

COVID-19 and Labour Law: Slovenia

Barbara Kresal*

Abstract

Slovenia declared Covid-19 an epidemic on 12 March 2020. Social distancing measures have been introduced, schools and kindergartens were closed, as well as most of the businesses. Tele/home-working has been widely promoted, distant schooling organised. The Government introduced different job-saving and income support measures, including partial reimbursement of wage compensations for temporarily laid-off workers due to the enterprise closures, deferral of tax and social contribution payments, temporary basic income for the self-employed etc.

Keywords: Covid-19; Labour Law; Teleworking; Homeworking; Health and safety; Job-saving measures; Income support measures; State-funded compensations.

1. General Framework

Following the declaration of a pandemic by the World Health Organisation and on the basis of the opinion of the National Institute of Public Health, the Minister of Health declared an epidemic in Slovenia on 12 March 2020¹.

Strict measures aimed at preventing the spread of the virus were introduced, including the temporary closure of schools, kindergartens, universities and a significant part of the economy, the closure of the borders (with certain exceptions) and the Ljubljana airport, as well as the suspension of all air traffic and public bus and railway transport, etc. Social distancing measures were imposed. The Government decided to temporarily prohibit all movement and gathering of people in public spaces and access to such places as of 20 March 2020, with only few exemptions, related to the operation of essential services and minimum outdoor activities (such as going to the grocery store, for a short walk individually or with

* Associate Professor of Labour Law and Social Security, University of Ljubljana, Slovenia.

¹ Decree on declaration of contagious disease SARS-Cov-2 (COVID-19) (*'Odredba o razglasitvi epidemije nalezljive bolezni SARS-Cov-2 (COVID-19) na območju Republike Slovenije'*), Official Journal No 19/2020, 12.3.2020 (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ODRE2550>).

The Decree was issued on the basis of Art 7 of the Contagious Diseases Act (*'Zakon o nalezljivih boleznih'*), Official Journal No 69/95, as later amended (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO433>).

family members living together). Facial masks and disinfection of hands are obligatory in the shops. Restaurants, hotels, bars and other venues and facilities have been closed down. In general, the supply and sale of goods and services directly to consumers has been temporarily banned since 16 March 2020, only remote provision and sale of goods and services, pharmacies and stores with food were allowed.

Citizens were required to stay at home as much as possible and were allowed to go out only if necessary and only individually or with their family members living together and under strict conditions; from 30 March until 30 April all travelling between municipalities was prohibited as well (with certain exceptions, such as travelling to/from work, essential services etc.).

Tele-/home-working has been promoted widely since the beginning of the coronavirus outbreak in early March, while for the children, the remote schooling has been organised at all levels since 16 March 2020 (primary and secondary schools as well as the universities). On the other hand, for those workers who continued working at their regular places of work (hospitals, essential services, certain industries etc.), stricter coronavirus specific health and safety measures are being applied.

Since the end of April/beginning of May, Slovenia has been experiencing the gradual easing of anti-coronavirus measures. Gradual and very cautious reopening of services and shops as well as cultural and other facilities and public venues has been going on, with gradual partial reopening of schools and other educational institutions being announced for 18 May 2020 (starting with kindergartens and the first-triad pupils of the primary school and the last-grade secondary school children, then after a week also the last-grade primary school children; the rest will continue with remote schooling until the end of this school year). Bus and railway public transport is planned to gradually start to operate – under the strict conditions with necessary preventive measures – as of 11 May 2020.

The impact of the pandemic and of the Government responses to it on the economy, employment and social situation in general has been, as all over the world, dramatic and it is expected to be such not just on a short term but also on a long run². Therefore, already in early March, the Government announced different job-saving and income support measures as well as comprehensive financial support for the businesses.

2. Income Support and Job-saving Measures

Already on 20 March 2020, the first intervention measures were enacted, i.e. the Act on the Intervention Measures as regards Wages and Contributions³ was passed by the

² According to the data of the Employment Service of Slovenia, the unemployment has been growing since March 2020.

(<https://www.ess.gov.si/obvestila/obvestilo/marca-izrazit-porast-novoprijavljenih-brezposelnih>).

Institute of Macroeconomic Analysis and Development continuously monitors the economic and social trends and the impact of the coronavirus epidemic on economic activity, employment and other relevant indicators (https://www.umar.gov.si/en/?no_cache=1).

³ *'Zakon o interventnih ukrepih na področju plač in prispevkov'*, Official Journal No 36/2020, 28.3.2020 (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8181>), as later amended.

Parliament in a fast-track procedure and entered into force on 29 March 2020. It introduced one of the most important measures for the workers during the coronavirus epidemic, i.e. a partial reimbursement of wage compensation by the State for those workers who are unable to work due to the coronavirus measures, laid-off workers etc., with an estimated value of the State intervention of around 1 billion EUR (approx. 2.1% of the GDP).

In addition, the comprehensive package of measures was prepared and adopted by the Government on 29 March 2020. Following the fast-track legislative procedure, the so-called First Anti-Coronavirus Package Act⁴ was passed by the Parliament on 4 April, published on 10 April 2020 and entered into force on 11 April 2020, however, with the retrospective effect of certain provision granting the entitlement to different financial compensations as of 13 March 2020.

The first package of measures mainly focused on the provision of rapid financial assistance to citizens and businesses to mitigate the negative consequences of the nearly total closing-down of the society due to the epidemic. The package has been estimated to around 3 billion EUR.

The second comprehensive package of measures was announced already during the preparation of the first package. While the first one was focused on the immediate emergency support and rapid response to the most urgent needs, the second package is focused on the measures providing liquidity for the businesses and comprehensive financial support measures for the entire economy aimed at avoiding redundancies as much as possible and enabling closed-down companies to restart their activities.

The so-called Second Anti-Coronavirus Act⁵ was passed by the Parliament on 28 April and entered into force on 1 May 2020. Certain amendments to the First Anti-Coronavirus Act were enacted at the same time, as a correction of and response to the most criticised deficiencies of the first package.

The third package of measures has already been announced and is supposed to be focused mainly on the industries and sectors that are among the worst hit by the effects of the coronavirus pandemic, such as tourism and similar (sector-specific, targeted measures).

Within these packages, various measures have been foreseen with different purposes⁶:

- Measures to preserve jobs (a scheme for co-financing wage compensations, providing for the rewarding of persons employed and activated in critical sectors during the epidemic, sick pay and additional funds for already subsidised employments).
- Measures to improve the social situation of people (waiving the payment of fees for public services that are not provided, solidarity bonuses for pensioners and others etc.).

⁴ Act on the Intervention Measures to Mitigate the Consequences of the Communicable Disease SARS-CoV-2 (COVID-19) for Citizens and the Economy (*'Zakon o interventnih ukrepih za zujezitev epidemije COVID-19 in omilitve njenih posledic za državljane in gospodarstvo'*), Official Journal No 49/2020, 10.4.2020 (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8190>), as later amended.

⁵ Act on Additional Liquidity to the Economy to Mitigate the Effects of the COVID-19 Infectious Disease Epidemic (*'Zakon o zagotovitvi dodatne likvidnosti gospodarstvu za omilitve posledic epidemije COVID-19'*), Official Journal No 61/20, 30.4.2020 (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO8197>).

⁶ <https://www.gov.si/en/topics/coronavirus-disease-covid-19/measures-to-mitigate-the-consequences-of-the-epidemic/>

-
- Measures to provide emergency assistance to self-employed persons (emergency assistance, basic monthly income, writing off contributions while maintaining rights, suspending the prepayment of income tax).
 - Measures to keep businesses in operation (all contributions for pension insurance of employees who work to be covered by the State).
 - Measures to improve the liquidity of businesses and provide assistance to scientific research projects aimed at fighting the epidemic.

Among the most important intervention measures for the workers are the state-funded wage compensations in cases of temporary lay-offs, cases when workers are not available for work and cannot perform their work because of the caring responsibilities due to the closures of the kindergartens and schools, as well as the tax and loan payment deferrals, bonuses for essential staff, co-financing or deferral of social contributions payment, temporary basic income for the self-employed, allowances for large families and students and other vulnerable groups.

3. Health and Safety at Work

National Institute of Public Health issued detailed sector-specific guidelines and recommendations for the employers during the coronavirus outbreak⁷. Risk assessment has to take into account these new risks and adequate measures must be introduced by the employers. The Labour Inspectorate has been supervising whether health and safety measures are respected by the employers also as regards these new coronavirus related risks at work⁸.

Workers in hospitals, in health care sector, care workers in homes for the elderly, shop-assistants, cleaners etc., who have to work at their regular workplaces also during the coronavirus epidemic and are exposed to a higher risk of infection, are entitled to the wage supplement according to the existing labour legislation and collective agreements in force, up to a 100%, depending on the sector of activity.

An allowance for performing hazardous work and for higher workloads during the coronavirus epidemic has also been introduced by the temporary intervention measures – this allowance being publicly funded (employers are exempt from paying the pension insurance contributions during the epidemic and this new allowance will be funded from the funds based on the contributions exemptions): workers in the private sector with their wage below the triple Slovenian gross minimum wage who are exposed to higher health risks or have higher workloads due to the coronavirus epidemic are entitled to an allowance in the amount of 200 EUR.

In practice, the trade unions and some non-governmental organisations warned that certain employers violate the health safety rules and that the workers – especially construction workers – are not adequately protected against the risk of infection with the new coronavirus.

⁷ <https://www.nijz.si/sl/navodila-za-delovne-organizacije-v-zvezi-z-novim-koronavirusom-sars-cov-2>

⁸ Labour Inspectorate of the Republic of Slovenia (<https://www.gov.si/novice/2020-04-10-delodajalci-so-tudi-v-casu-epidemije-dolzni-izvajati-vse-ukrepe-za-varnost-in-zdravje-delavcev/>).

4. School Closures and Work-life Balance

Working parents have been faced with quite a challenge when the schools and kindergartens closed due to the epidemic and every organised group childcare was prohibited as of 16 March 2020. An increased care burden of the working parents due to the closure of schools and all childcare facilities had to be combined with teleworking at home. Besides, there are workers that have to work at their regular workplaces. If a workers was not able to organise childcare at home (for example, another parent working at home), he or she was entitled, according to the existing labour law rules, to stay at home with the compensation of 50% of the previous salary, but not less than 70% of the national minimum wage, this compensation being paid by the employer.

The intervention measures of the anti-coronavirus package introduced the right of such working parents to the compensation of 80% of their previous salary during the time they are not available to work because they have to care for their children at home (wage compensation in the same amount as in case the workers are staying at home on a temporary lay-off due to the closure of the enterprise or lack of work); besides, this compensation is now partially subsidised by the State in the same manner as the compensation in case of the temporary lay-off (40% funded by the State, 60% by the employer).

5. Special Measures for the Self-Employed and Other Vulnerable Groups

The self-employed are particularly vulnerable group hit hard by the coronavirus epidemic crisis. The anti-coronavirus package introduced different measures specifically for the self-employed, as well as for certain other vulnerable groups.

One of the most important measures from the package is the emergency assistance. The self-employed who declare themselves affected by the crisis (their income has declined by at least certain percent in comparison to the previous year and/or previous months) can apply for the temporary basic income during the crisis, in the amount of 350 EUR for March, 700 EUR for April and May 2020. Besides, their social security contributions are covered by the State.

However, the trade unions and some non-governmental organisations have warned that not all vulnerable groups were covered by these special government measures and that certain groups have been left out⁹.

⁹ <https://www.zsss.si/korona-virus/javni-pozivi-apeli-pisma/>

6. The Lack of Social Dialogue

It is interesting to note, that the first intervention measures were prepared and introduced by the Government in the absence of any social dialogue. Trade unions and employers' associations presented their views, their proposals and suggestions for improvements, however, the classical social dialogue was missing. Certain proposals of the social partners were later taken into account by the Government.

It is worth to note that in some areas, the Government amended the initial package adhering to the trade unions demands; for instance, after the trade unions critiques that all workers have to be covered by the intervention measures, also the workers who had lost their jobs due to the coronavirus outbreak before entering into force of the new law (introducing the substantial state-funded wage subsidies and other measures), the respective law was amended in a way that certain measures applied retroactively since the day the epidemic had been declared¹⁰. Also, certain vulnerable groups were additionally covered by the measures after the trade-unions interventions.

7. Conclusion

Already the existing labour legislation¹¹ offered the legal basis for certain measures as an adequate response to the impact of the coronavirus epidemic on employment and workers' rights. For example, the existing labour legislation regulates the home-/teleworking and corresponding workers' rights and therefore, the wide immediate introduction of teleworking arrangements for lots of workers already at the beginning of the coronavirus outbreak did not face any major obstacles. As a result, lots of people work from home with their labour rights not being threatened. The existing labour legislation also regulates temporary lay-offs and the right of the workers to the compensation during this time in the amount of 80% of their previous salary¹². Workers with family responsibilities who were faced with closures of schools and needed to stay at home for taking care of their children are also – already on the basis of the existing labour legislation – entitled to the wage compensation at least in the amount of 50% of their previous salary, but not less than 70% of the national minimum wage (in Slovenia, the minimum wage amounts to approx. 940 EUR gross and 700 EUR net in 2020)¹³. Workers exposed to higher health and safety risks at work during the coronavirus outbreak (for example in hospitals etc.) are entitled to a special wage supplement for

¹⁰ ILO, *Country policy responses: Slovenia* (<https://www.ilo.org/global/topics/coronavirus/country-responses/lang-en/index.htm#SI>).

¹¹ Employment Relationships Act (*'Zakon o delovnih razmerjih'*), Official Journal No 21/2013, as later amended (<http://www.pisrs.si/Pis.web/pregledPredpisa?id=ZAKO5944>).

¹² The anti-coronavirus intervention package additionally introduced partial State-funded reimbursement of employer's costs in this respect, thus preventing the dismissals and promoting the introduction of this measure or the introduction of short-time work by the employers.

¹³ The anti-coronavirus intervention package additionally introduced equal treatment of those workers with the workers who stayed at home without work due to the lack of work or closure of the enterprise, i.e. due to the economic reasons (80% wage compensation instead of only 50%) with the same partial State-funded reimbursement of employer's costs in this respect.

hazardous circumstances already on the basis of the existing sectoral collective agreements. And so on. Nevertheless, specific measures were needed and the measures in the anti-coronavirus packages offer certain additional support for the employment and workers' rights in times of coronavirus epidemic. However, there are still deficiencies. Not all vulnerable workers are covered, the supervision by labour inspectorates seems to be insufficient in practice, the long-term measures are still lacking, because certain sectors will not recover very easily.

The major problem, nevertheless, seems to be the precarisation of labour that has been going on already since the decades¹⁴. A lot of people work outside the regular employment relationship and thus without adequate labour law protection. The current coronavirus only revealed the already existing fundamental problems in the world of work and the need to change the paradigms, to strengthen solidarity, equality and social-ecological sustainable development, and to guarantee adequate protection also to the most vulnerable in our societies.

Copyright © 2020 Barbara Kresal. This article is released under a Creative Commons Attribution 4.0 International License

¹⁴ On precarious work in Slovenia see, for example, Senčur Peček, D., Franca, V., *From student work to false self-employment: how to combat precarious work in Slovenia?*, in Kenner, J. et al. (eds), *Prekarious Work – The Challenge for Labour Law in Europe*. Edward Elgar, Cheltenham 2019, 114–132; and Kresal Šoltes, K., Strban, G. Domadenik, P. (eds.), *Prekarno delo : multidisciplinarna analiza* (*Prekarious Work : Multidisciplinary Analysis*), Pravna fakulteta/Ekonomska fakulteta, Ljubljana, 2020.