



Tax and Legal Update

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Editorial

The spreading of the coronavirus infection puts companies in a difficult position. We would like to summarise our recommendations how to protect employees while keeping their business in operation. Further, we prepared an overview of adopted measures regarding the recent closure of borders.

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How to shield your business from the impact of COVID-19

The first cases of COVID-19 (Coronavirus) infection have been confirmed in the Czech Republic. So far, nobody has been able to predict with certainty what course this epidemic will take and how the Czech economy will be affected. Hence, scaremongering, fake news, and panic abound among the population.



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What issues need to really be dealt with? How can you best protect your employees and make sure that your business will withstand this stress test unscathed? Find a short overview below.

Employee protection

1. Which preventive measures should employers introduce?

- Keep abreast of up-to-date and factual information and keep your employees informed about (i) proper hygiene and sanitation practices to lower the risk of infection, (ii) how to proceed when returning from the affected regions (iii) what to do when symptoms of an infection with COVID-19 occur.
- Provide workplaces with disinfectants and recommended protective gear (antibacterial gels, specific types of respirators, etc.).
- Consult in advance with your medical service provider how to proceed if employees suspect that they may have become infected (quarantines, emergency medical check-ups and other measures to avoid the spread of the disease).
- Consider cancelling or limiting any business trips into the affected regions.
- Consult the situation and any possible measures with trade union representatives, employee councils and OSH (occupational safety and health) specialists.
- Review your labour-law documentation regarding the adjustment of shift schedules and mandatory leave.

2. How to react if an employee is displaying infection symptoms (high fever above 38°C/100.4°F, respiratory distress), especially if they've just returned from an affected region or may have otherwise come into contact with the virus?

- Recommend that employees immediately contact their physician or your company's medical service provider.
- If infection continues to be suspected after medical consultation, affected employees should avoid contact with others. Consider agreements to perform work from home (home office), invoking obstacles to work, mandatory vacations (in compliance with minimal advance notice requirements), agreements on unpaid days off.

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3. Which measures to enact in case of increased employee absences?

- Take preventive measures to assure operations with a limited work force.
- Adjust shift and vacation schedules (in compliance with minimal advance notice requirements).
- Order employees to work overtime.
- Rescind already approved vacations.

Effects on contractual relationships

- Inspect the conditions of your significant contractual supplier and customer relationships, in particular pertaining to acts of nature (force majeure), possibilities to prematurely cancel agreements, and any related contractual penalties. This should include your insurance policies (Do they cover risks from production losses/damages?) and loan agreements (as these might include penalties when economic performance indicators change).
- With your business partners, update each other about the fulfilment of your mutual commitments. As soon as you assert that you will not be able to fulfil any kind of obligation, inform your business partners without undue delay and ask for an adjustment of contractual conditions or the termination of the obligation.
- Should delays or cancellations of supply deliveries be expected, try to cover such outages through deliveries from other suppliers. Do not take on new orders unless you have assured yourselves that you will indeed be able to deliver, as you have a preventive obligation to avoid damages.
- Liabilities may cease to exist because of a subsequent impossibility of performance/delivery due to an act of nature. However, the current situation pertaining to COVID-19 cannot be regarded an act of nature. At the same time, a performance or delivery cannot be deemed impossible if it can be carried out (i) under difficult conditions, (ii) with increased costs, (iii) with the help of others, or (iv) after the given deadline. Business partners must be informed about any extinguished liabilities without undue delay.
- Liabilities for damages may be discharged if it can be proven that the fulfilment of an obligation was temporarily or permanently prevented by an unpredictable and insurmountable obstacle, i.e. an act of nature. Such an obstacle must have arisen prior to any delays in the obligation fulfilment.
- Do not expect that any of your liabilities will be extinguished or discharged, as the burden of proof will be on your side and most likely subject to litigation. Contractual relationships can be altered in various ways or may be bound by other/foreign legal orders which may not allow for the cancelation or discharge of liabilities and obligations.
- In case of questions, please do not hesitate to contact your KPMG engagement team or turn to [Martin Hrdlík](#), Partner of the law offices of KPMG Legal or [Barbora Cvinerová](#), KPMG Legal's labour-law expert.

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Coronavirus - new challenge for employers

The spreading of the coronavirus infection puts companies in a difficult position. HR specialists in particular worry about how to effectively protect employees while keeping their business in operation. The situation is further complicated by the spring-term holidays and employees returning from affected regions, as well as by growing panic. How to proceed, then?



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Above all, it is advisable to monitor the current situation and recommendations issued by the authorities, and to keep employees informed – in particular about proper hygiene and sanitation practices to lower the risk of infection, the symptoms of the disease, and any high-risk areas. Employees should also be informed about how to proceed if symptoms occur or if they have returned from problematic locations. As part of preventive measures, employers should provide workplaces with disinfectants and recommended protective gear, and limit business travel abroad to a necessary minimum. Finally, employers should communicate with trade union representatives, works councils and OSH (occupational safety and health) representatives, if in place.

It is also appropriate to consult the situation with a medical service provider, namely to agree in advance how to proceed if any employee shows the symptoms of the disease, has been in contact with an infected person or has returned from high-risk locations. Generally, if an employer has doubts as to an employee's capacity to work, they may send them for a medical check-up. However, many physicians have now adopted special measures to limit the spreading of the virus in patients' waiting rooms – and employers should therefore find out about any such measures adopted by their medical services provider. It is also recommendable to consult with a medical professional what other preventative measures to take.

If an employee is displaying infection symptoms, especially if they've just returned from an affected region or may have been in contact with an infected person, the employer should demand they consult their medical condition with a physician without delay. If the physician finds the employee temporarily incapable to work or orders a quarantine, this constitutes an obstacle to work on the part of the employee, with entitlement to wage compensation in the amount of 60% of average earnings.

For professions that can be carried out using remote access, working from home may be a way to isolate employees from their colleagues. Working from home, however, cannot be ordered: the employee must consent to work outside their regular workplace; the same applies to unpaid leave of absence. Another solution is to order such an employee to take a vacation – however, under the Labour Code, the employee must be notified to take a vacation at least 14 days in advance, unless they consent to a shorter notice period. Cases that do not involve the temporary incapacity to work, quarantine or home office, with the employer simply not allowing employees to work at their workplace for preventative reasons, shall be viewed as an obstacle to work on the employer's part, with full wage compensation.

Should such preventive measures lead to a high absence rate, employers cannot but mobilise their remaining workforce. For instance: adjust shift and vacation schedules (which, however must be done at least two weeks in advance, unless a shorter period has been agreed with employees) or order employees to work overtime (within the limits stipulated by law). If it becomes necessary to rescind

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already approved vacations, the employer must compensate the employee for any costs incurred.

The spreading of the infection also complicates employing foreigners. Since the beginning of February, the Czech embassy in Beijing and the general consulates in Shanghai, Chengdu and Hong-Kong have suspended accepting applications for visas and residency permits, conducting the relevant proceedings, and issuing decisions, including granting visas. This prevents the filing of new applications for permits, as well as the issuance of decisions on applications previously filed. The Czech embassies in China now only allow the filing of applications for short-term visas for family members of Czech citizens. And it is possible that the measures will tighten even more: for instance, the same prohibition may be extended to other countries, or the approval of applications will be conditional upon producing a certificate of being virus-free.

Closure of borders - overview of adopted measures

In connection with the announcement of a state of emergency, we would like to summarise the basic restrictions for Czech citizens and foreigners permanently staying or working in the Czech Republic or planning to come to the Czech Republic.



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Effective from Saturday 14 March 2020, temporary restrictions have been introduced in the Czech Republic that are intended to stop the spreading of COVID-19 (coronavirus). A government decree has introduced the following restrictions:

- All foreigners trying to enter the Czech Republic from [high-risk countries](#) are not be allowed to enter. This restriction does not apply to foreigners who hold some type of long-term residence permit issued by Czech authorities (i.e. a temporary residence permit, a long-term residence permit/visa or a permanent residence permit). Foreigners holding one of these permits, however, are subject to quarantine measures upon entering the Czech Republic.
- At the same time, all Czech citizens and foreigners holding a residence permit issued by Czech authorities are prohibited to travel to the high-risk countries.
- Czech representations abroad (i.e. embassies and consulates) neither accept nor handle visa applications and applications for residence permits until further notice.
- Any proceedings handling applications submitted to the Czech representations abroad before the effect of this measure have been interrupted; the proceedings handling applications for short-term visas are suspended.

Exceptions from the above measures may be made; however, in general, only foreigners not holding long-term Czech residence permits or Czech citizens holding a residence permit issued by one of the high-risk countries are allowed to travel to the high-risk regions.

The above measures were further tightened effective from Monday 16 March 2020 when the Czech borders were closed.

Citizens of the Czech Republic and foreigners holding a residence permit issued by Czech authorities are not allowed to leave the territory of the Czech Republic unless an extraordinary situation is concerned. Only Czech citizens and foreigners holding a permanent residence permit or a temporary residence permit for more than 90 days issued by the Czech authorities who were outside the Czech Republic at the moment the state of emergency was announced should be allowed to return to the Czech Republic. Exceptions from this measure are allowed (e.g. some cases of cross-border employment).

In addition to cancelling business trips abroad, it will also be necessary to consider earlier returns of our employees from their assignments abroad. Once they return to the Czech Republic they will have to follow the relevant instructions of the authorities and undergo respective quarantine measures that concern all high-risk regions as of today.

Regarding the temporary suspension of new applications for residence permits and the interruption or stoppage of the handling of already submitted applications, we can expect delays in relocating

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employees from abroad.

For foreigners living in the Czech Republic based on a valid residence permit, certain restrictions have been introduced. The Ministry of the Interior will only accept mailed applications for e.g. residence permit extensions. The deadlines are automatically extended for submissions requiring personal participation by the law. All existing reservations have been cancelled and a personal visit will only be allowed if they concern registration upon arrival, acquisition of biometric data, issue of residence permits and issue of a bridging label, where supported by the proof of travel.

We are continuously monitoring the situation. Please do not hesitate to contact us should you have any questions.

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