

COVID-19 LABOUR LAW LEGAL ALERT

The Civil Protection Headquarters of Croatia, in the period from 19 March to 21 March 2020, adopted a series of decisions that significantly affect the operations of businesses during the pandemic COVID-19, including the employment relations between employers and employees (hereinafter referred to as "Decisions").

These Decisions set out a number of anti-epidemic and social distancing measures that all persons in the territory of the Republic of Croatia must comply with (hereinafter referred to as "*Measures*"). The Decisions will be in force for 30 days from the date of adoption of each individual decision.

The most important decisions can be found at the following URLs: https://civilnazastita.gov.hr/UserDocsImages/CIVILNA%20ZA%20C5%A0TITA/PDF_ZA%20WEB/Odluka%20-%20mjere%20ograni%C4%8Davanja%20dru%C5%A1tvenih%20okupljanja,%20rada%20trgovina.pdf

Decision to temporarily suspend public transport: https://narodne-novine.nn.hr/clanci/sluzbeni/2020_03_34_733.html

Decision to strictly restrict crowding on streets and other public places: https://narodne-novine.nn.hr/clanci/sluzbeni/2020_03_34_734.html

In the absence of a specific regulation adopted at the state level that would have an impact on employment relationships, and in the times of emergencies, employers are required to apply institutes governing employment relations in the manner laid down by the provisions of the current Labour Act (Official Gazette, Nos. 93/14, 127/17 and 98/19) and other legal sources prescribed.

Consequently, employees are still required to carry out their tasks in accordance with the law, employment contract and other regulations governing the employment relationship. Furthermore, employers are obligated to ensure safe work conditions which do not endanger employees' health, as well as to obtain and maintain plants and facilities, devices, equipment, tools, place of work and access to the place of work, as well as to organize work in a way that ensures the protection of employees' life and health.

All employers, especially those continuing their business activities (i.e. those carrying out activities which, under the Decisions, are not suspended) are obligated to apply health protection measures as set out in the Decisions, the instructions and recommendations of the Croatian Directorate of Public Health (HZJZ) as set out in the documents at the following links:

- <https://www.hzjz.hr/wp-content/uploads/2020/02/Uputa-poslodavcima-i-radnicima-o-postupanju-vezano-uz-koronavirus.pdf>
- <https://www.hzjz.hr/wp-content/uploads/2020/03/Dodatne-upute-za-pojedince-kolektive-i-poslodavce.pdf>

- <https://www.hzjz.hr/sluzba-epidemiologija-zarazne-bolesti/koronavirus-najnovije-preporuke/>

Regarding the method of temporary regulation of employment relations in the circumstances of COVID-19, employers have the following options:

Work from home

- Under the Decisions, employers are obligated to organise work from home for employees whenever possible, and to minimise close contact between employees, as well as between employees and customers. They are also obligated to cancel employees' official trips (except those of great importance) and prohibit employees exhibiting symptoms of COVID-19 from coming to work place.
- With respect to regulating work from home, the employer and the employee may, for a fixed term, amend the provisions of the employment contract regarding the place of work by mutual agreement, i.e. in the further continuance of the emergency situation, the employer could determine more closely the place and mode of work at a place other than employer's premises, but only as long as these circumstances persist.
- Employers are obligated to provide adequate conditions of work to these employees, take care of the organization of work and safety of the employees, provide the equipment necessary to perform the work, as well as ensure working hours and rest which they are required to provide in accordance with the laws.

Changes regarding working hours

- The employer may, by its decision, temporarily change the working hours of the employee, redistribute the working hours, introduce shift work or agree a part-time employment contract by amending the employment contract.

Decision on annual leave

- The employer may, by its unilateral decision, determine the use of annual leave for employees, either at the individual level or at the collective level.

Decrease in salary

- The employer may determine a temporary decrease in salary by modification of the employment contract for the duration of exceptional circumstances.

Cease of work operations (with salary compensation)

- In accordance with the Labour Act, the employee is entitled to compensation during the outage which is employer's responsibility or is a result of other circumstances for which the employee is not responsible. If not otherwise specified by the Labour Act, other law, or other regulation, collective agreement, employment rulebook or employment contract, the employee is entitled to compensation in the amount of the average monthly salary paid to the employee in the previous three months.
- Taking into account the special circumstances, i.e. the decision of the Minister of Health to declare the epidemic of COVID-19 in accordance with the Law on Protection of the Population from Infectious Diseases (Official Gazette, No 79/07, 113/08, 43/09, 130/17) and the Recommendations of the Civil Protection Order of the Republic of Croatia, and in order to prevent the spread of the epidemic, the employer could take a decision on the basis of which the employees would not be under the obligation to work as long as such measures are in force, but the employer would be obligated to pay full salary compensation to those employees.

Unpaid leave

- The employer could determine unpaid leave (which implies an employment relationship inaction), but only at the request of the employee. Although there is no obligation to pay contributions for compulsory insurance during unpaid leave, the employer may continue paying compulsory insurance for the benefit of the employee during unpaid leave (i.e. may pay lowest contributions) in accordance with special regulations.

Temporary inability to work

- If an employee has become ill with COVID-19 or other illness, he is obligated to self-isolate or quarantine under a solution or other appropriate act by the competent epidemiologist. In this event, the employee shall exercise the right to absence from work with remuneration, in accordance with a specific regulation governing temporary incapacity to work.
- In the case of issuing a resolution or other appropriate act determining self-isolation or quarantine to the employee, employee's failure to perform

the contracted work may not be a justified reason for the termination of the employment contract, nor shall the employee be allowed to act on the instructions of the employer which would constitute conduct contrary to the order from the resolution or other relevant act.

Business-conditioned dismissal

- In accordance with the Labour Act, the employer may terminate employee's employment contract by regular, business-conditioned termination due to economic reasons. These are external reasons that adversely affect the scope of the employer's business and which force the employer to terminate one or more employment contracts in order to continue its business operations.
- Declaring an epidemic or pandemic COVID-19, closing state borders, introducing restrictive measures and similar extraordinary measures certainly leads to negative changes in the market and reduced job volume for employers. This applies in particular to employers who have been ordered by the Decisions to temporarily suspend their activities (e.g. trade, hospitality and transport activities), but also those employers engaged in activities particularly vulnerable to the said changes (e.g. hospitality, tourism, construction).
- In the event that there is a need to terminate employees' contracts while making sure that unintended consequences in the form of litigation with employees are avoided, we stay at your disposal in order to resolve these situations in the most acceptable way for all parties. In addition, please note that the Croatian Employment Service (CES) has brought measures aimed at preservation of jobs in the industries affected by COVID-19. To learn more, please visit: <http://mjere.hr/mjere/potpore-ocuvanje-radnih-mjesta/>

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