

# **lus 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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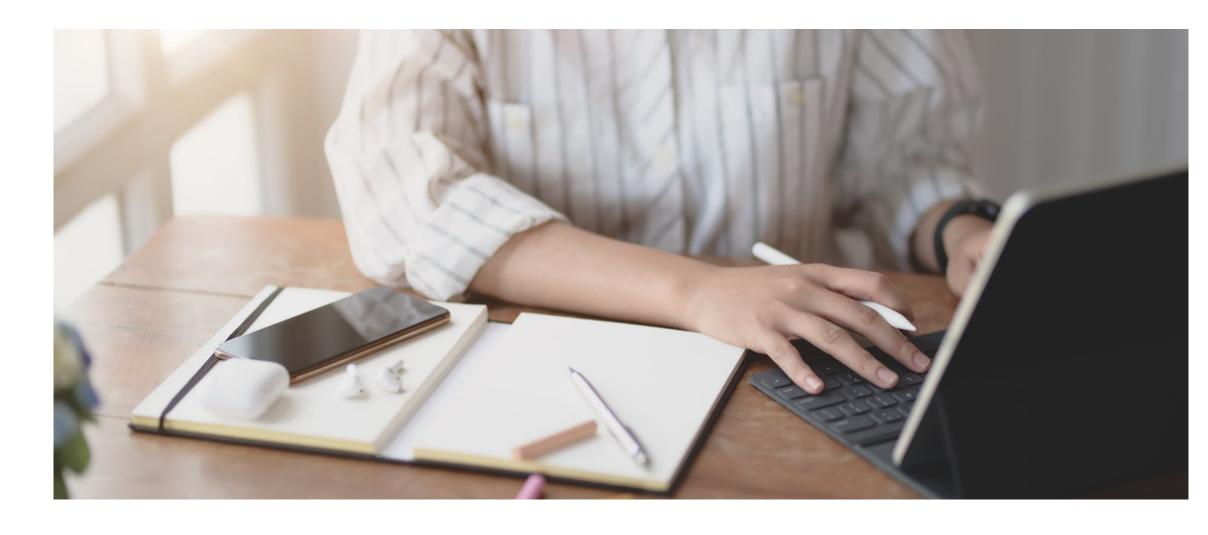
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# **TO BEAR IN MIND**



# **LATVIA**

- 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**

- 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**

- 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

- Regularly performed outside the workplace
- Regulated in the Labour Code

# Remote working due to COVID-

- Performed for a specified period of time
- Regulated in the Anti-COVID Act

## Standard remote work (including home office)

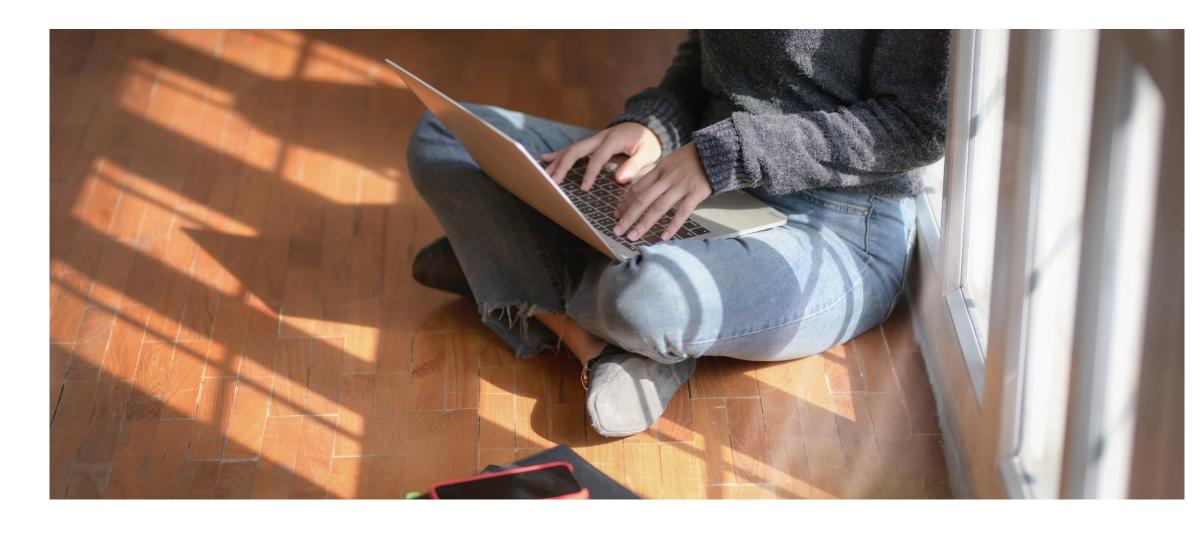
- Not regulated in any Act
- Based on custom

# **BELARUS**

- 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 <b>required</b>
Mandatory employee notification: 1 day in advance	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







# **LATVIA**

- 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**

- **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**

- 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**

- 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 assessement 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



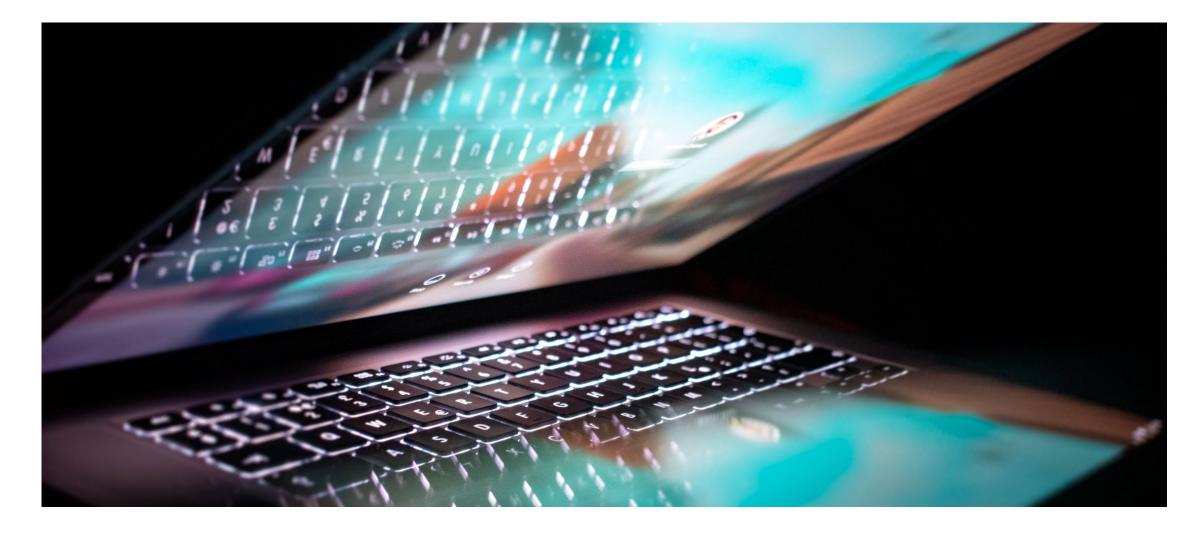
# **POLAND**

- 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**

- 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







# **LATVIA**

- 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**

- 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**

- 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**

- 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:
  - o 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**

- 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)

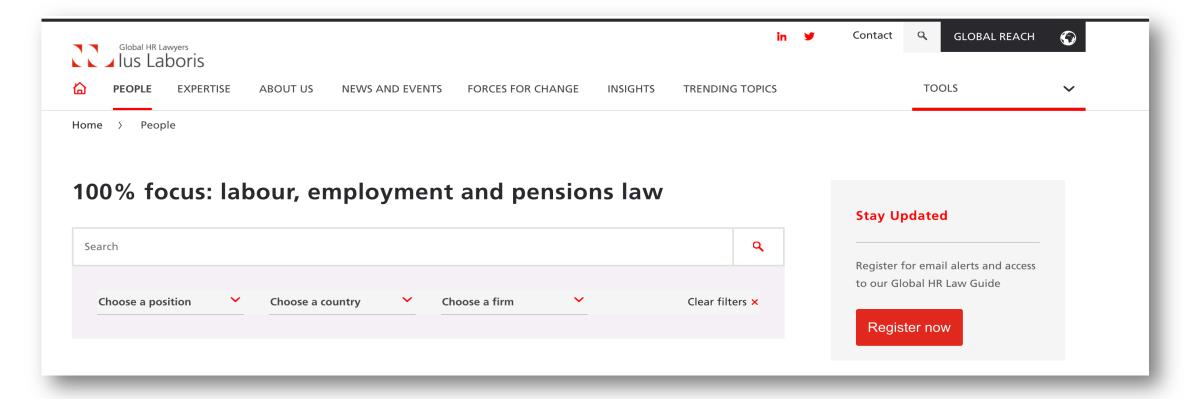
# **BELARUS**

- Employees are subject to the general rules on commercial secrets
- The employer has the right to adopts 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



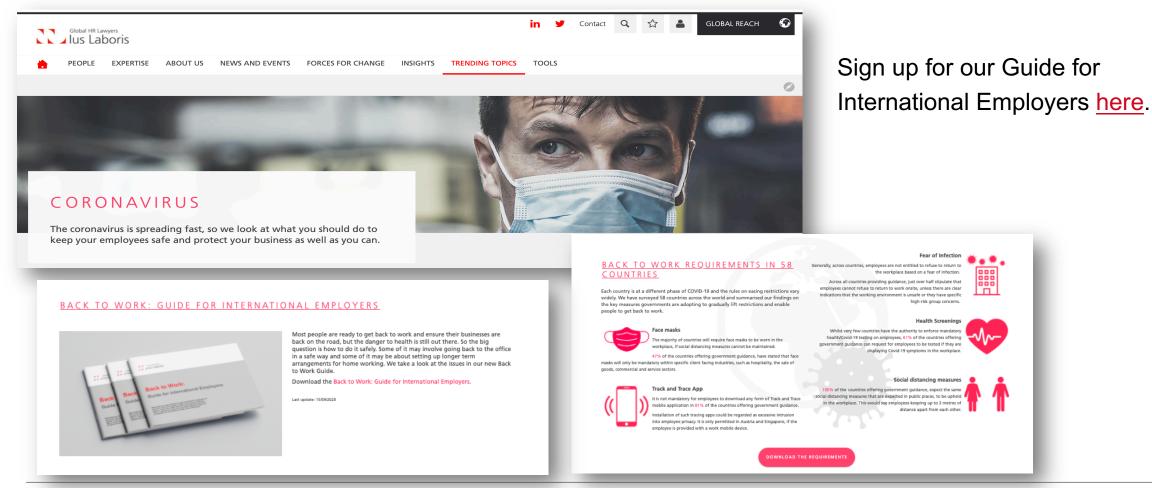
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# **WEEKLY WEBINAR SERIES**

## https://theword.iuslaboris.com/hrlaw/webinars-podcasts



#### 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.

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

Register

#### PAST WEBINARS



Speed dating seminar: employee access to personal data in the EU

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

July 16 2020 | Download the slides



# Restructuring across the APAC region following COVID-19

Kathryn Weaver, Vijay Ravi, Nobuhito Sawasaki, Heidi Fairhall

July 10 2020 | Download the slides



# Coronavirus: Getting back to the new normal

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

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#### Coronavirus: Getting back to

Orly Gerbi, Dimitrios Kremalis, Nicos Panayiotou, Batuhan Sahmay

June 25 2020 | Download the slides





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