



Ellex[®]

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UPDATED ADVICE
FOR BUSINESS IN
COVID-19 OUTBREAK
SITUATION

QUARANTINE, TRAVEL, RESTRICTIONS ON PRIVATE AND PUBLIC SECTOR ACTIVITIES

The Government of the Republic of Lithuania has declared quarantine and civil safety level three (full readiness) on the entire territory of Lithuania. The duration of the quarantine regime will be from midnight on 16 March 2020 until midnight on May 11 with an option to extend. During the quarantine:

- foreigners are banned from entering Lithuania with the following exceptions: (i) vehicle operators and crew members in commercial or international cargo transportation; (ii) holders of the right to reside in the Republic of Lithuania; (iii) persons with immunities and privileges; (iv) health care specialists arriving to provide transplantation services; (v) other persons which in exceptional cases are permitted to enter Lithuania by individual permit of the minister of relevant field and by approval of the Government;
- Lithuanian citizens are banned from leaving Lithuania unless for the purposes of returning to their place of residence, travelling to the place of employment, also persons who are vehicle operators and crew members in commercial or international cargo transportation, as well as by permit from the head of the State Border Guard Service;
- persons returning from abroad are required to self-quarantine for 14 days, except for vehicle operators and crew members in commercial or international cargo transportation, health care specialists arriving to provide transplantation services and other limited exceptions, unless they experience the symptoms of coronavirus COVID-19;
- the movement of goods is not limited;
- governmental and municipal bodies and companies work and provide customer service remotely unless their functions need to be performed at the work place; the delivery of the necessary indispensable functions needs to be assured. The private sector is advised to follow the work regime of the public sector;
- attendance of cultural, leisure, entertainment, sporting venues and physical service of the visitors is banned. This ban is not applied to groups consisting of maximum 2 persons with the exception of close relatives and when the established requirements of public health safety are followed and the flow of visitors is limited in the following cases:
 - leisure activities in open outdoor spaces (golf and tennis courts, outdoor shooting ranges, karting tracks and water board parks);
 - visiting of educational trails (except observation towers), parks, zoos and botanical gardens located in open outdoor areas;
 - high-performance athletic training in open engineered sports facilities;
 - high-performance athletic training in sport buildings and/or engineered sports facilities of the athletes who have met the requirements for the Olympic and Paralympic Games and candidates for the Olympic team, deaf athletes preparing for world or European championships;
 - visiting of archives, libraries and museums.
- all events and gatherings taking place in open and closed spaces are banned, except for events in open spaces when visitors do not step out from the car and there are maximum 2 persons in the car with the exception of close relatives;
- operation of wellness centres, spas, recreational centres is banned with the exception of providing personal rehabilitation services in connection with treatment;
- hotel and other facilities are to be used to isolate individuals under a separate agreement between the municipality and the provider of accommodation services or on demand from the head of the municipal administration;
- operation of catering establishments, restaurants, cafes, bars, nightclubs, and other entertainment venues is banned with the exception of food take-outs or deliveries to natural or legal entities or when the catering is organized in open spaces following the hygiene requirements;
- stores and kiosks (also the ones located in shopping malls), which restrict the flow of buyers on their premises, territories and/or in their close vicinity, i.e. ensure at least 10 sq. m. of retail space per buyer or serve no more than one buyer at a time, and follow the Decision of the Minister of Health of 15 April 2020 regarding the measures of control of disease COVID-19 for trading and service areas;
- also, operation of stores, retail and/or entertainment centres if their principle activity is the sale of food, veterinary, pharmacy, optical goods and orthopaedic technical devices, financial services and online commerce or where goods are delivered to citizens or are collected at collection points, and they operate in accordance with the requirements of public health safety (and ensuring that during the collection of goods there is no physical contact between persons*), is permitted;
- outdoor sale of seedlings, seeds and fertilizers in public points of sale specifically designed for the sale of such goods, marketplaces, if the established requirements of public health safety are followed, is permitted;

- the food store shall be deemed the retail place where dominating goods are food products, drinks and tobacco products, therefore the store where the major part of goods is not food products, such store shall not be deemed food retail place or there should operate only such departments which sell food products*;
- it is permitted to provide services at fixed points of service (including shopping and/or entertainment centres) involving no longer than 20 minutes' direct contact with the service user, also where the flow of service users and other visitors is restricted at the points of service, except for directly banned services, following the established requirements of public health safety;
- it is permitted to organize examinations for the assessment of driving skills and abilities and practical training in aviation following the established requirements of public health safety;
- providing beauty services is banned. This ban is not applied to hair care and nail care services if the flow of visitors is restricted at the points of service and the established requirements of public health safety are followed (restriction of minimal time of direct contact is not applied to such beauty services);
- operation of casinos and slot machine parlours is banned;
- visiting prisoners and detainees is banned with the exception of visits from legal counsel;
- sailing on small, recreational, sports, private and conventional vessels and other floating equipment or means in groups of more than two people, except for close relatives, is banned;
- special principles of work for educational, healthcare establishments and providers of social services under the quarantine are in place. Municipal administrations must ensure the care, catering and distance learning of children and persons with disabilities in the establishments when parents, adoptive parents, guardians or carers request for that and submit the notification from employer regarding the necessity to fulfil respective functions (works) at the workplace or where such care is not possible at home;
- communities are advised against holding religious service to avoid public gatherings.

For more information, see:

<https://bit.ly/39STNib>

*Explanation of the Ministry of Economy and Innovation regarding restrictions of activities in various sectors:
<http://eimin.lrv.lt/lt/naudinga-informacija-1/informacija-verslui-del-covid-19/ribojimai-verslui-karantino-metu>

BUSINESS MEETINGS, RELATIONS WITH GOVERNMENTAL BODIES

Meetings to be held only if strictly necessary; otherwise, IT communications to be employed.

SITTINGS OF MANAGEMENT BODIES AND MEETINGS OF SHAREHOLDERS

Ideally, physical meetings should be avoided and voting by ballot, meeting attendance by electronic means and signing with electronic signatures should be used instead. This virtually does not create difficulties for the board and supervisory council meetings that can adopt their resolutions in writing without actually holding a sitting.

We would suggest holding general meetings of shareholders by having voting ballots prepared in advance and by recommending that the shareholders vote in such manner without being physically present at the meeting. Some companies, and in particular those that are publicly listed, may be subject to additional requirements; therefore, each general meeting of shareholders should be addressed on a case-by-case basis after consulting a lawyer. **If the company has already called an ordinary general meeting of shareholders during the quarantine period as declared by the government, i.e. until 27 of April, we would recommend adjourning it to a later date, even though the legislation does not provide for it. In this case, the governmental resolution to declare quarantine may be used as a basis for the adjournment.**

We would like to note that during the quarantine period the following restrictions apply to the work of the Centre of Registers and notaries public:

- On 20 March notaries renewed provision of their services (up to that date all notary offices were closed). Arrangement of documents and other preparations were performed only remotely. Notary offices only receive persons who have made an appointment in advance by telephone or email.
- Changed data to be registered in the Centre of Registers may be changed electronically via self-service website of the Centre of Registers. Forty branches are entirely closed. Remaining branches (i.e. 10 branches) will operate in the restricted manner and the clients will be served only in immediate and exceptional cases and only under registration by telephone in advance.

Considering this, we would recommend advance planning and consulting with legal advisers over the necessary measures and work organisation. Early coordination of such matters, granting access and other technical possibilities to persons who will be taking care of implementing the decisions will ensure that the decisions are implemented adequately and will help address issues that call for any modification of data in the Lithuanian registers (such as change of the CEO and other executives) or notarisation of particular documents.

NOTARIES PUBLIC, BAILIFFS, COURTS

Notary offices only receive persons who have made an appointment in advance by phone or email. Notary may refuse to register, allow to enter premises and serve the person if there are doubts regarding the health of such person or the mandatory prevention measures are not followed and there is a health hazard. All preparatory works must be performed remotely.

Bailiffs offices serve the customers remotely (by phone and e-mail). Bailiffs postpone enforcement actions which require the direct participation of bailiff, bailiff's assistant, parties to enforcement process and other persons.

From the beginning of the quarantine, all oral court hearings scheduled during the quarantine period were postponed, except urgent cases, established by law. From 27th of April quarantine conditions are not so strict in Lithuania any more and it is recommended that Lithuanian courts gradually resume oral hearings, but continue to use the opportunities provided by legal acts to ensure the participation in court at a distance. Also courts should give priority to those cases that have been postponed due to strict quarantine before. Read more [here](#).

FORCE MAJEURE

Force majeure is one of the grounds that release the party unable to honour its contractual obligation from liability. It does not automatically provide any grounds to terminate the contract for the party affected by force majeure if the force majeure circumstance is temporary. Of course, the contract as such may stipulate terms and conditions for termination in a force majeure. If you are affected by such circumstances, it is critical that you notify the other party to the effect in a reasonable amount of time (in this situation, immediately).

Supply contracts

The interpretation of the situation depends on the specific contract. Suppliers from China are usually issued force majeure certificates due to COVID-19, and the legal effect of such certificates depends on the applicable law. Lithuania's law normally does not require any such certificates (even though they can be issued in Lithuania, too); each particular situation would be judged by court in view of the facts and contractual provisions that may stipulate different terms and conditions than the applicable law.

Specific advice if you have bought something from your supplier, have paid an advance, and have failed to take delivery or have found out the goods will not be delivered on time depend on the particular situation and contract conditions, however one party being affected by force majeure does not prevent the other party from resorting to other remedies (up to a termination of the contract) based on the contractual conditions, factual circumstances, or effective provisions of law.

Landlord and tenant relations

The most frequently asked question is whether the restrictions in place constitute a force majeure circumstance and if tenants can suspend payment due to restrictions on their business. The answer to this can differ from situation to situation, yet it is customary to believe that, as far as the payment obligation is concerned, this is not force majeure (CC Art. 6.212), there is no ban on payments; however, this might constitute a restriction on contractual performance under material change of circumstances (CC Art. 6.204), which would allow the tenant to initiate a re-negotiation of the contract (the request has to be made immediately after the restriction on contractual performance becomes evident), and both parties to make the appropriate decisions to reduce, postpone, or cancel payments based on the specific restriction.

If the parties fail to reach an agreement, the situation would be handled by court in view of the specific factual circumstances. Furthermore, if legal liability applies, party may be released from liability if non-performance is due to governmental actions. In case payment is delayed by the restrictions applied, this could provide the grounds for the non-payment of penalties or interest but would not release the parties from the payment obligation per se. In the cases specific bans on operations are in place (both with respect to the landlord such as the mall operator and to the tenant doing business in that mall), the situation is to be considered a force majeure circumstance where contractual default can be justified. The provisions of law regarding the parties' duty to cooperate, prudence, and good faith also become important here, and so does the case law regarding the impossibility to honour an obligation and its effects on the validity of the transaction.

The parties should also evaluate the possibility to claim an insurance compensation, even though for the purposes of disruption of business insurance policies concluded in Lithuania the effect of emergencies and contagious diseases is a non-insured event.

The Government has announced the business assistance package (see at section State Aid for Business).

During the meeting of Government on 15 April 2020 the concept on reduction of the burden of lease payments for business was approved and on 23 April 2020 there was also introduced the concept on reduction of the burden of lease payments for tenants of state property.

Among the planned measures there is a proposal to reduce the lease payment by state subsidies for tenants experiencing financial difficulties regarding operation restrictions related to COVID-19.

State aid measures for tenants as proposed by the Government will come into force after adoption of necessary regulations. Once the final decision are announced we will immediately inform you about application of such measures to your business.

Performance of public procurement contracts

In case of difficulties in performance of public procurement contracts, there are two possible alternative scenarios: modification of contract or termination of contract.

The special regulation established in the Law on Public Procurement is applied to the modification of public procurement contract; in such context it allows to modify contracts in the following cases: (i) where the modifications have been provided for in the public contract – it does not require the fulfilment of any additional terms not provided for in the contract; (ii) the need for modification has been brought about by circumstances which a reasonable and diligent contracting authority could not foresee (in this case it is important that the value of each modification shall not exceed 50%, whereas the total value of individual modifications under this point - 100% of the value of the original contract). In both cases not only quantities and scope may be modified but also the contract term or its performance may be temporarily suspended. Whether the quarantine is the circumstance which could not be foreseen by contracting authority will be established subject to the nature, subject-matter of the procurement contract and the circumstances which determine more complicated or impossible performance of procurement contract. However, one must admit that in most cases that the situation caused by coronavirus COVID-19 will be considered as such circumstance, unless the contracts have been concluded already being aware of the outspread of virus in Europe. The modifications of contract are executed in writing on agreement of parties regarding all terms of modification.

Although the Law on Public Procurement actually allows to modify public procurement contracts in order to reduce the effects of the situation caused by coronavirus COVID-19 on their performance, it does not deny other grounds for modification of contracts established in the Civil Code. If parties fail to agree on modification of public procurement contract, the party experiencing actual aggravation of contract performance may refer to the other party with request for modification of contract and in case of failure to reach agreement on this, such party may claim for such modification of contract at the court. Before initiating court proceedings it is necessary to assess whether the situation of the party corresponds to the terms of substantial restraint of contract performance established in Article 6.204 of the Civil Code and whether such modification does not violate the principles and aims established in the Law on Public Procurement.

INSURANCE

COVID-19 creates an immense business risk both for airlines and travel companies, and for insurance companies, too. In any case, it is critical that business should review and take inventory of its available insurance policies (credit insurance, business disruption, liability insurance, cancelled travel, medical costs insurance, and so on).

TAX

Actual information on tax matters updated on 23 April 2020. If there are any new changes relevant to taxpayers or any explanations of the tax administrator, you may see [here](#).

Postponement of taxes, exemption from default interest and conclusion of tax loan agreement

Considering the restrictions/bans on business operation, the State Tax Inspectorate (STI) announced **a list of certain taxpayers (companies)** which **automatically** fall under application of the following aid measures:

- **the recovery of declared taxes will not be initiated;**
- **exemption from default interest** (for taxes which are due after the 16th of March) **is applied** and no interest are calculated if within 2 months after the situation of emergency is over **the tax loan agreement (TLA) is concluded.**

Analogous measures facilitating the payment of social insurance contributions, excises duties and VAT administered by customs are applied to the above-mentioned taxpayers. Such taxpayers included in the STI list are considered free from debt against state and municipal budgets and funds until the end of situation of emergency and two months afterwards.

The taxpayers which **are not on the list announced by STI** but are also negatively affected by COVID-19 may immediately submit to the tax administrator the request in simplified form regarding discontinuation of recovery of declared taxes and exemption from default interest with the option to conclude the TLA later on.

One request in simplified form shall be addressed to the STI (submitting via *Mano VMI*, e-mail or regular mail) with regard to the taxes administered by the STI and the State Social Insurance Fund Board (Sodra) (including contributions of Personal Income Tax calculated against state subsidies to employers). Requests regarding the taxes administered by customs (VAT, excise duties) shall be submitted by e-mail to the Customs Authorities.

If the company has already submitted the request to postpone contributions or has concluded the agreement with Sodra regarding postponement of social insurance contributions of employees and currently is not able to pay contributions under the established schedule, the agreement on postponement of contributions is not terminated; within one month from the cancellation of national situation of emergency the companies should refer to Sodra regarding the modification of terms and schedule of agreement on postponement of contributions.

Respective tax aid measures are applied to **self-employed** persons experiencing negative effects due to COVID-19, considering the lists of economic activities under a business certificate or self-employment certificate announced by STI according to the Regulations of the Government regarding announcement of quarantine and the emergency situation. It should be noted that the exemption from default interest and suspension of recovery of declared taxes will be automatically applied to the businesses indicated on the lists until the 1st of July if the emergency situation in the country is not cancelled until that date.

Suspension of import duties, exemption from VAT on imported goods

According to Decision of the European Commission of 3 April 2020 adopted with regard to Article 76 of Regulation (EC) No 1186/2009, **application of import duties and VAT on imported goods is temporarily suspended** for state institutions, recipients of sponsorship and rescue organisations when they import goods for free of charge for assistance to affected persons or to meet needs of rescue organisation. During the emergency situation the guarantee ensuring payment of duties for release of goods for free circulation will not be requested. Such suspension is granted in respect of importations made **from 30 January 2020 until 31 July 2020**.

If the goods intended for assistance mentioned above are already released for free circulation within the period from the announcement of emergency situation in the entire country to the effect of quarantine, the person may submit to the customs an application regarding refund of duties or withdrawal of recovery of them. The application regarding refund of import duties and import VAT or withdrawal of recovery of them has to be submitted to the territorial customs to which jurisdictional area the goods were imported.

The goods intended for free of charge aid may be imported **without applying the import duty and import VAT by organisations having the status of recipients of sponsorship as defined in the Law on Charity and Sponsorship**.

Broader application of excise duty exemption for denatured ethyl alcohol

During the period of emergency situation and quarantine the exemption from excise will be applied to the denatured ethyl alcohol (or ethyl alcohol contained in the composition of product) which is used for production of certain disinfectants which are attributed to the categories of Personal Hygiene and Disinfectants and Algaecides not intended for direct use of people or animals where the package of such products does not exceed 1 litre or exceeds such capacity but the STI agrees to that.

In order to import such denatured ethyl alcohol (KN 2207 20 subposition), the person must hold the respective permit issued by Drug, Tobacco and Alcohol Control Department; when the manufactured products (disinfectants) are imported in packages exceeding 1 litre, the importer must hold the respective document issued by the STI.

Other relevant changes of services related to excise duties

The following services will not be provided:

- Sealing of meters in tax warehouses where ethyl alcohol and alcoholic beverages are produced;
- Collection of unused excise stamps being returned, destruction of damaged excise stamps;
- It is requested to postpone temporarily the destruction of goods liable for excise in regard to which it is planned to recover (not to pay) the excise duties.

Inventory of excise goods

As the emergency situation due to in the country still persists and the companies have no possibility to perform inventory of excise goods according to the regular procedure established in laws, **it is allowed to establish the remaining quantity of goods according to accounting data**. Such data is recorded respectively in the excise declarations provided by tax warehouses and the reports provided by exploiters of fuel objects. After the emergency situation is over, the inventory will have to be performed according to the regular term and procedure established in laws.

Postponement of the term for declaration and payment of personal income tax

Due to the outbreak of COVID-19, this year the declaration of income tax started on 15th of April for self-employed persons and on 22 of April for all remaining taxpayers. Natural persons **including non-residents of Lithuania**-to which the duty to declare annual income is imposed by the Law on Personal Income Tax of Lithuania have to declare their income and pay the tax until **1st of July**. Therefore the term for submission of applications to grant the share of income tax for recipients of sponsorship, political parties and trade unions is also prolonged.

The delayed declaration of income has no impact on the term of redemption of overpay of personal income tax, i.e. the overpay of personal income tax will be redeemed **until 31st of July**.

Due to the link of payment of contributions of state social insurance and mandatory health insurance with the annual declaration of income tax, the respective procedure for postponement of payment deadlines will also be applied to the taxes administered by Sodra.

Exemption from immovable property tax, land tax or tax on lease of state-owned land or postponement, distribution of deadlines for payment

One of measures for business to keep the liquidity is the recommendation for municipalities to exempt taxpayers from taxes on immovable property of commercial purpose and land taxes.

On 25 March 2020 **the Council of Vilnius City Municipality** adopted the following decisions:

- **To exempt** the taxpayers (natural persons and legal entities) owning immovable property or land-plots, also the tenants of state-owned land from payment of **immovable property tax, land tax and tax for lease of state-owned land** for the immovable property and land in Vilnius City privately owned and for use of state-owned land for certain activities indicated in the decision **during the entire term of quarantine in Lithuania**. For this exemption **it is not necessary to submit separate application**;
- **To make possibilities after the quarantine to submit application regarding tax exemptions** (land tax, tax for lease of state-owned land, tax of immovable property, tax of inherited property) for natural and legal entities which were directly affected by epidemiological situation of COVID-19 in Vilnius City.

For more information on decisions mentioned above, see [here](#).

On 9 and 21 April 2020 **the Council of Trakai District Municipality** adopted similar decisions as the Council of Municipality of Vilnius City. You can find them [here](#).

On 2 April 2020 **the Council of Šiauliai City Municipality** adopted decision **to postpone** on request the payment term of lease taxes for the period of quarantine and two months after its end for tenants of residential, non-residential buildings, premises and constructions owned by Šiauliai City Municipality the income of which reduced more than 50% including the state aid. The decision is available [here](#).

On 1 April 2020 **the Council of Klaipėda District Municipality** adopted decision **to supplement the list of tax exemptions** which are provided **on request** in cases when natural or legal entity was directly affected by epidemiological situation of COVID-19. The decision mentioned above may be found [here](#).

On 26 March 2020 **the Council of Ukmergė District Municipality** adopted decision during the quarantine **to exempt** from the lease tax the tenants of premises owned by Ukmergė District Municipality which cannot perform their activities and do not use the leased premises during quarantine. The decision is available [here](#).

Relevant explanations of STI are available [here](#); the major ones are the following:

- **Allowable deduction**

Companies **may attribute to the allowable deductions the following expenses** which they incurred seeking to protect the health of employees during the exposure to the risk of contagion:

- expenses of participation in events (exhibitions, training, conferences and etc.), business travels, even if such events and business travels were cancelled due to the quarantine announced;
- expenses of transportation to work by company's vehicles of employees who usually go to/from work by public transport*;
- expenses of acquisition of disinfectants or disinfection services.

**It should be noted that in case of pandemic situation it should not be calculated as the income in kind due to the use of employer's vehicle.*

- **Sponsorship provided**

Usually a contract of gift of immovable property likewise a contract of gift where the subject of the contract exceeds EUR 14,500 must be made in the form of **notarial act**. However, **considering the restrictions of activities of notaries** which were valid until the 20th of March and following the principle of substance's supremacy over the form, principles of reasonableness and justice the STI explained that the assets collected for the funds intended to fight with COVID-19 even without notarial authorization will be **recognized as the sponsorship in terms of taxes**. In such case the providers of sponsorship, i.e. legal entities which provided the sponsorship to the fund of charity and sponsorship may use the exemption established in the Law on Corporate Income Tax (LCIT).

The STI demonstrated the flexibility again explaining that if the free of charge **sponsorship is provided** to recipients of sponsorship established in the Law on Charity and Sponsorship (LCS), legal entities **which do not have the status of recipients of sponsorship during the emergency situation**, it should also **be deemed that the sponsorship is provided in accordance with the procedure laid down in the LCS** and the providers of sponsorship would fall under the application of exemptions established in Article 28 of the LCIT. It should be noted that if recipients of sponsorship, which are entitled to such status, do not have it, they have to refer to the Register of Legal Entities regarding the status of recipient of sponsorship.

The detailed explanation of STI is available [here](#).

- **VAT matters**

(i) Consumption for personal needs shall not be deemed:

- free of charge supply of goods which are intended for aid in management of state of emergency announced in entire country under the procedure established in the Law on State of Emergency and in elimination of its consequences;
- free of charge supply of passengers transportation services for healthcare employees to and from work during the period of quarantine.

(i) VAT deduction:

- when activities are temporarily suspended due to the quarantine announced in the country, the VAT deduction for incurred expenses of lease of premises and mandatory utility expenses (such as heating, charges for meters, waste and etc.), the VAT deduction is allowed;
- the VAT deduction for expenses of free of charge catering services for employees, when such services are not related to economic activities of company taxed by VAT, is not allowed;
- the taxpayers included in the list of STI which due to the announced quarantine lost the perishable goods or part of them may not correct the VAT deduction for purchase of lost goods even without decisions of STI heads in certain regions.

UN UNPRECEDENTED CHALLENGE FOR EMPLOYERS



LABOUR LAW

Remote work or suspension from work

The employer **must** offer to an employee by motivated letter to work remotely if:

- The Government announces the emergency situation or quarantine;
- The state of health of employee endangers the health safety of other employees;
- The aim of such offer is the assurance of health safety of employees and third persons.

In such offer regarding the remote work the employer must indicate: (a) reasons of such offer, (b) term, (c) legal ground.

If an employee does not express written consent regarding the remote work or does not make any response at all within one working day, the employer - no later than within one working day from the deadline for response to the employer's offer - suspends in writing the employee from work without allowing the employee to work and without paying remuneration. In its decision to suspend an employee from work the employer must indicate: (a) the term for which the employee is suspended, (b) reason of suspension, (c) legal ground.

Downtime

The downtime may be declared for an employee or a group of employees if:

- The Government announces the emergency situation or quarantine;
- Due to the Government's decision mentioned above the employer is not able to ensure the work agreed in the employment contract because due to the specific conditions of work arrangement there is no possibility to perform the agreed work functions remotely;
- The employee does not agree to any other work offered to him.

In case of the downtime, which is announced on the said ground, the employee may not be required to come to the workplace and the remuneration paid to the employee for this period **may not be lower than the minimum monthly wage approved by the Government** (when full standard working hours are agreed upon in the employment contract).

An employer may also declare partial downtime time for an employee when - for a certain period of time - there is a reduction in the number of working days per week (of at least two working days) or the number of working hours per day (of at least three working hours). In such case regular salary is paid for working hours and the remuneration paid to an employee for partial downtime time may not be lower than the proportionate minimum monthly wage approved by the Government.

The employer must notify the State Labour Inspectorate about announcement of the downtime to the employee no later than within one working day from announcement of downtime.

Subsidies

The share of wage expenses incurred due to the downtime is compensated to the employer, except for the employer which is budgetary institution, paying out subsidies as the percentage of the estimated wage of employee.

The amount of wage subsidy is calculated as percentage of the estimated wage of employee which may not exceed the wage established in the employment contract before the announcement of emergency situation and quarantine by the Government and at the discretion of employer amounts to:

- 70% of the estimated assets but not more than 1.5 minimum monthly wage approved by the Government (i.e. EUR 910.50 gross for entire month of downtime); or
- 90% of the estimated assets but not more than one minimum monthly wage approved by the Government (i.e. EUR 607 gross for entire month of downtime).

If the downtime for the employee is announced for not full working time per month, the amount of wage subsidy is calculated proportionally to the term of employee's downtime announced by the employer. Employers receiving wage subsidies must maintain no less than 50% of jobs in which regard the subsidies are paid and for at least 3 months after the end of payment of wage subsidies.

The employer must apply to the Employment Service regarding the subsidies. When applying for the first time, the required documents must be submitted by the end of April (if the downtime is announced only since April, the documents may be submitted in May); afterwards – by 15th of the next month inclusively.

PERSONAL DATA PROTECTION AND PRIVACY

Although the Law on Legal Protection of Personal Data of the Republic of Lithuania does not specifically stipulate the processing of personal data in such situation, however, the grounds for such processing are set out in the provisions of other laws of the Republic of Lithuania. As it was mentioned above, according to the Law on Safety and Health at Work the employer is obligated to ensure safe and healthy working conditions with regard to all aspects related to work including the prevention of virus such as COVID-19. Therefore, as already mentioned, the employer must ensure that the employees which returned from foreign countries follow the isolation requirements and do not raise hazard to the others. Thus, in this epidemiological situation the employer is entitled (and obligated, at the same time) to collect the certain information of the employees which unavoidably includes the personal data.

Companies have the right to collect the following information:

- **Whether a person has travelled to any “risk country”, [read more](#);**
- **Whether a person had contacts with persons which travelled to the “risk country” or which are diagnosed with the COVID-19;**
- **Whether the person stays at home due to the quarantine (without indicating any reason) and the length of quarantine;**
- **Whether the person is sick (without indicating any particular disease or other reason).**

The employer is entitled to inquire his employees and visitors whether they experience the symptoms of coronavirus COVID-19 and whether they are diagnosed with the COVID-19. This information is important to the employer when evaluating if it necessary to take additional protection measures: to obligate the employees which worked together or had contact with a sick person (or with the one experiencing the symptoms) to obey the quarantine requirements, to establish conditions for teleworking or health check-up and etc. However, the employers should not document such information.

The State Data Protection Inspectorate notes that the employers must refrain from collecting the **temperature indications**, health certificates of employees or visitors and etc. and that this may not be deemed as the obligation of employer. However, in some cases, for instance, when the employer is a food processing company, such data processing may be reasonable and legitimate. Furthermore, following clause 1.10 of the Decision No V-876 of the Minister of Health of the Republic of Lithuania of 15 April 2020 regarding the measures of control of disease (coronavirus infection) COVID-19 for trading and service areas, the management or other subjects organizing operation of stores, marketplaces, special trade areas, temporary trade constructions and other public trade areas must take all employees' temperature on their arrival to work.

In all cases when processing the personal data for the purposes of COVID-19 prevention, the companies should:

- **process only such data which are necessary for the prevention purposes of safety and health of employees and not process the excess data, for example, to request from employees the health certificates confirming negative diagnosis of the virus COVID-19 (principle of data minimisation);**
- **properly inform employees about collection and process of additional information within the certain period of virus activity detailing in particular the volume of information (principle of transparency);**
- **use the information collected only for the minimisation of risks related to COVID-19 and not use for other unrelated purposes (principle of purpose limitation);**
- **retain data only for such period which is reasonable and not retain them longer than it is necessary, for example, for 3 months or until the cancellation of national emergency situation (principle of limitation of retention period);**
- **ensure that only authorized employees were able to use such data and that such data were duly protected taking additional measures against the leakage of data with regard to its sensitive nature (principle of integrity and confidentiality).**

Companies may also process such personal data relating to employees as the fact of teleworking chosen by an employee and other limitations applied to employee's work. In this context the other important matter related to data protection and privacy is the monitoring and control of employee's communication and work means while employee is teleworking. When the necessity of teleworking is based on the obligatory nature of modifications of internal rules of the employer, the general provisions of the Law on Safety and Health at Work and the Regulation of Government regarding the quarantine it may be necessary to take measures to monitor and control the working place of employee which coincides with his private space. Therefore, the employer must take respective measures in order to prevent the violation of employee's privacy.

In accordance with the Law on Legal Protection of Personal Data when the video and/or audio data is processed in the workplace in the data controller's premises or territories in which the data controller's employees work, also when the personal data relating to the monitoring of employees' conduct, location or movement is processed, the employees must be notified of such processing of their personal data in writing under signature or in other manner proving the fact of their notification providing all necessary information indicated in Articles 13(1) and 13(2) of GDPR. Subject to the necessity to monitor the communication by electronic means when the employee is teleworking, all information on supervision of working means should be provided to the employee in the teleworking rules on requirements for workplaces as mentioned above or in the procedure on use and provision of working means (or in any other documents which establish the circumstances of teleworking, it may also be regular internal rules).

Subject to the scope of means, each particular case should be accessed whether there is necessity to make the assessment of impact on personal data. It should be noted that, inter alia, such assessment must be implemented in all cases when the personal data of employees are processed for purposes of supervision or control, in particular – when the video and/or audio data is processed in the workplace and/or in the data controller's premises or territories in which the data controller's employees work, also when the personal data relating to the monitoring of employees' communication, conduct, location or movement is processed.

REMOTE SIGNING OF CONTRACTS

Under limited circumstances to sign documents by hand the rational decision is to create the system which ensures the signing of contracts and other documents by electronic means. There are three levels of electronic signatures: **(i) qualified** electronic signature complying with the requirements of eIDAS Regulation; **(ii) advanced** electronic signature or **(iii) basic** electronic signature. However, in practice the most important are the qualified and basic electronic signatures.

The advantage of qualified electronic signature is its equating to the signature written by hand. It does not require any prior agreement between signatories regarding the use of such qualified signature. The main aspects to be evaluated are the following:

- The qualified e-signature *inter alia* is m-signature and SMART-ID (except for SMART-ID Basic), therefore many people already have the qualified e-signature and most often use it for connecting their internet banking.
- The signing by e-signature (placing of personal e-signature on electronic document) is performed in the platforms of e-signing (e.g., dokobit.com; gosign.lt, Adobe and etc.), which may be both charged and free of charge.
- The signing may be performed by each person signing in the platform of their choice and then exchanging with the signed documents or by signing the document in one platform.
- Important: the documents signed by qualified e-signature retain their useful effect only in the e-mode. You have to agree where and how the signed documents will be kept.

The basic e-signature means any communication allowing to identify the person (e.g., e-mail). It is more expeditious solution but its evidentiary value is poor. Therefore, such signature should be used in the documents of less legal importance (e.g., applications for vacation, operational internal orders or visas). **The essential thing is that the basic e-signature is deemed as the one written by hand if the parties “agree in advance in writing” regarding the use of such signature and “there is possibility to store such agreement in durable medium”.** Thus, in order to use “basic e-signatures” in your business, you have to conclude “written” agreements regarding the use of basic e-signatures. The practical solution in case of limited physical contacts is (i) the signing of agreement by qualified e-signature or (ii) the conclusion of agreement by historically usual communication means for the meantime and later on – the execution of such agreement in writing or by qualified e-signature.

STATE AID FOR BUSINESS

The Government of the Republic of Lithuania approved the plan of measures for boosting the economy and mitigating the outcomes of coronavirus. The plan provides for various aid measures *inter alia* (i) short-term measures allowing to keep jobs and the liquidity of companies and (ii) longer-term measures by which the state intends to boost the development of economy after the end of quarantine.

INVEGA aid for business

In order to minimize the negative economic consequences of the quarantine, on 16 March 2020 the Government of the Republic of Lithuania adopted the plan of measures for boosting the economy and mitigating the outcomes incurred due to the outbreak of coronavirus (COVID-19).

The part of economy boosting measures established in this Plan are implemented with the assistance of UAB “Investicijų ir verslo garantijos” (Invega) which provides aid to business via both existent and newly developed measures.

All information about ways of assistance provided by Invega is available [in this document](#).

PUBLIC PROCUREMENT

The amendments of the Law on Public Procurement came into force; thereby the procurement procedures are simplified and shortened in order contracting authorities were able to acquire immediately the required goods, services or works: (i) in order to ensure the public interest which *inter alia* covers the protection of public health and environment, the contracting authorities may not apply and verify the grounds of elimination of economic operator from the procurement (that also allows the participation in public procurement of such economic operators which under regular conditions would be eliminated from the procurement); (ii) in international procurements organized in the negotiated procedure without publication the procedural stages of negotiations and other requirements for procurement procedures and the content of procurement contract become optional. It means that international procurement organized in the negotiated procedure without publication may be performed not via CVP IS tools, but offers may be submitted both **orally and in writing (for example, by e-mail)**, it is not mandatory to request for submission of EBVPD document, whereas the economic operator and contracting authority are not obliged to follow the methodology of pricing rules when negotiating on procurement price.

If modification of the contract or its suspension prevents from achieving the aim of the contract or the need for such contract simply disappears, the preservation of such contract would be impossible, therefore such contract could be terminated following provisions of the contract or of the Civil Code.

Please find the detailed reviews on public procurement of “Ellex” in Lithuania here:

[Modification of public procurement contracts in COVID-19 situations.](#)

[Amendments of the Law on Public Procurement related to COVID-19.](#)



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