

COVID-19 and Labour Law: Georgia

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Abstract

The state of emergency in Georgia proposes no direct restrictions related to labour rights. However, prohibitions of economic activities under the Government Resolution emerge certain issues concerning labour relations. Resolution requires fulfillment of social distancing norms within the permitted workplaces. The Resolution sets remote work regime.

Keywords: Covid-19; Labour Law; Temporary disability; Remote work; Workplace social distancing; Suspension of employment relationship; Dismissal.

1. General framework.

On 26 February 2020, the first case of Covid-19 was confirmed in Georgia. The Government of Georgia then gradually introduced certain restrictions such as travel bans from high-risk countries, closing of the schools and restrictions of public gatherings. On 21 March 2020, the state of emergency was declared throughout the whole territory of Georgia. According to a Decree of the President of Georgia, certain constitutional rights and freedoms were restricted. No specific restriction was defined with regard to labour rights or employment relations¹. However, the President Decree defined authority of the Government of Georgia to introduce restrictions related to various constitutional rights affecting employment relations.

On the basis of the President Decree, on 23 March 2020, the Government of Georgia issued Resolution No. 181 on the Approval of Measures to be Implemented in connection with the Prevention of the Spread of the Novel Coronavirus (Covid-19) in Georgia (hereinafter the Resolution). The Resolution introduced curfew regime whereby from 31 March 2020, movement of people by foot or by transport is prohibited from 21:00 till 06:00. Assembly of more than 3 natural persons is prohibited in any indoor or outdoor area, except for spaces used by individuals for residential purposes. For the duration of the

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¹ According to the Constitution of Georgia, during a state of emergency, the President of Georgia shall have the right to restrict by decree various rights, including labour rights.

state of emergency, the Resolution suspends any economic activities in the country, except for essential services such as health care; postal service; retail sale of food and feed; activities related to mills, bakeries, milk processing, production; activities related to electricity, natural/liquefied gas, water, petrol supply; telecommunication; commercial banks; delivery services of meals, food, medical and pharmaceutical products, etc². The Resolution involves further restrictions such as suspension of air, land and sea transport services for transportation of passengers, intercity municipal transportation of passengers, movement by public transport, including metro. The Resolution bans movement of more than 3 persons (including drivers) by a vehicle.

2. Status of the infected employees, employees under quarantine/isolation.

Individuals tested positive for Covid-19 have to undergo medical treatment and if employed, during that period his/her employment relations are considered suspended. It is the general rule under the Labour Code of Georgia that temporary disability³ of an employee suspends employment relations and during that period employer shall fully pay remuneration to employee. Beginning from the first confirmed case of Covid-19, the Government took the approach identifying and following each and every contact of Covid-19 infected patients and they were also required to stay in quarantine and isolation, including isolation in non-medical institution or their individual apartments⁴. Respectively, on 4 March 2020, amendments were introduced to the orders of the Ministry of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia (hereinafter the Ministry), whereby employees who are requested to stay in quarantine and isolation, they will be also covered under the temporary disability regime and employers shall fully pay remuneration to them.

3. Safety and health.

In order to prevent the risk of infection among workers, the Resolution proposes the concept of workplace social distancing and remote work.

The Ministry issued workplace safety recommendations for various sectors⁵ and work process in all permitted economic activities shall be carried out in accordance with those recommendations. Moreover, within the economic activities which had not been

² The Resolution further approves the list of permitted economic activities and the list of business entities (carrying out such economic activities) whose operation is not restricted. For example, the Resolution permits construction works only by companies approved by the Government of Georgia.

³ According to the Labour Code, temporary disability means the disability period not exceeding 40 consecutive calendar days, or the total disability period not exceeding 60 calendar days in six months.

⁴ According to the Decree of the President of Georgia, the relevant state organs were authorised to transfer a person by force to a designated place for the violation of isolation or quarantine rules.

⁵ The Ministry adopted general recommendations for all sectors of economic activities, but there are also specific recommendations for example for construction sector, for service sectors (banks, pharmacies and retailers), transport sector, mining sector.

suspended, the Resolution allows gathering of more than 3 natural persons provided that a social distance of not less than 2 metres is observed in any work area. Technical and Construction Supervision Agency and the Labour Conditions Inspection Department were authorized to execute joint control and inspection over workplace compliance with the social distancing requirement and Ministry's recommendations.

The Resolution permits execution of any economic activity which may be carried out remotely, specifically working from home. In an exceptional – critical situation, taking into account the specific nature of a permitted activity, work may be performed remotely also from the workplace (office) involving only maximum of 5 persons.

4. Government anti-crisis economic plan in the absence of unemployment social security system

Shut down of the economy and interruption of business operations greatly affect state of employment in the country. After a priority concern of citizens' health, the core problem what population will face is unemployment and loss of earnings. Employers banned from functioning have an option to terminate employment contract with immediate effect based on economic reasons or technological or structural changes. For that purposes employer shall notify employee(s) three days in advance and employees should be given two months' severance pay. Instead of termination, mutual suspension of the employment relations is seen by businesses as an alternative solution⁶. Unlike to dismissed employees, suspended employees are not entitled to receive salary or severance from the employer⁷, even though they are still considered as "employed": When their employer re-commences operations, they will automatically receive back their jobs.

The government launched Anti-Crisis Economic Plan (ACEP) with the total budget of 3.5 billion Georgian Lari (GEL) to deal with the crisis and mitigate negative economic impacts of Covid-19⁸. The ACEP includes social initiatives⁹ as well as financial measures aimed to support and stimulate the economy¹⁰.

⁶ The given publication does not address grounds, their legal aspects and validity for suspension of employment relations due to suspension of the economic activities.

⁷ According to the Labour Code, in case of suspension of the employment relations, employees receive salaries only the in the following situations: call to military reserve service; temporary disability; paid leave; maternity leave.

⁸ According to the ACEP, 1,35 billion GEL will be allocated for financial support of citizens, 2.11 billion GEL - to support the economy and entrepreneurs, and 350 million GEL - to strengthen the healthcare system. Anti-crisis economy plan also includes six stages for gradual lifting of restrictions on economic activities. Two weeks were determined as average intervals between these stages. Transitioning to the next stage depends on the analysis of the epidemiological situation and if the epidemiological state deteriorates, the government reserves right to reinstate the removed restrictions or delaying transition to the next stage. See Anti-Crisis Economic Plan of the government
< http://gov.ge/files/288_75975_470501_GOG_ACP_COVID19_LKF.pdf> (accessed 15 May 2020).

⁹ The government will fully fund the utility payments of citizens for electricity, gas, cleaning and water. The program applies citizens who consume less than 200 kilowatts of electricity per month and less than 200 m³ of natural gas per month for the duration of three months - March, April, and May. The Government will subsidy prices for specific food products (rice, buckwheat, pasta, oil, flour, wheat, milk powder, sugar and beans). Commercial banks also introduced moratorium for borrowers to deter their loan repayment also for

Georgian legislation does not include social security measures related to unemployment. Legislation is silent on unemployment benefits or assistance to compensate for the loss of earnings for workers (whether suspended or terminated). However, the ACEP provides financial support for workers who have suffered a loss of income due to Covid-19. Namely, employees, whose employment relations were terminated or suspended and lost their jobs or incomes during the crisis, are entitled to receive six-month financial support in the amount of 200 GEL per month. Moreover, self-employees operating in the form of individual entrepreneurship, entrepreneur natural persons having the status of a small business and individuals having the status of a fixed taxpayer are entitled to receive one-time assistance of 300 GEL if they provide proof of loss of income.

Vulnerable workers - self-employed, domestic workers or other workers in informal sector indeed are greatly affected by economic impacts of the state of emergency. However, the ACEP does not propose financial support for informal workers (whether dependent workers and self-employees) who lost their jobs and/or earnings.

The ACEP includes stimulus package for employers to preserve jobs. Employers who retain jobs will be fully exempted from income tax on salary payments of up to 750 GEL for the period of six months. For salaries of up to 1,500 GEL, 750 GEL will be exempt from income taxation.

Social partners were not consulted on the restrictions introduced regarding suspension of economic activities and the counteracting measures and the ACEP introduced by the government. Considering the extraordinary situation of the state of emergency and lack of experiences of social dialogue, it was not expected that the government would invite social partners during discussions on the mechanisms against economic impact of Covid-19.

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next three months. The ACEP offers direct financial support for socially vulnerable citizens and persons with severe disabilities in the amount 600 GEL on average for the period of six months. The ACEP also includes pension increase for all pensioners. See in details the ACEP op. cit. 9.

¹⁰ Most sensitive sectors such as hotels and restaurants, travel agencies will be exempted from paying property and income taxes until November 2020. Tax incentives will apply to 18 000 employers and over 50 000 employees. The Government will double the volume of VAT refunds to companies with an aim of supplying them with working capital and instead of initially planned 600 million GEL, 1,200 million GEL will be refunded by the end of the year. Around 2,000 hotels with 4 to 50 rooms will receive bank loan interest rate co-financing for 6 months from government. The Government will augment its support towards capital expenditure projects with an aim of providing additional economic incentives and the capital expenditures in the state budget for 2020 will be increased by 300 million GEL. The municipal government of Tbilisi exempted open cafes from paying rents in 2020. SMEs are exempted from paying rents for 3 months. Car customs clearance for vehicle importers has been deferred until 1 September 2020. Legal entities were given the opportunity to restructure their loans. The state has ensured the construction materials for all infrastructural projects against price spikes. Commercial banks will be provided 600 million GEL in long-term resources and additional 500 million GEL will be allocated to support business in the target spheres. Additionally, stimulus mechanisms are introduced for agricultural sector and the state program "Produce in Georgia". See in details ACEP op. cit. 9.