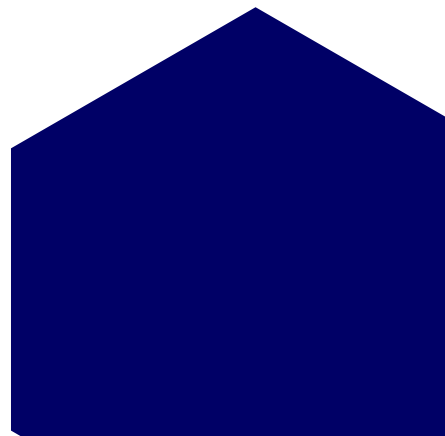




International Lawyers Network

Paid Leave - EMEA

The following paper aims to succinctly address the question "Are employees entitled to paid leave due to Covid-19?"





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Austria

For the question of paid leave of an employee, in Austria a distinction has to be made according to the reason for the leave:

1. Short-time work

By agreement between employer and employee, it is possible for the employee to work reduced hours. With the Federal guideline short-time work COVID-19, the government introduced a form of short-time work adapted to the current COVID-19 situation. The employee works 10-90% of his regular working hours and in return receives 80-90% of his previous net salary - depending on the gross salary before short-time work. This is subsidized by the state. The employer receives a lump sum per hour that the employee works less due to the current situation.

2. Paid leave (statutory holiday)

The statutory holiday entitlement is for employees with less than 25 years of service for a 5-day week 25 working days and for a 6-day week 30 working days. In order to use those days, the employer and the employee have to agree on the times the employee takes his time off.

3. Medical leave

In case of illness, the employee has a right to sick leave. For the duration of the sickness, the employer pays the remuneration for a certain period of time - depending on how long the employee has been employed in the company - then after some time it is partly paid by the sickness insurance fund and at some point the remuneration is only paid by the sickness insurance fund.

Employers have the right to demand a sick leave confirmation from the employee beginning at the first day of the sick leave. If the employee does not comply with his obligation to report and provide proof, he loses his right to remuneration for the duration of the delay.

Due to the current situation it is possible to get a notification of sickness from the doctor by telephone.

4. Legal or administrative prohibition

a. Ban on entering the workplace

The employee is also entitled to remuneration for services that did not come about if he was prepared to perform and was prevented from doing so by circumstances that come from the sphere of the employer.

This also applies to measures based on the COVID-19 Measures Act, which lead to a ban or restrictions on entering companies. However, employee is obliged to use up holiday and time credits up to a certain amount during this period at the employer's request.

b. Quarantine

If an employee is officially quarantined by the authorities, the employer must continue to pay the remuneration on the basis of the provisions of the Epidemics Act. However, he has a claim against the Federal Government for reimbursement of these costs.

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Czech Republic

Even if paid leave is one of the options recommended by the Czech Government for dealing with the current restrictions due to the COVID-19 pandemic, no special types of paid leave or simplification of the procedure for taking leave have been introduced in connection with the current situation in the Czech Republic. The Labour Code shall apply as it usually does.

Employees are not automatically entitled to paid leave due to the COVID-19 situation, nor are they entitled for paid leave longer than stipulated in the Labour Code, employment contract, collective bargaining agreement or internal regulation. Any employee's request for paid leave must be approved by the employer, who decides on the scheduling of paid leave.

Similarly, the employer cannot order employees to take paid leave immediately. Paid leave can be ordered only 14 days in advance, unless agreed otherwise. Therefore, if both parties are willing to resolve this difficult situation by paid leave, a mutual agreement has to be reached.

In agreement with trade unions, and with the consent of the work councils, the employer can order collective paid leave no longer than two weeks, if indispensable for operational reasons of the employer.

Optionally, if an agreement on paid leave is not reached for whatever reason, the parties can agree on remote working or taking unpaid leave.

The employer is not generally obligated to excuse an employee's absence at work due to this reason. If an employee unreasonably refuses to attend work due to fears relating to COVID-19 and the employer has not agreed with him/her on remote working or leave, such absence would be in the worst case considered as an unexcused absence with possible negative disciplinary consequences.

An employer is however obligated to excuse an employee's absence at work if the employee is:

- taking care of a child younger than 13 years of age/disabled person living in the common household who stayed home because the school, or social centre taking care of such person, has been closed (in such a case an employee is entitled to a care allowance from the sickness insurance system). An employee taking care of a child older than 13 years of age must agree with the employer individually on remote working or leave but the employer is not obligated to excuse his/her absence in this case;
- not able to arrive at work because of public transport disruptions (such absence would be considered unpaid leave);
- ordered into quarantine or is incapacitated from work based on a medical statement (during the first 14 calendar days of quarantine or illness an employee is entitled to compensatory salary corresponding to 60% of his/her average reduced earnings. From the 15th day, the employee is further reimbursed through sickness insurance).

Finally, should the employer not be able to assign work to its employees totally or partially due to COVID-19 related reasons (such as the shutting down of many establishments in the retail or gastronomy sectors based on governmental measures, lack of production resources or staff, reduction in sales of products or providing services), the employees will have "obstacles to work on the side of the employer", which means that they would not work, but would be entitled to salary compensation usually varying from 60% to 100% depending on the type of obstacle.

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England

The rights of UK employees are contained in an employment contract (incorporating express rights and implied rights which are derived from the common law) and in statutory rules and regulations laid down by parliament which are mandatory in nature. The entitlement to pay during a period of leave depends to some extent upon the rights set out in the employment contract (since an employer may have agreed certain enhanced rights, for instance, to receive contractual sick pay during periods of sickness absence), as well as on the reason for the employee being unable to attend work. We have considered the applicable position in a range of circumstances below:

(a) The employer is a non-essential business following Government guidance to shut down operations and its employees are unable to work from home.

The employee would be entitled to continue to receive their contractual pay and benefits during such periods, provided they remain fit and able to return to work. An employer may have the option to impose a period of lay-off or short-time working provided this is contained in the employment contract. Failing that, employers would need to agree a variation of the employment contract with the employee's consent to allow for one of the following:

- (i) Furlough – the UK Government has introduced a Job Retention Scheme (JRS) which will reimburse employers for 80% of their employees' normal pay up to £2,500 (plus employer's national insurance and pension contributions on this amount) up until 31st May 2020;
- (ii) Salary reductions;
- (iii) Reduced working hours; or
- (iv) Mandatory holiday.

(b) The employee is unable to attend work because they have symptoms and/or are required to self-isolate.

Where an employee is exhibiting symptoms, is self-isolating because a member of their household has symptoms, or is in one of the vulnerable groups strongly advised to stay at home and who are not able to work from home, then they will be eligible for statutory sick pay "SSP" under new rules introduced on 13 March 2020. They may also be entitled to receive contractual sick pay if their contract of employment provides for this additional entitlement. SSP is £ £95.85 per week from 6 April 2020 for qualifying employees. Employers with fewer than 250 employees will be entitled to reclaim SSP from HMRC/the UK Government.

Such employees can be placed on furlough when their sick leave or self-isolation ends. However, those employees who are in the 'extremely vulnerable' group (those over 70 years of age and who have an underlying condition), who are shielding themselves in line with public health guidance, can be placed on furlough straight away.

(c) The employee does not have coronavirus symptoms/ is not required to self-isolate but is nevertheless unwilling to work to avoid exposure to COVID-19.

An employee whose place of work remains operational and who has not been requested to self-isolate, whether under WHO guidance or a written request by Public Health England or following a call to their GP or a recognised health expert, and is not demonstrating any of the symptoms of COVID-19, will not be entitled to SSP and will not generally be able to claim salary during their period of leave.

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England (cont'd)

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It is important to examine carefully the reason for an employee's refusal to attend. Employers have legal obligations to provide a safe working environment and must adhere to their responsibilities under the Equality Act 2010. If, for example, the employee has a disability which increases their vulnerability to COVID-19, the employer should consider if it can make reasonable adjustments to the employee's working arrangements. This may include, for example, agreeing to working from home on full pay, or adjusting their workload to accommodate any increased feelings of stress.

It is also important that employers are consistent in payment for self-isolation. Any difference in treatment between employees may give rise to a discrimination claim if it can be linked to a protected characteristic.

(d) The employee is unable to work as a result of caring responsibilities (e.g. due to school/nursery closure or because a dependent has fallen ill)?

If the employee is able to work from home, then they should continue to be paid in full. If not, then the following options would be open to an employer:

- (i) Provided the employee does not undertake any work for at least three weeks then they can be furloughed under the JRS. Note that this would not be open to public funded companies and certain scheme conditions must be met (see our note on the JRS [here](#)).
- (ii) If the employee's requirement to take leave is a short-term emergency until alternative cover can be arranged (i.e. one or two days) then they would be entitled to take unpaid leave to care for a dependent.
- (iii) As mentioned earlier it is important to treat employees consistently and not to discriminate on prohibited grounds.

(e) Can employees use their paid holiday during periods of business closure caused by COVID-19?

Throughout the shutdown period, and regardless of whether an employee is furloughed under the JRS, they retain their existing employment rights. This includes the right to maternity pay, parental leave, unfair dismissal protection and paid holiday (which in the UK is a minimum of 28 days paid leave per year for those working full time). For employees who have normal working hours, holiday will be based on their usual contractual pay.

The Government guidance is not clear whether holiday pay will be reimbursed by the Government under the JRS and to what extent. However, the updated guidance from ACAS does seem to suggest that holiday can be taken during furlough. We expect the position on pay to be clarified in the near future.

(f) Can employers instruct employees to utilise paid holiday during a business closure caused by COVID-19?

Employers can institute a period of mandatory paid holiday provided they give appropriate notice which is twice the length of the required period of annual leave. In other words, a two-week notice period would be needed for a one-week period of annual leave. We do not recommend that this is used in respect of staff who are furloughed on the JRS given the uncertainty regarding reimbursement of holiday pay at present.

Please note that this note is based on UK guidance issued as at 9 April 2020 and this position may change.



France

In France, many companies had to cease or drastically reduce their activity due to Covid 19. Lot of them are using the partial activity system which allows to stop totally or partial to work and cost of salary will be reimbursed to companies by the French State.

In other situations, employees are not coming to work since they have a medical leave if they are people presenting a high level of risk (diabetic people, people with a bad health, obese, etc.), employees in quarantine, employees with children under 16 who cannot go to school, etc.

Another possibility offered to employers to cover this period of time where the activity is lower, has been to request the employees to schedule paid holidays or RTT:

- Under French labour law, each year, employee is entitled to **2.5 days paid holidays per month** (Articles L. 3141-1 and L. 3141-3 of the French Labour Code);
- Executives for which working time is computed in days instead of hours benefit from additional days off (so called "RTT") depending on their company and applicable collective bargaining agreement.

The ability to impose paid leave and RTT days in the context of the Covid 19 **is limited to strict conditions** laid down by the **Executive Order n°2020-323 of March 26, 2020**. These measures are **temporary** as they may not be extended beyond December 31, 2020.

1. Concerning the French measures relating to paid leave

On the basis of this Executive Order, the employer can impose or on the contrary delay the dates of paid leave for employees within the **limit of 6 days**, under the condition that it is **provided in a company or branch agreement**. The notice period set in the agreement to inform the employee must be **at least 1 full day**. A company or branch collective agreement is therefore necessary; a **unilateral decision by the employer cannot replace it**. The means that it is necessary to negotiate a collective agreement at the company or branch of activity level.

In practice, the condition of having to negotiate a company or branch agreement in the context of a health crisis may constitute a major obstacle to the implementation of this measure at short notice. However, some branch agreements have recently been concluded in particular in the automobile services sector (*branch agreement of 2 April 2020*), in the metal industry (*branch agreement of 3 April 2020*).

2. Concerning measures relating to rest days (working time counted in days, « RTT », « CET »)

Before the Executive Order was issued, the employer's ability to impose the dates on which RTT days could be taken depended on the provisions of the collective agreement. Indeed, some agreements provide that a number of RTT days is imposed by the employer and a number of days is left to the employee's free initiative. On the basis of such agreement, it is possible for employer to oblige employees to take some RTT days. However, this may not be appropriated for the Covid 19 crisis and all compagnies do not benefit from such provision.

This is why the rules have been revised by the Executive Order n°2020-323 concerning RTT and for the time of the Covid 19-crisis. From now on, as soon as the interest of the company justifies it in light of the epidemic, the employer may **unilaterally**, by way of derogation from the legal and conventional provisions, subject to observing a notice period of **one full day** and within **a limit of 10 days of RTT** impose the taking of rest days acquired by the employee and modify the dates already fixed for the taking of these rest days if any.

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France (cont'd)

Moreover, in some companies and under some conditions, employees benefit from a working time savings account ("CET"), where they can save paid holidays or RTT days they were not able to take during the year. In the same way of the RTT, employer can request employees to take up to 10 days on their CET account.

The employer therefore does not need, contrary to the case paid leave, to negotiate a collective agreement in order to derogate from the rules usually applying in the company.

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Germany

These are the rules under German law:

- Employees acquire a statutory claim for ongoing salary payment during the first six weeks of sick leave (see § 3 Para. 1 of the German Continued Remuneration Act; "Entgelt-fortzahlungsgesetz"). Every attempt to reduce the amount of sickness pay by more than symbolic amounts is ineffective. The employees' right for payment does not apply if they caused the sickness intentionally or negligently; it is common understanding that generally speaking an infection with Covid-19 is not treated as culpably caused. In regard to these statutory rules Covid-19 does not create a special legal situation for the employment parties. The entitlement for continued remuneration applies in cases of a Covid-19 infection as well as in cases of any other disease.
- After three days of sickness employees have to visit a doctor and provide the employer evidence of their sickness with a doctor's certificate of incapacity for work. In other words, by submitting this certificate to the employer employees establish a rebuttable presumption of their incapacity for work due to illness. In the course of the current Covid-19 pandemic the National Association of the Statutory Health Insurers and the National Association of Statutory Health Insurance Physicians agreed on 16 March 2020, that until 23 June 2020 doctors are entitled to issue the certificate of incapacity for work without any medical examination of the patient; a phone call with the employee is sufficient. Doctors are entitled to certify incapacity for work for up to 14 days if a patient describes mild complaints in the upper respiratory tract notwithstanding if caused by Covid-19 or merely by a simple cold. Without any doubt this is a great relieve for employees who suffer such mild complaints – and unfortunately also offers the possibility of an abuse to the detriment of the employer.
- According to the rules of the German Protection against Infection Act ("Infektionsschutz-gesetz") the authorities are entitled to order employees quarantine when they are infected with Covid-19. The suspicion of an infection is sufficient for the law to apply. As a financial consequence of such restrictions the respective employees are entitled for continued remuneration payment up to six weeks. If the restriction takes longer employees receive reduced payments equal to sick leave payments from the public health insurance. During the first six weeks that payment is made by the employer, but it is not totally clear who has to bear it in the end. Employers might get those payments reimbursed by the state. On one hand and as described above, § 56 Infektionsschutzgesetz defines that the state shall bear the burden of ongoing remuneration payment. On the other hand, the employer has to pay the employees' salary according to § 3 Entgeltfortzahlungsgesetz anyway. It is safe to assume that this question will finally be answered by the courts.

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Greece

I. General Provisions

a. Annual Paid Leave

The Greek Labor Law provides, in general, that all employees are entitled to an annual paid leave from the beginning of their employment. This annual leave is granted by the employer in proportion to the duration of their employment based on the provisions of the Law. Normally, the exact period or periods of the year that the employee will take the annual paid leave is agreed mutually with the employer. During the leave, the employee is entitled to receive from the employer the "usual remuneration/ salary" and an additional leave allowance. In the present situation, there is not a special legislative restriction to the abovementioned right of the employees. Therefore, it is concluded that the employees may take all or part of their annual paid leave during the pandemic upon mutual agreement with their employer.

b. Paid Leave due to illness

Furthermore, employees are entitled to be absent from work due to illness without consequences. This medical leave is normally not deducted from the abovementioned annual paid leave. As about the payment during this period, in cases of absence from work due to illness for up to three (3) days, the employer is obliged to pay to the employee half of the daily wage unless otherwise agreed in favor of the employee. If the illness lasts for more than three (3) days, the employee is entitled to remuneration from the Social Security Institution (EFKA) for the days that exceed the time period of three (3) days, whereas the difference between the wage and the sickness benefit paid by the Social Security Institution is paid by the employer.

c. Paid Leave due to emergence of symptoms related to COVID-19

In case the employee - or a person living with him/her - presents suspicious symptoms and based on the instructions of National Organization of Public Health (EODY) it is necessary to stay at home, then the employer, whose business continues to operate, is obliged to temporarily remove him/her from his job, in order to protect the other employees. The reasonable time of removal of the employee should be the time of incubation of the virus, i.e. 14 days. In this case, the employee is normally entitled to his/her salary. It is undeniable that, if during this period the employee is working from home, he/she is entitled to his/her salary anyway.

d. Paid Leave due to the personal fear of the employee

In case the employee puts himself/herself in quarantine due to his/her fear related to the virus, he/she is not entitled to salary. Specifically, his/her absence can be considered unjustified and consequently as resignation. The situation may be different in cases of employees who suffer from other diseases ("groups of high risk").

II. Special Provisions Due to Coronavirus (COVID-19) Pandemic

a. Special Purpose Leave

According to the Legislative Act dated 11.03.2020 that has been ratified by Law, all employees who have children who attend nursery, kindergarten, or other institutions of compulsory education, or attend a special education system or are disabled and/or hospitalised in special care institutions, are entitled to ask for a Special Purpose Leave due to suspension of the operation of these institutions. This Special Purpose Leave should be of at least three (3) days, provided that every three days of such leave, the employee will take one more day of his/ her annual paid leave (please see above I.a.). In case both parents are employed, only one of them will benefit from this right. As about the payment during these days, two thirds (2/3) of the amount of salary is covered by the employer, and one third (1/3) by the State.

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Greece

b. Special Purpose Compensation

The Greek Government has also legislated a financial assistance mechanism for affected employees. Specifically, a special purpose compensation of eight hundred euros (800 €) will be granted to employees whose employment contract has been suspended due to suspension of business operation by a public authority order, or due to suspension on the initiative of the employer if the business is affected by the pandemic situation. The employees that are on legal leave (annual, sick leave etc.) during this time are exempt from the abovementioned compensation and as a consequence the employer (or any other liable institution like the Social Security Institution) has to continue the payment of their legal salary and benefits during their leave. However, upon agreement of the employer and the employee, the annual paid leave or parents' special purpose leave may be earlier terminated in order the employment relationship to be suspended.

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Hungary

Employment legal matters are regulated in Hungary by the Act I of 2012 on the Labour Code ("**Labour Code**"). The Labour Code continues to apply also in the time of the current pandemics, though the government of Hungary decided to suspend or change several employment rules for the term of the pandemics and the related emergency by way of implementing Government Decrees. As at the date of preparing this summary, the governmental rules did not affect the Labour Code's provisions regarding paid leave.

Granting paid leave to the employees

According to the Labour Code, employees are entitled to at least 20 working days as paid leave. Extra vacation time between one-ten days applies, depending on the age of the employee. Further, additional days have to be granted in certain cases, for instance, for employees with disabilities. Those with children under the age of 16 receive extra two, four or seven days depending on the number of children.

The employer has to ensure that employees take their paid vacation days by the end of the respective calendar year. Only extra holidays based on the employee's age can be carried over to the next calendar year. Employees who started working in October of a year, or later can take their holidays until March of the next year.

Employees can determine when they wish to take of seven days of their paid vacation. The remaining days are allocated by the employer, after discussion with the employee. Employees should spend 14 consecutive days on vacation, unless it is agreed in the employment agreement or otherwise with the employer. Vacation can be taken by the employee or allocated by the employer, subject to an advance notification of at least 15 days, unless otherwise agreed. This can put employers in a difficult situation, as in case employees do not cooperate, vacation can start only after the expiry of such 15 days.

Alternatives of paid leave

Should the employer decide to stop its operation without allocating the vacation days, and order the employees not to come to work, this would qualify as a stand-by period. During such time, employees are entitled to their salary – even if they do not work – and they have to be ready to take on work, subject to the requirements of the employer.

Should however, the employer become unable to continue its operation due to circumstances beyond its control, for example due to the decision of an authority, or a governmental regulation related to the pandemics, then the employee will not be entitled to salary payment. This situation has, however, be carefully considered, as the pandemics in itself may not constitute in itself a circumstance beyond the employer's control.

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The Netherlands

In accordance with Dutch law, an employee is entitled to continued payment of wages if he is unable to carry out activities because of circumstances which must be for the risk of the employer. The question which then arises immediately is who should bear the expense and risk resulting from this global COVID-19 epidemic. Is it a risk to be borne by the employer or a risk to be borne by the employee? Or is it a risk that must be shared by both parties? It is a rather complicated question and in such exceptional situations, current case law is not always clear and also very casuistic. Something like this has never happened previously and for that reason there are no comparable examples which could form a basis for answering this question with a sufficient degree of certainty.

However, the Dutch government decided to intervene for the purpose of safeguarding jobs, and it created a so-called NOW scheme (a temporary emergency measure). This scheme grants wage subsidy to employers for the payment of wages to their employees and it encourages the employers not to dismiss their employees. The subsidy amount depends on the turnover decrease of the company. In the event of a group of companies the turnover of the group within the Dutch borders is looked at. In the most favorable scenario (there is a turnover decrease of 100%) the employer receives 90% of all wage costs, which means that 10% must be paid by the employer himself. Granting subsidy therefore is subject to the condition that no employees may be dismissed for commercial reasons. Should the employer do so nevertheless, then he will have to pay back the subsidy money with 50% penalty.

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Romania

The right to annual paid leave is guaranteed under the Romanian Labour Code to all employees with individual labour agreements and it cannot be subject to any waiver, assignment or limitation.

Moreover, the annual paid leave must be taken effectively (i.e., the employee will not perform work for the employer), and only in limited cases can it be remunerated with payment (and not actually taken).

The COVID-19 pandemic, which has led to the institution of a state of emergency on the territory of Romania, has brought about re-arrangements in the relationship between employers and employees. However, as a general observation, the fundamental right to annual paid leave has not seen substantial amendments (with the exceptions that will be briefly mentioned below).

Therefore, the general rule stipulated in the Romanian Labour Code (*providing that annual paid leave is established by the end of the calendar year before the calendar year for which the scheduling is made*) is still applicable, even under the pandemic situation.

Given that once the scheduling of the annual leave is established, the employee must take the paid leave during the scheduling established beforehand, in the absence of a contrary agreement with the employer, even if such scheduling is made for the period of the pandemic.

However, on the opposite side, the employee cannot be coerced to take paid leave during such period.

Nevertheless, there have been limitations as to the granting of paid leave to Romanian employees during this period in certain sectors (the military, the police, etc.).

In addition, a new law has come into force in this period, Law 19/2020, which stipulates that parents, legal guardians and representatives of children up to 12 years of age or up to 18 years of age, in case of disability, whose school facilities are closed, are entitled, during the entire duration that such school facilities are closed, upon meeting certain conditions and producing certain documents, to an indemnification of 75% of basic salary (but not more than 75% of the average gross salary for 2020, provided by the social insurance budget law), paid by the employer but incurred from a state-owned salaries' guarantee fund.

Thus, if individual working schedules, shift work, work from home or tele-working are not feasible and other conditions are met with regard to the other parent/legal representative, the employer does not have the legal means to deny the granting of such paid days off, as a general rule.

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Russia

Under the Decree of the Russian President of April 02, 2020, issued due to the COVID-19 pandemic, non-working days are established in Russia until April 30, 2020 (with exceptions for some companies) with the preservation of salaries for employees. It should be noted that Russian labor laws do not contain a definition of “non-working days”; the text of the Russian Labor Code uses the term “non-working public holidays” instead. As it was later clarified by the Russian Ministry of Labour, the non-working days should not be treated the same as non-working public holidays or weekends. However, where employees are working remotely, the risks of violating sanitary standards and restrictions are eliminated and thus many companies tend to transfer their employees to work remotely at home (when it is possible).

1. Annual paid leave

No special rules as to the provision of annual paid leave to employees are established due to the COVID-19 pandemic. Provisions of the Russian Labour Code continue their application in this part.

The duration of annual paid leave is generally 28 calendar days per year.

The priority of annual paid leave is determined annually under the vacation schedule approved by the employer. The vacation schedule is obligatory both for employees and employers. If during the COVID-19 pandemic employee does not want to use its paid leave that is arranged for him under the schedule, then this fact itself does not automatically lead to the transfer of the paid leave for this employee to the later dates. The final decision is up to the employer. If an employee is not satisfied with the dates set in the schedule, he/she can ask the employer to change the paid leave dates. To do this, the employee must write an application for leave on dates other than those included in the vacation schedule. In this case, the granting of leave is up to the employer’s decision.

If an employee has accumulated unused annual leave for previous periods of work, the employee retains the right to use it. The employer may include such vacations in the schedule for the next calendar year or provide them by agreement with the employee. However, an employer’s failure to provide annual paid leave for two consecutive years is prohibited and may cause an administrative fine to the employer.

2. Sick leave

In addition to the general rules, some special temporary regulations due to COVID-19 are applied with regards to sick leave:

- Not only citizens who have arrived from abroad, but also those who live with them, should be quarantined. If these persons cannot perform their job duties (it is allowed to work remotely upon the agreement with the employer if the employee does not have any symptoms of respiratory diseases) they can take sick leave for 14 days.
- Due to the establishing of self-isolation regime persons aged 65 and over that cannot perform their job duties remotely can receive temporary sick pay based on a disability certificate.

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Sweden

According to established practise on the Swedish Labour Market an employee is entitled to be absent from work in the case of illness. During the first 14 days of the illness absence, the employee is entitled to receive sick pay from the employer, with an amount that corresponds to 80 percent of the salary that the employee loses during the absence period. During the first day a qualifying deduction applies. This deduction should be equivalent to 20 per cent of the sick pay that the employee is calculated to receive for one week.

From day 15 the obligation to compensate the employee is taken over by the Swedish Social Insurance Agency. According to provisions in the National Insurance Act the employee is entitled to sickness benefit which corresponds to 80 percent of the salary. However, it shall be noted that the sickness benefit unlike the sick pay includes a cap at SEK 804 per day.

In order to compensate for the employers' rising costs for illness absence during the Covid-19 pandemic the Government has enacted a temporary legislation according to which the employers will receive full compensation for providing sick pay during the first 14 days of the employee's absence due to illness. The temporary legislation, which also includes a right for the employee to receive full compensation for the first day of illness absence, will be applicable during April and May 2020.

Employees who have or are suspected of having an infectious disease (such as Covid-19) without having a diminished working capacity are entitled to disease carrier benefit from the Swedish Social Insurance Agency provided that they provide a doctor's certificate that proves that they are infected with a disease that is considered a public health hazard and that they therefore are unable to work. The disease carrier benefit is (as the sickness benefit) capped at 80 percent with a cap at SEK 804 per day.

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