



CORONAVIRUS IN LABOR LAW RELATIONSHIPS

Practical Solutions to Practical Problems

Each employer's priority is to protect the health and safety of its employees. As the first cases of the COVID-19 disease caused by the novel coronavirus have been confirmed in the Czech Republic, employers should consider taking specific steps to reduce exposure of their employees to the virus in the workplace.

In this alert we provide you with answers to the most frequent questions that employers ask in relation to the coronavirus.

Q: Can we request that employees work from home?

The change of the agreed place of work, including home office, is always subject to an employee's consent. Therefore, you have to agree with an employee that he/she will work from home. If an employee does not agree to working from home, the employer can unilaterally order garden leave for such an employee (i.e. time off with 100% salary reimbursement).

Q: What if the type of work performed by the employee does not permit work from home?

In such a case the employer has no other option than to unilaterally send the employee on garden leave (i.e. time off with 100% salary reimbursement).

Q: Can we measure employees' temperatures when they are entering the workplace?

Yes, provided that contactless thermometers are used and the checks are performed on a non-discriminatory basis by health care professionals or other employees (or third party personnel) who have first-aid training.

Q: What if operations are temporarily closed because of an infected employee?

Temporary closure of operations due to infection would be classified as another obstacle to work on the employer's side, i.e. a situation in which an employee is entitled to time off since he/she cannot perform work due to reasons on the employer's side. During this period employees would be entitled to 100 % salary reimbursement.

If the type of work of an employee permits, you can offer that the employee can work from home. If the employee agrees, he/she would be entitled to salary as if he/she was present at the workplace.

Q: What are an employee's rights if he/she is in quarantine?

Provided that an employee is in quarantine based on an order of a public health protection authority, the employee shall have similar rights as an employee who is temporarily unfit for work. Thus, for the first 14 calendar days, the employee would receive salary reimbursement from their employer, and from the 15th day, the employee would be entitled to sickness allowance from the Czech Social Security Authority.

Q: Can employees refuse to go to work because they are afraid that a colleague or customer/client that has returned from a high risk affected country/area may transmit the disease?

No, employees cannot refuse to go to work in such a situation. The employer, however, has an obligation to ensure a safe workplace. Thus, the employer should take adequate measures towards individuals returning from a high risk affected countries/areas, such as agree on home office with such employees or send them on garden leave.

Q: Can employees refuse to go on a business trip abroad? Is there anything we could do in such a situation?

An employee can refuse to perform work which the employee reasonably regards as imposing a direct and serious threat to his/her health or life or the health or life of other individuals. Such refusal must not be considered a breach of obligations. Therefore, it will depend on the individual circumstances of the case, especially on the target country or area (the employer should distinguish between high risk affected countries and areas (e.g. China, Northern Italian regions) and countries and areas where the virus has not yet been confirmed or where the virus occurs only sporadically).

Q: Can we ask employees about their personal travel, i.e. whether they have been to an affected country/area?

An employer may ask employees whether they have been to an affected area lately in order to decide on further steps towards the employee (e.g. home office, garden leave) as this question aims to ensure safety and health protection in the workplace for other employees.

Q: Can we prohibit employees from going on vacation to a high-risk affected country/area?

The employer cannot give instructions to employees regarding the particulars of their vacation. The employer can, however, revoke already approved vacations – in such case the employer will bear the provable costs that incurred to the employee in this respect.

Q: What should we do if an employee returns from a high-risk affected country/area?

It is advisable to instruct the employee to follow the recommendations of public authorities: an individual returning from a high risk affected country/area should stay at home for at least 2 weeks, eliminate personal contact with other people and monitor his/her health closely. If the type of work allows, the employer and the employee may agree on home office for the relevant period, otherwise, the employee should be on garden leave.

Q: What if an employee cannot return to work because they are ordered into quarantine during his/her vacation or a business trip abroad?

In case an employee is ordered into quarantine during vacation, the vacation is not interrupted, unlike in the case of sick leave. Therefore, the employee will take vacation as originally planned, and will be excused from work (with salary reimbursement) for the reason of the quarantine only after the termination of the vacation. In the case that an employee is ordered into quarantine during a business trip abroad, such employee will remain on the business trip until the end of the quarantine period. The employee will be allowed travel reimbursement (including meal allowance) for the entire duration of such prolonged business trip.

Q: Is there anything we could do to prevent an outbreak of the virus in the workplace?

Employers may wish to issue an internal instruction notice for employees which would contain clear instructions for employees to follow to prevent outbreak of the virus in the workplace. Typically, employers may instruct employees to pay increased attention to personal hygiene; to reconsider travelling to affected areas or abroad in general; to inform the employer of any situation in which an employee might have been exposed to the virus; and to follow the recommendations of public authorities (these recommendations may be found on website of the State Health Institute).

We will be happy to assist you with drafting the communication to employees related to the coronavirus subject or to answer your follow-up questions.

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