



Adrialia: Covid-19 Comparative Legal Guide: Employment Matters and Workforce

adrialia

ALBANIA - BOSNIA AND HERZEGOVINA - BULGARIA - CROATIA - KOSOVO - NORTH MACEDONIA - MONTENEGRO - SERBIA - SLOVENIA

**All information contained herein is from publicly available data or other sources believed to be reliable. The information in this document is for general information purpose only and may be subject to change. Adrialala does not guarantee the accuracy of the information and shall not be liable for any damages or costs in connection with the use of the information contained herein.*

ALBANIA

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Albania.

Which are the legal instruments for employers to mitigate the economic effects of the pandemic crisis under the Labor legislation?

- The Government has ordered employers and businesses in several sectors to reduce the number of the employees working on daily basis or suspend entirely the activity due to the Covid-19 pandemic outbreak. Exception is made for the supply of goods and services which are essential to the needs of the population, such as food production and processing industries, banks and financial services, energy and water supply services, etc.

The Albanian Labor Code recognizes the event of force majeure as grounds for the suspension of the employees' salaries during the duration of such an event. Force majeure is to be understood as unexpected external circumstances that prevent a party from fulfilling its contractual obligations. The underlying event must be unforeseeable and must not be the result of an action by the contracting party.

The restrictive measures adopted by the Albanian Government in the frame of the Covid-19 pandemics may qualify as force majeure. Therefore, the declaration of force majeure by employers, subject to any collective agreement in force between employers and employees, may enable them to avoid liability for non-performance of their contractual obligations, such as suspension of payment of the monthly salaries for the employees which are not working during the duration of the restrictive measures.

Nevertheless, it would be advisable that employers enter into discussions with employees, where possible to mitigate the financial effects arising from said suspension.

Are there any supporting or incentive measures adopted by the Government for employers and employees?

The Government has approved a first financial package for the mitigation of the economic effects of the pandemic crisis.

The Government intends to support especially SMEs or other enterprises which commercial activity is essential to the food supply chain or other services which are essential to the population needs.

To this end, the Albanian Government shall emit a sovereign guarantee amounting to USD 100 million. This instrument will serve as collateral to banks to secure the loans

they will grant to companies having difficulties in paying the employees' salaries because of the pandemic crisis.

Details of the plan are to be announced soon and employers may further evaluate their future steps taking into consideration the loan instruments that banks may adopt to support employers' needs as part of the Government's financial aid package.

To be noted that for the time being, these are all the sectorial measures the Government of the Republic of Albania has adopted so far in response to the extraordinary situation caused by the pandemic outbreak of COVID-19. New supporting measures from the Government are expected to follow as the situation evolves on daily basis.

BOSNIA AND HERZEGOVINA

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Bosnia and Herzegovina.

Termination of employment contracts caused by employer illiquidity

One of the main topics these days is how to endeavor the potential economic crisis of legal entities and not to terminate employment contracts.

Labor laws in Bosnia and Herzegovina (including Federation of Bosnia and Herzegovina and Republic of Srpska) are not precisely regulating the obligations of the employer in cases such as force majeure and are not regulating whether employer in such case can reduce the salary of employee in order not to terminate employment contracts.

However, from the provisions of the labor laws it is arising that even in the cases of force majeure employer is obliged to make the payment of the full salaries to the employees.

Since some of the employers are forced to reduce the workforce, we can notice that it is mostly done through the termination of the employment contracts because of the economic reasons caused by force majeure. But it is recommendable to take in consideration possibility of mutual termination of the contract if it is impossible for the employer to keep in force employment contract and also as other possibility to conclude new employment contract with the reduced salaries.

Through media it can be noticed that the government is trying to encourage employees not to terminate employment contract, but still there are no decisions adopted by the Government with subventions in keeping the workforce employed.

Government is recommending following to the employees:

- To approve annual leaves in accordance with the law;
- Employees who are in self-isolation to be treated as sick leave;
- Reduce working hours or ideally organize work from home;
- Not to terminate employment contracts.

At the moment, the Government is in preparation of economic measures, but none are introduced or implemented so far.

BULGARIA

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Bulgaria.

On 24 March 2020 in the Bulgarian official journal was published the adopted at an extraordinary session of the Bulgarian Parliament (to concur with the partial veto, levied by the President on the law adopted by the Parliament on 20 March 2020) and now Bulgaria has its effective national Measures and Acts During the extraordinary Situation, declared by the Parliament on 13 March 2020 Act (the “COVID Act”). The COVID Act was generally given retroactive effect as of 13 March 2020 and few other provisions became effective upon publication. It sets practical legal frame for the implementation of the Declaration of the Parliament, adopted on 13 March 2020 (the “Declaration”). The Declaration announced ‘extraordinary situation’ until 13 April 2020 and generally authorized the Government to adopt measures in compliance with its constitutional powers. Notably, the COVID Act is not confined to 13 April 2020 (as per the Declaration), but will be applicable ‘until the cancellation of the extraordinary situation and expressly delegates to the minister of public health (sometimes to the Government) to introduce other measures and restrictions on temporary basis.

After the Declaration, the Government (also endorsing most of the prescriptions of the National Anti-COVID Staff (comprising reputable medical doctors, lead by the head of the Military Academic Hospital), the minister of public health, the minister of interior. The minister of transport, the minister of foreign affairs. Heads of court institutions, municipal mayors, corporate directors, etc., implemented various ad hoc measures.

In result of the above:

- Everybody is invited to stay at home and work from home office, to the extent possible. Some employers made additional purchases and arrangements to facilitate this.
- Shops are closed (except for food stores, pharmacies and drugstores). Certain small shops and 24/7 shops remain open. Access of customers is restricted by number.
- Restaurants, bars, discotheques and similar are closed, as well as most hotels. Most restaurants arrange for delivery of food, even if previously they did not offer delivery.
- Cinemas, operas, stadiums and similar entertainment facilities are closed. Gathering of groups of people is prohibited, even in the open. Intercity transport is restricted, including private vehicles (save for deliveries of food and pharmaceutical goods). Tourist offices are closed, and excursions prohibited.
- In result, many employees are legally and/or effectively redundant.

The COVID Act provides for various measures in respect of employment and social security, such as:

- restrictions on extra labour hours is abolished (where relevant – e.g. medical staff, police, etc.);
- the army would be available to assist (mostly the police);
- Requirements towards payment of social maintenance and grants are relaxed;
- Teachers shall implement distant learning without amendments to their employment contracts;
- Labour Code (and the Civil Service Act) are amended to address better work from home, closure of enterprises for calamity, usage of leaves, duties to public in emergency.
- Employees are entitled to salaries. The National Social Security Institute shall pay 60 % of the social security income of employees for up to 3 months (subject to the Government implementing a statutory instrument on this – in the draft currently this will be applicable only to business, ordered to close – such as restaurants, tourist offices, etc.,).
- The sector is also affected by the general provisions of the COVID Act on ‘stopping-the-clocks’ and cessation of enforcement
- Elongation by one month since cancellation of the extraordinary situation of all other legislative periods, expiring during the extraordinary situation (including such under administrative acts);
- cessation of enforcement and freezing procedures and prohibition to form new such procedures against individuals, including salaries and pension receivables (except for alimentary, tortuous or unpaid salaries claims);
- cessation of enforcement and freezing procedures and prohibition to form new such procedures against funds and professional equipment of medical institutions (except for alimentary, tortuous or unpaid salaries claims);
- cessation of the running (stop the clock) of any procedural terms (however, no provision on stopping the running of substantial law terms).

CROATIA

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Croatia.

Is there a general change of the regulatory framework regarding employment, facilitating terminations of employment, salary reductions, reductions of working hours or unpaid leave?

Not yet. The Labour Act and other relevant regulations have not been amended. The employers affected by the current situation could invoke (subject to justifiable circumstances to be assessed in each individual case) the reduction of business activities as grounds for dismissal of employees, but the process remains subject to the regular statutory regime.

As a general rule, the employers cannot unilaterally reduce working hours, reduce salaries or order employees on unpaid leave. All material changes to employment contracts need to be agreed by both the employer and the employee and be made and signed in writing.

This situation has already caused a significant increase of dismissals of employees as this is the only unilateral measure which the employers may take to reduce the costs of labour.

It has been announced that the Government of the Republic of Croatia is assessing potential amendments to the current statutory regime of employment, but no specific steps have been published yet.

Are employees allowed to work remotely, i.e. from home?

The employers whose nature of activities allows for work to be done remotely can advise their employees to work from home due to the current situation. However, remote work does not release the employers from their numerous obligations under the work safety regulations, although it remains ambiguous how these regulations should be applied in case of remote work. Also, the regular activities of state inspection office have been reduced and delayed due to the current social distancing and business closures. Therefore, employers are advised to seek compliance advice in each particular case.

Can the employers postpone payment of salaries, employment benefits and contributions?

Under the current regulatory regime, no. The employers are obliged to pay salaries by the 15th day of the month for the preceding month, and to issue a document evidencing salary payment to each individual employee. The employee is entitled to

seek enforcement of its claims on the basis of salary on the basis of such document. If the employer fails to issue the document, this represents a misdemeanor and is subject to fines.

Will the Government assist the employers in covering the costs of labour?

The Government has enacted an emergency measure for the protection of employment in specific sectors directly affected by the epidemic, namely hospitality, transport and warehousing, work-intensive activities in textile, clothing, wood processing and furniture industries, and activities banned from operating by the Civil Protection Headquarters, as well as other employers who can prove the adverse effect of the current circumstances. The main effect of the measure is the state aid in the net amount of statutory minimum salary per employee for three months. Further conditions apply which need to be assessed in each individual case.

Have there been any other measures adopted in the Republic of Croatia to allow more flexible payment of taxes for the business entities?

1. Croatian Parliament adopted on 19 March 2020 amendments to the General Tax Act (Opći porezni zakon) which entered into force on 20 March 2020. Amendments introduced "extraordinary circumstances" as a reason for deferral of payment of due tax liabilities, subject to special regulation by Minister of Finance.

Following those amendments, minister of Finance Mr. Zdravko Marić, adopted amendments to Regulations to the General Tax Act, which entered into force on 24 March 2020.

Amendments introduced the following measures:

- i. Possibility of payment deferral of tax liabilities, without calculating additional interests, for a period of three months from the due date of each tax liability, with possibility of extending that period for additional three months; and
- ii. Possibility of paying deferred tax liability after a new, deferred due date, in installments in a period no longer than 24 months.

The measures for tax liabilities are applicable to all taxes (income tax, profit tax, value added tax etc.), contributions and public charges as defined under General Tax Act (excluding excise duties and customs duties which are not subject to this regime), which become due and payable in three months period following 20 March 2020. Exceptionally, in terms of value added tax, due tax liabilities are considered those due within three months period, starting with the value added tax liability due in April.

In case that extraordinary circumstances would last longer, three months period

may be extended for another three months period.

Eligible applicant for the measures is any entrepreneur who:

- i. proves as probable its inability to pay due tax liabilities; and
- ii. has no outstanding tax liabilities on the day of application submission (outstanding tax liabilities may not exceed HRK 200 or approximately EUR 26).

As an exception in regard to value added tax, an application for VAT deferral can be submitted only by an entrepreneur whose amount of supplies of goods and services in the previous year has not exceeded HRK 7,5 million (excluding value added tax) and whose tax base is determined based on the executed deliveries.

It shall be deemed as if the applicant is not able to pay its due tax liabilities if:

- i. its income / receipts in the month preceding the month in which the application for tax deferral was submitted are decreased by at least 20% compared to the same month of the previous year exists; or
- ii. it proves as probable its income / receipts in the next three months from the month in which the application was submitted will decrease by at least 20% compared to the same period of the previous year;
- iii. in addition to (i) or (ii) above, applicant for deferral of value added tax liability proves that value added tax liability due arises from issued invoices that have not been settled and / or other indicators which affect its liquidity.

2. In addition to the above, amendments to Profit Tax Act and Income Tax Act became effective on 20 March 2020.

New provisions of the Profit Tax Act reduce the tax base for the amount of financial support received in order to mitigate negative effects in case of extraordinary circumstances as defined by the General Tax Act. Similar novelty is also provided by the amendments to the Income Tax Act – financial support received in order to mitigate negative effects in case of extraordinary circumstances as defined by the General Tax Act shall not be considered as business receipt of business period.

Additionally, by amending Income Tax Act, tax returns should come earlier this year, compared to current situation when such returns usually came in August.

KOSOVO

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Kosovo.

Employment Matters and Workforce in Kosovo during COVID 19 pandemic situation. Government's actions

While aiming at fighting the spread and effect of the pandemic, the recent restrictive measures of the governments affect first and foremost employees and businesses. Since 14 March 2020 Kosovo's government has ordered private companies to organize their activity in a way that their employees can work from home. That is for those businesses that are still in operation, whereas total lockdown was ordered for restaurants, cafés, gyms, and all retail businesses apart from pharmacies and grocery stores. A restriction on movement for both, people and vehicles were ordered on 23 March, with certain exceptions to the most essential medical, and business services. People are only allowed to leave their homes between 0600hrs to 1000hrs and from 1600hrs to 2000hrs. More restrictive measures are taken as the situation unfolds. Under the circumstances, the first question raised by every affected business is how to survive, and what to do with the employees.

Work from home under state of emergency

Firstly, work from home is not even foreseen by the Labor Law of Kosovo (Law No. 03-L-0212, hereinafter LL). "Extraordinary state" or "natural catastrophes" is only mentioned by the LL (article 18) in a context of preconditions for "temporary reassignment for other duties and tasks" of the employee. Work from home though is provided by General Collective Agreement in Kosovo (Hereinafter GCAK), which requires it to have been prescribed at the employment contract. Therefore, a solution for the concerned businesses, and affected employees as well, shall be to draft up an annex to the existent employment contracts, defining the terms and conditions of work from home.

How about staying home without work?

That is probably the only option for many businesses that cannot operate under the recent restrictive governmental measures. The questions mostly raised by the entrepreneurs are related to leave without pay, as a means to keep the qualified workforce with no threat to the very financial existence of company. As much convenient to the employers as it can be, leave without pay cannot be forced against the employees. Employers can only grant leave without pay upon the request of the employee (Article 40 of LL). Not even paid annual leave can be forced upon the employees. Same as for unpaid leave, the LL requires prior request by the employee (Article 37 LL).

Operation under strains

Certain restrictive measures by the government, such as closedown of schools, or restriction of movement within limited time intervals impact directly the operation of those companies yet in motion. Close down of schools affects the work of single parents, who as a matter of fact do not enjoy a privileged treatment under the law. There's no special leave foreseen by the legislation for this category of employees. However, a solution can be found at the Kosovo General Collective Agreement, which is a unique legislative instrument of general application in Kosovo. Arrangements can be made between employer and employee for shortening of the working time accompanied with payment appropriation (article 23 of the Kosovo General Collective Agreement). The restriction of movements within certain time periods imposes upon companies' necessary adjustments to the working hours. Article 25 of the LL provides for the right of the employer to modify working hours for a definite period of time. The only requirement LL attaches to such an adjustment is that during the entire calendar year the newly scheduled work does not exceed the total of full-time working hours.

Employees' legal guarantee

From the employee's standpoint, LL offers an extra guarantee to his/her rights stemming from the employment contract. Article 61 of the LL recognises and justifies absence from work in pursuit of a decision of an authorized state body due to insecurity and protection of health. The employee is entitled up to 45 calendar days paid leave due to such an absence.

And lastly, but not less important, unlike other governments engaging principally in economic forefront of this war, the Government of Kosovo has not yet come up with an economic plan in support to the businesses in the fight to keep all the employees in their pay sheets. There is hope that a stimulus plan will be soon promulgated to provide the much-needed liquidity to most of the companies, otherwise the curb of unemployment will definitely spike, and many companies will fail to survive.

NORTH MACEDONIA

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in North Macedonia.

What are the measures that may be taken in respect of the workforce in case of external event beyond control of the Employer (such as the Covid-19 pandemic), can that party cancel its contract?

The principles of the labor relations are governed under the Labor Law, the General Collective Agreement and the branch collective agreements as well as the collective agreements at the level of employer.

Termination of the Employment Agreement

Existence of the extraordinary event is not considered as justified ground for termination of the employment agreement.

Paid Leave

Conditions:

- Decision issued to individual employee.

Process:

- The decision should be passed and delivered to the individual employee.

Unpaid leave

Conditions:

- Such possibility should be included in the collective agreement at the branch level.

Process:

- Prior communication with trade union, general decision and individual decisions.

Idle Time

Conditions:

- Under the Labor Law in cases of Vis Major, that preclude employee from performing its obligations, the salary may be reduced by 50%.

Conditions:

- Force Majeure.
- Only full closure of activities.

Process:

- Individual decisions should be passed to individual employees.

What are the economic measures that are implemented or contemplated by the State in respect of the workforce?

The Government has issued some decrees in respect of the payment of salaries and contributions during the period of the crisis and a new set of economic measures is expected jet to be passed.

By far the following measures are implemented:

Social Insurances Payment Reduction

Social Contributions reduced up to 50% of the average salary in 2019 for April, May and June

Conditions:

- The company should not pay dividend
- Number of employees should not be reduced
- No payment of bonuses

Process:

- Jet to be communicated

MONTENEGRO

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Montenegro.

Among other measures of protection from infectious diseases, Montenegrin Ministry of Health ordered the closure of educational institutions, hospitality objects, disco- and night clubs, majority of commercial objects, objects intended for sports and recreation, casinos and bookkeepers, but also hair and beauty studios. Additionally, per the instructions, there was a suspension of public transportation and taxi services. All employers were recommended to consider and enable their employees to work from home, to any possible extent. The new circumstances opened numerous issues relative to labour law, not only for employers but also the employed.

The employers who had to suspend their business activities due to the measures adopted by competent authorities – shall be obligated to pay out reduced salaries for their employees. Namely, according to the Labour Law of Montenegro and the General Collective Agreement, the employees absent from work due to the suspension of business operations subsequent to other circumstances (which, inter alia, includes the suspension due to the prohibition of business incurred by a competent state authority) shall deserve as much as 70% of their average salaries received during previous 6 months, whereas such amount shall not go below the minimum wage in Montenegro, currently set at EUR 222,-.

It is essential to stress out that the Branch Collective Agreement, or the employer's collective agreement or the employment agreement respectively, may determine the remuneration at a higher rate. In case of suspension of work, the employer is obligated to adopt an act stating the reasoning for such suspension, the duration of suspension and the amount of remuneration. Under the General Collective Agreement, such paid leave may not exceed 6 months.

Hence, the employers who had to adhere to the Government's measures of prevention of spread of COVID19, and suspend their business activities, shall pay the salaries to their employees in the amount envisaged in the respective employment agreements, or the applicable collective agreement. In other cases, if the employees were enabled to work from home, according to the official recommendations, or in case certain employees are prevented from undertaking their work assignments whereby the employer has not suspended the activities, there shall be no grounds for the payment of reduced salary amount. Naturally, the employer may at this time initiate the amendments of the agreed terms of employment, and define the reduction of salary by offering to the employee the annex employment agreement amending the main employment agreement in the segment defining the salary, but taking into account the adherence to the legally stipulated procedures for the amendments of the employment agreement, and providing appropriate reasoning for

the required reduction of salary.

SERBIA

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Serbia.

The state of emergency in Serbia due to coronavirus (COVID-19) is declared on 15 March 2020 and the number of affected persons is increasing on a daily basis. Consequences of coronavirus affected almost all business industries in Serbia. For the purpose of organizing work of the companies during the state of emergency, on 16 March 2020 Serbian Government issued the Decree on Organizing the Work of Employers During the State of Emergency ("Decree"). Although the Decree did not provide many useful suggestions and advises, it enabled the simple procedure for referring employees to work from home and provided some legal framework for organizing the work during the state of emergency.

In order to provide you with the most important information on employment matters, we prepared this article with suggestions on how to organize your work, stop and prevent spreading of disease among the employees and their families and protect your business. Below you may see some recommendations and answers from our lawyers:

1. Inform your employees about the imposed measures

For stopping and preventing the further spread of coronavirus within the most endangered categories, the Government adopted several measures restricting the movement of the elder citizens, closing of kindergartens, primary and secondary schools, faculties, as well as mandatory self-isolation/quarantine of persons entering the Serbia.

As a responsible participant in the Serbian business market, each company should inform its employees about the measures introduced by the Government. This can be done via e-mail as the most practical way of communication during the state of emergency, or by organizing meetings via video links or video calls. Information should be brief and prepared in a calming tone, for avoidance of fear between the employees.

2. Cancel or postpone all business trips

In accordance with the Decree, all business trips should be postponed. Delaying business trips should be regulated by the decision issued by company. Once again, all employees affected by such decision should be timely informed.

3. Enable your employees to work remotely

During the state of emergency, all employers are obliged to enable their employees

to work remotely (i.e. from home) in all cases when this kind of work is possible.

In case the employment agreements do not regulate the possibility to work from home, which is the case in most situations, such possibility may be regulated by the resolution issued by the employer. Resolution on referring employee to remote work must contain in particular:

- (a) duration of working time, and
- (b) manner for supervising the work of employee.

Having in mind that the remote work (including the work from home) also includes the right of the employee to cost compensation for use of means of work, our suggestion is to compensate the employees such a costs (e.g. for used electricity, internet, telephone etc.).

If introducing the remote working is not possible due to the nature of work, the employer may organize the work in one of following manners:

- (a) by introducing the work in shifts,
- (b) by enabling the business meetings to be held by the means of electronic communication such as video calls, video links etc.

Also, employers should provide their employees with protective means and organize work in such manner to be in line with restrictions regarding the number of persons in the same facility and required distance between them.

4. How to deal with reduced workload

Besides providing employees with safe working conditions, currently one of the main issues is how to deal with decreased workload and lower income on one side and maintaining the number of employees on the other. This is a quite challenging task and there are not many options that would satisfy both employers and employees.

Saving the healthy business through cost saving measures and keeping the number of employees should be the priority for all employers. There are few possibilities on how to manage this within the applicable employment legislation:

- (a) Introducing part-time working hours;
- (b) Temporary salary decrease;
- (c) Temporary seizure of work.

Part-time working hours

The least invasive way to achieve savings could be by introducing the part-time working hours for employees. Understandably, this is not possible in all industry

sectors, however this measure will for sure cause the least damage when it comes to employees' satisfaction, whereby the working process could continue without significant changes.

Temporary salary decrease

Salary decrease is never well accepted by the employees. However, in case of pandemic there may be no other available options for preventing the significant damage to the company. employees could be offered with changed working conditions in terms of their salary.

Please have in mind that salary cannot be unilaterally decreased by the employer, and it must be performed through amendments of elements for calculating basic salary/salary based on performance in accordance with the law.

This procedure includes delivery of annex to the employment agreements to all or certain categories of employees whose salaries should be decreased, and decrease should be well reasoned. Also, each employee should be provided with offer for conclusion of annex to the employment agreement, as well as draft annex to be concluded.

Finally, Serbian Labor Law provides the possibility of employer to introduce minimal salary. This is not preferable option, but if necessary, this possibility is available to all employers too. Procedure for introducing minimal salary includes adoption of a decision of an employer and conclusion of annexes to the employment agreement with employees.

Temporary stoppage of work

Beside above said mentioned, Serbian Labor Law provides the possibility of employers to temporary stop of work and refer employees to paid leave. There are two possible scenarios in this regard, as follows:

- (i) Introducing temporary stoppage of work due to inability of employer to ensure safety and protection of life and health at work which is a condition for continuing the work without the risk for life and health of employees and other persons, and
- (ii) Providing employees with paid leave during stoppage of work occurred without the employee's fault or due to decrease of workload, for the period of up to 45 working days.

The difference between these options are related to: (i) duration of stoppage - in second option maximum duration is 45 working days, after which period approval of the Labor Ministry is required, and (ii) the amount of salary compensation - in second option it is at least 60% of the average salary of the employee, but not less than minimal salary, while in first option there is no statutory minimum/maximum

prescribed and it is stipulated by the general act of an employer and employment agreement of an employee.

5. Can we force employees to use unpaid leave?

In Serbia unpaid leave can be enabled only at the request of an employee. Therefore, employer cannot force employee to use unpaid leave.

During the unpaid leave employee is not entitled to any rights based on and arising from the employment, unless otherwise stipulated by the law (for example, the mandatory health insurance for parent of a child of up to 3 years of age), general act and/or employment agreement.

Unpaid leave, as well as any other leave, must be documented and all employees must be provided with the individual resolutions against which they may initiate the court proceeding before the relevant court.

6. Is there a possible for temporary layoffs?

Unlike some other jurisdictions, the Serbian legislation do not provide the possibility for temporary layoffs. Additionally, as a rule the Serbian courts are pro-workers orientated, meaning that all decisions should be made and enforced in accordance with the Labor Law in order to prevent or minimize the risk of being sued.

7. Termination of employment due to redundancy

Beside above mentioned options, Serbian Labor Law provides the possibility to terminate the employment agreement of an employee who is declared as a redundant due to technological, organizational or economic changes, or due to reduced workload. However, redundancy procedure is very complex and time consuming. Also, the list of necessary steps may be different depending on the number of employees whose employment relationship will be terminated.

The more complex procedure with the Redundancy Program is required in case when, within the period of 30 days, the need for work of employees hired for an indefinite period of time shall cease for at least:

- 10 employees with an employer who employs more than 20, and less than 100 employees engaged for an indefinite period of time;
- 10% of employees with an employer engaging a minimum of 100, and a maximum of 300 employees engaged for an indefinite period of time;
- 30 employees with an employer employing more than 300 employees engaged for an indefinite period of time.

The Redundancy Program is also mandatory in case the employer determines that there will be no more need for work of at least 20 employees within a 90-day period,

regardless of the total number of employer's employees.

Please kindly note that in case of termination of employment due to redundancy, Redundancy Program/Decision on Redundancy (in case of simpler procedure) may be adopted after amendments to the Systematization Act come into force (on 8th day as of publishing).

Also, in case of redundancy the severance must be paid to the redundant employee before termination of employment. Minimum severance to be paid in accordance with the law is sum of the third of the employee's earnings for each full year of employment with the employer where he/she exercises the right to severance payment. When determining the amount of the severance, the time spent in employment relationship at affiliates of the employer are also considered.

SLOVENIA

An overview of the impact COVID 19 pandemic outbreak on the Employment Matters and Workforce in Slovenia.

The severity of SARS-COV-2 virus (COVID-19) epidemic has forced the authorities to pass a number of provisions and measures in order to manage the spread of the disease and its consequences. Below is the summary of the measures taken with regards to employment matters.

1. Act on Intervention Measures to Salaries and Contributions

On March 20, 2020, National Assembly of the Republic of Slovenia adopted the Intervention Act (ZIUPPP), which regulates the measures defined below.

Reimbursement of wage compensation paid to employees who were temporarily laid-off

Temporary lay-off of the employees is regulated by the Employment Relationships Act (ZDR-1). This measure is foreseen in situations when the employer is temporarily unable to provide the work for the employee (80 % wage compensation), whereas an employee may be laid off in writing. In this case, an employer may exercise its right to a partial reimbursement of the paid wage compensation. An employee may be laid-off for a maximum period of 3 months and is obliged to return to work upon employer's request.

The amount of partial reimbursement which is covered by the Republic of Slovenia amounts to 40% of the wage compensation and is limited to the maximum amount of unemployment benefit, i.e. 892,50 EUR gross. The compensation is paid out to the employer monthly.

Employer may claim the right to reimbursement of wage compensation by a written application addressed to Slovenian Employment Service. The application must contain a description of the business situation which is a result of the epidemic, as well as a demonstration that based on the description of business situation an employer is temporarily unable to provide work for at least 30 % of employees at the same time and therefore decides on temporarily leave of employees. Please note that the employer is obliged to consult trade unions or works council first. Additionally, the application must contain employer's written statement to keep the workplaces of employees who are temporarily laid-off for at least six months after the start the temporal lay-off period.

Reimbursement of wage compensation paid to workers who have been quarantined and cannot perform their work from home

In the case of workers who have been quarantined and cannot perform their work from home, an employer has the right to the total reimbursement of the wage compensation (100%). Employer's application which shall be addressed to Slovenian Employment Service must be furnished with the employer's statement expressing that the employer is not able to organize the work at home and with the copy of decree of the Minister of Health on the basis of which the quarantine has been ordered. Please note that an employee shall be entitled to the wage compensation for the period for which the quarantine was ordered, however, not later than September 30, 2020.

Deferred payment for the contributions

The right of deferred payment of contributions can be granted to every self-employed person who performs any gainful activity, is included in compulsory insurance schemes on the basis of the pursuit of this activity and complies with its tax obligations. The said beneficiary is deferred to pay the contributions due in April, May and June 2020, which the beneficiary must pay no later than March 31, 2022.

2. Employment Relationships Act

In addition to the measures provided for by the abovementioned ZIUPPP please note, in given circumstances, all other labor-related measures regulated by the ZDR-1 also apply:

- **Temporary irregular distribution of working time.** If conditions for a temporary redistribution of working time are met, an employer may temporarily distribute the working time irregularly.
- **Use of leave.** An employee may be allowed to take annual leave. An employer does not have the right to unilaterally order the employee to take a leave. If the employer is willing to grant the employee unpaid leave at his or her request, we advise to conclude a written agreement, specifying the duration of the leave, the potential rights and obligations of the parties during this period, and the agreement regarding the payment of social security contributions.
- **Imposition of joint leave.** The employer may order a joint annual leave, but only to a limited extent (with at least some kind of understanding from employees' side), so that the needs of the employee (opportunities for rest and recreation of the employee and his family responsibilities) are also considered. Therefore, it is advisable to reach an agreement with employees regarding a joint leave.
- **Change of employment contract due to changed circumstances.** An employee and an employer can agree on a wage cut by signing an annex to the employment contract.
- **Cancellation of employment contract for business reason (by offering a new employment contract).** An employer may terminate an employment contract for business reasons if, due to economic difficulties, an employee cannot be

guaranteed work under the terms of the employment contract (e.g. due to the salary). Simultaneously, the employer may offer the employee the option of concluding a new employment contract, for indefinite duration with reduced salary. In the event of cancellation of contracts for a large number of employees for business reasons, the employer is obliged to draw up a dismissal programme for redundant employees.

- **Inability to carry out work for working parents due to closure of educational institutions.** Pursuant to the ZDR-1, if an employee cannot carry out his work due to force majeure, he shall be entitled to 50 % of the wage base he would have received if he was working, but not less than 70% of the minimum wage.
- **Order to home working (change of employment contract) and temporary change of place of carrying out work due to exceptional circumstances (without change of employment contract).** In principle, an employer cannot unilaterally order an employee to home working and is obliged to inform the labour inspectorate about it this regard. In exceptional circumstances, a type or place of carrying out work may be temporarily altered without the consent of the employee, but only for the duration of such circumstances. Pursuant to Article 169 of the ZDR-1 the employer may unilaterally order home working under the current circumstances, however, it is advisable to notify the labour inspectorate as soon as possible.
- **Absence from work for health reasons.** An employee is entitled to absence from work in cases of temporary incapacity for work due to illness or injury and in other cases (e.g. care of a close family member). The employer is obliged to ensure safe working conditions at home. During this period, the employee is entitled to a 90 % wage compensation, which covered by the Health Insurance Institute as of day 1 in case of isolation ordered by a personal doctor. In other cases of illness, the wage compensation is covered by the employer, and from the 31st working day of work absence onwards, the Health Insurance Institute of the Republic of Slovenia.

An employee may, in the agreement with an employer, preventively stay at home. In this case, the employee is entitled to 100% wage compensation.

CONTACT

ALBANIA - TASHKO PUSTINA

📍 BOULEVARD DËSHMORËT E KOMBIT, TWIN TOWERS, COMMERCIAL CENTER 2ND FLOOR, 1019 TIRANA - ALBANIA

☎ +355 4 238 91 90

☐ +355 4 238 91 90

KEY CONTACT PERSONS:

✉ Flonia Tashko: flonia.tashko@tashkopustina.com

✉ Florian Hasko: florian.hasko@tashkopustina.com

BOSNIA AND HERZEGOVINA - BAROŠ, BIČAKČIĆ & PARTNERS , SARAJEVO

📍 28 MARSALA TITA, 71000 SARAJEVO, BIH

☎ +387 33 844 808

☐ +387 33 844 809

KEY CONTACT PERSONS:

✉ Nenad Baroš: nenad.baros@bblegal.ba

✉ Feđa Bičakčić: fedja.bicakcic@bblegal.ba

BANJA LUKA

📍 16 NIKOLE PASICA, 78000 BANJA LUKA, BIH

☎ +387 51 961 780

☐ +387 51 961 781

KEY CONTACT PERSON:

✉ Predrag Baroš: predrag.baros@bblegal.ba

BULGARIA - SPASOV & BRATANOV LAWYERS' PARTNERSHIP

📍 29A SLAVYANSKA OFFICE CENTER "SLAVYANSKA", FLOOR 2, 1000 SOFIA, BULGARIA

📍 +359 2 980 18 08

☐ +359 2 980 25 10

KEY CONTACT PERSONS:

✉ Georgi Spasov: georgi.spasov@sbn-law.com

✉ Boyko Bratanov: boyko.bratanov@sbn-law.com

CROATIA - MADIRAZZA & PARTNERS ATTORNEYS AT LAW LLP

📍 21 MASARYKOVA, 10000 ZAGREB, CROATIA

☎ +385 1 48 77 280

☐ +385 1 49 20 801

KEY CONTACT PERSONS:

✉ Josip Madirazza: jmadirazza@madirazza.hr

✉ Tin Težak: ttezak@madirazza.hr

KOSOVO - TASHKO PUSTINA

📍 FEHMI AGANI, H. 79, K. 1, No. 1, 10000 PRISTINA, KOSOVO

☎ +383 38 71 77 55

☐ +383 38 71 77 55

KEY CONTACT PERSONS:

✉ Gentian Gurra: gentian.gurra@tashkopustina.com

✉ Floran Pustina: floran.pustina@tashkopustina.com

NORTH MACEDONIA - LAW FIRM KNEZOVIĆ & ASSOCIATES

📍 10 KOSTA SAHOV St., 1000 SKOPJE, NORTH MACEDONIA

☎ +389 2 322 06 80

☐ +389 2 322 06 90

KEY CONTACT PERSON:

✉ Dejan Knezović: dejan.knezovic@knezovic.com.mk

MONTENEGRO - PRELEVIĆ LAW FIRM

📍 130 BULEVAR SV. PETRA CETINJSKOG KULA NCO/VII FLOOR, 81000 PODGORICA, MONTENEGRO

☎ +382 20 510 506

☐ +382 20 510 507

KEY CONTACT PERSON:

✉ Dragan Prelević: dp@prelevic.com

SERBIA – BOPA BOJANOVIC PARTNERS

📍 12 VLAJKOVICEVA, 11000 BELGRADE, SERBIA

☎ +381 11 414 52 80

☐ +381 11 414 52 89

KEY CONTACT PERSON:

✉ Vladimir Bojanović: vladimir.bojanovic@bopa.rs

SLOVENIA - LAW FIRM KAVČIČ, BRAČUN & PARTNERS, O.P., D.O.O.

📍 TRG REPUBLIKE 3, 1000 LJUBLJANA, SLOVENIA

☎ +386 1 244 55 00

☐ +386 1 244 55 01

KEY CONTACT PERSONS:

✉ Matej Kavčič: matej.kavcic@kbp.si

✉ Simon Bračun: simon.bracun@kbp.si



adriala

✉ info@adriala.com
www.adriala.com