



# SK Legal Alert

2. April 2020

## Weinhold Legal

### AMENDMENT OF THE LABOUR CODE AND OTHER LAWS IN RELATION TO THE CORONAVIRUS PANDEMIC IN SLOVAKIA

On 1 April , 2020, the Slovak Government submitted several bills to the National Council of the Slovak Republic for the approval in response to the emergency situation and state of emergency declared in connection with the COVID-19 disease concerning in particular labour law and the right of stay of foreigners.

#### AMENDMENT OF THE LABER CODE AND RELATED LAWS

Draft amendment to Act no. 311/2001 Coll. Labour Code ("LC"), which also amends some other laws ("Amendment").

The Amendment adds a new eleventh part - Section 250b to the LC, containing special provisions to be applied at the time of an extraordinary situation<sup>1</sup>, state of emergency or state of exception<sup>2</sup> ("**crisis situation**") and also within two months after its withdrawal preferably over the provisions of Parts 1 to 10 of the LC, in particular:

- ▶ **the right of the employer to order work to be performed from the employee's household** where the agreed type of work allows, and **the right of the employee to carry out work from his household** where the agreed type of work allows

and where there are no serious operational reasons for the employer which would disallow it. These rights may be exercised in the case there are measures in place to prevent the rise and spread of communicable diseases or measures to endanger public health ordered by the Public Health Authority;

- ▶ **the right of the employer to order the employee to work the time for which he was entitled to wage compensation due to a crisis statement** (amounting to 80% of his average earnings, but at least in the amount of the minimum wage as specified below) or **in the case of obstacles on the part of the employer pursuant to Section 142 of the LC**, up to a maximum of 400 hours per calendar year and no later than 12 months from the date on which the obstacle to work occurred;
- ▶ the employer is obliged to notify the employee of the **working time schedule** at least two days in advance (it is possible to agree with the employee on a shorter time) valid for at least a week;
- ▶ the employer is obliged to notify the employee about **taking leave** at least seven days in advance; in the case of leave not taken for the previous calendar year at least two days in advance. This period may be shortened with the employee's consent;

<sup>1</sup> It means the extraordinary situation declared under Act No. 42/1994 Coll. on civil protection of the population.

<sup>2</sup> It concerns state of emergency and state of exception declared under Constitutional Act no. 227/2002 Coll. on state security in times of war, state of war, state of emergency and state of exception.



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- ▶ **assessment of personal obstacle in the work of an employee** due to quarantine measures, isolation, personal daylong care of a sick family member and personal daylong care for a natural person as temporary incapacity to work for the purpose of protecting an employee from termination of employment pursuant to Section 64 of the LC and upon return to work pursuant to Section 157 of the LC;
- ▶ **an employee's right to compensation of 80% of his or her average earnings, but at least equal to the minimum wage**, if the employee is unable to carry out work in whole or in part due to suspension or limitation of the employer's activity at the discretion of the competent authority or as a result of the declaration of a crisis situation (obstacle to work on the part of the employer).

The Amendment also amends Act no. 124/2006 Coll. on Occupational Health and Safety (“**OHS Act**”) by adding mitigation measures to the transitional provisions during the crisis situation. Thus, for example, an employer does not have to comply with certain obligations under Section 7 of the OHS Act in relation to informing employees during a crisis situation, provided that:

- ▶ this obligation cannot be objectively fulfilled;<sup>3</sup> and
- ▶ failure to fulfill obligations must not directly and

seriously endanger life and health.

It is the employer's duty to acquaint a new employee with the rules and principles to ensure occupational health and safety when recruiting or transferring to another work, with the existing and foreseeable dangers and threats, with the issues that may cause injury and with protection against them, with any prohibition of entry, stay and carrying out activities in an area that could immediately endanger the life or health of the employee as well as with the list of work and workplaces. The employer is obliged to do so as soon as possible, at the latest within one month from the date of the crisis appeal.

The Amendment also affects Act No. 461/2003 Coll. on social insurance, Act no. 5/2004 Coll. on employment services.

The current version of the Amendment submitted to the National Council of the Slovak Republic is available at this [address](#) (in Slovak only).

### **AMENDMENT OF LAWS WITHIN THE COMPETENCE OF THE MINISTRY OF INTERIOR OF THE SLOVAK REPUBLIC**

The draft act on certain measures within the competence of the Ministry of the Interior of the Slovak Republic in connection with the disease COVID-19 (“**Moi Amendment**”) modifies selected acts within the

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<sup>3</sup> The objective impossibility of fulfilling the obligation is e.g. in case of impossibility to carry out mass training due to the prohibition of mass events during a crisis situation. On the contrary, it is objectively possible to fulfill the obligation, for example, in a situation where the employer already has established e-learning or employee training through electronic audiovisual communication.



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competence of the Ministry of the Interior of the Slovak Republic with the aim to reduce as much as possible the risk of threat to public health and to restrict the rights of Slovak citizens as little as possible in a crisis situation. The Mol Amendment, for example, amends Act No. 404/2011 Coll. On the stay of foreigners, especially in the following points:

- ▶ **the period of validity of stays** (permanent, temporary or tolerated) that would have expired during a crisis situation or one month until its revocation remains valid until two months after the crisis revocation;
- ▶ **a third-country national who has legally entered the territory of the Slovak Republic** (foreigner, a national of a country that is not a Member State of the European Union) and who is not granted residence under the Aliens Residence Act can stay in the territory of the Slovak Republic up to one month after the revocation of the crisis situation;
- ▶ during a crisis situation, **an application for permanent residence for an indefinite period or for the resumption of temporary residence** may be submitted by a third-country national residing outside the Slovak Republic at an embassy;
- ▶ **other changes** affect the time validity of documents submitted in the procedure for the granting of residence or in the procedure for the resumption of residence and the passing of time limits pursuant to this Act.

The current version of the Mol Amendment submitted to the National Council of the Slovak Republic is available at this [address](#) (in Slovak only).

These amendments should be approved by the National Council of the Slovak Republic in the coming days. Subsequently, after signature by the President of the Slovak Republic, their final wording will be published in the Collection of Laws of the Slovak Republic. We will inform you forthwith of the approved wording of the amendments.

The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics covered in this bulletin should be consulted before any decision is made.

At the same time, the information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences. Furthermore, it should be noted that there are various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions. It cannot therefore be ruled out that in the future an interpretation other than the one we give us will prevail.

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