|---|---|
| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the work environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19.</p>  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. Furthermore, individual will need to bear legal liability if they conceal their travel history to high-risk or restricted areas and cause infection.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such return should also involve appointed safety representatives, if any.</p> |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | <p>By local law, it is stated that all companies should comply with general requirements to avoid or minimize COVID-19 transmission. This rule should be applied by public and private sectors, as well as independent contractors. Each company should apply for a special permit from City Hall, which will determine the specific biosafety protocols depending on each industry. Without permission granted, companies will not be allowed to operate.</p> <p>As of January 2021, the national government has imposed additional restrictions for certain cities and regions, like general or limited lockdowns, curfews and restrictions on commerce. Therefore, companies should consider the extent of local restrictions in order to adopt plans for a return to the workplace.</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>The Ministry of Labor created a temporary fixture, the home office, for which the main intention is to allow employees to stay at home and work remotely. However, if certain activities require the physical return of employees, they can be asked to return to work.</p> <p>Employees with special conditions (i.e., diabetes, heart diseases, hypertension, obesity, cancer, respiratory diseases) and employees older than 70 must comply with the temporary home office concept, considering they are at the highest risk to be infected.</p>  |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>Each City Hall will determine the limit to the number of people who can be working in the same location at the same time. Also, this will vary based on each industry.</p>   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Yes. Based on biosafety protocols and regulations, employees should constantly wear a face mask (from when they leave home for work until they return). Some industries, have special requirements and equipment to be used (such as the health, manufacturing and construction sectors).</p>  |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes, once the employee arrives and leaves the office. It is mandatory to create a registration form in which employers keep a daily report of employees' temperatures. This measure is also extended to employees working remotely.</p> <p>Regarding local data-protection regulations, this information is classified as confidential, therefore employers cannot use this information for purposes other than medical ones.</p>   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>Yes. If employees are diagnosed or are showing symptoms of COVID-19, they should inform and report a list of the group of people with whom they have shared at least 15 minutes of contact, in less than two meters of distance, to the employer to create an epidemiological fence. Both individuals and their employers will inform the Ministry of Health and the Health and Labor Risks entities to initiate the protocols.</p> <p>Regarding local data-protection local regulations, this information is classified as confidential.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.  |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time. Employers must create a return staggered plan, first analyzing:

- ▶ Employees who live close to the office and do not need public transportation
- ▶ Employees who use their own transportation, such as a bike or car
- ▶ Employees who can continue performing activities at home at least three days a week

Employers also should create a plan for the use of facilities to avoid people congregating in common places, such as bathrooms, elevators and break rooms. Employers' occupational committees should be in charge to create internal protocols regarding the above-mentioned measures.

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

According to Article 282 of the Labor Code, an employer is under the obligation to adopt measures to ensure the health of employees in the workplace and protect them against potential occupational hazards, including COVID-19. Please also note that the National Insurance Institute has allowed COVID-19 to be considered as a work-related illness, in cases where infection occurred at the workplace. In addition, according to recent guidelines issued by the Ministry of Health, some of the employer obligations include:

- ▶ Provide workplace protocols and equipment for adequate hygiene
- ▶ Be attentive to notifications about the sanitary status of the workplace
- ▶ Promote and ensure that established guidelines issued by the authorities are complied with. The employer should provide proper protection equipment, which may vary in relation to the tasks performed by employees

1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

If the activities assigned to employees require their presence in the office and is documented in the labor contract, the employees must comply with the requirements. Otherwise, failure to comply with the assigned responsibilities may result in dismissal. The authorities have called on the private sector to urge employees to apply for remote work, but it has never been mandatory. Remote work is voluntary for both parties, so its application should be agreed on by both parties as well. The only way in which an employee can refuse to work physically is when the company does not comply with the required regulations to protect their health. Also, the scenario in which employees are hired as remote workers should be analyzed independently, given that asking them to physically work in the office may have certain contingencies.

## Question



## Response

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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Yes. The Government and the Ministry of Health have been very demanding and reiterative in relation to the implementation of plans and actions that allow the prevention of contagion in workplaces. Suggested measures are as follows: internal social distancing, strict cleaning protocols and the obligation to wear face masks. Some industries have to work under a 50% capacity and employees have to remain at a 1.8 meter distance. |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. According to the provisions of the Labor Code and guidelines established by the national authorities, all people who are in an enclosed establishment are required to wear face masks. The employer must establish the use of face masks in the company's facilities to prevent illness and take care of the health and integrity of its workers. The company also should provide equipment for employees' protection.                  |
| 4 | Can employees be required to take a temperature test when entering the office?  | Yes. In accordance with the Ministry of Health's Guidance on Prevention, Mitigation and Business Continuity for the COVID-19 Pandemic, temperature testing is an example of measures that can be used in the workplace as a method of detecting suspicious cases. However, it is important to obtain the employee's consent since this is sensitive information, and the company should not keep a record of the results.                    |

## Question



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>The employer has the capacity to provide internal guidelines or recommendations within the organization that are mandatory for employees to follow to prevent the spread of COVID-19. This can include reporting an employee who has had contact with someone who has COVID-19. Therefore, if such requirement exists, employees are obliged to comply with it. In spite of what the employer demands, the authorities prohibit a person who is diagnosed or has been in close contact with someone who has COVID-19 to leave the household. In those cases, a sanitary order is issued, and the person has to remain isolated for a 15-day period. Given that the authorities have a significant backlog, it is key that companies also have clear internal procedures to follow.</p>  |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | <p>Yes.</p> <p>The Labor Code does not specifically regulate this topic. However, the General Health Law (Article 150) states that vaccination and revaccination against communicable diseases are mandatory, when so determined by the Ministry of Health. Article 152 indicates that it is mandatory for everyone to present vaccination certificates when the Ministry so determines. Article 155 prohibits people with communicable diseases from entering the workplace.</p> <p>In the Labor Code, the most closely related regulations (Art 214 and 284) oblige all employers to follow the occupational health provisions. Article 285 makes it mandatory for employees as well. For that reason, the provisions of the Occupational Health Council have been the tool used to issue guidelines to mitigate the spread of the COVID-19 pandemic. Taking this regulation into account, the law supports the compulsory nature of vaccination (where possible) and prohibits people with contagious diseases from attending the workplace.</p> <p>As the vaccine is in relatively short supply in Costa Rica and the vaccination process is just commencing, there is no clear direction from the government about whether vaccination will be mandatory. However, it would be reasonable to assume that as soon as the supply of vaccines necessary for the entire population becomes available, this measure will become mandatory.</p> |

## Question



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5(c) Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?

Yes.  
Please refer to comments provided in Q5(b).

6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Important aspects should be considered for employees' return to the workplace, including a precise and clear plan to be followed by all employees as well as the protocol to be followed if a COVID-19 case is confirmed. Protocols could include establishing minimum distances between workstations and a limit to the number of employees in the office at one time. It could also include an established entry protocol, such as temperature testing, hand washing and disinfection of shoe soles, among other actions.

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | The employer has an obligation to follow health and safety regulations. Depending on the nature of the workplace or the industry (offices, restaurants, retail, etc.), different rules and instructions apply. The employer has a continuous obligation to assess and mitigate any risks to the health of its employees.  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>In accordance with the directives and statutory decrees published by the Ministry of Health, people with any symptoms of illness must not enter the workplace at any time and should visit their doctor and self-isolate if required. Additionally, parents who must remain home to take care their children, due to closing of schools, may make use of the special parental benefit.</p> <p>When no restrictions will apply and there is a contractual obligation to return to the office and the employee refuses, it might be considered as a refusal to execute their duties as described in the employment agreement; thus, the employer will be entitled to proceed with legal actions, such as termination. However, decisions to terminate an employee must be carefully assessed, and employers should take into consideration the facts of each case. If any decision to terminate is deemed unlawful, the employer will be obliged to pay damages to the employee.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | From 11 until 31 January 2021, only 15% of the personnel is allowed to occupy the workplace at the same time, up to a maximum number of 20 employees.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | According to the decrees of the Minister of Health, it is mandatory to wear a face mask both indoors and outdoors.  |

## Question



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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Employees may be required to take a temperature test should the employer deem that it is necessary. The employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | The right to privacy is constitutionally guaranteed, but it is not absolute. In cases where a public health issue arises, the interference with the right to privacy is justified. Therefore, since the employer must maintain a healthy and safe working environment, such questions may be asked by the employer to the employee, and the latter must answer. The employee's responses will be processed under the umbrella of GDPR legislation. |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | Yes.<br>However, this is subject to the below: <ul style="list-style-type: none"><li>▶ It is necessary to safeguard public health</li><li>▶ The vaccine is available and easily accessible to the public</li></ul>   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | Yes.<br>Please refer to comments provided in Q5(b)   |

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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It is generally required that employees must apply social-distancing protocols in accordance with the aforementioned guidelines. Social distancing between employees at the workplace is encouraged, and employees coming into contact with external clients for the purpose of providing services must, by some means, minimize that contact, including engaging in conversation. Further to that, avoidance of touching others to prevent contracting or transmitting COVID-19 must be constantly practiced, as well as avoidance of talking over food. Besides regular hand washing of hands, it is mandatory that employers should provide hand sanitizers that contain more than 60% alcohol content in every entrance of the workplace. An example of a soft opening may be to allow employees to return to offices in phases and by assessing whether the physical presence of some employees is essential or not. As mentioned above, the employer has an obligation to comply with health and safety regulations, which were already in force prior to the COVID-19 pandemic.

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | <p>According to the provisions of the Czech Labor Code, the employer is obliged to ensure health and safety of employees at work with respect to the risks of possible threats to their lives and health.</p> <p>The employer is also obliged to create a safe working environment and conditions for employees that enable them to perform their work safely (Section 224 (1) of the Labor Code).</p> <p>With respect to the current situation, the employer is also obliged to adapt measures to the changing environment, check their effectiveness and compliance, and ensure the improvement of work conditions (Section 102 (7) of the Labor Code).</p> <p>In connection with the COVID-19 pandemic, the Czech Ministry of Health issued nonbinding guidelines (based on the document <i>COVID-19: Guidance for the workplace</i>, issued by the European Agency for Safety and Health at Work) with respect to returning to the workplace, which is recommended for employers to follow. These guidelines contain recommendations on workplace disinfection, distancing measures, business trips and protocols in the case of an employee testing positive.</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | Yes. Employees can be required to return to office. There is no legal right to remain off-site.  |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>No statutory limitations with respect to returning to the office are in place. There is no limitation on the number of employees working at offices. Limitations apply to certain industries; certain services or shops are currently prohibited from operating.</p> <p>As the state of emergency is still continuous, public gatherings are also limited - public indoor events for more than 2 people and outdoor events for more than 100 people (divided into groups by max. 20 persons) are currently prohibited. This would also apply to public events organized at offices (but not to standard working activities).</p>  |

## Question



## Response



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| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of internal policies of the employer.   |
| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of internal policies of the employer.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>No. There is no such disclosure obligation under Czech law. Diagnosed employees are legally obliged to stay in isolation. Employees who were in contact with a diagnosed person are obliged to stay in quarantine upon orders of the health authorities. For both illness or quarantine, a medical confirmation is issued by a doctor (or hygiene station personnel) and sent in electronic form to the employer, without any additional information on the diagnosis.</p> <p>In the case of a COVID-19-positive employee at a workplace, the hygiene station cooperates with the employer and may disclose information on employee contacts and potential infection in the course of addressing the case.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | <p>No.</p> <p>However, possible exceptions may apply in certain key professions, such as medical workers.</p>   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | <p>No.</p> <p>Please refer to comments provided in Q5(b).</p>   |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

These aspects include limiting the number of people gathering in small spaces (e.g., everyone must be two meters apart), providing disinfection supplies to employees and visitors and regularly disinfecting workplaces, allowing only a limited number of people to return to the office, social distancing, wearing a face mask, taking temperature tests, and developing a contingency and business continuity plan for an outbreak in the communities where the business operates.

## Question



## Response

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|      |   |   |
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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | There are legal limitations for private spaces. The number of people allowed has temporarily been limited due to the COVID-19 pandemic. The regulation on this area changes often, however, this regulation does not apply to workplaces. Employers should follow all relevant rules and recommendations.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. The employer will have to provide employees with face masks and other protective gear. There should be a dialogue among the employer, employees and the safety representative before such measures are introduced.   |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | Temperature testing of employees will be a control measure under Danish employment law. Control measures must have an objective basis and must be proportional. Therefore, the answer to the question will depend on the situation.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer when they are infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to the COVID-19 pandemic 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 pandemic. For example, in Denmark, where the GDPR applies, COVID-19 pandemic data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Under normal circumstances an employee is not obliged to inform the employer of the reason for an illness notification. However, in the current situation, the employee must inform the employer of the illness reason if the employer asks about it.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |

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## Response

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|      |   |  |
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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> |

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## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | The employer must comply with recommendations made by the Ministry of Public Health, such as: <ul style="list-style-type: none"><li>▶ Using thermometers to take body temperature</li><li>▶ Antibacterial gel dispensers</li><li>▶ Mandatory use of face masks</li><li>▶ Mandatory use of gloves (depending on the type of work and contact with users outside of the work environment)</li><li>▶ Mandatory social distancing in work spaces (no less than two meters), although the distance will depend on the work environment</li><li>▶ Regular disinfection of work spaces to reduce contagion and encouragement to use hand sanitizer and wash hands frequently</li></ul> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | Ministry of Labor Resolution No. 007/2020 reinforces the application of preventive measures to safeguard the health of workers and employers in the face of the impact of the COVID-19 in the Dominican Republic, such as flexible work schedules, granting vacations to employees, and isolation measures for employees belonging to vulnerable groups (individuals over 60, diabetics, etc.), among others.   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | It will depend on the space or area of the workplace.   |

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| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | <p>The employer is responsible for providing a safe and healthy working environment; adequate actions (such as suspension of the work contract) could be taken in order to safeguard other individuals from infection at the workplace.</p> <p>Article 44.3 of the Dominican Labor Code reads as follows regarding workers' obligations:</p> <p>"3. Strictly observe the preventive or hygienic measures required by law, those ordered by the authorities and those indicated by the employer, for safety and personal protection of themselves or their co-workers or the places where they work."</p>      |
| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes. The employer is responsible for providing a safe and healthy working environment; adequate actions (such as suspension of the work contract) could be taken in order to safeguard other individuals from infection at the workplace.</p> <p>Article 44.3 of the Dominican Labor Code reads as follows regarding workers' obligations:</p> <p>"3. Strictly observe the preventive or hygienic measures required by law, those ordered by the authorities and those indicated by the employer, for safety and personal protection of themselves or their co-workers or the places where they work."</p> |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>Yes. The Dominican Labor Code (Article 88) establishes that an employee can be discharged under the following circumstance: refusal of the worker to take preventive measures or to follow procedures prescribed by law, competent authorities or employers to prevent accidents or diseases.</p>  |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | Yes.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | Yes.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | Comply with the safety measures and recommendations made by the Ministry of Labor and the Ministry of Public Health, mentioned in the previous questions. |

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve the appointed employee safety representatives, if any. Additionally, all employers must expand health protocols for a safe return to the office, implementing measures that allow each employee to feel safe, such as temperature testing, mandatory use of face masks, frequent hand washing and regularly sanitizing work spaces.

In addition, by law employers must ensure that if one of their workers presents symptoms of COVID-19, they must leave the workplace and contact a physician, and at the same time identify all the people that have been in contact with the person presenting the symptoms.

1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. There is no explicit legal obligation to return to work at an employer's request. In fact, if the employee's contract states that work will be carried out in the workplace necessarily, but it was temporarily agreed on to perform the work remotely, then the employer is free to revoke the remote working mode and request the employee's return to the office. If the worker refuses to return to the workplace, it must be analyzed on a case-by-case basis whether it is possible to maintain the home-working mode or, in extreme situations, consider other alternatives.

## Question



## Response



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|---|---|---|
| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Legally there is no obligation of limiting the number of people inside the office, yet all companies and entities have adopted a voluntary protocol in which they operate at 50% of their staff capacity, or even less. They do this for the purpose of continuing security measures and preventing any spread of COVID-19. There is no legal obligation but in many cases, if the workplace is held in a building with multiple office spaces that are shared with other companies or entities, the building may determine the number of people allowed in every office. |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. The use of a face mask is mandatory everywhere, including restaurants, offices, government entities, and private companies. The use of a face mask is required in all types of workplaces. For safety equipment, the law requires the use of face masks, gloves or glasses in certain industries, but not in all types of businesses. It is understood that this type of safety equipment will be used when the type of work to be carried out so requires, such as work as a physician or in a medical laboratory.  |
| 4 | Can employees be required to take a temperature test when entering the office?  | Yes. All protocols have been voluntarily applied to all types of businesses, entities or companies, and include taking the temperature of all employees, users or visitors. The employer can also take into consideration that employee access can be denied if the employee does not accept the temperature test. The law does not state anything that allows the employer to deny entry of an employee into the workplace.  |

## Question



## Response

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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Employees have an obligation to report any symptoms on the condition that personal data rights and confidentiality are respected and followed.   |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | As of 20 January 2021, the government has not yet issued a statement on whether vaccines will be required in cases of returning to work, continuous employment or for new recruitment.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | Please refer to comments provided in Q5(b).  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?  | Aspects include written protocols, webinars to educate employees about new protocols in the office, the use of face masks at all times, taking employee temperatures regularly, monitoring employees' symptoms, implementing work groups, separating employees' work spaces, implementing the use of hand sanitizer all around the office, and encouraging the use of stairs instead of elevators. |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>Remote work is done by agreement of both parties. For instance, an employer and an employee may agree that working time is divided between working in the office and working from home.</p> |

## Question



## Response



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Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

The Government has not imposed special limitations regarding returning to the office, but there are general recommendations on what to consider (please refer to comments in Q6).

Currently public meetings are only allowed if:

- ▶ A maximum of two people are at any indoor meeting, and a distance of two meters is maintained between them and others
- ▶ The organizer of an indoor meeting ensures a maximum capacity of 50% in the meeting venue and the number of attendees are no more than 250 people
- ▶ The organizer of an outdoor meeting ensures the number of attendees are no more than 500 people
- ▶ A face mask is worn indoors. However, this requirement does not apply to children under 12 years of age and in cases when wearing a face mask is not possible for health reasons, due to the nature of work or other activities or for other significant reasons
- ▶ The organizer of a meeting ensures the availability of disinfectants and compliance with the disinfection requirements according to instructions from the Health Board (these requirements will be amended on an ongoing basis as appropriate)

## Question



## Response

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| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | Yes. The employer may require the use of personal protective equipment if, according to the risk assessment of the work environment, the risk of illness cannot be prevented or reduced by the use of collective protective equipment or work organization measures (keeping distance, availability of disinfectants).   |
| 4    | Can employees be required to take a temperature test when entering the office?   | The employer has the right to measure an employee's body temperature only if the employee agrees and if it is justified in an emergency to prevent COVID-19 infection should the employee come into contact with other employees or customers.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | As a rule, the employer does not have the right to know an employee's health data, including the diagnosis of COVID-19, when an employee was diagnosed and other information related to the acquisition of the infection. The employer has the right to ask the employee if they have been in contact with people diagnosed with COVID-19. The employer also has the right to ask the employee for confirmation that the employee's state of health does not hinder the performance of work duties and is not a danger to other employees or customers. Information on the diagnosis of COVID-19 is provided on the basis of an agreement between the employee and the employer. |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | Government recommendations on returning to work include: preference for remote work, allowing people to return to work gradually, reducing the physical exposure of employees, airing and proper cleaning of rooms, and that employees must stay at home when sick. |

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for the working environment, including the health and safety of employees. Employers are required to take measures to limit the risk of exposure, e.g. by prioritizing remote work, enhancing cleaning, utilizing protective screens and drawing up internal policies.

Employers must regularly follow up and assess employees' work environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any. Additionally, employers are required to update their hazard analysis and risk assessments in the light of COVID-19 pandemic and draw up new instructions and internal policies at the workplace to stay up-to-date with changing circumstances.

1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.

However, the Finnish Occupational Safety and Health Act allows an employee to temporarily refuse to work if the work is causing severe risk or hazard to the health and safety of the employee or other employees. Thus, if the employer is not able to ensure an adequate level of safety and protection, employees may have the right to abstain from work or from performing certain duties until sufficient safety measures have been implemented. The abstinence from work must, however, be considered as a last resort, and the employee is required to minimize the detriments of their actions. Employees are entitled to their normal salary during the period of abstinence from work under the Employment Contracts Act.

## Question



## Response

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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>No.</p> <p>However, there are currently restrictions and recommendations in place with respect to events, gatherings and meetings as well as remote working. Some of the recommendations and restrictions are applicable in Finland overall and others in certain regions, depending on the phase of the pandemic in the respective region. These recommendations are not legally binding. The Ministry of Finance and the Ministry of Social Affairs and Health have recommended remote working to the extent possible in public and private sectors throughout Finland. The recommendation is in force until further notice and shall be reviewed at latest by 31 June 2021. Additionally, employers must promote work arrangements that reduce close contacts and other risk factors at the workplace.</p> |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Yes. The employer has a duty to assess whether employees must wear personal protective equipment, such as face masks, while at work. However, technical measures and working arrangements (such as maintaining adequate distance by the placement of workstations or remote working) should be used in the first instance to ensure the safety of employees.</p> <p>The employer may obligate employees to use protective equipment in accordance to the employer's risk assessment. If face masks are required, the employer must obtain protective equipment and monitor that it is used correctly. The employee must use the protective equipment provided by the employer.</p>  |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>In general, health examinations, such as taking a temperature test or COVID-19 test at the workplace, are voluntary by their nature. However, to maintain safety at the workplace, the employer may have the right to temporarily prohibit an employee from entering the office premises if there are reasonable grounds to suspect that the employee has been diagnosed with COVID-19 and is not willing to undergo health examinations. In this situation, the employer must pay the employee's normal salary, even though the employee cannot work remotely.</p> <p>Further, according to the Finnish Communicable Diseases Act, the Regional State Administrative Agency may order a health examination to be performed for persons in a specific workplace, if such an examination is necessary to prevent the spread of a generally hazardous communicable disease. Participating in the health examination is voluntary unless determined otherwise by the Regional State Administrative Agency.</p> |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>A person who has been diagnosed by a generally hazardous communicable disease does not have an obligation to inform others about the infection. However, according to the Finnish Communicable Diseases Act, a person diagnosed with COVID-19 is obliged to inform health care professionals and provide the names of persons who may have been the source of the infection or who were in contact with the individual.</p> <p>Should employees disclose information related to their own health or a related person's health voluntarily, the disclosed health data must be processed carefully. In general, an employee's health data may only be processed by people designated for such processing in advance. The employer must always maintain confidentiality on the health data of employees.</p>   |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?                           | <p>No.</p> <p>However, according to the Communicable Diseases Act, the employer is responsible for the employees' vaccination in health and social care organizations, where clients and patients who are susceptible to the serious consequences of infectious diseases are being treated. Only a person with adequate vaccinations (refer note below) may work in such premises. Thus, in certain specific situations, if the employee refuses to take adequate vaccinations and as a result they may not perform the tasks and duties in their employment, the employer may have the right to ultimately terminate the employment agreement, unless it is possible to place the employee into a different position where certain vaccinations are not required.</p> <p>Furthermore, in certain specific tasks pursuant to the vaccination requirements as mentioned above, the employer may require sufficient vaccination protection as a condition of new employment. The requirement must be stated in the respective job application and the employee's suitability for the job is assessed in the occupational health care service during the evaluation prior to commencing work.</p> <p>Please note: In relation to the COVID-19 vaccination, this has not been considered as a mandatory vaccination to date, and thus it cannot be made a condition of continuous employment or new recruitment.</p> |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment? | <p>No.</p> <p>Please refer comments provided in Q5(b).</p>   |

## Question



## Response



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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

Additionally, employers should follow the development of the regional situation with COVID-19 and take appropriate measures if the number of infections within the area is increasing. The measures must take into account the conditions at the workplace as well as employees' need to use public transportation to get there. Should the regional situation demand so, employers are recommended to switch to remote work if possible and to promote work arrangements that reduce close contacts and other risk factors at the workplace.

## Question



## Response

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| 1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | 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. Examples of these measures include: <ul style="list-style-type: none"><li>▶ Providing disinfectants</li><li>▶ Providing technical alternatives to physical meetings (e.g., video conferencing)</li><li>▶ Allowing employees to remote work, if possible. However, employees from high-risk groups (pregnant women, chronically ill individuals) must work remotely</li><li>▶ Reorganizing work spaces to comply with a one-meter distance between employees, with workers in communal spaces such as open-plan offices, factories and conference rooms required to wear face masks</li></ul> |
| 1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | Even though remote work remains the recommended option, employees whose employment contracts do not contain a home-office clause can be required to return to the office. However, employees from high-risk groups (pregnant women, chronically ill individuals) must work remotely.  |

## Question



## Response



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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <ul style="list-style-type: none"><li>▶ When employees are working together in a closed workplace (collective office, vehicle, etc.), they must wear face masks.</li><li>▶ Companies must follow the Governmental guidelines mentioned in the sanitary protocol, particularly regarding the maximum number of employees per room and the flow of employees</li><li>▶ Employees must comply with social distancing (in particular the one-meter distance between employees)</li><li>▶ Vulnerable employees who request to remote work must be allowed to do so as much as possible by their employer</li></ul>   |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. When employees are working together in a closed workplace (collective office, vehicle, etc.), they must wear face masks.   |
| 4 | Can employees be required to take a temperature test when entering the office?  | <ul style="list-style-type: none"><li>▶ According to the guidelines published by French Government, temperature tests are not recommended, however, employees should test themselves before going to the workplace.</li><li>▶ When temperature tests are implemented by employers, they must comply with the following requirements:<ul style="list-style-type: none"><li>▶ Temperature records are not to be registered by the companies</li><li>▶ Automatic capture of employees' temperature, such as by using thermal cameras, are forbidden</li><li>▶ Employees can refuse these protocols, therefore, if companies prevent their employees from accessing the workplace for this reason, they must still pay their salary</li></ul></li></ul> |

## Question



## Response



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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. However:</p> <ul style="list-style-type: none"><li>▶ According to French law, companies are not entitled to request information from their employees regarding their health conditions, but the employer can send them to the occupational doctor to verify their health situation</li><li>▶ Any request for justification of a health condition could give rise to data privacy and data storage issues (GDPR regulations)</li></ul> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?  | Companies must take into account specificities of the activities and working conditions of their employees, including contact with colleagues, clients and groups in meetings. Protective measures must be adapted depending on the nature of the company.  |

## Question



## Response

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|      |   |   |
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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employee may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited to 10 due to the COVID-19 pandemic.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Gabon, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p>   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Gabon, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | Not yet applicable in Gabon.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | Not yet applicable in Gabon.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any. |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | According to the general recommendations for COVID-19 issued by the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, upon return to the workplace, a disinfection barrier must be placed at the entrance, indicating mandatory use. It is also mandatory to conduct thermo screenings with a special video device or a remote thermometer to monitor the health of administration and staff. If a fever is detected, the respective Government hotline must be promptly informed. Information on virus-related prevention must be provided to staff. No staff should be allowed on the property without protective equipment, with a face mask at very least. A hand sanitizer containing at least 70% alcohol must be placed at the entrance of the property to disinfect hands. The rules on hand hygiene must be placed on the wall in bathrooms. Staff must be provided with individual hygiene equipment, such as face masks, facial protective gear and gloves. Employees must also be provided with information about the use of personal protective items and their subsequent disposal. Moreover, the employer is also obliged to create an emergency plan to develop a safe working environment if the spread of COVID-19 increases. |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | According to the general recommendations for COVID-19 issued by the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, the employer is obliged to develop a plan so that employees have the possibility to remain at home and work remotely, to the maximum extent possible. If the nature of activities provides the possibility of remote work, the employee may not be obliged to return to the office, which would minimize the risks of spreading COVID-19.   |

## Question



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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Currently, the laws of Georgia do not include a direct restriction on the number of persons gathering in an office. Moreover, employers and employees must ensure that they comply with the General Recommendations for COVID-19 issued by the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia. Among other things, these recommendations provide rules related to wearing face masks at the office, keeping two meters' distance, and ensuring hand washing and sanitizing. |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Wearing face masks is mandatory at enclosed establishments and public spaces. The laws of Georgia outline that, for the purpose of this obligation, a public space is any indoor or outdoor area, unless it is a space used by individuals for residential purposes.   |
| 4 | Can employees be required to take a temperature test when entering the office?  | According to the general recommendations for COVID-19 issued by the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, conducting temperature screenings with a special video device or a remote thermometer to monitor employees is mandatory. If a worker has a fever, the respective Government hotline must be immediately informed.   |

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| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Currently the laws of Georgia do not impose a direct obligation for employees to disclose such information. However, due to the strict rules applicable toward testing and isolation because of COVID-19, employees are expected to disclose such information. Furthermore, considering the changing epidemiological situation in Georgia, periodically certain regions are closed or have restricted areas. In these cases, the laws of Georgia may also require employees returning from such regions to disclose their travel information and contacts with potential infected persons.   |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.<br>Please note: The vaccination program in Georgia has not yet commenced. The Government of Georgia is in the process of developing the national plan for vaccination. Therefore, the provisions relating to the vaccination and related rights/obligations have not yet been reflected in the laws of Georgia.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.<br>Please refer to comments provided in Q5(b).   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?  | According to the general recommendations for COVID-19 issued by the Minister of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, the employer must carry out workplace protocols systematically to eliminate the threat of spread of COVID-19 and, if not possible, to minimize it.<br>To ensure safety, measures to be carried out by the employer include (but are not limited to): <ul style="list-style-type: none"><li>▶ Engineering controlling measures, such as protective barriers</li><li>▶ Enacting administrative controls, such as educational training, providing disinfectants and developing an action plan in emergency situations</li><li>▶ Use of personal protective equipment, including face masks, goggles and gloves</li></ul> |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | When planning for a return to the workplace, employer have to ensure the safety and health of their employees in accordance with the provisions of the German Occupational Safety Act as well as further detailed occupational safety regulations. To do so, the employer is obliged to constantly assess and monitor the risks of employees' working environments, taking into consideration individual circumstances. In this context, employers are strongly advised to set up an occupational health and safety protocol based on the SARS-CoV-2 occupational safety standard (please refer to the comments in question 2). The above-mentioned risk assessments of the work environment must be conducted by the appointed occupational safety representatives, if any. Last, employers are also obliged to instruct their employees on mandatory hygiene and safety measures.        |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>Since there is no statutory right to remote work (yet), the question whether employees can be required to return to the workplace or may continue working from home mainly depends on the (contractual) agreement that the employer and employee (or the employer and the works council) made.</p> <p>If there is an agreement on remote work, the employer must comply with the rules, notice periods and conditions that have been laid down in the agreement. If there is no agreement, employers' are generally allowed to determine the work location of their employees on the basis of the employer's right.</p> <p>Due to the urgency of the COVID-19-pandemic, many employees in Germany have been allowed to work remotely without any agreement. Given this situation, it is assumed that most employers should be able to require employees to return to the workplace.</p> |

## Question



## Response

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2 Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

There are no particular statutory limitations. However, factual limits (e.g., in terms of sufficient safety distance between employees) may result from the application of the SARS-CoV-2 occupational safety standard, which was announced by the German Federal Ministry of Labour and Social Affairs in April 2020. This occupational safety standard formulates concrete recommendations for occupational safety during the COVID-19 pandemic (e.g., wearing face masks, keeping one and a half meters' distance, etc.) and can be downloaded from the ministry's website.

Since the employer is obliged to take appropriate occupational health and safety measures based on their duty of care toward employees, failure to comply with the SARS-CoV-2 occupational safety standard may result in liability risks or even administrative fines. To this extent, employers should, for example, provide disinfectants, establish social-distancing rules, provide face masks, redesign workplaces and create technical alternatives, if possible, to physical meetings (e.g., video conferencing). It may be also advisable to reorganize work and break times to avoid a close encounter of several employees.

## Question



## Response

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| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | <p>It depends on the individual circumstances in the office. If the intended safety distance of one and a half meters cannot be maintained, face masks must be worn. In particularly hazardous working areas, the employer furthermore has to provide the employees with personal protective equipment and instruct them how to use it. The employee may be exempted from the face mask requirement by a medical certificate. However, according to an initial court decision, this only applies if the certificate comprehensibly documents which specific health impairments are to be expected as a result of the obligation to wear the face mask.</p> <p>In some federal states in Germany (e.g. Bavaria) it is mandatory to wear face masks, for example in public transport. If employees travel to the office by public transport, the employer however does not have to provide face masks to the employees, as only the employee is responsible for risks on the way to the office. If employees are sent on a business trip on public transport by the employer in federal states with the above mentioned obligation, then the employer is in general obliged to provide these face masks to employees.</p> |
| 4 | Can employees be required to take a temperature test when entering the office?                   | <p>Since checking the temperature and demanding a COVID-19 test are infringements of an employee's right to privacy and data protection, it has to be determined in each individual case whether such measures are appropriate and necessary. It must be taken into account whether the measure is reasonable on the basis of the given circumstances, such as the number of COVID-19 infections being particularly high in the area where the office is located, if an employee has traveled to a "risk area" or if the employee had contact with a diagnosed person.</p>  |

## Question



## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

If employees had close contact with a diagnosed person, they are obliged to report it to their employer. Such an obligation arises from the employee's duty of loyalty, as part of the employment agreement. The duty to report an infection or the risk of an infection exists regardless of whether the responsible health authority has taken action.

It should be noted that questions from the employer regarding the health status of an employee or a relative of the employee generally require special justification. However, if an employee or a relative of the employee is diagnosed with COVID-19, the employer may demand information about the situation so that they can fulfil their duty of care and protection toward other employees. In such cases, the employer may also release the (potentially diagnosed) employee from work until the situation has been clarified.

Last, it is strictly prohibited to disclose information about the health of one employee to other employees. However, in the event an employee should be diagnosed with COVID-19, the employer is obliged to inform any employees who may have had contact with the diagnosed person, but they should strictly avoid disclosing names.

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | It has to be determined in each individual case whether a vaccination obligation for employees is appropriate and necessary. However, in principle, the employer cannot demand a vaccination of employees since such a vaccination constitutes a significant infringement of physical integrity and the employee's right of personality. Therefore, only in exceptional cases, such as nursing staff employed in hospitals and nursing homes, a vaccination obligation might be conceivable if vulnerable groups cannot be protected in any other way.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | In accordance with the comments provided in Q5(b), an overall consideration is required. In principle, it is not permissible to make a vaccination a condition of employment. However, proof of vaccination as a hiring criterion might be conceivable in exceptional cases (such as hospitals and nursing homes). To protect vulnerable groups, the employer may decide that COVID-19 vaccination is a condition of hiring employees. This question has not yet been decided by courts, but it can be assumed that corresponding court proceedings will arise within the coming months.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>To be able to comply with the SARS-CoV-2 occupational safety standard, it may be a practical approach for employers to do a "soft opening" (e.g., let employees work part-time from their home office and part-time in the office), blocking certain workspaces where a safe distance cannot be maintained or splitting employees in groups to reduce the risk of infections (with two groups working alternately from their home office and in the office).</p> <p>Against the background of the COVID-19 pandemic, many employers in Germany are currently considering granting employees a permanent option for working (partly) from their home office, even beyond the pandemic. In this context, it is highly advisable to set up a comprehensive legal basis (if not already done so) to regulate this new way of working, such as by policy, individual agreements or an agreement with the works council. When doing so, employers should always consider potential codetermination rights of employee representative bodies, particularly works councils, if any.</p> |

## Question



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | When employers plan the return to office, they should consider applicable restrictions related to COVID-19. Throughout the country, for example, an obligatory threshold of 50% of employees to be placed under obligatory remote working has been set (if they are able to work in this way). In addition, under the same provisions the employer is obliged to plan gradual working schedules and attendance to working premises to avoid crowding.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | When employee are categorized by a physician as belonging to a high-risk group in relation to COVID-19, they have the right to be placed under remote working conditions. If this is not feasible, then the employee should be placed under working conditions that must prevent them from being in contact with the public. If this also is not feasible, as a last resort the employer may place the employee under suspension, and the latter must receive a respective subsidy (€534 per month by the State). |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Currently there are statutory limitations available depending on the industry and type of activities.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes.  |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Greece, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |

## Question



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>There is no legal ground establishing and regulating the obligation for vaccination. It should be noted that according to Ministerial Decision 1163/2021 (Government Gazette 114/B/18-1-2021), it is provided that all individuals, after having been vaccinated against COVID-19, may apply for a vaccination certificate. However, this proviso has not yet been activated.</p>   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>Please refer to comment provided in Q5(b).</p>  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should rather be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such return should also involve appointed safety representatives, if any.</p> |

## Question



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | <p>By law, an employer is responsible for:</p> <ul style="list-style-type: none"><li>▶ Screening employees on the basis of symptoms of COVID-19 and measuring employees' body temperature before entering the workplace</li><li>▶ Maintaining a distance of at least one and a half meters between coworkers, clients and vendors, and to wear face masks at all times</li><li>▶ Providing spaces for workers to frequently wash their hands</li><li>▶ Providing face masks to their employees and mandating the wearing of face masks</li><li>▶ Properly cleaning and disinfecting workspaces and tools for work</li><li>▶ Informing the Ministry of Labor regarding suspicious cases of COVID-19 at workplaces</li><li>▶ Informing the Ministry of Health regarding diagnosed COVID-19 cases at workplaces</li><li>▶ Closing workplaces for 24 hours due to a possible exposure to COVID-19</li><li>▶ Providing employees transportation from their homes to the work site and vice versa when public transport is not available</li><li>▶ Providing personal protective equipment to employees</li><li>▶ Including occupational safety and health plan measures and precautions to prevent COVID-19 at the workplace</li></ul> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | According to the regulations issued by the Government, which are in force, companies are encouraged to offer work-from-home options, especially with high-risk employees to avoid putting them at greater risk of severe illness from COVID-19.   |

## Question



## Response

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| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?  | No. There are no such legal limitations for private spaces, but the employer must ensure safe distances of at least one and a half meters between coworkers, clients and vendors, and must require employees to wear face masks at all times. Also, the employer needs to make changes to the physical design of the workplace to ensure social distancing. |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | Yes, it is mandatory by law.  |
| 4    | Can employees be required to take a temperature test when entering the office?   | Yes, it is mandatory by law.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | By law, employees must inform the employer if they are suspected to have or do have COVID-19. They must also provide their employer a medical certificate to comply with quarantine rules.  |

## Question



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>Currently there is no law that regulates this matter. However according to the labor law, the employers must establish measures to prevent illnesses (such as COVID-19) in a health and safety plan, which must set out key health messages (such as vaccination campaigns). The employees must comply with these measures as part of their employment obligations according to the Article 63h of the Labor Code.</p> <p>If the employees do not comply with their obligations, the employer could start disciplinary proceedings.</p> |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>Currently there is no law that regulates this matter. Making the vaccine a condition of employment must be duly approved by the Ministry of Labor and included in their labor regulations.</p>  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>Please refer to the comments in question 1(a).</p>  |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | Employers are legally required to follow the safety protocols laid down under the COVID-19 pandemic, and they must provide their employees with the biosecurity implements necessary for their work, such as face masks and hand sanitizers. Honduras has a special biosafety protocol that companies must follow. |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | Employees may be legally required to return to the office under social distancing and biosecurity rules. Only a maximum of 40% of the employees may work from the workplace according to current regulations.  |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Due to regulations on the gradual reopening of the economy, only 40% of the workforce can attend the workplace. This will depend on the region. The cities Tegucigalpa and San Pedro Sula are in a phase two.  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Employees are required by law to wear face masks at all times in the workplace except in designated eating areas, based on the Biosecurity Act.  |

## Question



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| 4    | Can employees be required to take a temperature test when entering the office?   | Based on Article 11 of the Biosecurity Act, employers are obligated to use any mechanism to stop the spreading of COVID-19. Employees may be required to submit to a temperature test.                                     |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Employees are not obliged under law to disclose this information, but the employer can make employees sign an agreement for disclosing the information if they or any of their family members are diagnosed with COVID-19. |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | All companies must follow the biosafety protocol. |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | Under common law and the Occupational Safety and Health Ordinance, employers must ensure the safety and health of their employees. Employers are required to provide a working environment that is, so far as is practicable, safe and without risks to health. Employers may also have reporting obligations under the Employees' Compensation Ordinance.  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | Employees are required to comply with their employer's reasonable instructions. Unless there is a valid basis for refusing to attend the workplace, a refusal to comply with instructions from their employer can amount to a breach of contract. However, under the Occupational Safety and Health Ordinance, an employer has an obligation, as far as is reasonably practicable, to ensure the health and safety of its employees. Provided that an employer has taken reasonable measures to protect the health and safety of its employees, and in the absence of any specific grounds for refusing to return to work other than general concerns about the presence of the COVID-19 in Hong Kong, an employer can legally require an employee to attend the workplace. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private places. The number of people allowed to participate in group gatherings in public places has, however, temporarily been limited due to COVID-19 pandemic.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Employers have a common law duty to provide and maintain a reasonably safe place of work for employees. In addition, under the Occupational Safety and Health Ordinance, employers must ensure the safety and health at work for all of its employees as is reasonably practicable. It is therefore prudent for employers to implement various measures, such as requiring the use of face masks or other protective gear when visiting the office, to avoid or minimize the spread of COVID-19 among the workforce.   |

## Question



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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Employers have legal and corporate responsibilities to protect the health of their employees and visitors. During the COVID-19 pandemic, it is generally justifiable for employers to collect temperature measurements or limited medical symptoms of COVID-19 of employees and visitors solely for the purposes of protecting the health of those individuals.</p> <p>However, employers must follow the general rule that data collection should be necessary, appropriate and proportionate. They should seek to process the relevant data in an anonymized or de-identified way. Least-intrusive privacy measures should be preferred.</p> <p>Generally speaking, a self-reporting system is preferred to an across-the-board mandatory system where health data is collected indiscriminately. Employers should spell out to their employees how the data collected will be handled. If the collection of such data is not covered by the existing privacy notices, a fresh Personal Information Collection Statement (PICS) must be provided when or before the data collection to inform employees of the data collected and the purposes (e.g., protection of public health) and the classes of persons (e.g., public health authorities) to whom their data may be transferred. It is also a good and ethical practice to inform employees in the PICS how long the data will be retained by the employer.</p> |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>Similarly, it would be reasonable for employers to require employees to disclose to the employer if they are a risk (i.e., if they have symptoms of COVID-19, have been in contact with a person who has a confirmed COVID-19 case, or have recently visited a high-risk area) to provide and maintain a reasonably safe place of work for employees.</p> <p>Employers should, however, be mindful of their obligations as a “data user” under the Personal Data (Privacy) Ordinance and handle the personal data collected from their employees with care.</p>   |

## Question



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>This will depend on whether requiring an employee to be vaccinated to attend the workplace is regarded as a "reasonably practicable step" for employers to take to ensure safety and health of all employees at the workplace. What is considered a "reasonably practicable step" will depend on the facts of each case and there is no "one-size-fits-all" approach. Each workplace will have their particular types and levels of risk.</p> <p>Employers have an obligation under the Occupational Safety and Health Ordinance (OSHO) and common law to take all reasonably practicable steps to ensure the safety and health of all employees at the workplace.</p>        |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>Please refer to comments provided in Q5(b).</p> <p>Further, in Hong Kong, employees are protected from disability discrimination and the definition of "disability" in the Disability Discrimination Ordinance is broad. Individuals who have certain medical conditions (including mental health conditions) may have reason to be concerned about the effect of the vaccine. Such individuals, who are not recruited because of their vaccine status, may have claims against an employer who insists that they be vaccinated as a condition of their employment.</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>The Hong Kong Department of Health has published Guidelines on the Prevention of Coronavirus Disease 2019 (COVID-19) for the General Public. These provide useful guidance for individuals, and employers should ensure any measures they put in place are consistent with that guidance. The guidelines encourage reducing social activities, such as meal gatherings, and to maintain social distancing and good hygiene measures, such as creating good indoor ventilation and ensuring the office is cleaned thoroughly and that employees use good personal hygiene. Also, employers should not host seminars or social functions pending a reduction in infections.</p> |

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

The Hungarian Work Safety Act declares that all persons working within the territory of Hungary must have the right to safe and healthy working conditions, and the implementation of occupational safety and health requirements must be the duty and obligation of the employer. Accordingly, while considering returning to the office, employers may update their occupational safety and health standards (should be defined in a way to provide adequate protection to employees, as well as to other persons in the proximity of the area where the work is performed, and to persons using the services), and it is highly recommended to perform a risk assessment. During the risk assessment a work-safety specialist must participate. Moreover, the employer must provide proper, suitable work equipment for workers with due consideration of the related hazards, and they also must guarantee proper applicability, protection capacity, a satisfactory hygienic condition, necessary cleaning, maintenance (repair) and replacement of protective equipment.

## Question



## Response



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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>The place of work is subject to the provisions of the employment contract. In general, employees working in offices have employment contracts specifying that their place of work is the office. Therefore, employees must appear and perform work in the office. If the parties concluded an employment contract regarding the employee's obligation to perform work from home (a remote work employment contract), the employment contract must be amended to require the employee to come back to office. If the employment contract specifies partial home-office work, the terms and conditions of the employment contract are to be examined.</p> <p>Until the end of the current state of emergency (if parliament does not extend it), the employee and the employer may conclude an agreement if they wish to differ from the rules of remote working set out in Section 196 of the Labor Code. This agreement is not considered as an amendment to the employment contract.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. Currently there are no statutory limitations regarding office buildings or other workplaces.   |

## Question



## Response



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| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | Yes. As the employer must provide safe and healthy working conditions, the employer may order employees to wear a face mask if required.  |
| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. As the employer must provide safe and healthy working conditions, the employer may order employees to participate in a temperature test. However, the execution of the test must be compliant with the requirements of the GDPR.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | No. Employees are not specifically required to disclose information to the employer as to whether they have, have had or live in a household with someone who has COVID-19. As a principle of the Hungarian labor law, the employee is obliged to cooperate with the employer. Accordingly, if the employee does not disclose such information, employment law consequences may be taken. |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>Until new legislation is passed in Hungary that permits employers to deny establishment or continuation of employment from unvaccinated employees, the employer's obligation for creating a safe and healthy work environment (and safeguarding the health of other employees) cannot supersede the constitutional rights of the employees to choose not to have the vaccine. In contrast, there are several measures employers can take to protect the health of the employees (face mask, social distance, etc. as currently implemented) instead of requiring vaccination, even if the employer pays for or provides it. Without the legal basis, denying employment could obviously result in claims for unlawful termination, discrimination, etc., by the employees affected by such decisions of the employer.</p> |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>Please refer to comments provided in Q5(b).</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It is recommended to accept new policies regarding social distancing or possibilities of working from home. These not only help employees to adapt to new situations, but the possible employment law consequences are also easier to be defended.</p>   |

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

An employer has the obligation to continuously evaluate the work environment and act on potential risks. Appropriate occupational health and safety measures must be taken by an employer. In this regard, pursuant to the order for phased reopening, Unlock 5 – issued by the Ministry of Home Affairs, Government of India, on 30 September 2020 – employers must ensure that all employees at the workplace who have compatible mobile phones use the Aarogya Setu App. This is a mobile phone application administered by the Government to ensure the health status of a person. Further, as per the Unlock 5 directive, the employers must ensure, among other items:

- ▶ All employees wear face coverings
- ▶ All employees practice social distancing (i.e., with a minimum distance of six feet)
- ▶ A work-from-home practice is followed, to the extent possible
- ▶ Staggering of work hours in offices
- ▶ Screening and hygiene practices (thermal screening, regular sanitization, hand-washing station at entry and exit points and in common areas)

In addition to the above, pursuant to the order for phased reopening, Unlock 1 (dated 30 May 2020), the Ministry of Health & Family Welfare issued standard operating procedures for offices and other activities, which must continue to be applicable until further updates.

## Question



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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. In this regard, the Unlock 5 directive requires that the employer should follow work-from-home practices to the extent possible. As such, if an employee opposes coming to the office where the nature of work requires them to operate from the office, it can legally be regarded as a refusal to work, upon which an employer may take appropriate legal action. As per the standard operating procedures issued for the workplace, any employees residing in a containment zone should inform their supervisory officers and not go into the office until the containment zone issue is removed. These employees should be permitted to remote work, and it will not be counted as leave. Further, any legal action should, however, be carefully assessed in advance, factoring the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No limit has been provided under law for the number of people allowed in the same location. The Unlock 5 directive, however, provides a limit of 100 people for social activities. At the workplace, employers should comply with directives under Unlock 5 and the standard operating procedures issued for the workplace, such as seating arrangements with adequate social distancing, staggered work hours and options to remote work wherever feasible.  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | As per the Annexure I of the Unlock 5 directive, wearing a face cover is compulsory in workplaces. Accordingly, employees would be required to wear a face mask or other protective gear when visiting the office.  |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | As per the Annexure I of the Unlock 5 directive, the employer must provide provisioning for thermal scanning, hand washing or sanitizer at all entry points at the workplace. Accordingly, to ensure a safe working environment, employees must be required to take a temperature test when entering the office. As per the standard operating procedures issued for the workplace, employees residing in a containment zone should inform their supervisory officers and not go into the office until the containment zone issue is removed. These employees should be permitted to remote work, and it will not be counted as leave.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | As the employer bears the ultimate responsibility for a healthy and safe working environment, disclosure by an employee in respect to COVID-19 (including possible interaction with a COVID-19-positive person) can be done by the employer, and the employee must provide the requested information in accordance with the underlying duty of loyalty, which forms part of employment. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. In this regard, in India, employers would be required to comply with the relevant provisions of the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, while obtaining, storing, processing and transferring any such employee information. |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.<br>On 17 December 2020, the Ministry of Health and Family Welfare released answers to frequent questions regarding COVID-19 vaccines, which confirm that vaccination for COVID-19 will be voluntary. Accordingly, in the absence of any regulatory or government-imposed rule or requirement, it is not legally advisable for the employer to mandate vaccination for the employees or make it a mandatory condition for new recruitment.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.<br>Please refer to comments provided in Q5(b).  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | In addition, it must be noted that any violation of the Unlock 5 directive would constitute an offense under the Disaster Management Act, 2005, and the Indian Penal Code, 1860. In light of the Unlock 5 directive, employers are required to stagger work hours and maintain adequate social-distancing measures. Accordingly, at present all employees should not be permitted to return to work at the same time. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace. |

## Question



## Response



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| <p>1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?</p>                                   | <p>By law, an employer is responsible for the work environment, including the health and safety of employees and workers. An employer must regularly follow up and assess employees' working environment to mitigate risk factors and, in particular, to comply with measures provided in the Memorandum of Understanding to counter and control the spread of COVID-19 in working environments. This was adopted jointly by the Government and workers' representatives on 14 March 2020 and was subsequently updated on 24 April 2020. Risk assessments of the work environment on an organizational level must also involve the Prevention and Protection Service, the relevant doctor and appointed employee safety representatives, if any.</p>   |
| <p>1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?</p> | <p>If the employer is compliant with the health and safety provisions, employees whose workplace contractually is set to the office location of the employer may be contractually required to work from this location. On the other hand, certain groups of employees have a right to work remotely, provided by the emergency legislation. In particular, and on the condition of the compatibility with the nature of the work performed, until the end of the epidemiological state of emergency from the COVID-19 pandemic, this right is provided for:</p> <ul style="list-style-type: none"><li>▶ Employees exposed to the risk of contagion from COVID-19 due to their age or risk resulting from previous diseases</li><li>▶ Employees with disabilities or who have a disabled person in their family unit</li><li>▶ Employees who have at least one child under the age of 14</li><li>▶ Employees with children in quarantine, or children receiving instructions by distance learning under 16 years of age</li></ul> |

## Question



## Response

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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings or to use public transport has, however, temporarily been limited due to COVID-19 pandemic.  |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Due to current working conditions, if employees are requested to work at an interpersonal distance of less than one meter and other organizational solutions are not possible, it is necessary for employees to use face masks and other protective devices (gloves, goggles, overalls, caps, gowns, etc.). Additional measures can be required by the Memorandum of Understanding, union agreements and company policies. |
| 4 | Can employees be required to take a temperature test when entering the office?  | Yes. In particular, the Memorandum of Understanding provides for the body-temperature measurement of employees to access the premises and company offices, among other measures to combat the spread of COVID-19. This also applies to users, visitors and customers as well as suppliers, when a separate access method has not been set up for the latter.  |

## Question



## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.

Employees' privacy in respect to the COVID-19 pandemic 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 pandemic. In Italy, where the GDPR applies, COVID-19 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 about one diagnosed individual must not be spread to a larger group than necessary. In any case, only the necessary, adequate and relevant data will have to be collected in relation to the prevention of COVID-19 spread, without requesting additional information from the COVID-19-positive person, including specific places visited or other details relating to that person's private life.

## Question



## Response

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?                           | <p>Article 32 of the Constitution states that no one can be obliged to undergo a specific health treatment except by law. Currently, there is no legal obligation to obtain the COVID-19 vaccine, and, since the vaccine is not widely available, this position is unlikely to change in the short term.</p> <p>Therefore, employers cannot make obtaining a vaccine a condition of continuous employment.</p> <p>Nevertheless, Article 2087 of the Italian Civil Code imposes the obligation on the employer to protect the health and safety of employees. Therefore, if the vaccine is seen as a collective protection measure for the health of all employees, the employer could suggest to employees (when the vaccine is available) that not obtaining a vaccination could be considered as a barrier to safely performing their work activity. It could also influence how the workplace is organized, especially considering possible contacts between colleagues.</p> <p>Given the above, a case-by-case assessment will be required regarding the tasks of the employee and it will be necessary to assess whether any refusal by the employee is justified and whether there are any alternatives to carry out the work (e.g., remote working, different tasks and duties, temporary suspension from the working activity and, only in serious cases, dismissal).</p> |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment? | Please refer to comments provided in Q5(b).   |

## Question



## Response



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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

In the recovery phase following lockdown, the importance of a smart approach to restarting professional activities clearly emerged. It may not be suitable for all employees to return to work at the same time. Instead, the return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This means sanitizing the workplace according to a specific protocol and implementing social-distancing guidelines, such as blocking certain work spaces and limiting the number of people that gather in small spaces. In this regard, clear and precise information on the safety measures adopted must be made available in the workplace. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | Under the Labor Contract Act, an employer is required to give appropriate consideration of the life and health of employees so that employees will be able to work safely. According to judicial precedents, specific details of such an obligation would be determined on a case-by-case basis, considering various factors such as the employee's job and place of work. When planning for a return to the workplace, an employer should examine whether it satisfies the obligation by using guidelines issued by the Government and relevant industry associations.             |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | Employees can be required to return to the office as a part of the employment contract. However, an abuse of rights by the employer is not allowed. Whether an instruction by an employer to return to the office constitutes an abuse of rights is determined by various factors. An instruction by an employer that does not give appropriate consideration of the health of employees would be viewed as an abuse of rights.   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Not specifically. According to judicial precedents, specific details of employers' obligation to give appropriate consideration of the health and safety of employees would be determined on a case-by-case basis, considering various factors. However, when planning for a return to the workplace, employers should examine whether they satisfy the obligation by using guidelines issued by the Government and relevant industry associations.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Under the current situation, yes. An employer may give work instructions to employees as part of the employment contract. Due to the spread of COVID-19, where an employer needs to protect employees from getting infected at the workplace, a request to wear a face mask when visiting the office would be allowed as a lawful work instruction. If an employee's refusal to wear a face mask is due to a lack of supply (which was the case in Japan until June 2020 and could occur again), an employer should refrain from taking a disciplinary action against the employee. |

## Question



## Response

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4 Can employees be required to take a temperature test when entering the office?

Under the current situation, yes. An employer may give work instructions to employees as part of the employment contract. Due to the spread of COVID-19, where an employer needs to protect employees from getting infected at the workplace, an instruction to take a temperature test when entering the office would be allowed as a lawful work instruction. To protect employees' privacy, employers should carefully handle the collected information in accordance with the Personal Information Protection Act and the Industrial Safety and Health Act.

5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

Such information (i.e., that a specific person has been diagnosed with COVID-19) would fall under the definition of sensitive personal information under the Personal Information Protection Act, and therefore can be obtained only after consent from the specific person who had been diagnosed. Thus, an employer needs to obtain consent from family members (through the employee) to collect such information. However, the requirement of prior consent does not apply when the sensitive personal information is needed for protection of a person's life, body and property, and it is difficult to obtain consent. An employer would need to consider using this exception as necessary. To protect employees' and their family members' privacy, employers should carefully handle the collected information in accordance with the Personal Information Protection Act and the Industrial Safety and Health Act.

## Question



## Response

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | As of now, it is difficult to make this a condition of continuous employment, due to any adverse effects an employee can suffer as a result of a vaccine.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | Generally, employers are free to employ anybody under any terms and conditions they decide. Based on this principle, currently, at least for jobs with high-risk of getting infected, such as health care workers, it would be possible to make it a condition of new hiring. However, periodic vaccination after hiring would be difficult to mandate, based on response provided in Q5(b). |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | It would be important to collect the latest information concerning the COVID-19 pandemic mainly from relevant Government websites, including information on subsidies.   |

## Question



## Response

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|      |   |  |
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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | <p>By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.</p> <p>As of now, the quarantine regime has been tightened due to the new COVID-19 cases. In addition to labor legislation, an employer should follow provisions set out in the Decrees of the Chief Medical Officer of the country and those in particular cities.</p>   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>As per recent amendments in relation to the quarantine regime due to the increase in COVID-19 cases, National Bank of the Republic of Kazakhstan has issued a decree on the working hours for those in the financial sector whereby they, depending on whether they are located in the 'red', 'yellow' or 'green' zones, should transfer a certain percentage of employees to remote work. For example, Almaty, where most banks and other financial institutions are located, is currently in the yellow zone, and thus these organizations have to transfer 50% (30% in certain circumstances) of their staff to remote working.</p> |

## Question



## Response

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| 2 | <p>Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?</p> | <p>Please note that according to the Decrees of the Chief Medical Officer, there are certain limitations in relation to returning to workplaces, such as limiting the amount of people at the workplace at the same time, including offices and any other facilities to serve clients. Decree of the Chief Medical Officer on Further Strengthening of the Measures to Prevent Coronavirus Infection Among the Population of the Republic of Kazakhstan No. 67, dated 25 December 2020, states that:</p> <ul style="list-style-type: none"><li>▶ A business center should be occupied with the amount of people not exceeding the amount needed to comply with the social distancing requirements (at least four square meters per person)</li><li>▶ Employees and visitors must use face masks at all times during the work day, subject to their timely replacement</li><li>▶ Antiseptics and a minimum stock of disinfectants must be available at all times at the workplace, with the premises regularly cleaned using the disinfectants</li></ul> <p>The above provisions should be followed by employers, employees, customers and visitors at these business centres.</p> |
| 3 | <p>Can employees be required to wear a face mask or other protective gear when visiting the office?</p>  | <p>Yes. According to the Decree of the Chief Medical Officer No. 67, entrance to any facility without face masks is prohibited. Visitors are obliged to wear face masks when visiting the building.</p>   |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes. Due to the spread of COVID-19, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>According to the Decree of the Chief Medical Officer No. 67, at the entrance to the work facility it is obligatory to organize contactless temperature measurement for employees and visitors. They can enter the facility only if they have no symptoms of acute respiratory diseases (fever, cough).</p>   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. However, please note that there is no legal obligation to disclose information to the employer as to whether an employee has, or has had COVID-19, or lives in a household with someone who has with COVID-19.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the health of other employees in the organization.</p> |

## Question



## Response

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>The COVID-19 vaccination program has commenced in Kazakhstan from 1 February 2021. In accordance with Kazakhstan Healthcare Code, the citizens have the right to refuse to receive preventive vaccinations. Please note, as of now, there are no regulations in relation to the mandatory vaccination of employees.</p>  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>Please refer to comments provided in Q5(b).</p>  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace. According to the Decree of the Chief Medical Officer No. 67, employees should be switched to remote work (work from home) with the reduction of working time depending on business needs.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | According to employment law, an employer is responsible for the working environment, including the health and safety of employees.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | It depends on the type of work. If employees cannot work off-site and perform their duties, this can be requested. In the private sector, negotiation is in place between employers and employees.   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | It depends on the employer and company policies. From a legal perspective, there are no such limitations, but employers must comply with special COVID-19 law restrictions and national health authority guidelines.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. As stated in the Declaration of the State of Emergency, face masks shall be used in public indoor spaces, including workplaces, if more than one person is in the premises. |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. Employers should comply with the GDPR as well. |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | As per the special COVID-19 law implemented, it can be requested to sign such a form of disclosure.   |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No,   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | As for now, Government has requested that public and private sectors remote work as much as possible. |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | As per the Luxembourg Labor Code, "The employer is obliged to ensure the safety and health of employees in all work-related aspects," and "Within the framework of their responsibilities, the employer must take the necessary measures for the protection of the safety and health of employees, including activities that prevent occupational risks, information and training, as well as the establishment of the necessary organization and means."   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. In addition, employees have a legal right to withdraw from going to the workplace in cases when they face a serious, immediate and unavoidable danger. In the specific context of the spread of COVID-19, employees are obliged to inform the employer of any such risk or diagnosis. |

## Question



## Response



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Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic. Employers must ensure that employees, while they are in the office, respect the mandatory physical distance of two meters; if this is not possible, they must ensure that employees wear face masks or similar materials that cover their nose and mouth and, if necessary, provide other personal protective equipment, such as a glass screen dividing workstations to prevent physical contact. The Luxembourg authority for the banking and financial sector markets issued guidelines mentioning that remote work must be preferred, if possible. When employees are back to work on the company's premises, the employer must issue policies and determine the maximum number of employees present at the same time.

3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes. Wearing face masks in the areas where the minimal distance of two meters cannot be respected is mandatory, including in offices. Workstations and other areas in which employees might be sitting should be arranged to minimize risk, and protective equipment must be provided to ensure the protection of employees.

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | There is no particular regulation on this matter. However, to discharge their obligation to ensure the health and safety of employees, should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. However, rules deriving from the GDPR must be followed, and the Luxembourg Protection Authority issued guidelines stating clearly that this measure must be cautiously implemented. In addition, employers cannot keep and record temperature results and cannot link this information to the identity of employees. |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>No. There is no legal obligation on the part of employees to disclose information to the employer of a possible exposure to COVID-19. However, on the basis of the obligation of loyalty and good faith that must govern all employment relationships, employers can expect to receive such information, which will enable them to take the preventive measures they consider necessary to ensure the health and safety of employees.</p> <p>Employers must communicate with their employees and stress the importance of transparent information.</p>   |

## Question



## Response



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|      |   |  |
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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage the well-being of employees in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> |

## Question



## Response



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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

The Government has adopted protocols on preventive measures for all workplaces.

In brief, employers are obliged to:

- ▶ Set up hand hygiene stations, such as disinfection dispensers in prominent places in the office, which will be available to all employees and third parties who visit the office
- ▶ Provide face masks (and include promotional material on the usage of them) and tissues for employees, as well as trash cans with lids for the hygienic disposal of waste
- ▶ Adopt measures for maintaining distance between persons in the office of at least one meter, including employee workstations and communal spaces, and maintain strict control over external access to the office by third parties
- ▶ Reduce in-person meetings to the extent possible, organize work in shifts and provide tools to foster remote work as much as the work process allows
- ▶ Organize regular cleaning and disinfection of the office
- ▶ Provide promotional materials for raising employee awareness about COVID-19 and promote individual safe practices
- ▶ Inform the regional public health center in a timely manner in cases of COVID-19 risk or exposure
- ▶ Require face masks for employees and visitors of indoor work spaces, per a separate ordinance by the Government

## Question



## Response

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|      |   |   |
|------|---|---|
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace contractually is set to the office location of the employer may be asked to work on this location if all measures are fulfilled, as previously explained. Employers under no circumstances should discriminate who will return, but they are advised to use objective criteria and be transparent with employees. Returning should be carefully assessed in advance to take into account the employee's personal situation and the work environment, including necessary precautions taken by the employer, as explained in the first question.                 |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | The protocol does not stipulate any limits to the number of people allowed to be in the same location. However, as explained in the first question, employers are obliged to organize work in the office by maintaining distance of at least one meter between persons present in the office. Thus, depending on the size of the office, employers should decide whether they can organize work in the office by successfully maintaining distance between employees or if they should limit the number of people in the office, organizing work in shifts or setting up remote operations. |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Based on the protocol, if employees have a runny nose or cough, the employer should secure face masks and hygienic tissues, and everyone in the work environment should wear face mask. There is an additional ordinance that mandates wearing face masks in indoor premises.   |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | At this point, the protocol only provides the measurement of temperature as an option that should be considered by the employer as an additional measure to the rest of the preventive measures that should be undertaken.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Indirectly, all employees need to inform the employer of any potential health risks at work. If, however, a diagnosed person is within the work premises, employees are directly obliged to report. Employers are also advised to secure separated isolation rooms for such cases. In all cases, the general practitioner and state epidemiologist needs to be involved. |

## Question



## Response



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|      |   |  |
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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | The above are the general measures and ordinances applicable to all services and industries. Specific industries may be obliged to apply separate protocols depending on the services and the industry to which they belong. |

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

Companies must first identify which special health and safety measures need to be adopted. Post-identification, companies must execute the official form of self-evaluation and secure authorization from the labor authority to return to the workplace.

The most relevant requirements by the authorities are:

- ▶ Given the pandemic risk rating system (traffic lights) issued by the federal government, continue to encourage remote working as much as possible
- ▶ Workers whose duties require them to go to the workplace must be confirmed as not belonging to a vulnerable group (people over 60 years of age, pregnant women, or those with chronic illnesses)
- ▶ Only 40% of the capacity of the work facilities can be occupied
- ▶ The employer must provide sanitary filters at the entrances and exits at the workplace. A 70% alcohol-based hand sanitizer must be provided. The employee's temperature reading, taken prior to entry, must not exceed 37.5°C, otherwise the employee will not be permitted to enter the premises. It is mandatory for employees to use a face mask inside the workplace
- ▶ Distance between people of at least one and a half meters must be maintained
- ▶ Signage on the floor to establish a one-way circuit where the employee can walk around the workplace
- ▶ Regular deep cleaning and sanitization of the workplace

## Question



## Response



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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>Yes.</p> <p>The worker can be requested to return to the office, as long as the employer guarantees the right to health of the workers and has all the requirements requested by the federal government and the Secretary of Labor and Social Welfare fulfilled, and the work of the employee so warrants, unless the employee qualifies as part of a vulnerable population (over age 60 or with a specific comorbidity).</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>Yes, depending on the type of activity and structural conditions of the workplace. It must not exceed 40% of its capacity, nor have a concentration of more than 50 people.</p>   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Yes. It is mandatory to use face masks at all times. It is a requirement established at the national level by the Secretary of Health and the Secretary of Labor and Social Welfare, in order to try to reduce the spread of the COVID-19 pandemic.</p>   |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. It is mandatory prior to starting the work shift and when the company so indicates. This is a requirement established by the labor and health ministries.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Yes, it is the worker's obligation to inform their workplace if they have been exposed to, or have had contact with, persons diagnosed with COVID-19 or if they have symptoms. However, it is advisable for employers to implement a specific protocol to collect and manage this information since, in some cases, such information must be shared with the relevant authority. |

## Question



## Response

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>The set of obligations will depend on the state and city in which the companies have locations. It is important to constantly monitor local regulations. Once back in the office, employers will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve the Joint Commission for Health and Safety and appointed safety representatives. Also, based on the number of employees, a company is compelled to run tests for employees and report the results to the authority. The reinstatement of personnel must be gradual, with a minimum number of people defined for each area to resume face-to-face activity. For the selection of workers who are going to restart activities, prioritization may be given to those who are able to commute by their own means. The employer should establish staggered entry and exit times to avoid crowds of people, arrange a specific place (at the entrance to the establishment) for cleaning hands, footwear and personal items (wallets, backpacks, bags, etc.) before entering and exiting the workplace.</p> |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | <p>As of 29 September 2020, the Government requests all employers and employees to remote work for the following three weeks (unless it is strictly necessary to go to the office). This is a temporary measure through, at least, 20 October 2020.</p> <p>Aside from this temporary measure, according to Dutch law, the employer has an extensive duty of care with respect to the health and safety of its employees. The employer is responsible to ensure that the workplace is safe and that all legislation regarding health and safety has been taken into account. Failing to do so could make the employer liable. Therefore, the employer must ensure that it is safe for employees to return to the office, and the instructions of the Institute of Health Protection must be taken into account. Most important, the office must be set up in such a way that employees are able to keep their distance for at least one and a half meters. Therefore, only a certain amount of desks may be used. Also, depending on the type of office building, the employer must think about creating elevator, cafeteria and coffee-station policies. Furthermore, it is recommended to place hand sanitizers in several places in the building. As for certain kinds of contact-based work, specific regulations may apply. It is required to check Government websites and sector-specific information frequently.</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>So far Dutch case law shows that in principle,, employees must cooperate with returning to the office unless, for example, the employment contract states that the employee works partly from home. However, under the current circumstances and the second outbreak of COVID-19, this may be different. For instance, an employee may have weighty reasons to avoid the office (such as a health condition). Also, it may be different in the event an employee can show that the employer is not in compliance with the instructions of health authorities.</p>  |

## Question



## Response



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| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?   | In principle, under the current circumstances employees with an office job without any direct contact with customers are not yet required to wear a face mask to work, however, the employer may urgently request wearing such equipment. This may change in the event that employees, for example, have a profession where physical contact with clients or colleagues cannot be avoided, or if a specific industry generally has an obligation to wear a face mask.   |
| 4    | Can employees be required to take a temperature test when entering the office?   | Employers can do this in cases of exceptional circumstances, however, the data of this test may not be registered because it qualifies as sensitive health-related data, for which far-reaching restrictions apply according to the GDPR. It should also be noted the Government has stated that a policy involving temperature testing of employees or customers has not yet proven to be effective and is therefore not yet recommended.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | No. Employees cannot be required to disclose such information to the employer. However, in practice it is common to request employees to sign a protocol that declares they comply with health and safety regulations, such as (but not limited to) staying at home in the event of any health symptoms that may be caused by COVID-19 and self-isolating in the event of a COVID-19 infection. In any event, both the employer and employee have a duty of loyalty, which forms part of the employment relationship. This includes making sure that colleagues are not at risk. Therefore, it can still be requested that employees inform the employer when they are or have been at risk of being infected. From a strict legal point of view, however, it cannot be enforced. |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>However, this condition may be requested for doctors and/or care workers who have critical roles in the first line of health or work with people within one and a half meter distance for longer than 15 minutes. This condition is necessary as part of the employers' reasonable safety instructions. If an employee refuses, they will not qualify for this work and/or may have to be transferred to another less critical role.</p>  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>Please refer to responses provided in Q5(b).</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>According to Dutch law, the employer has an extensive duty of care with respect to the health and safety of its employees. The employer is responsible to ensure that the work place is safe and that all legislation regarding health and safety has been taken into account. In the event employees would claim that they have suffered damages while carrying out their work, there is only a limited burden of proof for the employee regarding the connectivity of the damages and the work. As a response, the burden of proof shifts to the employer, forcing the employer to prove that the workplace is safe. This leads to a general liability assumption of employers unless they can prove that they have complied with their duty of care. Employers should also check whether employees act in compliance with instructions, as it is their duty to confront employees in cases of any negligence.</p> <p>With respect to the current COVID-19 pandemic, the duty of care includes making sure that the workplace meets all measures of the Dutch health authorities. It also includes that the employer must give clear instructions to employees regarding the measures, and they must check whether employees comply with the instructions. If employers following the health authority's instructions decide to introduce new safety measurements, such as wearing masks, it is advised to have these work-related instructions well-communicated and provide the protective materials, as well as conduct regular risk assessments. This will allow employers to prove that they did what was reasonably necessary to allow a safe working environment.</p> |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | An employer is responsible for providing a safe and healthy workplace for its employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace location is set out in the employment agreement may be contractually required to work from that location. If an employee opposes coming to the office, the employer may be able to undertake disciplinary action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary safety precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | In New Zealand, there are no current restrictions on the number of people allowed in a workplace. There may, however, be restrictions on gathering numbers if New Zealand's alert levels change.  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | This would be considered to be medical and personal information, and restrictions may apply to the collection, storage and use. It is recommended to seek legal advice before implementing any such practice.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. It is recommended to seek legal advice before implementing any such practice. |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No, not without agreement from the employee or unless the employer can show a specific health and safety reason. It is recommended to seek legal advice before implementing any such practice.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.<br>Please refer to comments provided in Q5(b).  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. An employer may choose to implement a phased return on the basis of employee need and role. |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>Due to the spread of COVID-19, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19.</p>  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. Employees' privacy in respect to COVID-19 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 COVID-19. In Nicaragua, employees' COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | Yes.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | Yes.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | The employer is responsible for ensuring that the working environment is fully satisfactory. The 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). The risk assessment regarding health and safety for employees must be carried out in collaboration with the safety representative and the employees' elected representatives. If the company has more than 50 employees, the work-environment committees must also be involved.  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>Employees must show up for work and perform their duties in accordance with the employment contract. In most cases, the employees' workplace is located at the employer's business address or other premises of the employer. Employees do not have the right to assess whether they should stay away from the workplace. Therefore, the employer can demand that the employee come to the workplace as normal. It is also the employer who decides whether and to what extent the employee may work remotely. An employee may, in some cases, have the right to remote work if:</p> <ul style="list-style-type: none"><li>▶ A doctor has concluded that the employee's health dictates that the employee should not leave home due to the risk of infection</li><li>▶ The employer and employee have entered a home-office agreement</li></ul> <p>It is still recommend that the employer does not force employees to work at the workplace unless there is a strong need for it and this is in accordance with the applicable rules and regulations. Due to the spread of COVID-19, both employees and employers are in an uncertain time. Employees may be insecure and afraid of infection. Additionally, this situation can change quickly locally. If an employee turns to the media and attests to coercion at the workplace, this may lead to negative media coverage.</p> <p>The government recommends that employees that are able to, should work remotely. Additionally, local rules and regulations may apply. For Oslo, as an example, it is compulsory to work remotely as far as practically possible. The employer is also obliged to document that their employees have been informed about how remote working will be implemented.</p> |

## Question



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2

Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

The government has passed regulations, guidelines and recommendations related to the restart of activities. The Norwegian Regulation relating to Infection Control Measures in Connection with the Coronavirus Outbreak (Regulation) (FOR-2020-03-27-470) has been amended on an ongoing basis in order to respond to the pandemic. Some examples are:

- ▶ Limitations related to the number of people at the office: People being present at the office must be able to keep at least one meter distance from other colleagues. Furthermore, some businesses, such as hairdressers, must comply with specific infection control measures. Please find more information [here](#)
- ▶ Limitations related to the number of persons at the same location for an event: The Norwegian Directorate of Health states that private gatherings can be held in groups up to a maximum of five people. Events in public places cannot be held with more than 10 people present (without fixed chairs) or 200 people (fixed chairs) present. If the event is being held outside, there is a maximum of 200 people (without fixed chairs) present or 600 people (with fixed chairs) present. Everyone attending the event should keep a distance of at least one meter from other people. For public gatherings, those who are present must be able to keep at least one meter distance from others who are not in the same household. The organizer of an event must implement measures that contribute to the ill not being present at the event and make it possible to maintain good hygiene. Local regulations at the municipality level may mandate lower limits than the state-provided limits
- ▶ Isolation, quarantine and potential illness: Persons arriving in Norway from an area with a quarantine obligation must quarantine for 10 days. The quarantine obligation may be terminated if the person tests negative for COVID-19 twice. The first test must be performed within 24 hours after arriving in Norway and the second test may, at the earliest, be performed seven days after arrival

## Question



## Response

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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <ul style="list-style-type: none"><li>▶ For people who have been in close contact with a person diagnosed with COVID-19 less than 48 hours before the diagnosed person displayed the initial symptoms of infection, the quarantine obligation applies for 10 days after the close contact</li><li>▶ Persons who have a confirmed COVID-19 infection must isolate themselves in accordance with the national authorities' recommendations. Isolation means staying in one's own home or other suitable places of residence, isolated from others. The infected should, as far as possible, also be isolated from others in the same household</li><li>▶ Persons diagnosed with COVID-19 must stay in isolation until: The person has been free of symptoms for 24 hours, and at least 10 days must have passed since the first symptoms appeared. If the diagnosed persons are asymptomatic, they must remain isolated for 10 days after testing positive for COVID-19</li></ul> <p>Please note that several rules and recommendations related to isolation, quarantine etc., have been implemented. The above is meant as examples and is prepared on a high-level basis. The applicable rules must be assessed and adhered to on a case-by-case basis.</p> |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Yes, if the measure promotes the health and safety of the employees. However, whether such a measure is appropriate will depend on the type of workplace in question. In general, it is more appropriate to introduce such a measure at, for example, in-home nursing, where employees are to work directly with the elderly, in contrast to an office. Depending on the circumstances, however, it may be necessary at an office to introduce infection-reducing measures as well. If the infection rate in society is so high that employees in the workplace are exposed to infection risk, it is probably more appropriate to order employees to work at home rather than forcing them to wear face masks at the workplace. In addition to a face mask at-all-times measure, there are offices who have chosen an in-between measure where employees are to wear face masks when walking into the office or taking the stairs or elevator, but are allowed to take it off while seated at a desk.</p>  |

## Question



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4

Can employees be required to take a temperature test when entering the office?

The employer cannot on a general basis require employee tests for COVID-19 when they attend the workplace. The rules for requiring medical testing of employees are stringent. An employer may only require medical examinations to be conducted 1) when provided by statutes or regulations, 2) in connection with posts involving particularly high-risks or 3) when the employer finds it necessary in order to protect life and health.

Also, it is important to note that testing of employees' health is a control measure. Strict requirements are set for implementing control measures, which must also be met. For the employer to be able to implement a control measure, the measure must have a factual basis in the company's circumstances, and it must not entail a disproportionate burden for the employee. Then the employers must go through a process where the employer discusses the need, design and implementation of the control measure with the elected representatives in the company. As regards to COVID-19 measures, orders of working remotely, social distancing, sanitizing and other requests are all part of the social solidarity effort to beat COVID-19. The national authorities have specifically asked employers to ask their employees to remote work (if possible) as an effort to minimize the number of people using collective transportation. That way collective transportation is reserved for employees who have to be present at the workplace, health institution or child care facilities.

With respect to voluntary testing: from an employment law perspective, it appears as an alternative that employees can voluntarily be tested before entering the office. From a privacy law perspective, this alternative also appears to be potentially unlawful. The GDPR requires a legal basis for processing personal data. Consent is one of the alternative legal bases for processing personal data. For a consent to be valid, it must, among other things, be given voluntarily. A consent is not valid if there is pressure to consent or if negative consequences arise if you do not consent. When assessing whether consent is voluntary, one must also look at the balance of power between the employer and the employee. Employers will normally not be able to use consent as a basis for the processing of employee's personal data because of the dependent relationship the employee has on the employer. If the company nevertheless decides to obtain consent from employees to process their health data, it is important to note that these types of information are defined in the GDPR as "special categories of personal data" (see GDPR Article 9).

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## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Norway, where the GDPR applies, COVID-19 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 about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.

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## Response

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5(b) Can employers make obtaining a vaccine a condition of continuous employment?

No.

The Regulation concerning the Performance of Work, Use of Work Equipment and Related Technical Requirements (FOR-2011-12-06-1357) covers, among other things, vaccination of employees who may be exposed to biological agents. Section 6-12 of the said regulation prescribes that employees shall be offered safe and effective vaccination against biological agents to which they may be exposed for during their work performance. The employer shall inform affected employees of the advantages and disadvantages of being vaccinated, and the employer shall cover the costs of the vaccination.

The abovementioned provision provide instructions that such vaccination of employees is a voluntary scheme, and employers cannot require that employees obtain a vaccine as a condition of continued employment without this being agreed or accepted by the employee on other grounds.

**For health professionals and certain sections of the population:**

No.

According to the Infection Control Act § 3-9, the Ministry of Health and Care Services may issue regulations governing the detailed implementation of measures to control communicable diseases, including the duty of health care workers to carry out or assist in examinations and vaccinations etc. Currently, no regulations have been issued that allow mandatory vaccination of health personnel or other specific groups of the population against COVID-19 or related virus variants.

The Minister of Health has recently clarified that it is not intended that vaccination should be made mandatory in Norway. This suggests that there will be no order for mandatory vaccination pursuant to the Act.

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| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>Such a condition would require both legal and justifiable grounds as it raises several labor and employment law questions. Employers are, for example, not allowed, when advertising for new employees or in any other manner, to request applicants to provide other health information than is necessary in relation to performance of the duties associated with the post. Nor may the employer implement measures in order to obtain health information in any other manner. Further, this could also trigger situations of doubt with respect to individuals' protection against discrimination.</p> <p>Given the changing situation, it is likely that this position will be subject to both changes and disputes going forward. Unless the employer has legal and justifiable grounds, such a condition cannot be enforced.</p> |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, due to both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspace and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives.</p>  |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' work environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.                  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | If, at the time the contract was signed, it stipulated the place where the service would be provided and there has been no modification with the option of remote working, the same law requires a reversible effect on the employee. That is, the employer can oblige the employee to return to the office as long as the security measures are followed to avoid contagion. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Yes. There is a limitation that must be in accordance with the size of the office and the number of collaborators.  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. The employer must ask its collaborators for the mandatory use of face masks since it is a sanitary measure for company operations to guarantee the health and safety of employees. These measures should be implemented through policies.  |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | It is a recommendation for companies to keep informed of the health status of their employees through follow-ups to protect their coworkers.                 |

## Question



## Response

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.<br>No specific labor regulation has been issued regarding the vaccine.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.<br>Please refer to comments provided in Q5(b).  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.<br><br>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any. |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' work environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. The main recommendation is that all work that can be done without being on-site should be done remotely. This recommendation was also established by the Ministry of Labor as a resolution on 16 March 2020. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Yes. There are such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic. For example, corporate offices are authorized to open but only with 50% of worker capacity (with rotation), since the enactment of a decree from 24 May 2020, whose rules were extended for Asunción and other locations, but not all areas. The provisions of the decree are still in force in Asunción and a few other locations, including Carmelo Peralta district and Central, Boquerón and Alto Paraná departments.  |

## Question



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| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | <p>Yes. The use of face masks is mandatory before entering offices or other public spaces. The use of additional protective gear in offices is not mandatory but highly recommended. The Ministry of Health has established safety protocols that are mandatory for certain industries, such as construction, civil works and hospitals. There are also sanitary instructions for work environments in general. Specifically, the work environment protocol has mandatory measures, such as:</p> <ul style="list-style-type: none"><li>▶ Hygiene protocols at office entrances (hand washing, shoe disinfection, temperature checks, use of alcohol-based sanitizer)</li><li>▶ Provision of personal data and information (in order to facilitate traceability should there be an infection)</li><li>▶ Designation of a team responsible for COVID -19 measures at the office</li><li>▶ Obligation of the employer to inform and recommend safety protocols (social distancing, hand washing, etc.) and provide sanitation products in the office premises; and</li><li>▶ Promote social distancing and encourage remote working (when possible)</li></ul> <p>The most recent legal act about the mandatory use of face masks is Law 6699, enacted 22 December 2020, by which the government established that in all closed and open places, both public and private and in public and private transport (land, air and marine) wearing a face mask is mandatory. The law provides for monetary fines, community work orders and temporary or permanent closure of the establishment for any contravention, or definitive suspension of activities when there are repeated infringements of the law.</p> |
| 4 | Can employees be required to take a temperature test when entering the office?                   | <p>Yes. Temperature control is mandatory before entering offices and public spaces.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization.</p>  |

## Question



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. Employees' privacy in respect to COVID-19 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 COVID-19.

Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.

## Question



## Response

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | <p>By law, every employer must comply with the drafting and registration of the COVID-19 Monitoring, Control and Prevention Plan, which must contain health regulations determined by the Government in a general and sectoral manner (where applicable). Having complied with this requirement, the company may resume its activities in the workplace.</p> <p>It is important to note that the implementation of this plan by the company implies making some modifications to the workplace and in the way regular activities are done.</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>Yes. The employer that already has a COVID-19 Monitoring, Control and Prevention Plan registered to the health authority may require workers to return to activities at the workplace, except in cases where workers are considered to be at risk to COVID-19 due to their medical condition or age. These workers may return to the workplace only if they request it and provided that the employer authorized their return after serious evaluation.</p>   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>No. There are no statutory limitations for the number of people in offices. However, social distancing must be guaranteed in the workplace, so the work environment must be reorganized. It is important to mention that in the construction sector, the capacity of employees on construction sites has been reduced, by statutory, to 50%.</p>  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Yes. The use of face masks is permanent and mandatory. However, the type of face mask and the additional use of a face shield will depend on the level of risk to which workers are exposed.</p>  |

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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. The temperature of all workers is measured at the start and at the end of the work day. A medical evaluation of COVID-19 symptoms is available to all workers who present a temperature of 38.0°C.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Yes. Before returning to the office, workers are required, by law, to fill out a symptom sheet and give it to the employer. On this form, workers must state whether they have had symptoms of COVID-19, have been in contact with a confirmed case of COVID-19 and are taking any medications. This information is confidential, so the employer must ensure the proper processing of the worker's sensitive personal data. |

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>In addition to the implementation of the COVID-19 Monitoring, Control and Prevention Plan in the company, the employer, by law, must comply with the following:</p> <ul style="list-style-type: none"><li>▶ Have an occupational doctor or health care professional on-site (depending on the number of workers in the workplace)</li><li>▶ Train workers on ways to prevent the spread of COVID-19</li><li>▶ Avoid any type of discrimination against workers who have been diagnosed with COVID-19</li></ul> |

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | The employer is obliged to ensure safe and hygienic working conditions, as well as to carry out and update the risk assessment. Within those duties, the employer is obliged to ensure safe conditions, enabling employees to rotationally return to work and providing proper ventilation of rooms, disinfectants and other protective tools.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>In general, employees are obliged to work at the place indicated in their employment contracts. However, currently there are solutions implemented to allow an employee to work remotely under the Act of 2 March 2020 on special arrangements for the prevention and combating of COVID-19, other infectious diseases and the resulting emergencies.</p> <p>According to the above-mentioned act, the employer may commission an employee to work remotely for a fixed period of time during an emergency or epidemic state, announced due to COVID-19, and within three months after it subsides. The employer may also withdraw the remote working order at any time, therefore the employer may require employees to return to the office at their discretion.</p> <p>Recently, there has been a proposal to amend the Polish Labour Code, aimed at permanently introducing remote working into the Polish legal system. The draft of the amendment is currently at the consultation stage and is not yet public.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. Currently there are no such legal limitations for private spaces. However, safety measures must be provided, appropriate to the capabilities of the employer, to ensure health and safety at work.   |

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| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | Such measures can be imposed at the workplace if the employer assesses that this is necessary to ensure the health and safety of employees.   |
| 4 | Can employees be required to take a temperature test when entering the office?                   | <p>Based on the recent statement of the President of the Office for Personal Data Protection, it is allowable under certain circumstances. As it was indicated in this statement, specific categories of health-related data may be processed when necessary for reasons of public interest in the field of public health, such as protection against serious cross-border health threats, if this is provided for by law. This provision is therefore in line with national regulations in the field of combating the spread of COVID-19.</p> <p>It is allowed, in principle, for the employer to process data concerning the temperature of employees. It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization.</p> |

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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. However, providing such information as a rule should be voluntary, upon the consent of the employee, and it should not interfere in the private life of the employee. In that regard, the employer is allowed to advise employees that in cases of high temperature, recent travel or not feeling well, they should not come to the office and can perform work remotely. The processing of such data received from employees must also be in compliance with the GDPR. COVID-19 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 about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.

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## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>Currently, there are no additional formal requirements as to what other aspects should be considered by employers from the private sector. However, as a part of good practice, it may not be suitable for all employees to return to work at the same time, keeping in mind social-distancing concerns. The return should be phased in and rotational by dividing up work from the office and remote work, if possible.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces.</p> |

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | <p>By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must both plan in advance and regularly follow up and assess employees' work environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.</p> <p>There is an ongoing state of emergency, with general lockdown of public spaces, until at least mid- February 2021. Companies exempted from lockdown must comply with several measures, including reporting to Social Security a list of the employees working on site (remote working being otherwise mandatory)</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>Employees can remain off-site if they have a duly attested medical condition that justifies their absence. During the state of emergency, remote working, when possible, is mandatory.</p>  |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>Limitations exist for restaurants and public gatherings. In reference to workplaces, official guidelines from the National Health Authority must be followed (one meter social distancing, two meters in closed spaces).</p>  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Use of face mask is mandatory in indoor spaces with several people. During the state of emergency, use of face masks or shields is mandatory.</p>   |

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes, but there are certain rules to follow:</p> <ul style="list-style-type: none"><li>▶ Tests must be executed by occupational health professionals</li><li>▶ Employee consent is required</li><li>▶ No records of measurements must be kept</li></ul> <p>During the state of emergency, any employee may execute the test, being subject to professional secrecy. Refusal to take the test permits the employer to refuse access the workplace.</p>   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Portugal, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | Employers are required to adopt adequate measures to prevent contagion. They are allowed to change work schedules to allow different teams to start and leave work at different times. However, employees may oppose this change, which may cause subsequent issues. |

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' work environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>During the state of emergency, which is currently ongoing for the country, remote working is mandatory. Depending on the nature of the employees' work, if the employee can perform their work remotely, the employer must establish this measure by unilateral decision.</p> <p>There could be situations when the employee must be present at the office (e.g., for initial training), in which case the employee could be required to work from the office. However, each circumstance must be carefully analyzed and justified in writing by the employer, to diminish the risk of being sanctioned by the labor authorities.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>No. There are no such legal limitations for private spaces, but when reorganizing the work space, the employer must ensure that there is a minimum distance of one and a half meters between employees. Given this, the number of persons allowed in the workplace could be limited by the necessity to ensure safe physical distance.</p> <p>The number of people allowed to participate in private or public gatherings has, however, temporarily been limited due to the spread of COVID-19, for both indoor and outdoor gatherings.</p>   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Employees are required to wear a face mask that covers both mouth and nose when they are at the office.   |

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>During the state of alert that was established in Romania, employees must allow the employer to take a temperature test when entering the office.</p> <p>The employer must continuously evaluate the work environment and act on potential risks, and COVID-19 is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken, and by law, the employer must provide the epidemiological triage and hand disinfection for each employee before entering the employer's offices.</p> <p>Epidemiological triage consists of a temperature test (a person's temperature should not exceed 37.3°C) and general observance of the respiratory signs and symptoms (frequent cough, sneezing and other general signs of being unwell).</p> <p>The employer must prohibit access to its premises by any employee or visitor who is suspected to have or is diagnosed with COVID-19.</p> |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>Despite 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.</p> <p>Employee's privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. For example, in Romania, where GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary.</p>  |

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## Response

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|      | Question  | Response  |
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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>As of now, the vaccination campaign in Romania is voluntarily and not mandatory. In general, the employer does not have a legal basis for requesting current/new employees to obtain a vaccine.</p>   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>Please refer to comments provided in Q5(b).</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>If the employee cannot carry out their work remotely during the state of emergency, employers with more than 50 employees must split them into groups with different starting and finishing hours of work. The difference between the groups must be at least one hour, to avoid congestion on public transport.</p> <p>An employer should continuously evaluate the work environment and act on potential risks, and COVID-19 is an obvious risk in many businesses.</p> <p>Accordingly, appropriate occupational health and safety measures must be taken, such as:</p> <ul style="list-style-type: none"> <li>▶ The employer must ensure epidemiological triage and hand disinfection for each employee before entering the employer's offices</li> <li>▶ The employer must organize work spaces so that a minimum distance of one and a half meters is ensured between employees</li> <li>▶ For more communal work spaces, the employer will ensure employees' separation with partitions that must be disinfected daily with alcohol-based solutions</li> <li>▶ Employers must stagger their lunch break times, ensuring a distance of at least two meters between workers when they take them</li> <li>▶ Employers must carry out training in matters of health and safety at work, and implement an awareness policy</li> </ul> |

## Question

## Response

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|      | Question  | Response  |
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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | <p>Employers must:</p> <ul style="list-style-type: none"><li>▶ Deny workplace access to employees who have chronic diseases, are pregnant or who are older than 65</li><li>▶ Ensure that employees use personal protective equipment in the work space (face masks, gloves)</li><li>▶ Measure an employee's temperature at the entrance to the office premises and during the work day (no more than once every four hours)</li><li>▶ Conduct medical tests for COVID-19</li></ul>  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>If employee have a chronic disease, are pregnant, have flu symptoms or are older than 65 years old, they are obliged to stay at their place of residence and be compliant with the remote-working mode set by the employer. Generally, if the employer and employee signed an additional agreement in an employment contract for the option to work remotely, the employer cannot compel such employee to return to the office unless another agreement to the employment contract is made that annuls the remote-working mode.</p> <p>Remote working is generally introduced by means of an employment contract or additional agreement thereto. Since 1 January 2021, the following types of remote work are possible:</p> <ul style="list-style-type: none"><li>▶ Permanent remote work during the term of the employment contract</li><li>▶ Temporary continuous remote work for a period not exceeding six months</li><li>▶ Alternation of remote work and presence in the office</li></ul> <p>Employers have the right to institute temporary remote working for employees in an emergency situation (such as disasters, industrial accidents, acts of God, epidemics and other situations endangering life or normal living conditions of all or part of the population). This does not require an employee's consent, and accordingly, formalization by amending the employment contract or executing an additional agreement. It depends on the type of remote work (as described above) and the terms of the employment contract as to whether the employee is required to return to the office or has a legal right to remain off-site.</p> |

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| 2 | <p>Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?</p> | <p>Employers are advised to switch to remote work. Employers in Moscow are obliged to transfer to remote work:</p> <ul style="list-style-type: none"><li>▶ At least 30% of employees</li><li>▶ All employees over the age of 65 and people with chronic diseases (except those whose presence in the workplace is critical to the organization's work)</li></ul> <p>This requirement does not apply to medical organizations, defense enterprises and some other strategic industries. All companies are required to inform the Moscow City Government every Monday of the transfer of at least 30% of employees to remote working. In addition, companies need to specify how many employees continue to attend the workplace. Failure to provide this information may result in a fine or suspension of activities.</p> |
| 3 | <p>Can employees be required to wear a face mask or other protective gear when visiting the office?</p>  | <p>Yes. Employees are required to use personal protective equipment, such as wearing face masks and gloves when visiting public places, including elevators, sanitary facilities and eating areas. Personal protective equipment is not mandatory when the employee is in a separate room without the presence of other people.</p>   |

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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Employees are obliged to participate in medical examinations, which are provided by employers, including body temperature tests at the entrance of the office premises and during the work day.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Employees must inform the employer about symptoms of acute respiratory viral infection, pneumonia or COVID-19 infection, including those of persons living in their household. This information should be transferred to the employer regardless if the employee is working in the office or at home. |

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>Employers must ensure that dividing walls are installed between employees and to ensure compliance with social distancing between stationary workplaces. Employers must ensure compliance with Government recommendations. Such recommendations include, among other items, flu vaccination for employees.</p> <p>The regulation of the spread of COVID-19 is a mixture of centralized measures and regional measures. The Russian President has given regional leaders additional powers enabling them to take necessary measures to prevent the spread of COVID-19. Therefore, related COVID-19 restrictions and rules may vary slightly from region to region. For the purposes of this summary, only the requirements applicable to Moscow are listed.</p> |

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | <p>For all jobs in the work environment, employers are obliged to adopt a plan of measures to prevent the occurrence and spread of an epidemic of infectious diseases, which is an integral part of the Risk Assessment Act. Employers also need to harmonize the plan to implement measures during the epidemic with the decisions of the competent authority.</p> <p>The plan to implement measures must contain:</p> <ul style="list-style-type: none"><li>▶ Preventive measures and activities to prevent the outbreak of an infectious disease</li><li>▶ Responsibility for the implementation and enforcing preventive measures and activities</li><li>▶ Emergency action in the case of an infectious disease outbreak</li></ul> <p>Preventive measures must all be implemented before employees return to their workplace. It is necessary that all employees and all visitors to the premises be informed in writing about measures and procedures to prevent the occurrence of infectious diseases.</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>In normal circumstances, employees whose workplace contractually is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a breach of a work duty or breach of the work discipline, upon which an employer may terminate the employment relationship.</p> <p>However, due to Government decree, any such action should be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. Before any return to work, employers are obliged to ensure the safety and health of their employees and a safe environment.</p>  |

## Question



## Response



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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>The physical distance indoors must be at least two meters, which in practice means one person per four square meters of office space.</p> <p>The number of people allowed to participate in public gatherings has also been limited.</p>   |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Yes. Employees are obliged to purposefully use the means and equipment for personal protection at work, and if the physical distance of two meters cannot be achieved in any situation, face masks are mandatory.</p>  |
| 4 | Can employees be required to take a temperature test when entering the office?  | <p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>However, employees' privacy in these situations should be maintained to the extent appropriate and in accordance with the Serbian Law on Personal Data Protection (modeled after the GDPR). Therefore, it is not recommended that such temperatures are recorded anywhere, so as not to breach the rights of persons regarding their personal data (in this case, it is a special type of personal data, which is health-related).</p> |

## Question



## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

Although this is a widespread practice currently (as the employer is responsible for providing a safe and healthy working environment by law and adequate actions need to be taken to safeguard that other individuals are not infected at the workplace), special care must be taken regarding employees' privacy and their rights regarding personal data protection. As data regarding employees and COVID-19 is considered to be a special type of personal data (data concerning health conditions) under Serbian Law on Personal Data Protection, such 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 about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.<br>Direct and indirect discrimination against persons seeking employment, as well as current employees, for health reasons is prohibited under the Employment Law.   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | All legal and regulatory obligations of the employer are covered with the above-mentioned actions.<br>However, if possible, it would be beneficial if the employer could implement the following: <ul style="list-style-type: none"><li>▶ To organize work in shifts, so that fewer employees and all other engaged personnel perform their work at the same time in one room</li><li>▶ To allow all business meetings to be held electronically or via other appropriate means (e.g., video conferencing)</li></ul> |

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

Businesses that are allowed to operate must comply with the following requirements:

- ▶ Employers must ensure that no more than half of their employees (who are able to work remotely) are at the workplace at any point in time
- ▶ Employees whose jobs can be performed from home must continue working from home for at least half their working time

In addition, employers must implement the following measures for every employee when at work:

- ▶ As far as reasonably practicable, employees should be grouped and deployed to work in two or more groups so as to minimize physical interaction between employees in other groups at work or during their permitted work breaks
- ▶ As far as is reasonably practicable, minimize physical interaction between employees in any work space within the workplace
- ▶ As far as is reasonably practicable, every employee should wear a face mask, except where excused by law
- ▶ As far as is reasonably practicable, employees who are required to work in the workplace should not all arrive at and leave the workplace at the same time
- ▶ Any employee who exhibits any flu-like symptoms or is otherwise physically unwell is required to report, immediately upon the onset of symptoms, to their employer, either directly or indirectly through one or more other persons appointed by the employer for the purpose of receiving such a report
- ▶ The employer should take reasonable steps to ensure that there is a distance of at least one meter between any two individuals in the workplace unless otherwise permitted by law
- ▶ Take reasonable steps to ensure that, in any part of the workplace that is not a work space, there are no social gatherings of more than eight individuals

## Question



## Response

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| <p>1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace? (<i>continued</i>)</p> | <ul style="list-style-type: none"><li>▶ Establish and apply appropriate procedures and controls that ensure, as far as is reasonably practicable, every employee is assessed before they enter the workplace to determine whether they have a fever or show any flu-like symptoms</li><li>▶ Refuse workplace entry to any employee whom the employer knows or has reason to believe has a fever or shows flu-like symptoms or subject them to a movement control order if they refuse to comply with any measures mentioned in statement above</li><li>▶ Have appropriate internal policies, procedures and controls to effect a safe and expeditious evacuation of the workplace in the event of the spread of COVID-19 or suspected COVID-19 among employees or other individuals at the workplace</li><li>▶ Ensure that any common areas within the workplace that are used by persons at work or visitors:<ul style="list-style-type: none"><li>▶ Are periodically cleaned within each day</li><li>▶ Have adequate toilet paper, liquid soap or detergent, litter bins and clean towels or hand dryers for non-public restrooms</li><li>▶ Offer easy access to disinfecting agents</li></ul></li><li>▶ Ensure as far as is reasonably practicable that any machinery, equipment or plants at the workplace that are shared by employees at work, even at different times, are periodically cleaned within each day and cleaned and disinfected between shifts</li><li>▶ Ensure that the workplace is cleaned and disinfected as far as is reasonably practicable at the end of daily business and before work restarts after any closure of business at the workplace</li></ul> |
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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace? (*continued*)

- ▶ Have appropriate internal policies and procedures and adequate controls to:
  - ▶ Monitor compliance by the employer and its employees with requirements under the law relating to preventing the spread of COVID-19
  - ▶ Remedy any instances of such noncompliance without delay
  - ▶ Implement recommendations to mitigate any risks identified after conducting an adequate analysis of the risks of COVID-19 infections arising from the employer's business
- ▶ As far as is reasonably practicable, establish and apply appropriate procedures and controls that enable or facilitate contact tracing of every employee entering the workplace

Note that additional requirements apply to certain classes of employees, such as employees in the construction, renovation, and shipyard sectors.

## Question



## Response



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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | Employers can require employees to return to the office, subject to the requirements mentioned in 1(a) above.   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Yes. Please refer to comments in question 1(a).   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Employers must ensure that all personnel at the workplace, including employees, visitors, suppliers and contractors, wear a face mask and other necessary personal protective equipment (as may be required by sector-specific guidelines issued by the Ministry of Manpower or other relevant authorities) at all times at the workplace, except during activities that require face masks to be removed, such as diving, welding or program presenters for broadcasts. However, face masks must be put on immediately after the activity is completed. |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Employers must ensure regular checks for temperature and respiratory symptoms for all on-site employees and visitors, twice daily or where relevant. Employers must be able to demonstrate that these checks are in place during inspections by the relevant authorities.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>Yes. Employees are required by law to declare their health condition to their employers, accompanied by a copy of any medical certificate or test results (if any) without delay after they are diagnosed with any flu-like symptoms or with COVID-19.</p> <p>If a member of the employee's household is diagnosed with COVID-19, that employee will be subject to a movement control measure, such as a quarantine order. Employees are required by law to inform their employers that they have been subject to such a movement control order without delay after becoming subject to it.</p> <p>In addition, before employees or visitors are allowed to enter the premises, employers must ensure that they declare via SafeEntry or other means (e.g., electronic or hard-copy records) that they:</p> <ul style="list-style-type: none"><li>▶ Are currently not under a quarantine order or stay-at-home notice</li><li>▶ Have not had close contact with a confirmed COVID-19 case in the past 14 days</li><li>▶ Do not have any fever or flu-like symptoms</li></ul> |

## Question



## Response

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>Whether an employer can require compulsory COVID-19 vaccination will depend on whether doing so is reasonable and lawful.</p> <p>As the government's current stance on vaccination is that it is recommended but voluntary, it would generally not be reasonable for employers to compulsorily require their employees to take the vaccination. However, the government is reviewing the issue of vaccination of workers in specific workplaces and may provide further guidance in due course.</p>  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>There is no express prohibition in this regard. However, as the government's current stance is that vaccination is not mandatory, there may be a risk that this may constitute a discriminatory hiring practice. Employers must ensure that they recruit and select employees on the basis of merit (such as skills, experience or ability to perform the job) and not based on unrelated factors.</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>Where there are employees who are unable to remote work, employers should review work processes and provide the necessary IT equipment to employees and adopt solutions that enable remote working and online collaboration. The Ministry of Manpower advises businesses to continue to conduct virtual meetings as much as possible.</p> <p>Companies should also pay special attention to vulnerable persons (e.g., those who are age 60 or older and those who are immunocompromised). Arrangements made in respect to such persons could include enabling them to remote work or temporarily deploying them to another role within the company that reduces their potential exposure to COVID-19.</p> <p>Employers should also stagger the start times for employees as much as possible to enable more employees to avoid peak-hour travel. Employers should also allow for flexible workplace hours when possible.</p> |

## Question



## Response

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?                                   | <p>While there are no specific rules that need to be observed due to the spread of COVID-19, standard general rules on employer's obligations apply, which are laid down by the Slovak Labor Code and by the Act on Safety and Health Protection at Work. Employers are obliged to consistently ensure health and safety at work and introduce necessary measures, including prevention, equipment and an appropriate system of work safety.</p> <p>Any employer, regardless of the number of employees, should take appropriate measures against COVID-19 infection at the workplace and evaluate the situation as it develops. 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, and placement of additional protective equipment, such as hand sanitizer, face masks and respirators at the workplace. Other recommendations include: increased disinfection of work areas, ordering employees to remote work, body temperature tests 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.</p> |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>Before the spread of COVID-19, remote work was subject to the agreement between the employer and employee. To minimize the consequences of the spread of COVID-19, an amendment to the Labor Code was adopted, based on which the employer can order remote working and the employee might unilaterally require remote work in the case of a declared emergency or extraordinary state, provided that stipulated conditions are met (such as the agreed type of work allowed from home). Currently, both an extraordinary state and state of emergency are declared in the Slovak Republic. In addition, the government has introduced a curfew for all citizens. Employees who cannot work remotely based on the decision of the employer can attend the workplace during the curfew, however they should have a confirmation from the employer. After 27 January 2021, a negative COVID-19 test will be required as well. After pandemic restrictions are lifted, remote working could no longer be ordered unilaterally. It should be noted that a special amendment to the Labor Code is in the legislation-approval process, therefore the conditions for remote working might be changed in the future.</p>  |

## Question



## Response



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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Generally, employers must minimize the number of employees in the same work space, and where possible, ensure that there is at least two meters of distance between employees or clients. It should be noted that some types of business premises require that only one person (either a customer or an employee) should be located within 10 square meters, such as shopping malls; this condition does not apply to children under the age of 14 accompanied by an adult. If the premises do not exceed 15 square meters, there may be one person (either a customer or an employee) at a given time only, with the exception of children. Employers are also advised to allow employees to work remotely when possible. |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Employees are required to wear face masks in indoor and outdoor spaces. In outdoor places located in a non-urban area, employees must wear face masks if there is less than five meters distance between people.   |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | Employers can require employees to take a temperature test when entering the office. However, except for institutions such as hospitals, there is no general obligation for employers to require temperature tests for employees.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | An employee has a general notification duty toward the employer and an obligation not to act contrary to the employer's legitimate interests. Furthermore, an employee is obliged to ensure their health and safety as well as the health and safety of others. An employee also has a duty to follow instructions from the employer (issued in accordance with law). It is possible employees may have to answer relevant questions regarding their travels to high-risk or restricted areas.         |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?  | Personal data concerning the health of an individual can be processed in accordance with the GDPR and supplemental domestic legislation. Principles of data minimization and proportionality must be maintained. Health personal data triggers extra precautions. Sufficient security measures need to be taken, including control of the access to data. The data must be deleted when no longer needed. In some cases, the employer might be obliged to perform a Data Protection Impact Assessment. |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | Standard labor law requirements as well as safety and health measures for the workplace apply. Employers must ensure a proper level of safety and health standards for employees.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | General social distancing rules apply. Employees should have workstations that are two meters apart.  |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes.  |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | No such mandatory requirements have been laid down yet. However, employers can implement this measure, but they also need to observe data rules set out in the GDPR. |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | Yes, a statement can be required.  |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | No.  |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?   | No.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?  | Not applicable.  |

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

The employer, under the Prevention of Occupational Labor Risks Law is obliged to:

- ▶ Ensure the safety and health at work of its employees
- ▶ Evaluate the risks in workplaces and adopt the appropriate measures to avoid them

These duties are the basis for the comments provided in the questions below. It is important to highlight that the lack of compliance with these obligations in the field of prevention of occupational risks would mean incurring not only administrative or civil liability (derived from damages caused by the infringement) but also criminal liability. Thus, the employer must put great emphasis on ensuring a safe working environment during the COVID-19 pandemic.

1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

According to the management power of the employer set out in article 20 of the Spanish Worker's Statute, the general rule is that employees must work at the office location if the company orders them to do so. In the event employees do not go to the workplace without justification, the company could take disciplinary measures and impose sanctions. In the meantime, please note that if the company forces an employee to provide services at the workplace, the company must comply with the above-mentioned obligation to guarantee the safety and health of employees.

There is, however, an exceptional case in which employees can stop their work activity and leave the workplace if there is a "serious and imminent risk," according to the Prevention and Occupational Risks Law, and as long as the employer has not adopted measures to avoid such risk. However, the courts give a very restrictive interpretation of "serious and imminent risk." In this sense, each individual case must be analyzed to determine whether there is effectively a serious and imminent risk of transmission of COVID-19, taking into account the measures adopted by the workplace.

## Question



## Response



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| 2 | <p>Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?</p> | <p>In principle, no limit has been set regarding the number of employees who can go to the workplace. However, the Spanish Government has made the following recommendations for those companies who have returned to offices:</p> <ul style="list-style-type: none"><li>▶ Tasks and processes must be organized so that employees can maintain a social distance between them of approximately two meters</li><li>▶ If it is necessary, the company must set up different shifts for employees to go to the workplace to avoid a crowded situation</li><li>▶ The entry and exit of employees should be organized through staggered schedules to avoid crowding during the peak hours</li></ul>  |
| 3 | <p>Can employees be required to wear a face mask or other protective gear when visiting the office?</p>  | <p>According to the Ministry of Labor's good practice guide, it is not essential to wear a face mask during the work day if the type of work does not require it, provided that an interpersonal distance is maintained. However, at this stage and given the spread of COVID-19, the employer must evaluate whether there is a risk of infection of COVID-19 in the workplace, and if so, the company will be obliged to adopt the appropriate measures to prevent such risk of transmission.</p> <p>In this sense, it is understood that requiring employees to wear a face mask or any other protective equipment is integrated into an employer's obligation of prevention. Thus, the company can in fact force employees to wear a face mask.</p> |

## Question



## Response



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4 Can employees be required to take a temperature test when entering the office?

### From a labor perspective:

This is a controversial issue, as testing employees' temperature concerns individual health. However, it is possible that it could be carried out on the basis of two obligations for the employer:

- ▶ The employer's obligation to ensure health and safety at work
- ▶ The obligation to periodically supervise the health of employees (which is not always compulsory, but in the frame of COVID-19, it could be considered compulsory)

In any case, the data obtained from these temperature tests must respect data-protection regulations and must comply with the specific purpose of containing the spread of COVID-19, being limited to this purpose and not extended to other purposes.

### From a data-protection perspective:

Taking temperature tests entails the processing of personal data and, therefore, is subject to the provisions laid down in multiple regulations and directives in the European Union. Therefore, all data-protection principles are fully applicable, and the data must be processed in accordance with the above-mentioned data protection regulations.

## Question



## Response



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Can employees be required to take a temperature test when entering the office? (*continued*)

The Spanish Data Protection Agency has stated that this entails a particularly intense interference with the data subjects' rights and has provided some guidance in this regard, as follows:

- ▶ This type of measure must be applied only with the criteria defined by health authorities in terms of usefulness and proportionality.
- ▶ The collection of temperature data must be governed by the principles laid down in the GDPR, especially the following:
  - ▶ Lawfulness (identification of valid grounds under the GDPR) of collecting and using the data is required
  - ▶ The agency provides specific guidance regarding the lawful basis of data-processing in the employment context
  - ▶ Purpose limitation (the data can only be collected and used for the specific purpose of detecting potential diagnosed persons and it cannot be used for any other purpose)
  - ▶ Accuracy from the test equipment must be ensured to register the data in a reliable manner, so certified equipment should be used

In addition, the staff using such equipment must meet the relevant legal requirements and be trained in the use of such.

The agency's guidance is available (in Spanish only) here: <https://www.aepd.es/es/prensa-y-comunicacion/notas-de-prensa/comunicado-aepd-temperatura-establecimientos>

## Question



## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

### From a labor perspective:

In ordinary circumstances, the company cannot force employees who are on leave to say what illness they are suffering from, but given the spread of COVID-19 and in accordance with the employer's duty of ensuring the health and safety of employees, the employer will be allowed to know whether or not employees are infected to design the necessary contingency plans through the prevention service. However, this information should be limited to verify the existence of symptoms or if an employee has been diagnosed with COVID-19 or has been in quarantine, and health data not related to the infection must not be recorded.

Information regarding sickness must always be handled carefully, as well as employees' privacy regarding a COVID-19 diagnosis. Accordingly, information about one diagnosed employee must not be spread to a larger group than necessary. However, if there is a valid reason, such as the need to verify if more individuals who have been in contact with the diagnosed employee, it can be communicated to the strict number of people who are suspected of being infected.

## Question



## Response

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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? (*continued*)

### From a data protection perspective:

It must be noted that health data is classified as a special category of data and its processing must be prohibited unless it can be covered by any of the exceptions included in the GDPR. In this case, such exception can be found in Article 9.2.b of the GDPR (the processing is necessary for the fulfilment of obligations and the exercise of specific rights of the data controller [the employer] and/or the data subject in the field of employment and social security and social protection law, in so far as it is authorized by Union or Member State law or a collective agreement pursuant to Member State law providing for appropriate safeguards for the fundamental rights and the interests of the data subject).

The agency has issued a report on the obligation of controllers to report on workers diagnosed with COVID-19, where the supervisory authority has specifically addressed this issue. According to the agency: "The report recalls the obligation of employers and their staff in the prevention of occupational hazards, and that it is up to each worker to ensure their own safety and health at work and that of those who may be affected by their professional activity due to their acts and omissions at work. This means that staff must inform their employer in the case of suspected contact with COVID-19 in order to safeguard, in addition to their own health, that of other workers in the workplace so that appropriate measures can be taken."

## Question



## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? (*continued*)

According to the agency report, employers are subject to the regulations on the prevention of occupational risks by virtue of which there is a duty for the employer to protect its employees against occupational risks and guarantee the safety and health of all workers at their service. Employees are also subject to certain obligations in this regard. In particular, they must provide for their own safety and health at work and for those of other people who may be affected by their professional activity, in accordance with their training and the employer's directions. Consequently, they must immediately be informed of any situation that may entail a risk to safety and health.

On the other hand, in application of the provisions of occupational risk prevention and occupational medicine regulations, employers may process, in accordance with such regulations and with the guarantees established therein, the data of their employees necessary to guarantee the health of all its employees. This also includes employees other than the data subject to ensure their right to health protection and avoid contagion within the company or workplace. Employers may in all cases process such data in accordance with data-protection regulations.

## Question



## Response

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5(b) Can employers make obtaining a vaccine a condition of continuous employment?

No.

Currently, obtaining the vaccine is voluntary. However, this will not prevent any employer, especially in those sectors most exposed or likely to be most affected by COVID-19, from seeking court direction on a case-by-case basis whether or not to mandate employees to get the COVID-19 vaccine.

Please note that as long as vaccination is voluntary, in principle, failure to vaccinate may not be grounds for justified dismissal.

However, should the regulations change regarding the voluntary nature of the vaccine, or if the usual work activity makes it unreasonable to oppose the vaccine, vaccination could also be imposed by the employer. Should this be the case, the most appropriate way to roll out the employer's vaccination program will not be decided unilaterally by the employer but by the occupational medicine specialists, following a risk assessment of the workforce.

5(c) Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?

No.

Although the employer is free to decide whom to hire, as per comments provided in Q5(b), it cannot be a requirement for hiring. If a candidate is not hired and the basis is the lack of vaccination, this may give rise to a claim for discrimination under Spanish law.

Whether or not a candidate has been vaccinated is a personal choice and such sensitive medical data should not be requested in the selection process.

## Question



## Response



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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Apart from the above, it is important to highlight that companies may take the following actions to avoid future risks related to transmission:

- ▶ Adopt ventilation, cleaning and disinfection measures in the workplaces
- ▶ Provide soap and water to employees or hydroalcoholic gels or similar disinfectants
- ▶ Adapt working conditions to guarantee a distance of approximately two meters between employees
- ▶ Adopt measures to avoid large gatherings of people
- ▶ Consider remote working as a preventive measure and apply it in cases where, because of the type of work performed, it can be implemented

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to COVID-19 pandemic.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |

## Question



## Response

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| 4    | Can employees be required to take a temperature test when entering the office?   | <p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>Given the ongoing pandemic, where COVID-19 is considered to fall under the Communicable Diseases Act (as it has been deemed a disease dangerous to the public), the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Sweden, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p>   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 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 COVID-19. For example, in Sweden, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason – contact tracing, for example – then this can be communicated to such larger group of people.</p> |

## Question



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>A vaccination requirement is an intrusive measure to the bodily integrity and extremely strong reasons are needed to be able to justify such a requirement. It seems unlikely that the employer's interest in vaccinating employees would outweigh the employees' right to their bodily integrity. Therefore, it will generally not be justified for employers to make obtaining a vaccine a condition of continuous employment. Nonetheless, employers can encourage employees to get vaccinated and may even decide to offer employees access to vaccination. Depending on the circumstances, employers may also decide to relocate or adjust the work tasks of employees who are not willing to get vaccinated, in order to ensure a safe work environment. However, an assessment will need to be performed in each individual case.</p> <p>Please note that government employees cannot be forced to take a vaccine, since they are protected from bodily intrusions by way of the Swedish constitution.</p> |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>The starting point is that employers have a free right of employment and can themselves decide on what requirements need to be fulfilled for the recruitment process.</p> <p>Nevertheless, employers will need to consider legal regulations, for example discrimination, before implementing such procedures as part of their recruitment process.</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p>  |

## Question



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| <p>1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?</p>                                   | <p>Irrespective of COVID-19, the employer must have due regard for employees' health and protect their health according to statutory law (see the Swiss Code of Obligations and the Swiss Labor Act). The Federal Council's COVID-19 Ordinance Special Situation further obliges every person to follow the recommendations of the Federal Office for Public Health on hygiene and social distancing, and it obliges operators of publicly accessible businesses to draw up an appropriate precautionary-measures plan. The employer must comply with these recommendations by particularly considering the following basic principles:</p> <ul style="list-style-type: none"><li>▶ Social distancing as well as hygiene measures should be implemented</li><li>▶ People at high-risk must be particularly protected and therefore deployed where the risk of infection is lowest (people at high-risk are those over 65, pregnant women and adults with relevant underlying medical conditions)</li><li>▶ Sick and diagnosed people should be isolated</li></ul> <p>As the COVID-19 pandemic continues, the Federal Council recently announced stricter measures that apply until 28 February 2021 (and potentially may be extended). Among others, remote work is an obligation if the work activity enables it and it is reasonable; employees who cannot work remotely due to any reason must wear a face mask at the workplace.</p> |
| <p>1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?</p> | <p>An employee whose workplace contractually is set to the office location of the employer may in principle be required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>Regarding the employee's personal situation, it is recommendable to consider people at high-risk, such as pregnant women or adults with relevant underlying medical conditions. Depending on the concrete circumstances, it may be advisable to let people at high-risk perform their work off-site (remote work) if possible.</p>  |

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| 2 | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | There is no specific obligation with regard to private spaces. Since a distance of one and a half meters is recommended by the Federal Office of Public Health, if no appropriate protection (such as face masks or plexiglass panes) is used, it is advisable to comply with this recommendation in an open-plan office.   |
| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office?  | <p>Yes.</p> <p>Should the employer assess that this is necessary in order to ensure the health and safety of employees, such measures can be put in place in principle irrespective of the existence of an obligation by law to wear a face mask.</p> <p>The Federal Council recently implemented stricter measures confirming a face mask must be worn at workplace. This measure applies until 28 February 2021 (and potentially may be extended).</p>  |
| 4 | Can employees be required to take a temperature test when entering the office?  | <p>On the one hand, employers have a duty of care toward employees; on the other hand, employees have a duty of loyalty toward the employer, which is accompanied by a certain duty to cooperate. This suggests that employees may be asked to take a temperature test when entering the office. However, this affects the personal integrity of an employee. The employer's interest in ensuring employee health and safety generally outweighs an employee's right to privacy in this respect. As a result of the spread of COVID-19, it is in principle possible to request employees to take a temperature test.</p> <p>The employer can provide appropriate clinical thermometers (taking into account all hygiene regulations and recommendations) or even install a special camera in the entrance area. All relevant data-protection regulations must be complied with in order to implement such measures.</p> |

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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

As a result of the spread of COVID-19 and the employer's obligation to provide a safe and healthy working environment, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an employee obligation to inform the employer whether they are infected or are at risk of being infected. This applies according to the employees' duty of loyalty, which forms part of the employment relationship.

Employees' privacy in respect to COVID-19 should nevertheless be maintained to the extent possible or appropriate. Therefore, it is important to comply with all relevant data-protection regulations as well in this regard.

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | According to the law, employers have the right to issue instructions that must be followed, in principle, if they are issued in good faith and reasonable. However, the obligation to obtain a vaccine affects an employee's personal and physical integrity and can therefore not reasonably be made a condition of continuous employment. Statutory law however, provides for mandatory vaccination being imposed by the responsible cantonal authorities where there is a significant medical/epidemiological risk, and with regard to particularly high-risk activities or employees (e.g., health sector). Only in these extraordinary cases may a mandatory vaccine instruction be justified. However, individual circumstances must always be considered. |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | Employers cannot, in principle, make having obtained a vaccine a condition of employment, especially because questions regarding personal and physical integrity must not, in principle, be asked in job interviews or any similar forum. Depending on the individual circumstances, obtaining a vaccine may only be made a condition of employment in extraordinary cases as described above (significant epidemiological risk / particularly high-risk activities or employees).   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>Based on its duty of protection, the employer is responsible for protecting employees' health. Therefore, the employer must comply with all regulations and recommendations by the Federal Office of Public Health as well as further measures by the canton (if any) at all times if possible.</p> <p>Against this background, it may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. Once back in the office, it may be suitable to implement social-distancing guidelines at the workplace by blocking certain workspace and limiting the number of people that gather in small spaces.</p>   |

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## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' work environment to mitigate risk factors.   |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no such legal limitations for private spaces.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.  |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.   |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. |

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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | No.<br>Obtaining a vaccine cannot be a condition of continuous employment, and there is no related discussion yet on whether obtaining a vaccine can be a condition of employment in the case of new recruitment. |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.<br>Please refer to comments provided in Q5(b).  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | None. Currently most of companies in Taiwan do not implement a work-from-home policy, considering the low daily cases in the jurisdiction.  |

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## Response



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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

Employers are obliged to ensure occupational health and safety in the workplace according to the existing legislation. The main obligation of employers under Turkish law is to protect employees. The protection has a general meaning and covers both physical and moral protection. Following the spread of COVID-19, the main extension of the obligation to protect includes making sure employees remain healthy.

To mitigate risk factors, employers must regularly evaluate and follow up on physical conditions, such as:

- ▶ Whether the air-conditioning is sufficient
- ▶ Whether there is enough area for each employee to work while preserving social distancing
- ▶ Making sure the workplace and the employee services (if any) has sufficient hygiene standards
- ▶ Providing face masks to employees and ensuring the use of them
- ▶ Measuring the temperature of the employees before permitting entrance to the workplace

## Question

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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes attending the workplace, this may legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>As per measures published by the Ministry of Family, Labor and Social Security and the Ministry of Health, employers must ensure that employees in vulnerable groups are able to work remotely, if possible, and employees with symptoms such as fever, cough, runny nose, and shortness of breath should not attend the workplace. The following groups are still subject to a curfew:</p> <ul style="list-style-type: none"><li>▶ Persons under the age of 20</li><li>▶ Persons over the age of 65</li><li>▶ Persons having a compromised immune system, chronic lung disease, asthma, chronic obstructive pulmonary disease (COPD), hypertension or cardiovascular, kidney or liver disease</li><li>▶ Those on immuno-suppressant medication</li></ul> <p>Flexible working methods, such as remote working and rotational work, may be applied to those working in public institutions and organizations regardless of the way they are employed.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | Yes. Employee and customer plans should be made to limit one person per four square meters in the workplace. Social distance (at least one meter or three to four steps) should be kept between employees in side-by-side seating areas and customers. In face-to-face seating arrangements a separator screen needs to be placed between the personnel or one and a half meters distance should be kept.   |

## Question



## Response



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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes. All employees should wear face masks in accordance with the rules, the face mask should be changed as it gets moist or dirty, and hand disinfectant must be used before and after its replacement.

Moreover, with additional communications from the Ministry of Internal Affairs, citizens are obliged to wear face masks without exception in all areas. These areas include (with the exception of residences):

- ▶ Public areas
- ▶ Avenues
- ▶ Streets
- ▶ Parks
- ▶ Gardens
- ▶ Picnic areas
- ▶ Beaches
- ▶ Public transportation vehicles
- ▶ Workplaces
- ▶ Factories

## Question



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| 4    | Can employees be required to take a temperature test when entering the office?   | Yes. Temperatures of employees should be measured with a non-contact thermometer before starting work, and those with fever should be directed to the workplace doctor (if not to a health institution) within the scope of the employer's obligation to protect employees.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | <p>Yes. As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. As a further approach, and as this issue pertains to the general health of the employees and the workplace, the Ministry of Family, Labor and Social Security announced that employers shall follow up those employees who have recently travelled abroad.</p> <p>At this point, it is important to emphasize that due to the law on protection of personal data, it is not possible for the employer to alert employees by naming a diagnosed individual. However, the employer must detect specific employees that the diagnosed individual had contact with within the last two weeks before diagnosis and make sure they do not have any more contact with other employees. The employers also must alert all employees that an anonymous employee is diagnosed with COVID-19 and direct them on what to do if they feel symptoms. Depending on specific circumstances, the employer may require all employees to be medically assessed and even consider closing down the facility for a certain period of time.</p> |
| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?   | <p>No.</p> <p>The national vaccination program has started primarily with health care personnel. Then, it will continue according to the "vaccine group ranking" determined by the Ministry of Health. Therefore, it is not possible for people to voluntarily obtain a vaccine.</p>   |

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| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | No.<br>Please refer to comments provided in Q5(b).  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>The decision to call employees back to the workplace must be evaluated with reference to the physical conditions of the workplace, total number of employees and other factors. As it could be dangerous for employees' health, it may not be suitable for all employees to return to work at the same time. Currently, a gradual opening is generally preferred by employers where each employee is allocated one or a few days in the workplace.</p> <p>During such gradual opening, it is necessary to apply social-distancing rules and compulsory face mask use, place hand disinfectants in suitable places throughout the workplace, ensure that employees pay attention to hand hygiene, ensure regular cleaning with water and detergent every day in the workplace and frequent ventilation by opening doors and windows, and update risk assessments and emergency plans, taking into account the spread of COVID-19. A preparatory team should be established as well. This team is committee in the workplace that may include the workplace physician, an occupational safety specialist and other health personnel, an employee representative, and if possible, persons who have received first-aid training. This team must carry out necessary studies on the measures to be taken, including hygiene and cleanliness in the workplace, coordinate internal and external communication, and keep the emergency plan updated.</p> |

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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | <p>According to the Ukrainian labor code, one of the employer's legal obligations is to maintain a healthy and safe work environment for its employees, especially during a pandemic. While planning for a return to the office, an employer should follow the COVID-19-related recommendations and instructions provided by the Ministry of Health of Ukraine. These restrictions include the implementation of general safety rules, namely:</p> <ul style="list-style-type: none"><li>▶ Distancing guidelines</li><li>▶ Limiting the number of people that can gather in common areas</li><li>▶ Establishing an obligation to wear protective gear in common areas</li></ul>            |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>The Governmental recommendation to employers, which is not an obligation, is to transfer employees to work remotely whenever possible during the pandemic.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>The distance between workplaces must be at least one and a half meters. Visitors may be allowed in the office under a prior registration and on the condition of one visitor per 10 square meters.</p>  |

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| 3 | Can employees be required to wear a face mask or other protective gear when visiting the office? | Yes. The Ministry of Health recommendations state that employees must wear protective gear to prevent the spread of COVID-19 at the workplace; such a requirement can be put in place by means of employers' local policies.  |
| 4 | Can employees be required to take a temperature test when entering the office?                   | Yes. Appropriate actions are required to prevent the spread of COVID-19 at the workplace. According to the Ministry of Health recommendations, temperature screenings should be established in the office (employees will be not allowed to enter the office if their temperature is higher than 37.2°C). |

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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

As the employer is obliged by law to provide a healthy and safe work environment, appropriate actions should be taken to prevent the spread of COVID-19 at the workplace. This also includes employees' obligation to inform the employer whether they have been in close contact with a diagnosed person or are at risk of being infected. At the same time, employees' privacy should be maintained to the extent appropriate without risking the harm of other employees in the organization.

As it was recommended by the Ministry of Health, employees are allowed to enter the office only under condition of their prior registration. This requirement allows employers to track the potential spread of the disease if some employees turn out to be infected.

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>There are currently no employment-related regulations or requirements regarding the vaccination of employees.</p>   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>Please refer to comments provided in Q5(b).</p>   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>The exact requirements for soft openings are not prescribed by the law. The employer should design the exact action plan according to local policies, bearing considerations on providing employees a safe environment.</p> <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> |

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## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for preserving the health and safety of its employees in the workplace and has an obligation to continuously evaluate the work environment and act on potential risks. The spread of COVID-19 is an ongoing and obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken.

Provisions already existed in federal law to protect employees while at work (notably, the Federal Ministry of Labour Resolution No. 32 of 1982 on determining prevention means and measures to protect workers from work hazards), imposing general obligations on employers, including providing sanitary facilities and a safe workplace layout (passageways, surfaces, staircases, etc).

Employers should engage competent staff and provide all employees with information about COVID-19, its symptoms and procedures to follow to prevent its spread. This information should be in accordance with the instructions issued by the Ministry of Health and Prevention as updated from time to time. The Dubai COVID-19 Command and Control Centre has issued guidelines on the Dubai Health Authority's website for employers to follow to maintain the health of employees at the workplace. These include:

- ▶ Providing sufficient amounts of hand sanitizer, disposable face masks and recommended cleaning supplies in the workplace
- ▶ Preparing educational posters in languages that workers understand on preventing the spread of COVID-19, identifying and defining safety and hygiene measures
- ▶ Preventing employees from performing work tasks collectively unless necessary and ensuring physical-distancing measures
- ▶ Outlining clear seating arrangements for office workers with necessary distance of at least two meters apart, reducing crowding by regulating entry and exit to the work premises, staggering shifts and meal breaks, and keeping teams apart
- ▶ Sterilizing employer-provided transportation carefully every day and providing hand sanitizer at bus stops for workers to use upon boarding
- ▶ Sterilizing all the facilities of employer-provided labor housing thoroughly and providing screening points to measure workers' temperature at the entrances and exits of labor housing

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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? | <p>These rules have been changing frequently following the government's reopening of the majority of the UAE's economic sectors in May 2020 and vary across the Emirates and free zones, as well as sectors. In general, most businesses are now allowed to fully reopen, though it is observed that many employers with employees who can work remotely <b>permit</b> them to do so. However, if employers want their employees to return to the office, requiring them to return to work must be a reasonable instruction, provided the employer has taken all measures to ensure a safe workplace. Under Article 4 of Ministerial Resolution 281 of 2020 which is still in force, employers are required to follow appropriate measures (over and above those mandated for all employees) by giving the following employees a priority right to work remotely:</p> <ul style="list-style-type: none"><li>▶ Employees who are aged 55 and above</li><li>▶ Pregnant employees</li><li>▶ Those with respiratory or chronic diseases or a disability</li><li>▶ Mothers of children in the ninth grade and below</li></ul> |
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Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

▶ **Dubai:**

In June 2020, the Dubai Supreme Committee of Crisis and Disaster Management announced that shopping malls and private sector businesses in Dubai were permitted to resume normal operations. In addition, many government offices resumed operating during their normal working hours but at lower staffing levels.

▶ **Dubai International Financial Centre (DIFC):**

In DIFC, one of the key Free Zones in Dubai, the DIFC Authority announced that from 11 June 2020 that DIFC entities were also able to resume normal operations while maintaining social distancing and hygiene rules. Precautionary and social distancing measures must remain in place and employers should comply with the Dubai Health Authority Guidelines to maintain the health of employees.

▶ **Abu Dhabi:**

The Abu Dhabi Emergency and Crisis Committee for the COVID-19 pandemic, on the other hand, took a stricter approach in the initial months of the pandemic as it permitted private sector employees to return to work subject to offices limiting capacity by reference to certain thresholds. However, the Committee announced on 22 December 2020 (via WAM, the UAE's official news agency) that it had approved increasing the operational capacity of economic, tourism and entertainment activities to the possible optimal in accordance with the approved precautionary measures. These include shopping and entertainment centers, restaurants and nurseries. The current advice is that private sector employees suffering from respiratory conditions and other immuno-compromising illnesses should continue working remotely.

## Question



## Response



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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes. Employees must wear a face mask at all times. The UAE attorney general's office has issued a circular in September 2020 that, should employees not wear face masks in the office, the employer could be fined AED 5,000 and employees will face a fine of AED 500. While there is little information available regarding how these fines have been applied in reality, employers should take a best-practice approach and ensure the safety of their employees at all times by mandating a face mask-wearing policy in the office.

While business operations are being resumed, there is an abundance of guidance to follow. For example, offices and businesses should restrict the use of communal kitchens and canteens on the premises in compliance with permitted occupancy percentage. Everyone must continue to wear face masks and exercise social distancing. Offices and commercial businesses must take measures to enable social distancing within the workplace.

Policies need to be in place for employees, and establishments need to have proper signage indicating the rules and procedures to follow. Establishments are required to have markings on the floor to indicate social distancing, such as in elevators and retail stores, and other requirements, such as signage outside of establishments to indicate the maximum capacity allowed inside. These rules are changing frequently as the UAE adapts to fully reopening.

## Question



## Response



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4

Can employees be required to take a temperature test when entering the office?

Yes. Employers are, in fact, required by law (Article 2B of Ministerial Resolution 281 of 2020) to take the temperature of employees, and COVID-19 symptoms can be checked twice daily:

- ▶ In the morning before heading to the workplace or when the worker arrives there
- ▶ In the evening, after the worker leaves the workplace or arrives at the workers' accommodation

Employees with suspicious cases must be prohibited from going to work or from entering the workers' accommodation. They must be referred to health facilities to take the necessary measures. Please refer to Q5 for additional details.

This testing requirement goes even further with government employees. The Federal Authority for Government Human Resources (FAHR), in its Circular 02 of 2021, announced that, effective from 17 January 2021, all employees of Ministries and Federal Entities must undergo a Nasal Swab Test (PCR) every 14 days, at the employee's own expense. An exception is made for employees who have received the COVID-19 vaccine, or employees who have a medical report/certificate approved by the health authorities indicating that they cannot receive the COVID-19 vaccine due to their health status. This rule extends to any sub-contracted parties if their employees are required to visit the Federal Entity's workplace to attend meetings, discussions and other tasks according to the contract. The Federal Government Entity must ensure that the employees of these sub-contractors present a valid negative PCR test no more than three days prior to attending the Federal Entity. This could be construed as an indirect method of ensuring employees obtain the vaccine.

## Question



## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

According to the UAE attorney general's September circular, an individual who is diagnosed with COVID-19 is strictly required to submit to either mandatory hospitalization or home quarantine according to the treatment prescribed by the relevant health care practitioner. They would be under threat of penalties, including fines of up to AED 50,000 if the individual is found to have breached these rules. There are more severe penalties under the UAE Federal Law No. (14) of 2014 On Control Of Communicable Diseases, which include imprisonment.

Under Article 2 of UAE Cabinet Resolution No. 24 of 2020 (on the dissemination and exchange of health information related to communicable diseases and epidemics, and misinformation related to human health, any individual diagnosed with COVID-19 must notify the Ministry of Health and Prevention, the health authority or the Ministry of the Interior by the means specified by these bodies. These authorities should then investigate and take the necessary measures to ensure the health of the community.

With respect to employees who have been provided with written clearance from the health authorities that they are no longer infectious and therefore do not pose a threat to the public health, such individuals should, strictly speaking, be under no obligation to disclose to their employer that they were, in the past, diagnosed with COVID-19 unless they are required to explain their absence from work, or if the local authorities require them to disclose this fact to the employer. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the safety 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 COVID-19. As for employees who have been exposed to a diagnosed individual or traveled to a high-risk country, 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.

## Question



## Response

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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? (*continued*)

Employees have a statutory duty under the UAE Labor Law not to endanger the health or welfare of their colleagues in the workplace and to comply with reasonable instructions or requests from their employers. Logically this may require employees to volunteer crucial (even if personal) information that could reveal possible exposure to COVID-19 to the extent such exposure could impact their colleagues. An employer may take actions, including disciplinary actions, when an employee fails to comply with instructions regarding safety of the workplace. Therefore, employers should be able to ask employees to confirm and specify whether they have or live with someone who has COVID-19, and where they have recently traveled, to assess the level of risk to the workforce. Additionally, employers are 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, there is currently no legal obligation for the employer to inform all employees, customers and any third parties (such as visitors to the employer's premises) of this information, so while the employer has a duty to inform the authorities about any confirmed cases of COVID-19 among its workforce, it has the discretion to decide whether to disclose this information internally 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 and the public interest in avoiding the spread of COVID-19. The identity of the employee should not be disclosed, to the extent possible. The UAE attorney general's office stated in its September 2020 circular that there would be a fine of AED 20,000 for those who "compile, broadcast, publish, reveal, transfer or send medical data or information of patients or those who have undergone treatment or medical tests at health care authorities."

Employers should use good judgment and try to be reasonable in such situations, ensure they communicate effectively with their employees and should take a best-practice approach and be able to evidence that the procedure they followed was reasonable in the circumstances.

## Question



## Response

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5(b) Can employers make obtaining a vaccine a condition of continuous employment?

While many private companies are now organizing mass vaccination drives for thousands of their employees, currently there is no Federal Law mandating that employees must be vaccinated. Employers do not currently have a statutory right to require employees to obtain the vaccine. If this becomes a mandatory legal requirement from the UAE government in the future, this position may change but at present any dismissal by an employer of an employee who refuses to vaccinate would amount to an arbitrary dismissal and the employer would likely need to pay the employee up to three months' full pay as compensation. If an employee was compelled to take the vaccination and did not wish to do so, the option of resigning and seeking compensation through the courts is open to them but, as above, the potential compensation is limited to three months' pay.

There has been some media commentary from certain local employers indicating that they will, in the near future, not let anyone into the office until they have been vaccinated. This will arguably impose a requirement on many employees to obtain a vaccination if their presence in the workplace is required (i.e., they cannot work remotely) before they can resume work.

However, note the FAHR requirement referred to in Q4, whereby government employees must undergo a PCR test every 14 days at their own expense if they do not take the vaccine. There is an argument that by taking this approach, employees are required to obtain a vaccine, to avoid significant time and expense of repeatedly undertaking the PCR test every 14 days. Some media commentary suggests that exceptions may be introduced for certain industries (such as education, health/medical, personal care, tourism, hotels, airports, air travel, restaurants, etc.,) where employers will be permitted by law to mandate vaccination for their workforce. Alternatively there is an adoption of a "best-practice" approach by other employers to allow free and easy access to vaccines for their employees. For example, the employer may permit an employee a paid day off to take the vaccine, or arrange on-site vaccinations in conjunction with an approved health care provider, or the mass vaccination drives mentioned above.

## Question



## Response



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|------|---|---|
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | Just as employers cannot discriminate and require employees to obtain a vaccination or risk losing their job, they equally cannot discriminate against candidates or hold a job opportunity from them for not obtaining the vaccine. However, it could be argued that if the approach taken by the government in relation to public sector workers (i.e., requiring a negative PCR test at the employee's expense every 14 days if they do not have the vaccine) is rolled out by some private companies too, then some candidates may be precluded from job opportunities with those employers.  |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>Restrictions on numbers of passengers in private cars have been reduced. In May/June 2020, occupancy of company transportation was restricted to a maximum of 50% capacity, which is based on the number of seats in the transportation. It is unclear whether this restriction has been lifted. Social distancing of two meters should also be maintained at all times in public places, unless they are members of the same household. Large events, parties and gatherings are still banned, and anyone found hosting or attending one will be heavily fined. In the more severe cases, they will be publicly named and shamed. Mosques and other places of worship as well as nurseries, schools and universities have started to reopen. Updates will be made in relation to the effect of this on the UAE's case numbers.</p> <p>It should also be noted that Article 4 of UAE Federal Law No. (14) of 2014 On Control Of Communicable Diseases already imposes a personal duty on individuals not to transmit communicable diseases (even if they are asymptomatic). This includes not traveling if they suspect they are infected, seeking medical treatment if they have symptoms of COVID-19, and not deliberately transmitting the disease, such as by going out of their home unnecessarily or by breaking mandated quarantine. UAE Ministry of Health and Prevention Ministerial Resolution No. (232) of 2020 added COVID-19 (and MERS) to the schedule of communicable diseases subject to the above legislation. The stated penalties are up to five years imprisonment and AED 50,000 to 100,000 fine.</p> |

## Question



## Response

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6 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

FAHR announced in circular 02 of 2021 that in joint cooperation with the Ministry of Health and Community Protection, the COVID-19 vaccine will be provided free of charge in all Ministry health centers in all Emirates, as well as health centers of the Department of Health in Abu Dhabi, in addition to a number of private hospitals in the state.

On 7 January 2021, the DHA announced the availability of the Pfizer-BioNTech vaccine at seven DHA facilities in Dubai. The vaccination program is targeting four main categories;

- ▶ Senior citizens who are 60 years old and above, people with chronic diseases and specific others
- ▶ Front line workers in both the public and private sectors
- ▶ Key sector workers
- ▶ The fourth category will be open to all those who wish to obtain the vaccine, based on approved international and local protocols

The DHA highlighted that priority will be given to the first three categories and that the vaccination will be open to the fourth category in the near future. UAE residents and nationals are eligible.

*The UAE comprises seven emirates and approximately 45 Free Zones. Federal laws (including the labour law and Government mandated precautionary measures against the spread of COVID-19 apply to companies operating in the mainland of each emirate. Some Free Zones have their own distinct regulatory regime (DIFC, for example) whereas other Free Zones largely adhere to the federal law. Where the Free Zones have not issued their own guidance or regulations on a particular employment, health and safety, or hygiene matter arising from the COVID-19 pandemic, the federal law will apply by default. This advice is provided according to federal laws and regulations as well as Dubai and Abu Dhabi Emirate laws as they are applicable to expatriate employees in the private sector. In addition, while it is not possible to provide an analysis of every Free Zone regime in such a short summary, some examples of how the Free Zones differ have been identified.*

## Question



## Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors.

Section 2 of the Health and Safety at Work Act 1974 provides that employers must:

- ▶ Provide safe systems of work and working equipment
- ▶ Provide relevant information, instruction, supervision and training
- ▶ Provide a safe working environment
- ▶ Make arrangements for workers' welfare at work
- ▶ Prepare and revise risk assessments

Further, employers need to be able to show that they have discharged their duty of care, therefore risk assessments should be completed and reviewed by a health and safety or office manager.

## Question



## Response

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| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | <p>An employee whose workplace contractually is set to the office location of the employer can be required to work from this location. As such, if an employee refuses to return to the office, it may legally be regarded as a refusal to work, and an employer may be able to take disciplinary action. However, employers should be mindful of the needs of the vulnerable and those who are protected by discrimination law.</p> <p>Furthermore, taking disciplinary action for a refusal to return to work presents risks when employees have more than two years' service, thus the ability to claim for (constructive) unfair dismissal. It is unlikely that disciplinary action due to unauthorized absence will be considered to be fair if the employee has legitimate concerns about returning to work, and if the employer has failed to take steps to understand and remedy those concerns.</p> <p>If there is no right for employees to remote work, it is open to employees with six months or more service to make a formal flexible working request to remote work, and their employer will be legally obliged to consider that request in a reasonable manner, discuss it with the employee and reach a decision within three months.</p> |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | <p>No. There are no such legal limitations. However, employers will need to follow the UK Government guidelines on returning to work, including the specific guidance issued for sectors.</p>   |

## Question



## Response



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3 Can employees be required to wear a face mask or other protective gear when visiting the office?

Face coverings must be worn by retail, leisure and hospitality staff working in areas that are open to the public and where they are likely to come into contact with a member of the public. This includes:

- ▶ Shops
- ▶ Supermarkets
- ▶ Bars
- ▶ Pubs
- ▶ Restaurants
- ▶ Cafes
- ▶ Banks
- ▶ Estate agents
- ▶ Post offices
- ▶ Public areas of hotels and hostels

For other indoor settings, employers should assess the use of face coverings on a case-by-case basis depending on the workplace environment, other appropriate mitigations they have put in place and whether reasonable exemptions apply.

## Question



## Response



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4 Can employees be required to take a temperature test when entering the office?

The legal issues involved in testing temperatures at work are complex and involve data-protection laws. The Government's detailed guidance does not address general workplace temperature testing, so the decision is left to employers in many cases.

Should the employer assess that this is necessary to ensure the health and safety of employees, such measures may be put in place by means of policies. Given the employer's duty of care toward the health and safety of its employees, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.

It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 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 COVID-19.

## Question



## Response



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5(a) Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

No. Employees are not obliged by law to disclose information to their employer about where they have been or their exposure to COVID-19, or be required to provide health information.

Aside from applicable obligations under employment law, any personal data that an employer processes must also be processed in line with the applicable privacy requirements. Information about an employee's health (such as whether the individual has been diagnosed with COVID-19 or is suffering from any symptoms) is sensitive personal data, and additional requirements and obligations will therefore apply to the processing of such data in accordance with the GDPR.

Employers may consider collecting health information from employees as part of its approach to maintaining a safe workplace. Employers must take care to keep data-protection requirements firmly in mind when considering whether or how to collect, process and retain health information.

## Question



## Response

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5(b) Can employers make obtaining a vaccine a condition of continuous employment?

Under current United Kingdom legislation, there is no statutory right for employers to compel their employees to be vaccinated. If employers do try to impose vaccination upon their staff as a compulsory condition of employment, the legal issues are likely to be:

- ▶ Potential personal injury claims if vaccine side effects appear in due course
- ▶ Potential human rights infringement, on the basis that a mandatory vaccination policy could be considered an invasion of an individual's privacy
- ▶ Discrimination claims on grounds of disability, age, pregnancy/maternity and/or religion and belief, where the refusal to be vaccinated is because of the employee's protected characteristic
- ▶ Potential unfair dismissal claims or constructive unfair dismissal if employers dismiss or discipline employees for refusing a vaccination

Employers are instead likely to rely on the concept of "lawful and reasonable instruction", in order to require vaccination. Employers can fairly dismiss an employee who has refused to follow a reasonable instruction. The question of what is reasonable will be sensitive for each and every workforce and workplace, and is dependent on the risk and implications of COVID-19 in the particular setting. Therefore, the higher the risk a non-vaccinated person in the workplace presents to themselves and others, the more reasonable the requirement to have the vaccination becomes.

For example, employers in the care sector may be able to issue a reasonable instruction to employees to obtain a vaccination, because refusal could put vulnerable people at risk. On the other hand, employers in non-healthcare sectors arguably do not have a similar strong rationale for instructing their workforce to obtain a vaccination, particularly where it has been shown that their work can be done effectively on a remote basis.

It should also be noted that even where the instruction is reasonable, the dismissal process must be fair. Each case is considered on its own merits.

## Question



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| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | A specific provision regarding vaccination may be introduced in the employment contract, in case employers want to make this condition mandatory for their new employees. However, it must be noted that even with a clause in the employment contract, a vaccination cannot be administered to an employee without their consent. Furthermore, an employer must proceed with caution as this requirement carries significant risks, taking into account, the potential human rights argument and discrimination issues set out in Q5(b).   |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased, where each employee is allocated one or a few days in the office or at the workplace. Employers will need to ensure all workers understand the COVID-19-related safety procedures.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and any applicable collective bargaining agreements. This will include carrying out risk assessments, making hygiene and cleaning arrangements and implementing social distancing measures by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such return should also involve appointed safety representatives, if any.</p> |

## Question



## Response



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| 1(a) | Which legal requirements must be observed by an employer when planning for a return to the workplace?   | The employer is required to implement measures to ensure safety and hygiene at the workplace and appoint employees in charge of supervision of the implementation of such measures.  |
| 1(b) | Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?                                     | The employee is required to work at the location as indicated in the labor contract. Off-site working is only permitted if there is mutual agreement between the employer and the employees.   |
| 2    | Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? | No. There are no statutory limitations for private spaces.   |
| 3    | Can employees be required to wear a face mask or other protective gear when visiting the office?  | The use of face masks is compulsory only in the public areas. Thus, should the employer assess that this is necessary to ensure the health and safety of employees when visiting the office, such measures can be put in place by means of policies. |

## Question



## Response



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| 4    | Can employees be required to take a temperature test when entering the office?   | The measurement of body temperature is also compulsory in public areas. Thus, should the employer assess that this is necessary to ensure the health and safety of employees when entering the office, such measures can be put in place by means of policies.  |
| 5(a) | Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? | There is no statutory requirement for the employee to disclose information relating to COVID-19 to the employer. However, for the purpose of providing a safe and healthy working environment, the employee is obliged to comply with the measures for safety and hygiene at the workplace issued by the employer. As such, employees may be requested to inform the employer whether they have been exposed to the risk of infection to safeguard individuals from infection at the workplace. |

## Question



## Response



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| 5(b) | Can employers make obtaining a vaccine a condition of continuous employment?  | <p>No.</p> <p>Under Vietnamese laws, there is no regulation on mandatory COVID-19 vaccination.</p> <p>In the case of continuous employment, the employers cannot impose vaccination as a condition. If employers terminate employment due to a lack of COVID-19 vaccination, this may be deemed as illegal unilateral termination.</p>   |
| 5(c) | Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?  | <p>No.</p> <p>In the event of new recruitment, the vaccination requirement should be regulated as one of the obligations of the candidate, rather than a condition of employment. Under Vietnamese law, the labor contract must be executed based on a voluntary basis and based on equality, good faith and cooperation between the employee and the employer. Thus, if the employer imposes any disadvantageous condition for the candidate in such a labor contract, it will be deemed as non-compliant with the law.</p> |
| 6    | Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening? | <p>Preventive measures may be taken at the employer's discretion for the well-being of employees at the workplace. For example, employees may be requested to wear face masks in offices and public areas, regularly clean hands and maintain social distancing, such as staying at least two meters from other people both in indoor and outdoor areas.</p>   |

# EY Global Labor and Employment Law contacts

For more information,  
please contact:

EY Global Labor and Employment Law Leader  
**Paula Hogéus**  
Direct: +46 8 520 599 99 | Mobile: +46 72 503 80 85  
[paula.hogeus@law.se.ey.com](mailto:paula.hogeus@law.se.ey.com)

|  |   |   |  |   |
|--|---|---|--|---|
| <b>Albania</b><br>Soena Foto<br><a href="mailto:soena.foto@al.ey.com">soena.foto@al.ey.com</a><br>Krisela Qirushi<br><a href="mailto:krisela.qirushi@al.ey.com">krisela.qirushi@al.ey.com</a>                | <b>Bolivia</b><br>Juan Pablo Vargas<br><a href="mailto:juan.vargas@bo.ey.com">juan.vargas@bo.ey.com</a><br>Adrián S. Bellot Rollano<br><a href="mailto:adrian.s.bellot.rollano@bo.ey.com">adrian.s.bellot.rollano@bo.ey.com</a>   | <b>Cyprus</b><br>Demetris Kailis<br><a href="mailto:demetris.kailis@cyllaw.ey.com">demetris.kailis@cyllaw.ey.com</a><br>Tania Tofaridou <a href="mailto:tania.tofaridou@cyllaw.ey.com">tania.tofaridou@cyllaw.ey.com</a><br>Charalambos Prountzos<br><a href="mailto:charalambos.prountzos@cyllaw.ey.com">charalambos.prountzos@cyllaw.ey.com</a> | <b>France</b><br>Roselyn Sands<br><a href="mailto:roselyn.sands@ey-avocats.com">roselyn.sands@ey-avocats.com</a>                       | <b>Hong Kong</b><br>Lynia Lau<br><a href="mailto:lynia.lau@eylaw.com.hk">lynia.lau@eylaw.com.hk</a>                     |
| <b>Argentina</b><br>Javier Sabin<br><a href="mailto:javier.sabin@ar.ey.com">javier.sabin@ar.ey.com</a>   | <b>Brazil</b><br>Tatiana Carmona<br><a href="mailto:tatiana.carmona@br.ey.com">tatiana.carmona@br.ey.com</a>  | <b>Czech Republic</b><br>Barbora Sucha<br><a href="mailto:barbora.sucha@cz.eylaw.com">barbora.sucha@cz.eylaw.com</a>  | <b>Gabon</b><br>Fatima-Kassory Bangoura<br><a href="mailto:fatima-kassory.bangoura@ga.ey.com">fatima-kassory.bangoura@ga.ey.com</a>    | <b>Hungary</b><br>Gábor Jagicza<br><a href="mailto:gabor.jagicza@hu.ey.com">gabor.jagicza@hu.ey.com</a>                 |
| <b>Australia</b><br>Andrew B. Ball<br><a href="mailto:andrew.ball@au.ey.com">andrew.ball@au.ey.com</a>   | <b>Bulgaria</b><br>Rebeka Kleytman<br><a href="mailto:rebeka.kleytman@bg.ey.com">rebeka.kleytman@bg.ey.com</a>  | <b>Denmark</b><br>Julie Gerdes<br><a href="mailto:julie.gerdes@dk.ey.com">julie.gerdes@dk.ey.com</a><br>Kristina Juul Nielsen<br><a href="mailto:kristina.j.nielsen@dk.ey.com">kristina.j.nielsen@dk.ey.com</a>   | <b>Georgia</b><br>George Svanadze<br><a href="mailto:george.svanadze@ge.ey.com">george.svanadze@ge.ey.com</a>                          | <b>India</b><br>Anirudh Mukherjee<br><a href="mailto:anirudh.mukherjee@pdslegal.com">anirudh.mukherjee@pdslegal.com</a> |
| <b>Austria</b><br>Helen Pelzmann<br><a href="mailto:helen.pelzmann@pglaw.at">helen.pelzmann@pglaw.at</a><br>Gloria Ecklmair<br><a href="mailto:gloria.ecklmair@eylaw.at">gloria.ecklmair@eylaw.at</a>        | <b>Canada</b><br>David Witkowski<br><a href="mailto:david.witkowski@ca.ey.com">david.witkowski@ca.ey.com</a>  | <b>Dominican Republic</b><br>Thania Gómez<br><a href="mailto:thania.gomez@do.ey.com">thania.gomez@do.ey.com</a>   | <b>Germany</b><br>Bärbel Kuhlmann<br><a href="mailto:baerbel.kuhlmann@de.ey.com">baerbel.kuhlmann@de.ey.com</a>                        |   |
| <b>Azerbaijan</b><br>Arzu Haijyeva<br><a href="mailto:arzu.haijyeva@az.ey.com">arzu.haijyeva@az.ey.com</a>   | <b>China Mainland</b><br>William WL Zhang<br><a href="mailto:william-wl.zhang@cn.ey.com">william-wl.zhang@cn.ey.com</a><br>Annie Li<br><a href="mailto:huiping.li@chenandco.com">huiping.li@chenandco.com</a>   | <b>El Salvador</b><br>Mónica Machuca<br><a href="mailto:monica.machuca@sv.ey.com">monica.machuca@sv.ey.com</a>  | <b>Greece</b><br>Maria Rigaki<br><a href="mailto:maria.rigaki@gr.ey.com">maria.rigaki@gr.ey.com</a>                                    |   |
| <b>Belarus</b><br>Vasily Babariko<br><a href="mailto:vasily.babariko@by.ey.com">vasily.babariko@by.ey.com</a><br>Anna Kaporovich<br><a href="mailto:anna.kaporovich@by.ey.com">anna.kaporovich@by.ey.com</a> | <b>Colombia</b><br>Carlos Sandoval<br><a href="mailto:carlos.sandoval@co.ey.com">carlos.sandoval@co.ey.com</a><br>Juliana Espinosa<br><a href="mailto:juliana.espinosa@co.ey.com">juliana.espinosa@co.ey.com</a><br>Ana María Arias<br><a href="mailto:ana.arias-perez@co.ey.com">ana.arias-perez@co.ey.com</a> | <b>Estonia</b><br>Maris Merilo<br><a href="mailto:maris.merilo@ee.ey.com">maris.merilo@ee.ey.com</a>  | <b>Guatemala</b><br>Mirla Tubac<br><a href="mailto:mirla.tubac@gt.ey.com">mirla.tubac@gt.ey.com</a>                                    |   |
| <b>Belgium</b><br>Karla Vuyts<br><a href="mailto:karla.vuyts@be.ey.com">karla.vuyts@be.ey.com</a>  | <b>Costa Rica</b><br>Fernando Vargas<br><a href="mailto:fernando.vargas.winiker@cr.ey.com">fernando.vargas.winiker@cr.ey.com</a><br>Laura Navarrete<br><a href="mailto:laura.navarrete@cr.ey.com">laura.navarrete@cr.ey.com</a>   | <b>Finland</b><br>Maiju Kurvi<br><a href="mailto:maiju.kurvi@fi.ey.com">maiju.kurvi@fi.ey.com</a>   | <b>Honduras</b><br>Andrés Lacayo Rodríguez<br><a href="mailto:andres.lacayo.rodriguez@hn.ey.com">andres.lacayo.rodriguez@hn.ey.com</a> |   |

# EY Global Labor and Employment Law contacts

For more information,  
please contact:

EY Global Labor and Employment Law Leader  
**Paula Hogéus**  
Direct: +46 8 520 599 99 | Mobile: +46 72 503 80 85  
[paula.hogeus@law.se.ey.com](mailto:paula.hogeus@law.se.ey.com)

|  |   |   |   |  |
|--|---|---|---|--|
| <b>Italy</b><br>Stefania Radoccia<br><a href="mailto:stefania.radoccia@it.ey.com">stefania.radoccia@it.ey.com</a><br>Maria Teresa Iannella<br><a href="mailto:maria-teresa.iannella@it.ey.com">maria-teresa.iannella@it.ey.com</a> | <b>The Netherlands</b><br>Huub Van Osch<br><a href="mailto:huub.van.osch@hvglaw.nl">huub.van.osch@hvglaw.nl</a>   | <b>Poland</b><br>Zuzanna Zakrzewska<br><a href="mailto:zuzanna.zakrzewska@pl.ey.com">zuzanna.zakrzewska@pl.ey.com</a><br>Karol Chyliński<br><a href="mailto:karol.chylinski@pl.ey.com">karol.chylinski@pl.ey.com</a>      | <b>Spain</b><br>Raul Luis Garcia Gonzalez<br><a href="mailto:rauluis.garciagonzalez@es.ey.com">rauluis.garciagonzalez@es.ey.com</a>   | <b>United Kingdom</b><br>Rob Riley<br><a href="mailto:rriley@uk.ey.com">rriley@uk.ey.com</a><br>Nigel Cousin<br><a href="mailto:nigel.cousin@uk.ey.com">nigel.cousin@uk.ey.com</a> |
| <b>Japan</b><br>Junya Kubota<br><a href="mailto:junya.kubota@jp.ey.com">junya.kubota@jp.ey.com</a>   | <b>New Zealand</b><br>Tori Sullivan<br><a href="mailto:tori.sullivan@nz.ey.com">tori.sullivan@nz.ey.com</a><br>Kieron Creagh<br><a href="mailto:kieron.creagh@nz.ey.com">kieron.creagh@nz.ey.com</a>    | <b>Romania</b><br>Anca Atanasiu<br><a href="mailto:anca.atanasiu@ra-law.ro">anca.atanasiu@ra-law.ro</a>   | <b>Sweden</b><br>Paula Hogéus<br><a href="mailto:paula.hogeus@law.se.ey.com">paula.hogeus@law.se.ey.com</a>   | <b>Vietnam</b><br>Michael Beckman<br><a href="mailto:michael.beckman@vn.ey.com">michael.beckman@vn.ey.com</a>  |
| <b>Kazakhstan</b><br>Dinara Tanasheva<br><a href="mailto:dinara.s.tanasheva@kz.ey.com">dinara.s.tanasheva@kz.ey.com</a>  | <b>Nicaragua</b><br>Carlos Ayon<br><a href="mailto:carlos.ayon.lacayo@cr.ey.com">carlos.ayon.lacayo@cr.ey.com</a><br>Victor Valle<br><a href="mailto:victor.valle@ni.ey.com">victor.valle@ni.ey.com</a> | <b>Russia</b><br>Daria Zakharova<br><a href="mailto:daria.zakharova@ru.ey.com">daria.zakharova@ru.ey.com</a>  | <b>Switzerland</b><br>Marc Gugger<br><a href="mailto:marc.gugger@ch.ey.com">marc.gugger@ch.ey.com</a><br>Aline Nussbaumer<br><a href="mailto:aline.nussbaumer@ch.ey.com">aline.nussbaumer@ch.ey.com</a>   |  |
| <b>Latvia</b><br>Liene Cakare<br><a href="mailto:liene.cakare@lv.ey.com">liene.cakare@lv.ey.com</a>  | <b>Norway</b><br>Helga Aune<br><a href="mailto:helga.aune@no.ey.com">helga.aune@no.ey.com</a>   | <b>Serbia</b><br>Damjan Kulundžić<br><a href="mailto:damjan.kulundzic@rs.ey.com">damjan.kulundzic@rs.ey.com</a>   | <b>Taiwan</b><br>Helen Fang<br><a href="mailto:helen.fang@tw.ey.com">helen.fang@tw.ey.com</a>   |  |
| <b>Luxembourg</b><br>Laurence Chatenier<br><a href="mailto:laurence.chatenier@lu.ey.com">laurence.chatenier@lu.ey.com</a><br>Margarita Eloeva<br><a href="mailto:margarita.eloeva@lu.ey.com">margarita.eloeva@lu.ey.com</a>        | <b>Panama</b><br>Ana Clement<br><a href="mailto:ana.clement@pa.ey.com">ana.clement@pa.ey.com</a><br>Ana Ríos<br><a href="mailto:ana.rios@pa.ey.com">ana.rios@pa.ey.com</a>                              | <b>Singapore</b><br>Evelyn Ang<br><a href="mailto:evelyn.ang@atlasialaw.com.sg">evelyn.ang@atlasialaw.com.sg</a>  | <b>Turkey</b><br>Mehmet Küçükkaya<br><a href="mailto:mehmet.kucukkaya@tr.ey.com">mehmet.kucukkaya@tr.ey.com</a>   |  |
| <b>North Macedonia</b><br>Jana Nikodinovska<br><a href="mailto:Jana.Nikodinovska@mk.ey.com">Jana.Nikodinovska@mk.ey.com</a>  | <b>Paraguay</b><br>Gustavo Colmán<br><a href="mailto:gustavo.colman@py.ey.com">gustavo.colman@py.ey.com</a>   | <b>Slovakia</b><br>Tatiana Knoskova<br><a href="mailto:tatiana.knoskova@sk.ey.com">tatiana.knoskova@sk.ey.com</a><br>Katarína Cangarova<br><a href="mailto:katarina.cangarova@sk.ey.com">katarina.cangarova@sk.ey.com</a> | <b>Ukraine</b><br>Halyna Khomenko<br><a href="mailto:halyna.khomenko@ua.ey.com">halyna.khomenko@ua.ey.com</a>   |  |
| <b>Mexico</b><br>Alejandro Caro de la Fuente<br><a href="mailto:Alejandro.Caro2@mx.ey.com">Alejandro.Caro2@mx.ey.com</a>   | <b>Peru</b><br>Jose Ignacio Castro<br><a href="mailto:jose-ignacio.castro@pe.ey.com">jose-ignacio.castro@pe.ey.com</a>  | <b>Slovenia</b><br>Matej Kovacic<br><a href="mailto:matej.kovacic@si.ey.com">matej.kovacic@si.ey.com</a><br>Kiril Spirovski<br><a href="mailto:kiril.spirovski@si.ey.com">kiril.spirovski@si.ey.com</a>                   | <b>United Arab Emirates</b><br>Alison Hubbard<br><a href="mailto:alison.hubbard@ae.ey.com">alison.hubbard@ae.ey.com</a><br>Charmaine Khan<br><a href="mailto:charmaine.khan@ae.ey.com">charmaine.khan@ae.ey.com</a><br>Libby Aldred<br><a href="mailto:libby.aldred@ae.ey.com">libby.aldred@ae.ey.com</a> |  |

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