



Corona virus (Covid-19)

The most important labor law issues in the Nordic countries

What applies to companies and employees?

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EY Law

The number of people infected with Covid-19 continues to rise rapidly. The Nordic governments have reacted to the virus and made preparations to handle a possible pandemic.

There are also ongoing discussions on how Covid-19 will affect employment law matters. As Covid-19 continues to spread, the question of how to deal with the virus in everyday work life is becoming increasingly important.

Many companies have already taken extensive measures to protect employee health and safety, such as restricting business trips or meetings. At this stage, it is unclear which medium and long-term economic consequences Covid-19 will have.

In this alert, we want to highlight the most important labor law issues in the Nordic countries.

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Covid-19 - The most important labor law issues

► **Can the employer deny an employee access to the business premises?**

The starting point for employers when planning for a possible pandemic should be to take employee health and safety into account; as well as responding to any concerns.

An employer may not deny an employee access in order to prevent him or her from coming into work, unless there is a valid reason for it. To deny a potentially infected employee access in order to protect other employees may be such a valid reason. In practice, this will usually be resolved by allowing the employee to work from home.

► **Can an employee claim remuneration in the event of a ban on entering the premises?**

If access to the business premises is denied, the employer must continue to remunerate the employee. Should an employee be infected with Covid-19 and not be able to work due to sickness, the employer shall provide sick pay in accordance with the applicable sick leave legislation.

In Norway the national authority has declared that if persons are quarantined under suspicion of possible infection, the employees are entitled to sick pay. In Sweden and Norway, the employee may also be entitled to disease control benefit from the government when infected but not incapacitated.

► **What happens if rail and local transportation do not operate?**

Employee claims of remuneration only exist for the time in which the employee performs work for the employer. Thus, there is no right to remuneration in case an employee cannot work due to the circumstance that local transportation does not operate. Where feasible, an employer may choose to let employees work from home to resolve this matter.

► **Does an employee need to answer the employer's questions on whether the employee has recently spent time in high-risk or restricted areas?**

No matter 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 accordingly.

How can economic consequences be mitigated?

- Employees can be asked, but often not forced, to take out accrued compensatory leave or vacation days. However, with certain notice, accrued leave entitlements can be scheduled unilaterally by the employer; but this varies from country to country and also depends on applicable policies and collective bargaining agreements ("CBAs").
- In Norway the system of temporary lay-offs (No. *permittering*) enables the employer to lay off employees because of lack of work. Employees then receive 66% of their salary level from the National Insurance System. In Finland there is a system for short-time work with governmental support and such system has also been proposed by the Swedish Government and is envisaged to enter into force on 1 August 2020.
- Under certain Swedish CBAs, a local agreement may be entered into entailing reduced working time as well as reduced pay.



► **Can employees stay at home without consent of the employer if they are not ill and do not have symptoms?**

No, this would be a breach of the employee's work duty.

► **Can the employer direct employees to make business trips to countries in which Covid-19 is already massively spread?**

In principle, the employer can order business trips even in times of Covid-19. However, directing employees to travel to a country in which Covid-19 is already massively spread, might not be allowed in specific cases, for example, if the employee or their immediate family would be a risk patient or if national and international health authorities advise against travelling to certain areas.

The employer is responsible for ensuring a healthy working environment. Further, if there is a safety representative, he or she may interrupt any work ordered by the employer if the health and safety of employees is at risk.

► **What are the employer's obligations due to the risk of virus?**

The employer has an obligation to continuously evaluate the work environment and act on potential risks; safety representatives should also be involved in this work. Covid-19 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 conferences).

► **Are there any obligations to involve trade unions?**

A general consultation obligation towards the trade unions represented at the workplace applies if the employer is considering business changes that affects the workforce. In Finland the same concerns the employee representatives.

► **What are the consequences if authorities quarantine certain employees?**

If a quarantine is ordered by the authorities, the affected employee would be regarded as placed on sick leave. In such case, the employee would be entitled to sick pay under local law or have the right to disease control benefit. In Denmark, a white-collar employee will be entitled to normal remuneration during the quarantine imposed by the authorities.

Are you prepared?

In many respects, dealing with the Covid-19 cannot be distinguished from dealing with other disease waves such as the annual wave of influenza.

However, given the expected scale and potential economic consequences, more far-reaching measures may be necessary.

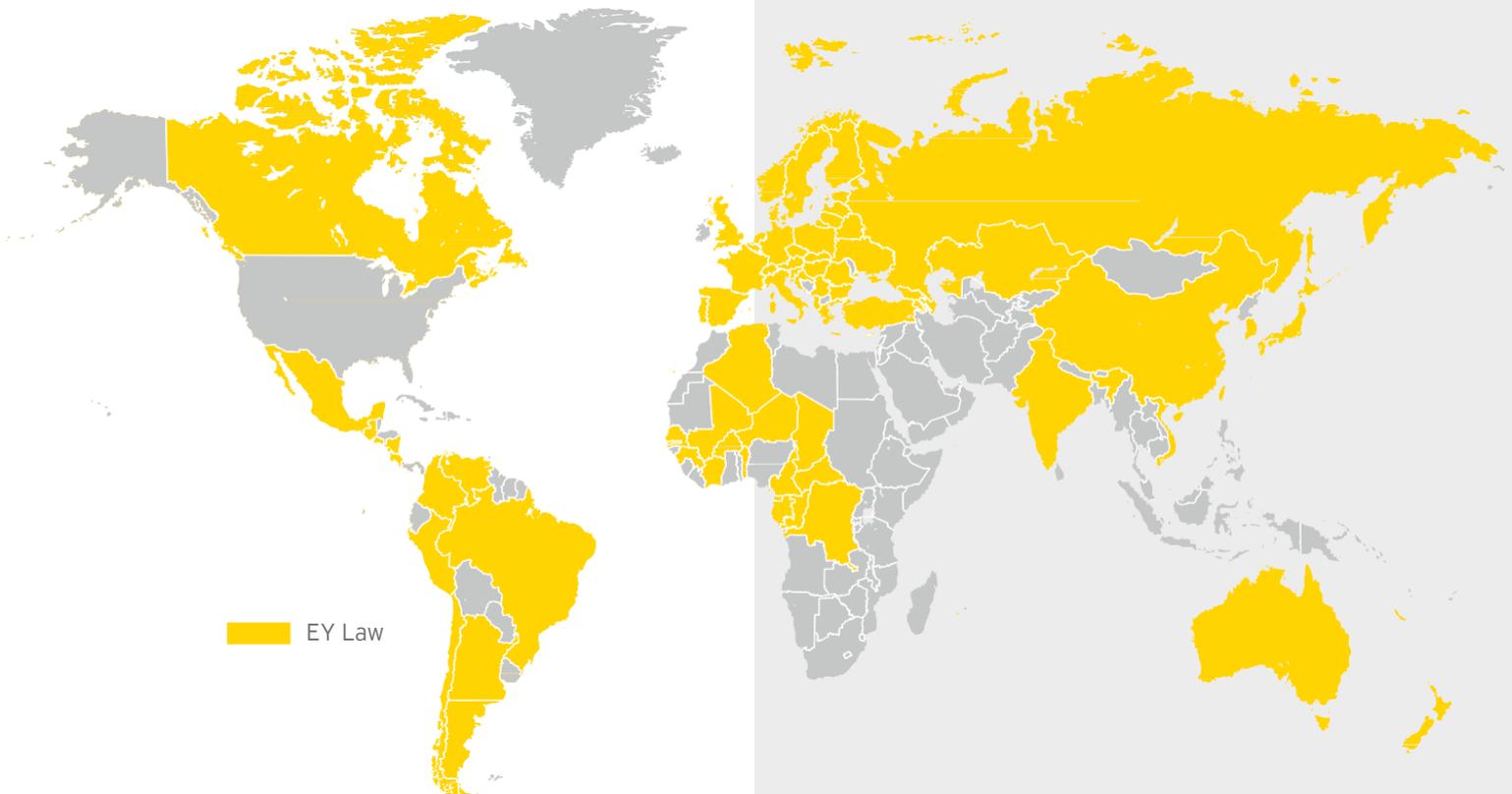
The health of your employees is a valuable asset that must be protected. In this respect, precautions should be taken to ensure that both your staff and your company can meet the challenges of Covid-19.

EY the is the best partner for this challenge

In a personal meeting, we will discuss:

- ▶ how to deal with the consequences of Covid-19 in your everyday work
- ▶ how to assess your working environment
- ▶ how to involve health and safety representatives
- ▶ how, if necessary, you can mitigate the economic consequences of supply bottlenecks and operational restrictions.

Feel free to contact us at any time!



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