

# COVID-19 and Labour Law: Slovakia

Viktor Križan\*

## Abstract

As Slovakia is one of the least affected countries in terms of the spread of the disease, except for doctors and employees in social services facilities, there was no serious threat to the health of employees. However, this is not due to the economic consequences of the pandemic, which threaten the competitiveness of employers. The new government tried to respond to the situation with legislative measures, which were adopted in quick succession, without discussion with the social partners and often in the form of indirect amendments, which in turn it makes it more difficult in orientation in the legislation. However, thanks to the intervention of the social partners, no measures have been taken that would worsen the position of employees in employment relations. The promised financial assistance for job retention is running very slowly.

**Keywords:** Covid-19; Labour Law; Sickness benefit; Nursing benefit; Projects to support job retention; Labour Code; Social Insurance Act; Employment Services Act.

## 1. General Framework.

COVID-19 was first reported in the Slovak Republic on 6<sup>th</sup> March 2020, just days after the elections, which were won by the previous opposition. The outgoing government therefore focused mainly on preventive measures to prevent the spread of the virus. The adoption of economic measures was thus influenced by waiting for the formation of a new coalition, a new government and the holding of the inaugural meeting of the National Council.

The outgoing government responded to the situation for the first time on 11<sup>th</sup> March 2020 by declaring an emergency situation in connection with the threat to public health<sup>1</sup> and subsequently declaring a state of emergency pursuant to Art. 5 of the Constitutional Act no. 227/2002 Coll. on the security of the state in time of war, state of war, and state of emergency, as amended<sup>2</sup>. By declaring a state of emergency, a work obligation was imposed

---

\* Associate professor, Trnava University in Trnava, Trnava, Slovak republic

<sup>1</sup> The Government of The Slovak Republic: Resolution on the proposal to declare an emergency in relation to threats to public health II. degree due to COVID-19 disease caused by the corona virus SARS-CoV-2 in the territory of the Slovak Republic. <https://rokovania.gov.sk/RVL/Resolution/18249>.

<sup>2</sup> Resolution of the Government of the Slovak Republic on the proposal for the declaration of a state of emergency pursuant to Art. 5 of the Constitutional Act no. 227/2002 Coll. on the security of the state in time of war, state of war, state of emergency and state of emergency, as amended, to impose work duties on ensuring

to ensure the provision of health care and the exercise of the right to strike in selected professions was prohibited.

Prior to that, the Central Crisis Staff, which is the coordinating body of the Government of the Slovak Republic for resolving crisis situations outside the time of war and state of war, banned from organizing mass events, sports, cultural, social or other with effect from 10<sup>th</sup> March 2020<sup>3</sup>. Shortly afterwards, the Public Health Office banned the operation of facilities where people could meet and endanger themselves, including schools<sup>4</sup>. As of 16<sup>th</sup> March 2020, a measure by the Public Health Office closed all retail establishments and all establishments providing services, except those necessary, such as grocery stores, pharmacies, drugstores, petrol stations or online shops and delivery services<sup>5</sup>. The retail and services sector is dependent on the purchasing power of the population, it often employs people with lower incomes, lower savings and often unable to work through a home office, and therefore, although these measures persist to this day, they are gradually being released.

Likewise, all persons who come from abroad are obliged to enter the state quarantine. Exceptions apply to some groups - for example, pregnant women, people over 75, people with serious health problems, drivers and crews of freight transport in order to supply the Slovak Republic and the like<sup>6</sup>. The measure also does not apply to persons who have permanent residence or temporary residence in the Slovak Republic or in the border zone up to 30 km from the state border of the Slovak Republic, and have an employment relationship or similar employment relationship in border areas within 30 km from the Slovak border and are holders of a certificate from the employer on such performance.

Although these measures directly affected only two groups of workers, namely parents with compulsory school children, who had to take care of their children and employees and the self-employed in retail and services, the coronavirus crisis affected the entire Slovak economy<sup>7</sup>. Employers have taken measures to protect employees, including working from home, where possible<sup>8</sup>, while others, including all four automakers, have temporarily

---

the provision of health care and prohibiting the exercise of the right to strike by certain workers, published in the Collection of Laws as no. 45/2020 Coll.

<sup>3</sup> Office of Public Health: Information on the prohibition to organize and organize mass events, sports, cultural, social or other nature.

[http://www.uvzsr.sk/docs/info/covid19/informacia\\_HH\\_SR\\_hromadne\\_podujatia.pdf](http://www.uvzsr.sk/docs/info/covid19/informacia_HH_SR_hromadne_podujatia.pdf)

<sup>4</sup> Public Health Office: Measure of the Public Health Office of the Slovak Republic in case of threat to public health no. OLP/2576/2020.

[http://www.uvzsr.sk/docs/info/covid19/Opatrenie\\_UVZSR\\_pri\\_ohrozeni\\_verejneho\\_zdravia\\_12.03.2020\\_prevadzky.pdf](http://www.uvzsr.sk/docs/info/covid19/Opatrenie_UVZSR_pri_ohrozeni_verejneho_zdravia_12.03.2020_prevadzky.pdf)

<sup>5</sup> Public Health Office: Measure of the Public Health Office of the Slovak Republic in case of threat to public health no. OLP/2595/2020.

[www.uvzsr.sk/docs/info/covid19/Opatrenie\\_UVZ\\_SR\\_o\\_zakaze\\_a\\_obmedzeni\\_prevazdok\\_15032020.pdf](http://www.uvzsr.sk/docs/info/covid19/Opatrenie_UVZ_SR_o_zakaze_a_obmedzeni_prevazdok_15032020.pdf)

<sup>6</sup> Public Health Office: Measure of the Public Health Office of the Slovak Republic in case of threat to public health no. OLP/3172/2020.

[http://www.uvzsr.sk/docs/info/covid19/opatrenie\\_statna\\_karantena\\_16\\_4\\_2020.pdf](http://www.uvzsr.sk/docs/info/covid19/opatrenie_statna_karantena_16_4_2020.pdf)

<sup>7</sup> Compared to January 2020, people bought about 20% less in retail in the second half of March. Revenues in hotels and restaurants were minimal, although at restaurants can see gradual growth and efforts to adjust to the constraints probably by delivery sale.

<sup>8</sup> The measures taken include a ban on business trips, the distribution and mandatory use of protective veils on the employer's premises, increased disinfection of common areas or temperature measurement in case of suspicion of illness.

---

suspended production or operate on a restrictive basis due to the failure of employees with children as well as concerns for the health of their employees.

Last but not least, employers' decision to suspend production can also be attributed to a drop in sales or a problem in the supply chain. Slovakia is the country that is probably most dependent on exports to other member states of the European Union, as a result of which the Slovak economy is currently experiencing a 30% decline in performance, which is caused by weak foreign sales and not closed retail and services, which have only a negligible impact. The other 70% of the economy appear healthy and thanks to government measures, people do not have to be afraid to go to work.

According to available data, the economic downturn due to the coronavirus directly affects 15,660 companies, which together generate annual revenues of approximately € 8.8 billion. Entrepreneurs in the accommodation and catering sector (82% of entrepreneurs), other services (73% of entrepreneurs) and trade (66%) had to interrupt operations to the greatest extent. At the same time, about 1/5 of industrial companies (20%) and construction companies (18.2%) claim that they had to suspend their activities because they lack inputs<sup>9</sup>. Many were caught in wage cuts or lost contracts, and although the registered unemployment rate rose only slightly to 5.19 percent during the month of March<sup>10</sup>, several employers have already reported mass redundancies in connection with the coronavirus<sup>11</sup>. That's why economists' forecasts expect unemployment to rise to 8.8 percent, or worse, to 11 percent.

## **2. Possibilities for employers before adopting changes in the field of labour law and social security law**

According to § 5 of Act no. 124/2006 Coll. on safety and health at work every employer is obliged to apply the general principles of prevention in the implementation of measures necessary to ensure safety and health at work. The general principles of prevention also include the exclusion of hazards and the resulting risk, as well as the assessment of risks that cannot be ruled out, therefore the employer is obliged to assess the risk at the workplace and is entitled to take and implement appropriate measures to protect workers' health. This provision can also be applied to the COVID-19 situation. The adoption of appropriate measures depends on the risk assessment of the employer on a case-by-case basis (e.g. the country from which the employee returns) and may be subject to measures taken by the relevant public authorities. E.g. persons returning from the COVID-19 disease zone who did not show signs of the disease were required to monitor their health for 14 days from

---

<sup>9</sup> Association of Young Entrepreneurs of Slovakia: Two thirds of small companies will last a maximum of a month without taking measures. <https://zmps.sk/aktuality/tlacove-spravy/dve-tretiny-malych-firiem-vydrzia-bez-prijatia-opatreni-najviac-mesiac>

<sup>10</sup> Central Office of Labour, Social Affairs and the Family: Registered unemployment rate in March 2020 at 5.19%. [https://www.upsvr.gov.sk/media/medialne-spravy/miera-vidovanej-nezamestnanosti-v-marci-2020-na-urovni-519.html?page\\_id=996472](https://www.upsvr.gov.sk/media/medialne-spravy/miera-vidovanej-nezamestnanosti-v-marci-2020-na-urovni-519.html?page_id=996472)

<sup>11</sup> As of 17<sup>th</sup> April 2020, Offices of Labour, Social Affairs and Family registered 18 collective redundancies that could affect more than 3,500 employees. Compared to last year, this is a significant increase, when only 67 people were collectively redundant in the same period.

---

arrival in the COVID-19 affected area prior to the introduction of compulsory state quarantine. Based on this recommendation, the employer could consider requesting the employee to work from home, or an obstacle at work for 14 days.

Among the preventive measures that the employer could take are:

- justified absence from work - the procedure is based on the provisions of Act no. 311/2001 Coll. Of the Labour Code (hereinafter referred to as the “Labour Code”) on important personal obstacles at work (§ 141 par. 1 of the Labour Code), where the employer justifies the employee's absence from work for specific reasons. The employer shall justify the employee's absence from work during his temporary incapacity for work in case of quarantine, treatment of a sick family member and care of a child under ten years of age who cannot be in the care of a childcare establishment or school for serious reasons.
- work from home - the employer and the employee had the opportunity to agree on a temporary performance of work from the employee's residence. If the employment contract does not contain such a place of work, it was necessary to negotiate a change. Working from home is not only possible for employees where there is a certain risk that they may have been infected or who are already in isolation, but also with the aim of reducing the number of employees at work - e.g. increasing the protection of employees who travel long distances and use public transport, the protection of employees caring for the elderly, for employees with children when schools are closed, for employees in "open space" workplaces where there is a higher concentration of people in one workplace.
- taking of annual leave - the employer may determine the taking of leave to the employee under the conditions stipulated by the Labour Code. According to § 111 par. 1 of the Labour Code, when determining leave, it is necessary to consider the tasks of the employer and the legitimate interests of the employee. According to § 111 par. 4 of the Labour Code, the employer is obliged to notify the employee of the drawing of leave at least 14 days in advance. This period may exceptionally be shortened with the consent of the employee. In the case of preventing the spread of COVID-19, this is undoubtedly an exceptional situation, but the employer is dependent on the consent of the employee, who is not obliged to grant it.
- taking of compensatory leave - if the employee has untaken compensatory leave for overtime or holiday work, it is also possible to determine the use of compensatory leave (according to the conditions set out in § 121 and § 122 of the Labour Code).
- a change in the work schedule - a change in the work schedule is also possible, but according to § 90 par. 9 of the Labour Code, the employer is obliged to notify the employee of the schedule of working hours at least one week in advance and it must be valid for at least one week.
- other obstacles in the work on the part of the employee - according to § 141 par. 3 of the Labour Code, the employer may also provide the employee with paid leave, which the employee will work on later.

- non-assignment of work to the employee - an obstacle to work on the part of the employer - in a special case, such as preventing the spread of COVID-19, the employer may not allow at-risk employees to perform work at the workplace for prevention. In this case, the employee is entitled to compensation of wages in the amount of his average earnings (§ 142 para. 3 of the Labour Code). The Labour Code does not contain a time limit on the duration of this obstacle at work, and thus it is up to the employer to decide to what extent this measure will be applied in this case, it is practically limited only by his economic situation.
- temporary assignment of an employee - the employer may agree in writing with the employee on temporarily assignation him to perform work for the user employer (§ 58 of the Labour Code, e.g. employees of the bookstore network were assigned to a network of grocery stores).

In the field of social security, two situations were considered, depending on the circumstances:

- if there is a closure of a pre-school or social services facility in which the child is provided with care, or a school in connection with the coronavirus, insured persons have the opportunity to claim nursing benefit<sup>12</sup>, regardless of whether it is a state or non-state facility<sup>13</sup>,
- if the insured person is recognized as temporarily unable to work, he or she can claim sickness benefits<sup>14</sup>.

### 3. Measures adopted in the field of labour law and social security law

As the above options put a significant burden on employers, who had to reduce or close their operations, the newly formed government and parliament were forced to deal with the looming economic consequences shortly after accession. Therefore, several changes to labour and social security regulations have been adopted in a truly short time.

The first change that was adopted was an amendment to the Act no. 461/2003 Coll. on Social Insurance (hereinafter referred to as the “Social Insurance Act”) no. 63/2020 Coll., which amended the conditions for entitlement to nursing and sickness benefits. The intention of the legislator was to improve the financial situation of sickness and nursing recipients and to help partially mitigate the negative financial impact on employers. In cases of quarantine measure and isolation ordered in connection with the spread of COVID-19

---

<sup>12</sup> The nursing benefit is a sickness benefit that is provided on the grounds of personal and all-day nursing of a sick child (own one, adopted or placed in the care by a decision of the competent authority), for a sick husband, sick wife, sick parent or sick parent of the spouse. It shall be provided also on the grounds of the personal and all-day nursing of a healthy baby up to ten years of age.

<sup>13</sup> In view of the coronavirus emergency situation, the Social Insurance Agency, as a social insurance provider, stated that, following the announcement of emergency measures and in accordance with the competent authorities' decision to close schools, it would grant nursing care for personal and full-time care (10 + 364 days) during the whole 14-day period during which schools and pre-school facilities were to be closed.

<sup>14</sup> The sickness benefit shall be provided to the insuree who has been recognized as temporarily incapacitated for work as a result of his or her sickness or accident or is obliged to respect a quarantine measure.

disease, the employee's right to sickness benefits paid by the Social Insurance Agency was established from the 1<sup>st</sup> day of temporary incapacity for work<sup>15</sup>. It was therefore a matter of relieving employers of the payment of income compensation in the event of temporary incapacity for work. At the same time, it was stipulated that in times of crisis related to COVID - 19, in cases where the insured is ordered quarantine or isolation, the amount of sickness benefit is 55% of the daily assessment base from the first day of incapacity for work<sup>16</sup>.

In relation to nursing benefit, the group of insured persons who are entitled to nursing benefit has been changed. The benefit is now granted in cases where a child is ordered to take quarantine and isolation measures, in cases of closure of the facility visited by the child, or in cases where the person caring for the child cannot provide this care for objective reasons, to insured persons who are taking care of a child under 11 years of age, respectively 18 years in the case of a child with a long-term adverse health condition. At the time of the COVID-19 crisis, in these cases and if the insured person treats the child personally and on a full-day basis until the age of sixteen, whose medical condition, as confirmed by the doctor concerned necessarily requires treatment by another natural person, nursing benefit is paid for the entire duration of the need for care/treatment<sup>17</sup>.

The above-mentioned amendment to the Social Insurance Act also amended other legal regulations. By amending Act no. 5/2004 Coll. on employment services (hereinafter as "Employment Services Act"), employment services instruments have been strengthened to mitigate the negative effects of quarantine measures. In order to support the elimination of the effects of this situation on employment and the labour market, under active labour market measures were included projects to support job retention, including self-employed jobs and to support the retention of employees during a declared emergency, state of emergency or exceptional situation and in the period after their end. They started to implement projects to compensate employers and the self-employed who retain jobs despite the obligation to suspend or reduce their activities by a resolution of the Central Crisis Staff, respectively who have had to do so as a result of protecting their employees' health, declining orders or lapse of subcontractors. On this basis, the employer is entitled to compensation for damages in the following form:

- the state will reimburse 80% of the employee's salary to companies whose operations are compulsorily closed,
- if the establishments have not been compulsorily closed, the state will provide contributions for self-employed persons and employees according to the decrease in the company's revenues:
  - by more than 20% - 180 €
  - by more than 40% - 300 €

---

<sup>15</sup> According to the previous legal status, the employee's entitlement to sickness benefits arose only from the 11th day of incapacity for work, while for the first 10 days the employee was entitled to compensation for income in the event of temporary incapacity for work, which was paid by the employer.

<sup>16</sup> According to the previous regulation, it was during the first three days of drawing sickness or income compensation for temporary incapacity for work only 25%.

<sup>17</sup> According to the previous legislation, it was only 10 days.

- by more than 60% - 420 €
- by more than 80% - 540 €.

This was soon followed by an amendment to the Labour Code (and at the same time the second amendment to the Social Insurance Act) no. 66/2020 Coll., which adopted certain amendments in the field of work organization<sup>18</sup>, protection of employees' rights<sup>19</sup>, annual leave<sup>20</sup> and obstacles to work<sup>21</sup>. The government approved the proposed changes in the Labour Code without communicating or discussing them with the social partners at all, which was also blamed on it by the employees' representatives<sup>22</sup>. Intervention and media coverage by the unions eventually succeeded when the most controversial provision<sup>23</sup> was deleted from the government's proposal and was not finally adopted by parliament.

The amendment to the Social Insurance Act extended the unemployment benefit period by one month for insured persons who were unable to find work until the end of the original support period during the crisis, especially due to the labour market situation caused by the spread of Covid-19. In view of the dynamically changing situation and unpredictable developments on the labour market, the Government of the Slovak Republic has been, if necessary, authorized to issue government regulations for the period of the crisis situation related to the spread of Covid-19 and period of two months after its end and temporarily adjust the conditions for entitlement to unemployment benefit, the conditions for the

---

<sup>18</sup> A rule has been introduced on the possibility for an employer to order work from the employee's house if such activity is possible and if work at the workplace is not possible, necessary or it is risky in order to prevent the spread of a communicable disease and the employee may unreasonably refuse such work from the household (agreement of the parties is not excluded by this provision).

The right of an employee to perform work from a household was also established, provided that the nature of the work allows it and that this is not prevented by serious operational reasons (e.g. the need for some employees to be present at the workplace).

The notification of work shifts to employees in advance has also been regulated, where the employer is obliged to notify the employee of the schedule of working hours at least two days in advance (previously it was a week), unless a shorter agreement is agreed with the employee.

<sup>19</sup> An employee who, during a crisis, uses an important personal obstacle at work to treat a sick family member or care for a child, or is subject to a quarantine measure or an obligation of isolation, on termination of employment and on return to employment, he is entitled to protection equal to an employee who is temporarily unable to work.

<sup>20</sup> The conditions for ordering the taking of annual leave have been modified in terms of the employer's notification obligation, which was reduced to at least seven days in advance and, in the case of leave carried over from the previous year, to at least two days in advance.

<sup>21</sup> According to the new regulation, if an employee is unable to perform work in whole or in part for the cessation or restriction of the employer's activity by decision of the competent authority or for the cessation or restriction of the employer's activity as a result of a declaration of a state of emergency, state of emergency or state of emergency, the employee is entitled to compensation of wages only in the amount of 80% of his average earnings, but at least in the amount of the minimum wage.

In a specific situation where the employer has defined in a written agreement with the employees' representatives serious operational reasons why the employer cannot assign work to the employee, the employee is entitled to wage compensation in the amount specified in the agreement, but at least 60% of his average earnings.

<sup>22</sup> Confederation of Trade Unions: The story "about us without us" continues and bears the first bitter fruit. <https://www.kozsr.sk/2020/03/31/pribeh-o-nas-bez-nas-pokracuje-a-prinasa-prve-trpkе-ovocie/>

<sup>23</sup> According to the proposed change, the employee would have to work up to an additional 400 hours in 12 months if the employer had ordered him to declare a state of emergency, state of emergency or state of emergency and could not assign work to the employee and provide him with compensation.

---

payment of unemployment benefit, the length of the unemployment benefit period and the amount of unemployment benefit.

The amendment to the Labour Code also changed the Employment Services Act again, when the fulfilment of the conditions for granting a contribution to projects to support the maintenance of employment during an emergency, state of emergency or state of emergency and in the period after their termination<sup>24</sup> the applicant proves only by a solemn declaration. At the same time, due to the accelerated administration of assistance to employers and self-employed persons affected by the effects of the current pandemic crisis at the time of the declared emergency, state of emergency or state of emergency implementation, an exemption was granted from the obligation to register with public sector partners no. 315/2016 Coll. on the register of public sector partners.

Subsequent, a second direct amendment to the Social Insurance Act no. 68/2020 Coll. aimed to mitigate the economic impact on social security contributions and compulsory old-age pension contributions. A postponement of the payment of insurance premiums for compulsory sickness insurance and compulsory pension insurance self-employed persons and insurance premiums paid by the employer for March 2020, or for another period that may be established by the Government of the Slovak Republic by its regulation, was accepted. Premiums paid by the employee and deducted by the employer are not covered by the change. On the other hand, this exception also applies to employers and compulsorily insured self-employed persons who show a decrease in net turnover or income from business and other self-employed activity by 40% or more.

So far, the last amendment to the Social Insurance Act no. 95/2020 Coll. removes the obligation to pay premiums to employers or compulsorily insured and compulsorily insured self-employed persons for April 2020, or for another period that may be established by the Government of the Slovak Republic by its regulation. This exception applies to employers or compulsorily insured self-employed persons who, in April 2020, closed operations for at least 15 days because of the Measures of the Public Health Office of the Slovak Republic.

Again, the Employment Services Act is also indirectly amended, when is expanded the group of applicants for the allowance within a project to support the maintenance of jobs, including jobs in which self-employment is or is being carried out, and to support the retention of employees in connection with the declaration of a state of emergency, emergency or state of emergency and the elimination of their consequences, also about those applicants who have their tax and contribution obligations, respectively receivables towards the Labour, Social Affairs and Family Office are fulfilled through the repayment schedule, or due to the loss of sales in March 2020, they were not able to meet these obligations for the month of February 2020.

---

<sup>24</sup> Such as compliance with tax obligations, obligations to pay social insurance premiums and compulsory contributions to old-age pension savings, payment of an advance on public health insurance premiums, non-violation of the prohibition of illegal employment at least two years before applying for the contribution, etc.



---

#### 4. Conclusion

As the Slovak Republic is not one of the countries at greater risk of Covid-19, most measures focus on maintaining jobs and helping employers affected by the adverse economic consequences of the protection measures taken. Measures have been taken in rapid succession many times through indirect amendments, which does not contribute to legal certainty. In addition, the promised state aid is running very slowly, as three weeks after the approval of the scheme, 43021 aid applications were registered at the time the contribution was submitted, but only 9523 applicants received aid.

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