



WOLF THEISS
EMPLOYMENT
RESTRUCTURING GUIDE

Options for job preservation and
employment restructuring in CEE/SEE

WOLF THEISS EMPLOYMENT RESTRUCTURING GUIDE

Options for job preservation and
employment restructuring in CEE/SEE

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Restructuring Guide Albania (1)

1 Job preservation options currently available – details and key criteria

- **The government's job retention programme:** Guarantee Fund – guarantees the loans taken by the companies from the banks in order to pay exclusively the employees' salaries and social and health contributions for a period of three months. Salaries higher than ALL 150,000 (approx. EUR 1,214) are excluded from the coverage under such guarantee.
- **Financial support:** The employees employed in enterprises in which activity has been closed or stopped due to government orders, have benefited from the monthly state funded payment amounting to ALL 26,000 (approx. EUR 210) or the payment of ALL 40,000 (approx. EUR 324) depending on the respective classification of the employer's activity. This scheme was effective only for 3 months (March, April and May 2020).
- **Labour Code options**
 - Re-deploy staff to other roles or "partial activity" scheme, i.e. short-time work. In such a case, the employee's written consent would be required.
 - Reach agreement with the employee to take annual leave or unpaid leave set forth under the Labour Code, employment agreement or internal regulations.

- Other options that may be taken into consideration include changes in work position, salaries and benefits, working hours, etc. However, those would constitute changes to terms and conditions of the employment agreements and therefore would require an employee's written consent.

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- Redundancy-operational reasons, economic conditions, and business efficiency are considered as reasonable grounds to terminate employment. Information and prior consultation with employees will most likely be required. Certain categories of employees i.e. employees on maternity, paternity or sick leave, representatives of trade unions for the entire term in office, are protected categories. Consultations and negotiations with a trade union would be required for a collective dismissal.
- **Paid/unpaid leave:** The employee's consent would be required.
- Agreement is required on reduction of working hours, salary, changes in job position, flexible working.

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Albania (2)

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

Currently, the government is encouraging employers to have employees work remotely (work from home). From the legal perspective, an operation based on remote working would require a change in the terms of the employment agreement, thus, the consent of both the employer and employee would be required.

Moreover, the employers are facing issues and additional costs for the proper implementation of health and safety measures based on risk assessment documentation. Employers are required to identify the potential risks for employees in returning to the workplace and duly implement the required health and safety measures in order to reduce the risks and ensure a safe workplace. Such measures consist of (i) ensuring physical distancing; (ii) use of protective equipment; and (iii) shift working.

Additionally, employers are facing (i) significant employees' absenteeism due to sickness, self-isolation/quarantine requirements under government or medical advice; or (ii) temporary workplace closure due to public health authorities' request, i.e. to disinfect the premises, etc.

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Restructuring Guide Austria (1)

1 Job preservation options currently available – details and key criteria

Short-Time Work ("STW"; in German: "*Kurzarbeit*")

- Please note that STW was originally intended to run until 30.9.2020 for a maximum of 6 months (3 months plus a 3-month extension). As of 1 October 2020, phase 3 of the STW scheme was implemented which provides for certain amendments to phase 1 and phase 2 of short time work.
- Thus, conditions for STW are:
 - employers must face economic difficulties;
 - generally, a temporary reduction of normal working hours to 30%-80% on average; and
 - conclusion of a social partner agreement combined with a works council agreement / in enterprises without a works council, a social partner agreement combined with an individual agreement with the affected employees is required.
- The STW will approximately provide for a minimum net remuneration in accordance with the following scale:
 - with a gross remuneration before short-time work of up to EUR 1,700 in the amount of 90% of the previous net remuneration;
 - gross remuneration of up to EUR 2,685 in the amount of 85% of the previous net remuneration;
 - for gross remuneration of up to EUR 5,370 in the amount of 80% of the previous net remuneration;
 - for apprentices in the amount of 100% of the previous net remuneration.
- The state compensates employers for lost working hours due to STW.
- **Agreement to consume banked annual leave and time-off:** Generally, consent of employees is required. However, if a business is closed or reduced as a result of public health counter COVID-19 measures, employers may furlough employees, i.e. employees must use a certain part of time-off / banked annual leave.
- **Mutual separation agreement with the agreement of the employer to rehire the employee after the crisis / a certain period:** An employee can collect unemployment compensation (which however is normally only 55% of the former net salary) but is not obliged to take vacant job offerings.
- **Agreement on home office:** Generally, consent of the employees is required. Further, specific provisions in Collective Bargaining Agreements and general reimbursement of home office expenses and costs should be taken into account and regulated in the agreement with the employee.

If an employee belongs to a risk group as specified in the respective ordinance and presents a COVID-19-Risk-Certificate, the employer must ensure a safe work environment for the employee by implementing specific measures at the workplace. Such measures include e.g. working from home or in individual offices. If the employer is not able to take such measures to ensure a safe working environment for the affected employee, the employee shall be put on garden leave. The wage costs will be fully reimbursed by the social insurance. This garden leave may last until 31 December 2020.
- **Deferred social insurance contribution payments**

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2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- If employees are on STW, and for one month thereafter, redundancies are only possible under certain strict conditions.
- If the financial situation of the company improves earlier than originally expected, the employer should consider a pre-term end of STW.
- Introduction of flexible time schemes.
- Agreement on reduction of working hours and possibly further mutual amendments to employment contracts.

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

The Ministry of the Interior strongly recommends encouraging home office wherever possible. However, if home office should be implemented in the long run, certain basic terms and conditions should be carefully established in order to avoid any (legal) claims and problems in the future. This includes, for example, rules for reimbursement of costs and/or providing work equipment, clear guidelines for keeping time records and of course, the technical infrastructure to cope with the enhanced use of technology.

If employees shall return to the office, step by step reorganisation of working in the office should be done according to the personnel and company structure. Further, the government is currently negotiating new statutory rules on home office with trade unions.

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Bosnia and Herzegovina (1)

1 Job preservation options currently available – details and key criteria

- **Lay-offs:** Temporary lay-offs, in terms of suspension of employee's rights and obligations is currently only regulated for the territory of Republic of Srpska; inactive employment status; employees entitled to a remuneration in the amount of at least 50% of average salary paid to employee in the last three months.
- **Furlough:** not explicitly regulated for the territory of BiH.
- **Reorganisation of working hours:** permitted if work processes allow for this.
- **Remote work:** not specifically regulated but is recommended by government officials. An additional agreement/annex must be concluded.
- **Temporary stop of operations due to the employer's inability to ensure the required safety and protection of life and health at work, ordered by the employer or a relevant authority:** Employees are entitled to salary compensation in the amount determined by the employer's general enactment (employment rulebook or collective bargaining agreement, if any) and the underlying employment agreement.
- **Annual leave:** could be "imposed" by the employer further to adopted annual leave plan.
- **Unpaid leave:** possible only upon employees' request.
- **Paid leave:** possible only upon employees' request and for a limited period of time. Employees are entitled to remuneration.
- **Other measures (such as shorter working hours, lower salary, minimum wage):** require the employee's consent and that the formal procedure provided by the Labour Law is followed.

Financial measures

- In the territory of Federation of Bosnia and Herzegovina, on the basis of the Law on the Mitigation of the Negative Economic Consequences of COVID-19, eligible business entities were entitled to subsidies for mandatory social security contributions (health, pension and unemployment insurance) in the monthly amount of BAM 244.85 (approx. EUR 125) for each employee, starting with April 2020 and until expiry of one month after the end of state of emergency. The state of emergency ended on 31 May 2020.
- Eligible business entities included those who have had a turnover drop of 20% or more in the month for which the salary is calculated, in comparison to the turnover achieved in the same month in 2019. In the territory of Republic of Srpska, the Regulation on the Allocation of Funds to Businesses and Entrepreneurs to Remedy the Consequences of the Corona Virus Pandemic anticipated that assets can be allocated to eligible business entities per employed person, all for the purpose of preserving employment and self-employment with those employers who have partially ceased their operations or whose business operations have been decreased in April 2020.

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Bosnia and Herzegovina (2)

Job preservation options currently available – details and key criteria (continued)

Financial measures

Certain indirect financial measures have been introduced, such as:

- relief measures to be approved by the banks for their clients which were directly or indirectly negatively affected by the outbreak, such as:
 - (i) a moratorium of payment obligations by clients for a maximum duration of six months;
 - (ii) a grace period for the payment of loan's principal in cases of annuity loans for a maximum duration of six (6) months (during the grace period the client shall pay accrued interest but not the principal);
 - (iii) prolonging the deadline for annuity loans repayment;
 - (iv) prolonging the deadline of the maturity date for loans with one-time maturity, including revolving loans, transaction account and credit card overdrafts and similar for a maximum duration of six months, whereas the clients would be authorized to use part of the exposure, which was not used on the day of the modification, during the said period;
 - (v) approval of additional exposure amount for the purpose of overcoming current liquidity issues;
 - (vi) other measures intended to relieve the payment of the client's loan obligations and to maintain the client's business activities.

- the temporary suspension of payment of tax liabilities;
- decrease of rent for publicly owned premises;
- suspension of administrative, civil, extra-contentious and enforcement procedures; etc.

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- **Redundancy:** Redundancy is possible due to economic, technical or organisational reasons, with the fulfilment of additional statutory obligations (employer is obliged to determine whether an employee can be transferred to a different workplace or prequalified for conducting work of a different workplace with the employer), with the obligation of conducting a consultation procedure with the workers' council or trade union, if the employer intends to dismiss a certain number of employees (a different threshold applies in the territory of Federation of BiH, Republic of Srpska and Brcko District of BiH) in the period of 90 days; consent of the workers' council or trade union is required if dismissing certain categories of employees.
- **Changing terms and conditions:** It is possible to change current employment rulebooks. It is necessary to act in accordance with the law and internal acts.

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Bosnia and Herzegovina (3)

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

- Primarily related to implementing health and safety measures, as well as ensuring employees' compliance with such measures.
- Ensuring the regular workflow has been particularly challenging in situations in which employees are often instructed to stay at home at the sign of any symptoms. In these and similar situations, employers are forced to introduce shift work (where work was previously performed in one shift), reorganise working hours, ensure social distancing and avoidance of any gatherings (internal or external), as well as the use of personal protective equipment.
- As employers are still utilising "work from home" in certain cases, they are facing some issues in that regard. For "work from home", a separate employment agreement, with additional elements and provisions, needs to be concluded. Employers are finding it difficult to legally regulate such work, especially in situations where employees already have employment agreements concluded for work at the employers' premises.

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Restructuring Guide Bulgaria (1)

1 Job preservation options currently available – details and key criteria

- **State subsidy for employers:** To support employers which as result of the COVID-19 crisis, either:
 - closed part or the entire of their undertaking or suspended certain employees due to lack of work; or
 - reduced the working time; or
 - released employees on forced paid leave; or
 - kept some of the employees despite mass dismissals;

the Government announced a state subsidy scheme with a budget of BGN 4.5 billion (approx. EUR 2.3 billion). The state subsidy compensates eligible employers with 60% of the insurable income and social securities of their employees (whereas, remaining 40% are still to be paid by the employer) for the time of the closure but not more than 3 months.

Employers of all industry sectors are given access to the subsidy. The eligibility criteria, however, requires that there is no pending tax or other public obligation to the state, an evidenced reduction in sales revenues of at least 20% as well as a commitment not to reduce the workforce for a certain period. The above subsidy was formally applicable up to 30 September 2020 but its extension until the end of the year has been already announced by the Government.

- **Subsidy for tourism, transport, hospitality:** A separate subsidy is available for the promotion and recovery of the sectors, directly affected by the COVID-19 crisis. The budget of the subsidy scheme is BGN 40 million (approx. EUR 19.5 million).

The state subsidy aims to compensate eligible employers with a gross lump sum of BGN 290 (approx. EUR 148) per employee for an entire calendar month as of 1 July 2020 but for not more than 6 months. The eligibility criteria, however, requires that there is no outstanding tax or other public payments due, evidence for reduction in sales revenues of at least 20%, as well as commitment not to reduce the workforce for a certain period after subsidies are provided.

- **Subsidies for hiring unemployed people:** To facilitate the return of employees who lost their job because of the COVID-19 crisis, the Government has run several subsidy programs for employers which hire redundant employees. Subsidies (depending on the program) may cover either the salary and social security costs of the employer, the training program or education costs, etc.
- **Paid leave:** During emergency and/or epidemiological state (currently, Bulgaria is in declared epidemiological state until 30 November 2020) special emergency provisions allow employers to unilaterally order employees (without their consent) to use their remaining paid leave (incl. unused leave days

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Bulgaria (2)

Job preservation options currently available – details and key criteria (continued)

transferred from previous 2 years). This option is available only to employers who have seized entirely or partially their operations. Given that the statutory paid leave in Bulgaria – and the market standard – is 20 days per year, this is the maximum practical impact that can be expected of the above measure. For the usage of non-paid leave or child-care leave, the consent of the employees will be required.

- **Reduced working time:** Employers are given the right to reduce the working time of all or some of their employees to not less than 4h per day (or half of the regular working day) and pay proportionately decreased salaries. During the current epidemiological state, this right is further enhanced by eliminating the obligation for the employer to hold prior discussions with the unions and by allowing reduced working time for the whole period of the crisis (regardless of its duration).
- **Work from home:** During the declared epidemiological state, employers are allowed as an exception to unilaterally send employees to work from home. Otherwise, outside the epidemiological state, employers are required by the Labour Code (LC) to seek the consent of the employees and sign individual annexes with them to implement work from home. Work from home still entails payment of full salaries and requires employers to additionally regulate the associated risks (HSE risks at the remote place, control over overtime, IT security with external access, etc).

- **Idle:** Apart from the emergency measures, in an organisation where work orders have completely stopped, the employer may declare an idle (for the whole organization or certain units) and unilaterally (i) move employees from the affected units/sites to other units/sites; (ii) send employees on paid leave after the 5th day; (iii) dismiss employees after the 15th day of the idle.

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

Employers in Bulgaria have the following options:

- **Part-time:** With the consent of the employees, part-time work may be temporarily implemented.
- **Reduction of salaries:** only possible with the consent of employees. No exceptions allowed.
- **Shift work/summarised calculation:** In operating entities, the employer may consider implementing shift work or a summarised calculation of the working time to reduce the intensity of people at the worksite.
- **Termination options:** Employers can also use several redundancy grounds (cutting off positions, decrease in work, idle, closing part (e.g. unit, department, production line of the undertaking). Despite their differences, redundancy terminations are characterised by a notice period (30 days – 3 months), at least a 1-month severance payment and possibly, prior selection of employees. Redundancies may be temporarily impeded if the employer has used a state subsidy.

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3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

The main concerns for employers are:

- implementing adequate rules for the social distancing and hygiene in the office premises in compliance with the rules issued by the Ministry of Health. Employers need to adjust HSE risk assessments as COVID-19 is a separate risk factor to be accounted for;
- good planning of a gradual return to office work: control over office personnel, implementation of different working regimes for separate employees or the change of work processes (new rules for meetings, rules for lunch rotation, use of common office areas, etc.). Employers remain liable for ensuring proper organisation and work measures for safe work in the office;
- introducing home office policies and H&S requirements for the remote workplace after WFH is already in place;
- implementing selection procedures required for redundancies resulting from reduced volume of work and unilateral termination scenarios.

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1 Job preservation options currently available – details and key criteria

- **Annual leave:** The employer may unilaterally determine the holiday schedule for the employees. The employees have to be informed at least 15 days in advance on the time and the duration of the annual leave.
- **Work from home:** If possible, the employer may enable the employees to work from home.
- **Paid leave:** The employer and the employee may agree on the use of paid leave.
- **Unpaid leave:** Similarly, the employer and the employee may agree on the use of unpaid leave. During such period, the employer is not obliged to pay the salary and the employee does not have the obligation to work.

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- **Amendments to the working conditions:** The employer and the employee may consensually amend the working conditions set out in the respective employment agreement, such as working hours, salary, workplace, etc.
- **Redundancy:** Statutory grounds and procedures are to be respected.

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

Employers should implement policies on flexible work arrangements (such as work from home, reduced working hours). Health and safety policies should also be updated. In certain affected industries, redundancy related questions are also being considered.

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Restructuring Guide

Czech Republic (1)

1 Job preservation options currently available – details and key criteria

When a business is closed or suspended due to the restrictions imposed by the Government, employees are generally entitled to their usual salary, unless the employer:

- reaches an agreement with the employee to take annual leave or unpaid leave;
- orders the employee to take annual leave (in this case, the employer must notify the employee of this measure at least 14 days in advance, unless a shorter period has been agreed with the employee);
- adopts an internal regulation on partial unemployment where there is a temporary decline in sales and services. In such case, the employer may reduce salaries up to 60% of employees' average salary by adopting a relevant internal regulation. This is a unilateral act by the employer and does not require the employees' consent, although they must, of course, be duly acquainted with the internal regulation adopted.

Where there is a Trade Union in place, an agreement must be reached with the Trade Union to reduce salaries. The companies can make use of the partial unemployment in various ways, such as by reducing employees' working hours or distributing working hours

from Monday to Thursday which would entitle employees to receive their normal salary for Monday to Thursday and to receive 60% of their average salary for Fridays when not working. This internal regulation does not present the change of the employment agreement. Otherwise, any change of the employment agreement including the part-time regime requires the employee's consent.

- Reduce the working hours upon agreement with the employee.

To support the businesses and prevent redundancies, the Czech government has approved a financial support scheme which primarily covers wages paid to employees who cannot work but whom companies are still obliged to pay (numerous employees are unable to work due to quarantine or childcare, unavailability of the materials, products or services necessary to run a business or decline in sales and services, leading to partial unemployment, or business closure due to government restrictions and quarantine).

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2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- In the Czech Republic, there are currently no limitations regarding redundancies. However, the employer can claim government support only for employees employed as at the date of the subsidy application, and the employees must not be serving their notice period. Please also note that certain groups of employees are protected against the redundancy dismissal such as employees who are temporarily unfit for work (sick leave), pregnant employees, employees on maternity or parental leave, and members of trade union bodies during their term of office and up to one year after their term of office has expired where the prior consent of the trade union must be obtained. This protection applies only when the employment is terminated by notice. A termination agreement can be entered into with protected employees.

- For restructuring changes, such as a change of an employee's scope of work or shorter working hours, the employee's consent will be required in most cases. Please also note that in the event of redundancies and restructuring, a consultation obligation to employees or their representatives will most likely be required. Where a collective dismissal is triggered, there are special obligations also to the relevant state authorities.

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

The most significant challenges for companies today are the dynamic changes in government restrictions and measures. Companies can be forced to suspend or shut down their business with immediate effect without any previous warning. Therefore, each company should adopt an emergency plan regarding how to proceed when such situation occurs, in order to quickly adhere to the measures taken and also to reduce related financial costs.

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Restructuring Guide Hungary (1)

1 Job preservation options currently available – details and key criteria

Government-backed funds

- **Reduced working hours:** Employers who agreed with employees to reduce the original daily working hours from 15% to 75% may be entitled to the subsidy (e.g. 8 hours/day could be reduced to minimum 2 hours, but the reduced hours should not exceed daily 6.8 hours on the average), provided that numerous additional criteria are fulfilled. The subsidy is capped, as it cannot exceed of HUF 112,418 (EUR 312/employee/month). (The employment agreement is amended by the authority's positive decision).
- **Employees in research and development sector:** Employers can receive a capped wage subsidy in the amount of HUF 318,920 (EUR 889/employee/month), provided that the employee's monthly gross base salary was HUF 670,000 (EUR 1,869) or higher on the day of the declaration of the national state of emergency. If the given monthly gross base salary is under this amount, the amount will be proportionally reduced.
- **Job Retention:** Employers who intend to terminate the employment relationship with notice, with a reference to its operation, can apply for the so-called "*job retention subsidy*", provided that numerous additional criteria are fulfilled. The subsidy is capped, as it cannot exceed 150% of the mandatory minimum wage/month (HUF 241 500; approx. EUR 680/month).

Employers could apply for the reduced working hours and research and development related government-backed funds until 31 August 2020, however the applicable legislation is in effect until 31 December 2020.

Lay-offs

- If the employer receives the funds above; lay-off prohibitions are linked to the affected employees only.

Labour Code options

- **Unpaid leave:** Based on the parties' agreement.
- **Working time frame:** Based on the current legislation, it can be introduced up to 4 months (in exceptional cases up to 6 months), in case of a CBA, the maximum duration is 36 months.

A longer working time frame, for a maximum duration of 24 months is available for those employers who carry out a new job creation investment. The longer working time frame can be introduced upon the Government Office of Békés County approval. The government office gives its consent exclusively, if the investment is considered as a national economic interest.

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Job preservation options currently available – details and key criteria (continued)

- **Holiday:** Except for 7 working days of holiday time, it is the employer who is allowed to schedule the employees' holiday time. However, employers must comply with the related rules of scheduling holiday.

Non-labour law related measures

- The deadline declaring and paying corporate income tax, local business tax, energy suppliers' income tax, small business tax and innovation contribution is postponed until 30 September.
- The provision of loan guarantees and the payment of interest on the loan provided by the bank.

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

Redundancy

- Organisational changes adopted by the employer resulting in redundancy constitutes a valid reason for termination of employment relationships under the Labour Code, either by notice or agreement (lay-off prohibitions linked to the government-backed funds).

Other alternatives

- **Unpaid leave:** based on the parties' agreement.
- **Reducing working hours:** based on the parties' agreement.
- Introducing **working time frame**.
- **Holiday:** Allocate holiday in compliance with the Hungarian legislation.
- Ordering **remote work**.

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3 What are the biggest issues for your clients in returning to offices and other facilities?

The HSE authority issued two information letters in connection with returning to the places of work.

Based on the abovementioned documents, employers should, *inter alia*:

- preliminarily review and update its own risk assessment focusing on the prevention of the spread of coronavirus;
- review the possibilities which can be introduced in order to grant the social distance requirements (1.5 to 2 m) between employees, for example returning back in stages, and / or working on rotations.

A risk assessment can be issued exclusively by a HSE expert.

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Restructuring Guide Poland (1)

1 Job preservation options currently available – details and key criteria

- **Aid from Guaranteed Employee Benefits Fund:** In case of an economic turnover decrease caused by COVID-19, employers may apply for funds to co-finance employees' salaries for a maximum of 3 months in order to protect jobs, provided that
 - the employees' work time has been reduced (in which case the aid amounts to max. 40% of the average monthly salary in the previous quarter announced by the Central Statistical Office per employee); or
 - employees do not work due to downtime (aid amounts to 50% of the statutory minimum salary, i.e. PLN 1,300 per employee (approx. EUR 290)).
- Aid from the Guaranteed Employee Benefits Fund can also be granted if the economic turnover has decreased due to COVID-19, but employees are not covered by downtime or reduced work time. In such a case, the benefits for co-financing employees' salaries can be obtained for a maximum of 3 months in the amount of 40% of the average monthly salary in the previous quarter announced by the Central Statistical Office per employee.
- **Aid from the Labour Fund:** Employers with less than 250 employees for whom economic turnover has decreased due to COVID-19 may apply for aid from the Labour Fund for co-financing the employees' salaries and social insurance contributions for a maximum of 3 months. The amount of aid depends on the percentage of the turnover decrease and may range from 50% up to 90% of the minimum salary per employee.
- **Remote Work:** During the epidemic state caused by COVID-19 and for 3 months after its cancellation, the employer can instruct employees to work remotely provided they have the skills, as well as technical and housing capabilities to perform such work, and the agreed type of work can be performed remotely.
- **Holiday from previous years:** During the epidemic state caused by COVID-19, the employer is entitled to request an employee to utilize up to 30 days of holiday carried over from the previous years within a period of time determined by the employer.

Restructuring Guide Poland (2)

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

If employment contracts of employees whose salaries are co-financed by the Guaranteed Employee Benefits Fund or Labour Fund are terminated due to reasons unrelated to those employees, benefits must be repaid provided the contracts are terminated within the period for which benefits have been granted.

If turnover decreases or payroll burdens substantially increase during the epidemic state caused by COVID-19, the severance pay as well as other benefits due in case of the termination of the employment relationship are limited by ten times the minimum salary (limit in 2020: PLN 26,000 (approx. EUR 5,800)).

During the epidemic state caused by COVID-19, the employer can terminate a post-contractual non-compete agreement upon 7 days' notice.

In the case of a turnover decrease due to COVID-19, employers with no arrears in public law payments until the end of September 2019 may

- reduce the uninterrupted daily rest period up to 8 hours, and weekly rest period from up to 32 hours;

- conclude an agreement with trade union / employees representatives on equivalent work time system in which daily work time extension up to 12 hours within a settlement period not exceeding 12 months is permitted, the extended daily work time on some days is balanced by shorter work time on other days or days off;
- conclude an agreement with trade union / employees representatives to apply less beneficial conditions of employment than those resulting from the employment contracts, to the extent and for the duration determined in the agreement.

If, as result of decrease in revenue from the sale of goods or services caused by COVID-19, there has been a material increase in the payroll burdens, the employer may

- reduce employees' work time by a maximum of 20% and reduce remuneration, however at least the minimum salary must be paid; or
- put employees on economic downtime reducing their salary (at least minimum salary must be paid) for a maximum of 6 months. The employer must conclude an agreement in this respect with the trade union or employees' representatives.

Restructuring Guide Poland (3)

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

One of the issues which employers are facing is the implementation of the occupational safety and health recommendations issued by authorities in regard to the return to offices and other facilities. Several recommendations have been issued which are also partially contradictory, in particular, in respect of data protection issues. Additionally, some communities have been declared as red or yellow areas in which further restrictions may apply. Due to the development of the epidemic, the number and location of red and yellow areas is constantly changing.

Another issue is the stipulation of redundancy selection criteria if redundancies cannot be avoided due to the fall in demand for labour.

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Restructuring Guide Romania (1)

1 Job preservation options currently available – details and key criteria

I. Hiring disadvantaged employees

This measure applies to

- individuals aged over 50 dismissed during the state of emergency or alert and registered as unemployed;
- individuals aged between 16 and 29 registered as unemployed; and
- Romanian citizens returning to Romania after being dismissed abroad due to the COVID-19 crisis.

If in-scope individuals are employed on a full-time employment contract and for unlimited duration by 31 December 2020, the employee will receive via the employer 50% of the employee's salary, but not more than RON 2,500 (approx. EUR 513) / month for a period of 12 months. The employer must maintain the employment for a period of at least 12 months following expiry of the 12 months of the benefit.

II. Employees who were in technical unemployment for at least 15 days during the state of emergency or alert

- The measure applies irrespective whether the employer applied for the technical unemployment state support scheme during the state of emergency or the state of alert, but nonetheless

suspended employment for a period of at least 15 days during the state of emergency or state of alert. Under the scheme, the employee receives, for a period of three months, 41.5% of the gross base salary, but not more than 41.5% of the average national gross salary (i.e. maximum RON 2,253 (approx. EUR 462) in gross amount). The amounts are advanced by the employers and recovered from the state (unemployment agencies).

- The employer must maintain the employment until 31 December 2020.

III. Technical unemployment support scheme

- This measure is currently applicable only to businesses that remain closed (e.g. clubs).
- The daily indemnity covered under the support scheme is 75% of each employee's base salary, capped at RON 4,072 (approx. EUR 836) per employee in gross amount.
- The employer must apply for the measure, the payments are received from the state and then forwarded to the employees (no obligation of the employer to advance the payments).

Restructuring Guide

Romania (2)

Job preservation options currently available – details and key criteria (continued)

IV. Parent leave subsidy

- A framework law approved in March grants days off to parents under certain conditions when educational units are closed (not only due to COVID-19).
- This indemnity is 75% of each employee's base salary, capped at RON 4,072 (approx. EUR 836) in gross amount per employee and paid from public funds (advanced by the employer and recovered).
- The measure is subject to certain eligibility conditions, e.g. only one parent can benefit and only if the type of job does not allow work from home or telework.
- In August 2020 similar measures were approved reconfirming the measure above as applicable to parents during periods when school classes take place online. The parent may obtain this benefit even if the type of job allows telework.

V. *Kurzarbeit* (short-time work)

- If the business is negatively impacted by the state of emergency, state of alert or facing financial difficulties, the employer may decrease by up to 50% the working time of an employee along with the employee's salary. The measure is applicable until the end of 2020.

- During such a period, the employee affected by this measure will receive actual salary for the hours worked financial support of 75% applied to the difference between the employee's usual gross base salary and the decreased gross base salary.
- The financial support is advanced by the employer and later recovered from the National Employment Agency.
- The *Kurzarbeit* measure is set out unilaterally, by decision of the employer, following consultations with the employee representative bodies.

VI. Telework / WFH payment

- In order to compensate employers that used teleworking during the COVID-19 pandemic, the Government set out a one-time payment of RON 2,500 (approx. EUR 515) for employees who have worked under a teleworking regime during the state of emergency for at least 15 days.
- The payment is dedicated to the purchase of equipment and services necessary for teleworking.

Restructuring Guide Romania (3)

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

Employers who terminate the individual employment contracts of the employees benefiting from the support measure under points I and II in the previous column before the end of 2020 are obliged to reimburse in full the amounts collected for each person for whom the employment relationship ended before the mentioned deadline, plus the reference rate of the National Bank of Romania in force at the date of termination of the individual employment contracts.

Mass dismissals may not be initiated during the application of *Kurzarbeit*.

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

- Dealing with unwillingness to return to work;
- Addressing health and safety issues (social distancing, deferred working schedule, shifts work, use in parallel of work from office and work from home, etc.);
- Decreased activity leading to only partial utilisation of the workforce and application of various possible remedies (e.g. *Kurzarbeit*, other changes of working time, reconfiguration of the non-contractual benefits, etc.);
- Redundancies, including complex reorganisation measures to reach a more efficient human resources strategy.

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Restructuring Guide

Serbia (1)

1 Job preservation options currently available – details and key criteria

Labour Law options:

- **Holiday:** can be ordered 15 days in advance (either as collective or individual annual leave for unused annual leave for 2019 and pro-rata annual leave for 2020).
- **Release of employees from work obligations:** nevertheless, the employer is obligated to pay salary to such employees.
- Temporary stop or reduction of operations in all/some units, for up to 45 working days within a calendar year (unless such period is prolonged), with payment of a salary compensation equal to at least 60% of the average salary of the affected employee in the preceding 12 months, but which cannot be lower than minimum wage in Serbia (Art. 116 of the Labour Law).
- Temporary stop of operations due to the employer's inability to ensure the required safety and protection of life and health at work ordered by the employer or relevant authorities, with payment of a salary compensation in the amount determined by the employer's general enactment (employment rulebook or collective bargaining agreement, if any) and the underlying employment contract (Art. 117 of the Labour Law).
- Rescheduling of working hours, in line with the Labour Law.
- Other measures (such as: shorter working hours, lower salary, minimum wage), which generally require the employee's consent and that the formal procedure provided by the Labour Law is followed.
- Unpaid leave cannot be ordered but may be allowed upon an employee's request.
- Dismissal of employee(s) (individual or collective dismissals).

Restructuring Guide Serbia (2)

② Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

Redundancy due to ecological, technological or organisational changes, subject to compliance with the mandatory procedural aspects of such termination (e.g. compliance with rules on protection from dismissal of certain categories of employees; involvement of the representative trade union organised at the level of the employer (if such exists) and Serbian National Employment Office in case of collective dismissals; etc). Redundancy procedures should be followed, for example, in the event of a shortening of working hours.

③ What are the biggest issues employers are facing as their employees return to offices and other facilities?

The biggest issues for our clients in returning to offices and other facilities are related to proper implementation of all prescribed and recommended health and safety measures (which are constantly changing due to the evolving nature of the epidemiological situation in Serbia), such as: separation of the personnel (e.g. introducing shift work), ensuring social distancing (minimum 1.5 meters) in workplaces; and the use of proper personal protective equipment (e.g. masks, gloves); etc.

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Restructuring Guide Slovak Republic (1)

1 Job preservation options currently available – details and key criteria

State aid jobs retention program:

- **for mandatorily closed employers:** the state contribution of 80% of employee's salary amounting up to EUR 1,100;
- **for non-mandatorily closed employers:** (i) the state contribution of up to 80% of employee's salary of the employers who are not able to assign work to employees due to the current COVID-19 situation in the amount of up to EUR 880; or (ii) the state contribution of up to EUR 540 in the event of a decrease in sales.

One of the conditions for provision of any of the abovementioned contributions is an employers' commitment not to lay off employees on the grounds of redundancy (for at least 2 months following the month for which the contribution is provided).

State subsidies for salaries in case of loss of profits: the state contributions towards salaries of (i) up to EUR 180 for loss of profit over 20%; (ii) up to 300 EUR for loss of profit over 40%; (iii) up to EUR 420 for loss of profit over 60%; and (iv) up to EUR 540 for loss of profit over 80%.

COVID-19 subsidy: employees in health care and social care workers are eligible to obtain specific subsidies.

Labour Code options:

- The employee is entitled to wage compensation in the amount of 80% of his/her average earnings in case he/she cannot perform work due to an extraordinary situation (obstacles on part of employer).

- **Paid / Unpaid leave:** consent of the employee is required.
- **Holiday:** can be ordered 7 days in advance (2 days in the event of transferred holiday from previous years).
- **Amendment of the employment contract:** agreement (employee's consent) is required.

Apart from state contributions for jobs retention, there are various other support measures, e.g.:

- Deferment of payments of social and health insurance contributions for employers whose revenues drop by more than 40% (only for specific months, i.e. March, May, June and July 2020).
- Deferment of payments of income tax, advance payments for businesses with a revenue drop by more than 40%.
- Provision of loan guarantees and payment of interest on the loan provided by the bank.
- During the time period of COVID-19 prevention measures, (i) the employer is authorised to order home office for an employee, if the agreed type of work allows it; and (ii) the employee is entitled to work from home, if the agreed type of work allows it and there are no serious operational reasons on the employer's side which do not permit it.

Restructuring Guide Slovak Republic (2)

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- **Redundancy:** organisational changes adopted by the employer resulting in redundancy constitutes a valid reason for termination of the employment relationships under Labour Code, either by notice or agreement.

Other alternatives:

- Participating in the state aid jobs retention program
- Amendment of the employment contract – agreement needed
- Leave / holiday arrangements
- Job sharing – agreement needed

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

- **Public Health Authority measures:** employers are obliged to ensure compliance with new measures, subject to penalties.
- **Face-masks in the workplace:** the obligation to wear face-masks has been extended to all shared indoor workplaces which could present a challenge regarding compliance on a consistent basis.
- **Social distancing:** the prohibition of gathering of more than 6 people in one indoor place could present a challenge, especially to employers requiring larger-scale work in groups.
- **Optional Home-office:** despite the decision of employers to return to the office, employees may choose to work from home.
- **Travel quarantine:** employees returning from "high-risk" countries must stay in home quarantine but may return with a negative test.

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Restructuring Guide Slovenia

1 Job preservation options currently available – details and key criteria

- **Subsidy for part-time work:** eligible employers may instruct employees to work part-time, upon simultaneous instruction of partial lay-off. Employers implementing this measure may request the state for reimbursement of salary compensations in the amount between EUR 112 and EUR 448, depending on the scope of instructed part-time work. Application with the Employment Service of Slovenia is required. The measure applies until 31 December 2020.
- **Subsidy for temporary lay-offs and subsidy for imposed quarantine:** re-implementation of these options is currently being deliberated before the National Assembly.
- **Unpaid leave:** agreement needed.
- **Reduced hours/pay:** agreement needed.

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- **Redundancy:** only upon the presence of a valid legal ground (business reasons, culpability or incapability); the statutory notice period applies; employees are entitled to severance pay. Mass redundancy requirements must be respected if the thresholds are reached.
- **Changing terms and conditions:** as above.

3 What are the biggest issues employers are facing as their employees return to offices and other facilities?

The employers are predominately concerned with staying up-to-date with the required measures ensuring health and safety of employees (e.g. distancing, face masks, hand-sanitizers) and available state aid, which is being adopted in short bursts and often with retroactive effect.

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Restructuring Guide

Ukraine (1)

1 Job preservation options currently available – details and key criteria

- **Standstill:** payment of at least 2/3 of the base salary to non-working employees if the standstill was not caused by the employees' fault (including during quarantine).
- **Partial unemployment aid:** certain employers (e.g. small or medium-size companies or companies involved in production with a closed production circle) may apply for such aid if they have to reduce the working hours of employees due to the quarantine. The partial unemployment aid is provided for every hour by which the employee's working hours were reduced and is calculated based on 2/3 of the employee's base salary, but cannot currently exceed (i) for small and medium companies – UAH 5,000 (approx. EUR 151); (ii) for production companies – UAH 2,197 (approx. EUR 66.4)/month.
- **Paid / unpaid leave:** the employee's consent is required.
- **Reduced working hours / salary or introduction of part-time work / work in shifts:** the employer is obliged to notify the relevant employees two months prior to the introduction of the planned changes.

2 Restructuring / redundancy planning / other alternatives on the path to the new normal – key considerations

- **Redundancy:** the employees may be terminated due to redundancy only if they cannot be transferred to other positions. Certain categories of employees (people with disabilities, pregnant women, etc.) are generally protected against redundancy. Consultations with trade union, prior notifications of employees and the State Employment Service (in case of massive dismissals) are required.
- **Standstill:** a higher amount of compensation during a standstill may be provided in employment agreements, collective agreements and/or other company documents (e.g. internal policies).
- **Partial unemployment aid:** the employer cannot dismiss employees based on the most common grounds, including redundancy, during 6 months after the termination of the relevant state aid (or, if the state aid was provided less than within 6 months – during the period of payment of state aid). If the employer violates such obligation, it must return all funds received from the relevant state fund.
- **Unpaid leave:** the period of an unpaid holiday is unlimited during quarantine.
- **Reduced working hours / salary or introduction of part-time work / work in shifts:** to avoid prior notification of employees, the employees' consent for the changes are required.

Restructuring Guide Ukraine (2)

3 What are the biggest issues for your clients in returning to offices and other facilities?

Currently, the so-called adaptive quarantine is established in Ukraine until 31 October 2020.

Although it is still recommended, if possible, for employees to work remotely (work from home), generally it is permissible to reopen the majority of businesses / offices subject to compliance with the relevant safety and anti-epidemic measures.

At the same time, depending on the epidemiological situation in the regions or separate administrative and territorial units of a region, different restrictions from social distancing to limitation of certain types of activities may be additionally introduced.

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