

Ius Laboris Webinar

Working from home: a solution for the long term

Thursday 8 October 2020

13:00 – 14:00 CEST



SPEAKERS



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TO BEAR IN MIND

LATVIA

WHAT TO BEAR IN MIND

- Working from home has never been mandatory in Latvia (even during the peak of COVID), so unless remote work is provided in the employment contract, employees cannot be forced to work from home on a regular or permanent basis
- We advise amending the employment contracts to cover the option of working from home
- There are two main scenarios for remote work – 1) as an option or benefit for the employee (for example no more than 2 days per week) or 2) based on the instructions of the employer

RUSSIA

WHAT TO BEAR IN MIND

- **Remote work v work from home:** remote working does not necessarily mean working from home
- **Remote work and office work:** this combination is currently prohibited but a draft law may be adopted allowing employees to combine office and remote work under one employment contract
- **Self-isolation during COVID-19:** as a result of the COVID-19 pandemic and self-isolation regime, the state authorities recommend asking employees to work remotely
- **Mutual agreement:** remote work can only be set up based on the mutual agreement of the parties to the employment contract - employees may not be forced to transfer to remote work
- **Costs of remote work:** employers must compensate employees in the employment contract for the use of personal equipment

ESTONIA

WHAT TO BEAR IN MIND

- **Not mandatory:** working from home has never been mandatory in Estonia (even during the peak of COVID)
- **Agreement on remote work:** must be made in writing, thus needing the consent of both the employee and employer. It may be agreed that remote work is optional or partial (e.g. there could be face-to-face meeting days)
- **Terms of remote work:** can be agreed in the employment contract or in a separate policy made by the employer
- **Problems in practice:**
 - Employees wish to work at home but the employer refuses
 - Employees do not wish to return to the office

LITHUANIA

WHAT TO BEAR IN MIND

Mandatory

- Extreme situation and/or quarantine
- Threat to the health of other employees

Mandatory in some cases

- Employee is pregnant, has given birth recently or is breastfeeding
- Employee has a child under 3 years old
- Employee is raising a child under 14 years old or a disabled child under 18 years old alone
- Health condition

Optional

- Other cases

POLAND

WHAT TO BEAR IN MIND

Is it mandatory to work from home in certain contexts?

No, however, based on the Anti-COVID Act, in order to prevent the spread of the virus and if the type of work allows it, an employer CAN introduce remote work for a specified time

Can someone be forced to work from home?

- Only remote work due to COVID-19 can be compelled
- Other types of remote work require mutual agreement

3 types of remote work in Poland

Tele-working	Remote working due to COVID-19	Standard remote work (including home office)
<ul style="list-style-type: none">• Regularly performed outside the workplace• Regulated in the Labour Code	<ul style="list-style-type: none">• Performed for a specified period of time• Regulated in the Anti-COVID Act	<ul style="list-style-type: none">• Not regulated in any Act• Based on custom

BELARUS

WHAT TO BEAR IN MIND

- Remote working is not mandated in Belarus
- Depending on the circumstances, the working from home may relate to essential changes to working conditions:

Essential changes to working conditions?	
Yes	No
An additional agreement, on top of the employment contract, is <u>required</u>	An additional agreement, on top of the employment contract, is <u>required</u>
Mandatory employee notification: <u>1 day in advance</u>	Notification of the change can be made to the employee <u>at any time</u>
The employee may refuse but could be dismissed, with severance pay	The employee may refuse, but couldn't be dismissed



HEALTH & SAFETY

LATVIA

HEALTH & SAFETY

- There is a general obligation on employers to ensure safe and healthy working conditions and this includes mental health (though mental health is not legally defined and expressly included anywhere in law)
- The employer must assess working environment risks
- The employee must cooperate in the assessment of those risks
- In practice, this is handled by employees signing certifications/waivers and filling out working environment assessment questionnaires
- At the moment, there is a general obligation on employers to cover all employee expenses related to the performance of work (no exceptions for remote work)
- Amendments will be adopted in the coming months allowing the parties to agree that, in the case of remote work, expenses should be covered by the employee

RUSSIA

HEALTH & SAFETY

- **General rule:** a remote workplace is beyond the control of the employer, and so the rights and obligations of the parties may be set out in an additional agreement on remote working or in the employment contract
- **Certain obligations on the employer:** the investigation of industrial accidents; the fulfillment of orders by the authorities; compulsory social insurance of employees against industrial accidents and occupational diseases
- **Occasional work at the office:** the must ensure labour safety conditions at the office, where employees perform their duties on office premises during COVID-19
- **COVID-19 creates new challenges:** employers must comply with rapidly changing safety requirements, which may differ from region to region
- **Administrative fines for non-compliance with COVID-19 restrictions:** up to RUB 500,000 (approximately EUR 5,500) for companies and up to RUB 150,000 (approximately EUR 1,600) for company executive

ESTONIA

HEALTH & SAFETY

- The employer remains liable for the health and safety of employees
- The employer must assess working environment risks (risk analysis). Most relevant risks: physical, physiological and psychosocial hazards (including stress)
- The employer has a duty to explain the risks and introduce the means to reduce them; employee has a duty to cooperate in the risk assessment
- How to know if an employee's home meets the required health and safety requirements? How to inspect work accidents at home?
- In practice, this is handled by filling out a working environment assessment questionnaire, using video-connection/recordings
- The employer should cover all expenses of employees related to the performance of work (no exceptions for remote work) and provide work equipment; in practice, some expenses are borne by the employee (e.g. furniture)

LITHUANIA

HEALTH & SAFETY

- There is a general obligation on the employer to ensure safe and healthy working conditions, which includes mental health (although, mental health is not legally defined or expressly included anywhere in law)
- The employer must perform a professional risk assessment of the employee's remote workplace or instruct an employee to perform a risk assessment on his or her own
- As to expenses, we recommend employers to:
 - Re-define the list of work tools that are indispensable (both physical tools, such as a computer, and online tools, such as an e-signature, etc.)
 - Provide the indispensable tools
 - Train the employee to use the tools
 - Provide a manual or manufacturer's instructions for use of the tools
 - Consider insuring the tools

POLAND

HEALTH & SAFETY

- There is a general obligation on the employer to ensure safe and healthy working conditions, which includes mental health (although, mental health is not legally defined or expressly included anywhere in law)
- Health & safety obligations are partly modified only, for telework done at home
- Health & safety during remote work is assured by informing the employee about applicable health & safety requirements and filling out workplace assessment questionnaires
- As a rule, the employer should cover all expenses related to the performance of work and should provide work equipment (there are special rules for telework and remote work due to COVID); in practice some expenses are borne by the employee (e.g. furniture and electricity)

BELARUS

HEALTH & SAFETY

- There is a general obligation on employers to ensure safe and healthy working conditions
- Mental health is not legally defined or expressly included in the law. As a rule, employers voluntarily decide on any measures they wish to take
- Employers must familiarise employees with the requirements relating to labour protection and must explain how to use relevant work tools
- The employer may provide or recommend certain work tools: equipment, software and hardware, information security tools, etc.
- Depending on the type of expenses incurred by employees, the employer may reimburse them



PRIVACY, CONFIDENTIALITY & WORKING TIME RECORDS

PRIVACY, CONFIDENTIALITY & WORKING TIME RECORDS

- There are obvious challenges related to confidentiality when working remotely – the solution is to introduce detailed rules about different practical aspects (e.g. not printing documents, not leaving the computer unattended and it not being used by others etc.)
- Employers have a general obligation to record all the working time of their employees (whether in the office or remote)
- Depending on the type of job, it may or may not be possible to ensure automatic recording of working time (video surveillance would be considered an excessive intrusion into the employee's privacy)
- If automatic recording is not possible, special procedures will need to be put in place by the employees themselves to record their working hours (e.g. recording software, Excel, etc.)
- Alternatively, it could simply be assumed by the employer that their employees are working all the hours they should be

RUSSIA

PRIVACY, CONFIDENTIALITY & WORKING TIME RECORDS

- **Protection of confidential information using:**
 - **IT measures:** encryption, protection of confidential information held on computers and monitoring software
 - **Commercial secrecy:** internal policies on the protection and processing of personal data, plus a monitoring policy
- **Disclosure of information:** the employer may dismiss an employee who has made a disclosure to a third party
- **Working time:** the recording of working hours should be regulated in the employment contract and employees' activities may be monitored by the employer
- **Absenteeism during remote work:** an employee may not be dismissed for absence from the workplace whilst working remotely. However, the employment agreement may be supplemented with additional grounds for dismissal (e.g. failure to provide reports or be available during working hours)

ESTONIA

PRIVACY, CONFIDENTIALITY & WORKING TIME RECORDS

- **Same rules of confidentiality:** employees have the same confidentiality obligations when working remotely as they do in the office
- **Separate rules for practicalities:** The employer may need to establish separate rules for the various practicalities (e.g. not printing documents, not leaving the computer unattended, not having phone calls in the presence of third parties, etc.)
- **Monitoring:** how to monitor and record working time and breaks?
- **New challenges:**
 - working abroad (time-zones)
 - flexible working time
 - working hours v output

LITHUANIA

PRIVACY, CONFIDENTIALITY & WORKING TIME RECORDS

- **Rest & breaks:** when working at home, employees should record their working time and breaks themselves
- **Right to disconnect:** an environment in which an employee has the right to disconnect should be promoted, otherwise, employees may claim overtime
- **Confidentiality:** to ensure this, employers should:
 - set out the requirements for remote workplaces (e.g. a secure internet connection, the use of passwords, etc.)
 - set out the rules for the use of confidential information and documents (e.g. secure review and sharing tools, the principle of 'clean desks')
- **Personal data:** the security of employees' personal data must also be ensured

POLAND

PRIVACY, CONFIDENTIALITY & WORKING TIME RECORDS

- **Confidentiality:** employees have the same confidentiality obligations when working remotely; employers should assure privacy at employees' homes by:
 - providing properly secured company equipment
 - setting out the rules on the confidentiality of company documents and the proper use of equipment
 - training employees
- **Recording time:** employers have a general obligation to record all their employees' working time (whether in the office or remote), however they may require employees to keep records of activities performed and time spent (this may also limit overtime claims)


BELARUS

PRIVACY, CONFIDENTIALITY & WORKING TIME RECORDS

- Employees are subject to the general rules on commercial secrets
- The employer has the right to adopt its own measures to protect information during remote work
- Remote working employees are subject to the general rules on working hours and rest time
- The procedure for tracking working time can be agreed in the employment contract. Both special CRM systems and the obligation on employees to provide relevant reports can be used

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CORONAVIRUS

The coronavirus is spreading fast, so we look at what you should do to keep your employees safe and protect your business as well as you can.

BACK TO WORK: GUIDE FOR INTERNATIONAL EMPLOYERS




Most people are ready to get back to work and ensure their businesses are back on the road, but the danger to health is still out there. So the big question is how to do it safely. Some of it may involve going back to the office in a safe way and some of it may be about setting up longer term arrangements for home working. We take a look at the issues in our new Back to Work Guide.

Download the [Back to Work: Guide for International Employers](#).

Last update: 15/09/2020

BACK TO WORK REQUIREMENTS IN 58 COUNTRIES


Each country is at a different phase of COVID-19 and the rules on easing restrictions vary widely. We have surveyed 58 countries across the world and summarised our findings on the key measures governments are adopting to gradually lift restrictions and enable people to get back to work.



Face masks

The majority of countries will require face masks to be worn in the workplace. If social distancing measures cannot be maintained.

47% of the countries offering government guidance, have stated that face masks will only be mandatory within specific client facing industries, such as hospitality, the sale of goods, commercial and service sectors.



Track and Trace App


It is not mandatory for employees to download any form of Track and Trace mobile application in 81% of the countries offering government guidance.

Installation of such tracing apps could be regarded as excessive intrusion into employee privacy. It is only permitted in Austria and Singapore, if the employee is provided with a work mobile device.

Fear of Infection

Generally, across countries, employees are not entitled to refuse to return to the workplace based on a fear of infection.

Across all countries providing guidance, just over half stipulate that employees cannot refuse to return to work onsite, unless there are clear indications that the working environment is unsafe or they have specific high-risk group concerns.



Health Screenings

Whilst very few countries have the authority to enforce mandatory health/Covid-19 testing on employees, 61% of the countries offering government guidance can request for employees to be tested if they are displaying Covid-19 symptoms in the workplace.

Social distancing measures

100% of the countries offering government guidance, expect the same social distancing measures that are expected in public places, to be upheld in the workplace. This would see employees keeping up to 2 metres of distance apart from each other.

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How is the COVID crisis being handled in Eurasia?



Irina Anyukhina, Darya Zhuk, Larissa Yemelyanova, Valeriya Savchuk

17 September 2020
13:00 – 13:45 CEST

The economic effects of the coronavirus are being felt by large numbers of companies in the Eurasian region leading many to consider how well their businesses are shaped to meet future challenges. In this webinar, we take a look at measures to help businesses stay afloat in the short term, along with outsourcing and restructuring options for the longer term.

Ius Laboris employment law firms participating in this webinar are: ALRUD (Russia), Vasil Kisil & Partners (Ukraine), COBALT (Belarus) and AEQUITAS (Kazakhstan).

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Alexander Millner-Smith, Jessica Jacobi, Marco Sideri, Linda Hynes, Wouter Van Loon, Ilse Baijens, Søren Terp Kristophersen, Sean Illing

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Restructuring across the APAC region following COVID-19

Kathryn Weaver, Vijay Ravi, Nobuhito Sawasaki, Heidi Fairhall

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Coronavirus: Getting back to the new normal

Colin Leckey, Inês Reis, Linda Hynes, José Miguel Mestre Vázquez

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Orly Gerbi, Dimitrios Kremalis, Nicos Panayiotou, Batuhan Sahmay

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