

COVID-19 and Labour Law: Latvia

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Abstract

The Latvian response to the COVID-19 crisis can be praised as successful since the pandemic reached its peak as early as 1 April and there has been a gradual decrease of new cases since then. Nonetheless, the consequences for the labour market are significant. Latvia adopted several measures, including a wage subsidy, income support for the self-employed, and tax relief for companies. However, some of these measures have been deemed ineffective and, in addition, there is evidence that circumvention of some labour laws is taking place in the shadow of the crisis.

Keywords: Covid-19; Labour Law; Wage subsidy; Income support; Unpaid leave; Collective dismissals.

1. General Framework

The Latvian response to the COVID-19 crisis has been praised as successful¹. There have been relatively few confirmed cases (only 896) and very few deaths (only 16)² in spite of extensive testing efforts and not very stringent social distancing measures, at least when compared with other countries in the region. Since 1 April there has been a decrease of new cases. There are several reasons for this success. First, a national health emergency was announced as early as 16 March when only 16 cases of COVID-19 had been recorded. Second, a number of social distancing measures were immediately implemented, including mandatory self-isolation following trips abroad and the closure of schools³. Third, the response to the crisis has been done in line with advice from experts, most notably the leading epidemiologists. All this has allowed the majority of businesses, shops and even cafes to remain open during the epidemic, if they are able to ensure compliance with social distancing requirements⁴. Telework was never imposed; however, many companies used it as a solution anyway.

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¹ <https://www.telegraph.co.uk/news/2020/04/25/latvia-kept-covid-deaths-dozen-businesses-stayed-open/>

² Data from 4 May 2020.

³ https://mk.gov.lv/sites/default/files/attachments/covid-19_003.docx

⁴ Typically, at least a two-meters distance has to be ensured in public spaces and disinfectants must be available in shops and cafes.

The first measures directly affecting the labour market were also adopted early on. The limit of overtime work was raised to 60 hours per week in a number of sectors, notably health and social services. Special social distancing requirements were adopted in the food, farming, forestry and fisheries sectors. International passengers transport was suspended. Interestingly, less protective social distancing rules were adopted for the transport sector and for companies that either post or receive posted workers from abroad⁵. The 14-day self-isolation period is not mandatory in these sectors. Finally, and in contrast to the ILO suggestions⁶, the government also announced that COVID-19 cannot be considered an occupational disease, meaning the additional protection obligations for employers do not apply⁷.

2. Regulatory measures supporting the affected business and workers

Importantly, Latvian labour law already contained provisions regulating situations of downtime. Workers have a right to receive their full salary during such periods (Art. 74(2)) and the employer can assign the worker to different tasks than those agreed in the employment contract, but only for up to two months per year and without any reduction of the average salary. Finally, employers cannot force workers to take either annual (Art. 150) or unpaid (Art. 153) leave. This must be mutually agreed upon by both sides.

Nevertheless, already at the onset of the current crisis, there were reports about dismissals and employers forcing workers to agree to unpaid leave⁸. The dismissal law in Latvia is very lax and the severance pay low, therefore it is easy for the employer to either dismiss a worker or threaten dismissal when proposing unpaid leave (Art. 103(1)(3) and 112(1)).

To address the problems experienced by both businesses and workers, the Latvian authorities adopted a series of measures. Most of them were primarily addressed to companies: the extension of tax deadlines where necessary, a faster refund of VAT overpayment, 'credit holidays' (delayed repayment of loans), and working capital loans for companies, farmers and fishermen in difficulty are some of the main examples. The most controversial and central measure, however, was a wage subsidy made available to companies who experience a drop in their revenue by 20-30% in comparison to the previous year. To be eligible for this subsidy, companies cannot have a significant tax debt, cannot have been punished for breaches of tax, customs or employment law which led to a fine exceeding 500 euros, and cannot have paid less than 200 euros in taxes per month. If

⁵https://mk.gov.lv/sites/default/files/attachments/rikojums27_132.doc and https://mk.gov.lv/sites/default/files/attachments/rikojums_157.doc

⁶ https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_739937.pdf p. 14.

⁷ https://mk.gov.lv/sites/default/files/attachments/rikojums_161.doc

⁸ The increase of consultations and reported cases at the Labour Inspectorate is reported here: <https://www.lsm.lv/raksts/zinas/latvija/valsts-darba-inspekcija-saistiba-ar-covid-19-butiski-pieaug-konsultaciju-skaitu.a352325/>

eligible, the companies' workers receive a wage subsidy amounting to 75% of the salary, but capped at a maximum of 700 euros.

There have been many complaints about the scheme. First, many companies did not qualify due to tax debts, which is a very common predicament in the tourism and catering industries, and accordingly their workers remain without support. Second, only private sector companies were eligible for the subsidy. However, collective dismissals began immediately in several state-owned companies (and without due consultations of workers' representatives⁹), including the flag carrier (AirBaltic) and the national airport (Riga Airport)¹⁰, which indicated a need for increased support in the public sector as well. Third, the subsidy was initially not available for the self-employed or payers of micro-company tax. Fourth, it was not available for those workers who experienced partial downtime; to be eligible, they had to stop working completely. Finally, the first data from March 2020 showed that the average subsidy allocated was around 300 euros only¹¹. The government explained this by the fact that the shadow economy accounted for a significant share in the sectors most affected by the COVID-19 crisis, where workers officially receive only the minimum wage and the rest of their salary is paid to them in cash, meaning they do not pay taxes and social contributions (used for calculating the subsidy).

Some of these issues were mitigated by amending the initial scheme. An analogous (income) support scheme was introduced for the self-employed and payers of micro-company tax. This was especially important for the cultural and creative industries, amongst others, where most people work under these statuses. Furthermore, it was decided that self-employed workers who have a part-time work contract but receive less than 430 euros per month from this job should be eligible for the income support as self-employed workers¹². Finally, a new social assistance mechanism was introduced for those who do not qualify for the wage subsidy. A social assistance benefit for downtime amounting to 180 euros per month and an additional 50 euros for any dependent child is now available. It can also be used for those working part-time since it will be calculated in proportion to the days when the worker is not working.

In addition, eligibility for a number of benefits (including parental leave and unemployment benefits, as well as support for those in poverty or vulnerable situations) has been extended throughout the duration of the crisis. This is important for those at the margins of the labour market and those seeking re-entry.

Finally, on 28 April the government supported amendments to the COVID-19 Law that aim to reduce the protective standards regarding downtime laid out in the labour law framework. One amendment, which still has to be approved by the parliament, would allow employers to reduce workers' salaries by 30% during downtime and force them to take annual leave. Finally, it also allows it to be agreed in a collective agreement that

⁹ <https://www.lsm.lv/raksts/zinas/ekonomika/arodbiedriba-neapmierinata-ar-atlaisanam-airbaltic.a351743/>

¹⁰ <https://www.lsm.lv/raksts/zinas/ekonomika/lidosta-riga-plano-500-darbinieku-atlaisanu.a354983/>

¹¹ <https://www.diena.lv/raksts/uznemeja-diena/zinas/dikstaves-pabalsti-izmaksati-2757-uznemumu-15-064-darbiniekam-14239669>

¹² <https://lvportals.lv/skaidrojum/315476-dikstaves-pabalsts-ari-pasnodarbinatajiem-ar-maziem-ienakumiem-par-nepilnu-slodzi-2020>

workers can be required to work part-time during a temporary decline in production, as long as they are paid at least the monthly minimum salary¹³.

The Latvian legal framework was already relatively protective of workers in crises like the current one. At the same time, the weak protection against dismissal, the lack of effective worker representation in the private sector and the resulting power imbalance between management and workers, together with the shadow economy's large share in certain affected sectors, meant that these protections did not really work in practice. As a result, the government adopted a number of measures essentially aimed at preventing dismissals and providing at least some income support for those who found themselves suddenly in need. Only time will tell whether it has reached a sufficient number of people and what will be the impact of COVID-19 on the Latvian labour market at large.

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¹³ <https://www.lsm.lv/raksts/zinas/ekonomika/darba-devejs-darbiniekam-dikstaves-laika-drikstes-maksat-70-no-algas.a357740/>