

ON INTERVENTION MEASURES TO CURB THE COVID-19 EPIDEMIC AND MITIGATE ITS IMPACT ON CITIZENS AND THE ECONOMY

The first measures to curb COVID-19 epidemic and mitigate its impact on citizens and the economy have already entered into force (the presentation is available on our website <https://faturmenard.com/en/category/news/>). The second package of measures was adopted within the framework of the *Act on Intervention Measures to Curb the COVID-19 Epidemic and Mitigate Its Impact on Citizens and the Economy* ("ZIUZEOP"), which will come into force on the day after its publication in the Official Gazette. Most measures are applicable from March 13, 2020 until May 31, 2020 (and for a further 30 days if the COVID-19 epidemic is not cancelled until May 15, 2020).

1. MEASURES IN THE FIELD OF WORK AND SOCIAL SECURITY, HEALTHCARE AND HEALTH INSURANCE CONTRIBUTIONS

ZIUZEOP affects the application of certain provisions of the Act on Intervention Measures in the Field of Salaries and Contributions ("ZUIPPP"), which entered into force on March 29, 2020. This presentation outlines the current measures in relation to rights and obligations of employers pertaining to the temporary suspension of workers' employment, the inability of workers to work due to *force majeure*, the reimbursement of the paid salary compensation to the employers for such workers and the exemption of the employers' payment of contributions in accordance with both acts.

The interim measures adopted on the basis of ZIUZEOP regarding the reimbursement of paid salary compensation to workers, suspended from employment and to the workers unable to work due to *force majeure*, and the exemption of the employers' payment of contributions are valid from March 13, 2020 until May 31, 2020 (with a possible extension of 30 days), whereby after the expiry of the aforementioned period, the relevant provisions of ZUIPPP apply.

a) Right to the reimbursement of paid salary compensation

ZIUZEOP governs, for the benefit of the employers, the reimbursement of paid salary compensations for:

- workers suspended from employment due to the inability of the employer to provide them with work due to the epidemic; and
- workers unable to work due to *force majeure* (COVID-19 epidemic), namely due to care for children since the closure of kindergartens and schools and other objective reasons, the inability to commute to work due to the interruption of public transport or the closure of borders with neighbouring countries.

All employers, except direct or indirect users of the State or municipal budget whose revenue from public sources exceeded 70% in 2019 and employers providing financial or insurance activities, are entitled to the reimbursement of the paid salary compensation.

The right to the reimbursement is granted to employers estimating that their revenues in the first half of 2020 will reduce by more than 20% compared to the same period in 2019 and will not attain more than a 50% revenue growth in the second half of 2020 compared to the same period in 2019. Employers that have not operated throughout 2019, are entitled to the aid if they had at least a 25% reduction of revenues in March 2020 compared to the revenues in February 2020 or at least a 50% reduction of revenues in April or May 2020 compared to revenues in February 2020.

The aid may not be granted to employers:

- who are not paying obligatory contributions and other financial non-taxable obligations in accordance with the law governing the financial administration, collected by the tax authority, if the employer has unpaid due obligations on the day of submission of the application. An employer is also considered as not fulfilling such obligations if, on the day of submission of the application, it had not submitted all the tax returns for revenues from an employment relationship for the period of the past 5 years up to the day of the application submission;
- if bankruptcy has been declared against the employer at the time of the decision-making process of the Employment Service of the Republic of Slovenia (the bankruptcy is deemed declared with the filing of an application for declaration of the bankruptcy).

If the condition regarding reduced revenue is not fulfilled upon the submission of annual reports for 2020, the employer who has received the reimbursement of salary compensation will have to repay the aid. Additionally, the employer that having subsequently determined that it does not fulfil conditions for the reimbursement of salary compensation, must notify the Financial Administration of the Republic of Slovenia thereof. The employer reimburses the amount of the aid received based on a declaratory decision within 30 days.

Following the expiry of the validity of measures under ZIUZEOP (in principle on June 1, 2020), are entitled to the reimbursement of paid salary compensation for workers suspended from employment in accordance with ZUIPPP the employers which:

- submit a description of the business situation due to the consequences of the epidemic,
- suspended the employment of at least 30% of their workers and
- undertake to retain the employment of these workers at least 6 months after the start of the suspension.

According to ZUIPPP the employers have the right to the reimbursement of the paid salary compensation also for the workers unable to work due to the quarantine, if they provide a statement that they are not able to organize work at home.

The employers are entitled to the reimbursement of the paid salary compensations in accordance with ZIUZEOP until May 31, 2020 (until June 30, 2020 in case of an extension); thereafter, in accordance with ZUIPPP, only once and for a maximum of 3 months, until September 30, 2020.

b) Ordering the suspension of employment

The employer may suspend the worker's employment until May 31, 2020 at the latest, in a written order stating the duration of the employment suspension, the options and means of ordering the worker to return to work prematurely and the amount of the salary compensation. If the worker returns to work prematurely, the employer must notify the Employment Service.

If the employer orders the worker to return to work during the suspension of employment for a maximum of 7 consecutive days, the employer retains the right to the reimbursement of paid salary compensation in accordance with ZIUZEOP (until May 31, 2020).

The worker may, in accordance with the agreement with the employer, exercise the right to annual leave during the suspension of employment. The worker has the right to salary compensation in accordance with the Employment Relationships Act ("ZDR-1") during this period.

c) Obligations of the employer

During the suspension of employment and during the period when the worker is not working due to *force majeure*, the employer must pay the worker a net salary compensation in the amount determined by ZDR-1 for temporary inability to provide work for business reasons (i.e. 80% of the average monthly salary for full-time work, received in the past 3 months), but at least in the amount of the minimum salary in the Republic of Slovenia (EUR 940.58). During this time, the employer may not order overtime work if such work may be done by the workers suspended from employment. Additionally, the employer is required to inform the Employment Service of any order to return to work prematurely and the termination of workers' absence due to *force majeure*.

In the event of a violation of the above, the employer must pay triple the amount of the aid received. Moreover, the employer must return the aid received if liquidation commences during the period of receipt of the aid or within the period after the receipt of the aid equal to the period of receipt of aid.

However, following the expiry of ZIUZEOP and pursuant to ZUIPPP, the employer is bound to pay workers suspended from employment and workers in quarantine the salary compensation in the amount determined by ZDR-1 for temporary inability to provide work for business reasons (i.e. 80 % of the amount of the average monthly salary for full-time work received in past 3 months) and social insurance contributions, whereas ZUIPPP does not provide that the salary compensation may not be less than the minimum salary in the Republic of Slovenia. During the period in which it receives the reimbursements of paid salary compensation, the employer may not initiate the procedure for the termination of an employment agreement, terminate an employment agreement for business reasons nor require the workers to carry out overtime work, if such work could be performed by workers suspended from employment. In the event of breaches of the above, as well as in the case of initiation of liquidation proceedings during the period in which it received the reimbursements or within the same period after the termination of reimbursements, the employer must repay the reimbursements received.

The employer does not pay the salary compensation pursuant to ZIUZEOP and ZUIPPP to a worker who has acquired the right to be absent from work on the basis of health insurance (e.g. sickness leave) or parental protection rules, and the right to a corresponding salary compensation and payment of social insurance contributions.

d) Amount of reimbursement of paid salary compensations and payment of contributions

The Republic of Slovenia reimburses the employer for the paid salary compensation for workers suspended from employment or workers absent due to *force majeure*, in the amount of the paid salary compensation, reduced by the workers' contributions. The amount of the reimbursement of the salary compensation is limited to the average monthly salary in 2019 (EUR 1,753.84).

Employers are, in relation to workers temporarily suspended from employment or absent due to *force majeure* for which they are entitled to receive reimbursement of paid salary compensation under ZIUZEOP, as well as workers not working due to *force majeure* which has not occurred due to the COVID-19 epidemic and receiving salary compensation on this basis, exempted from the payment of all social security contributions for salary compensations from March 13, 2020 until May 31, 2020, but not more than the amount of salary compensation limited to the average monthly salary in 2019.

As of June 1, 2020, and pursuant to ZIUPPP, the employers are entitled to the reimbursement of the paid salary compensation for workers suspended from employment in the amount of 40% of the salary

compensation, up to the maximum amount of the unemployment benefit. The Republic of Slovenia will reimburse the paid salary compensation in full for workers who are unable to work due to the quarantine.

e) Procedure and method for claims for reimbursement of salary compensations

Employers exercise the right to reimbursement in accordance with ZIUZEOP by submitting an electronic application to the Employment Service within 8 days from the suspension of employment, but no later than on May 31, 2020.

They may also exercise the right to reimbursement for workers suspended from employment or unable to work due to *force majeure* for the period from April 1, 2020 onwards, by way of an electronic application filed within 8 days from the entry into force of ZIUZEOP (applications submitted under ZUIPPP are processed under ZIUZEOP). As of June 1, 2020, employers can exercise the right to the reimbursement of the salary compensation within 8 days from the posting of a worker on suspension from employment, but no later than by September 30, 2020.

f) Exemption of the payment of pension and disability insurance contributions for workers who are working

Employers are exempted from the payment of pension and disability insurance contributions which are due in April and May 2020 for workers who are compulsorily insured based on their employment. Direct and indirect users of the budget of the Republic of Slovenia and municipal budgets, as well as financial and insurance companies, are not entitled to the exemption. For each worker who is working and whose last paid monthly salary has not exceeded triple the amount of the minimum salary, the employer must pay a monthly crisis allowance of EUR 200, which is exempt from taxes and contributions.

g) Measures for self-employed persons

Self-employed persons who, due to epidemic (i) are unable to perform their activity, or (ii) perform it to a significantly reduced extent, which means (a) at least a 25% reduction of revenue in March 2020 compared to the revenue in February 2020, or (b) at least a 50% reduction of revenue in April or May 2020 compared to February 2020, are entitled to a monthly basic allowance.

In addition to the above alternative conditions, the self-employed persons must also declare that their revenue has reduced by more than 20% in the first half of 2020 compared to the same period in 2019 and that in the second half of 2020 it will not attain 20% of revenue growth over the same period in 2019. If these conditions are not met, the self-employed persons will have to repay the aid received.

Shareholders who are managers in a company and are insured under a civil law contract with the company for the purpose of performing their function are also considered as self-employed persons.

Self-employed persons are entitled to a monthly basic allowance of EUR 350 for March 2020 and EUR 700 for April and May 2020, if they have been performing their activities from at least March 13, 2020 until the entry into force of ZIUZEOP. The beneficiary must submit a statement through the Financial Administration's information system, stating that it is considered an entitled person and that due to the epidemic it cannot perform its activity or performs it to a significantly reduced extent. Such a statement is considered as public information that will be published on the Financial Administration's website.

The self-employed persons are exempt from paying the compulsory social security contributions for April and May 2020.

h) Health care and insurance

The salary compensation for workers, sole proprietors, shareholders performing the management function as their principal occupation and farmers, who, on the date of entry into force of ZIUZEOP, are entitled to sick leave compensation or who acquire this benefit after the entry into force of ZIUZEOP, will be covered by compulsory health insurance from the entry into force of ZIUZEOP until the reasons for the temporary restraint from work cease to exist, but no later than until May 31, 2020. In order to exercise this right, the application must be submitted by the beneficiary by September 30, 2020 at the latest.

i) Criminal provisions

The employer must pay a fine ranging from EUR 3,000 to EUR 20,000 if it:

- does not pay net salary compensations to workers;
- orders overtime work during the period in which it received partial reimbursement of salary compensation;
- fails to notify the Employment Service in the event of ordering the worker to return to work;
- fails to notify the Employment Service on the date of termination of the workers' absence due to *force majeure*;
- does not enable the Employment Service to provide administrative and financial supervision;
- fails to notify the Financial Administration of the Republic of Slovenia of a subsequent finding of non-fulfilment of conditions for benefits under ZIUZEOP.

j) Repayment of received aid

Persons who have exercised the right to reimbursement of paid salary compensations for workers suspended from employment or workers unable to work due to *force majeure*, the right to the exemption from payment of contributions or the exceptional aid in the form of basic allowance, must repay the funds received with interest at the statutory default interest rate, in the event of a distribution of profits or the payment of a part of the salary for business success or of management rewards in 2020 since the entry into force of ZIUZEOP.

2. CHANGES RELATED TO THE DEFERRAL OF PAYMENTS UNDER BANK LOANS

ZIUZEOP also partially amends the Intervention Measure Act on Deferred Payments of Borrowers' Obligations ("**ZIUOPOK**") which entered into force on March 29, 2020. Specifically, ZIUOPOK provides for the extension of maturity of all collateral agreements for the deferral period. At the same time, it explicitly provides that interest on the deferred part of the principal amount accrues at the general interest rate agreed at the time of conclusion of the loan agreement.

Prohibition of distribution of dividends and other payments – borrowers that are commercial companies and which have been granted a deferral of payment by banks in accordance with ZIUOPOK are prohibited from paying dividends, business performance rewards to members of management and workers, and other financial obligations to parent and affiliated companies or shareholders (such a prohibition must be included in the annex to the loan agreement).

State guarantees – the Republic of Slovenia acts as a guarantor to banks and savings banks with registered offices in the Republic of Slovenia to satisfy part of the borrowers' obligations related to the

deferral under ZIUOPOK in the amount of (i) 25% of the sum of 12 deferred monthly loan instalments that would fall due during the period for which deferral was agreed; or (ii) 50% of the sum of 12 deferred monthly loan instalments that would fall due during the period for which deferral was agreed in cases where borrowers who were granted a deferral conduct a business activity which was temporarily prohibited by a governmental or municipal decree due to the virus epidemic, and in cases where borrowers who were granted a deferral are natural persons.

Guarantees will also apply to new loan agreements which will have to include the following provisions:

- (i) that the bank's claim under the loan agreement secured by the guarantee is to have at least the same ranking as claims of any other creditors that arose after the granting of the guarantee;
- (ii) the commitment of the borrower not to pledge or otherwise encumber its assets if such action could reduce the collateral or value of the assets intended for the repayment.

The total amount of guarantees will not exceed EUR 200 million. Operational tasks in relation to guarantees will be carried out by SID Bank.

The State guarantee by the Republic of Slovenia is terminated if:

- the bank has violated ZIUOPOK in granting the deferral, or
- the bank has not informed SID Bank of the commencement of insolvency proceedings against the borrower no later than 14 days prior to the expiry of the deadline for the notification of claims.

3. NEW MEASURES RELATED TO INSOLVENCY PROCEEDINGS AND COMPULSORY DISSOLUTION

An additional insolvency situation – ZIUZEOP adds an irrefutable presumption of continued insolvency to the existing list of insolvency presumptions in cases in which a legal person, sole trader or private person (doctor, notary public, attorney, farmer or other natural person, who is not a sole trader and performs activity as a profession) who acquired financial compensations on the basis of the intervention acts relating to salaries and contributions of workers, but fails to pay such salaries and contributions to workers. The presumption of continued insolvency applies for 4 months following the declaration of the end of the epidemic.

The extension of the management's obligation to file a petition for bankruptcy or compulsory settlement proceedings – the management is not bound to file a petition for bankruptcy or compulsory settlement proceedings if the insolvency occurred as a result of declaration of the epidemic. This condition is deemed fulfilled if the company performs an activity the performance of which was prohibited or significantly limited by way of a governmental, ministerial or municipal order. In other cases, the management will have to prove that insolvency occurred as a result of the epidemic. The measure applies during the epidemic and 3 more months following the declaration of the end of the epidemic.

In addition, deadlines for company bodies to comply with obligations in regard to insolvency proceedings have been extended. Among others, the deadline to convene the shareholders' meeting and to increase the share capital is extended by 1 month following the declaration of the end of the epidemic if the actions of the bodies cannot be performed in a timely manner due to the epidemic.

The suspension of the decision on the creditor's petition in bankruptcy proceedings – the time period in which the debtor can complete the financial restructuring and the consequent termination of insolvency is extended for companies that became insolvent as a result of the declaration of the epidemic. The insolvency condition is deemed fulfilled if the company performs an activity which was temporarily prohibited or significantly limited by the authorities.

In this case, the court can suspend the decision on the creditor's bankruptcy petition by 4 months, whereas the debtor can justify its request to suspend a decision on the creditor's bankruptcy petition within 4 months. The measure may be implemented at the proposal of the creditor which has to be filed no later than in 2 months following the declaration of the end of the epidemic.

4. TAXES

Taxpayers are exempted from the payment of instalments of the preliminary prepayment of personal income tax on the income earned as a performance of activity and the instalments of the prepayment of the corporate income tax of legal persons for 2020, which are due following the entry into force of ZIUZEOP and until May, 31 2020.

5. MEASURES IN THE FIELD OF MONEY LAUNDERING AND TERRORIST FINANCING

ZIUZEOP allows certain persons bound under the Prevention of Money Laundering and Terrorist Financing Act to adapt their customer due diligence review, which is generally carried out by examining the customer's official personal identification document in his/her presence and before the conclusion of the business relationship.

If there is no increased risk of money laundering and terrorist financing, the establishment and verification of the customer's identity may be postponed by up to 1 month after the conclusion of the business relationship, or in case of an extended duration of the epidemic by up to 1 month following the end of the epidemic. Notwithstanding the above, the persons bound under the Act are required to perform all possible measures to obtain the required knowledge about the customer before the conclusion of the business relationship in accordance with the instructions of the competent authorities (personal name, permanent and temporary residence address, date and place of birth tax number or unique personal ID number (EMŠO), citizenship and number, type and title of issuer of the official personal identification document of the person), which includes the recording of a conversation via a video connection and the consequent retention of personal data. The same exemption is provided for banks and savings banks in accordance with ZIUOPOK.

6. MEASURES ON ENFORCEMENT AND PERSONAL BANKRUPTCY

All income received on the basis of ZIUZEOP is excluded from enforcement under the Claim Enforcement and Security Act ("ZIZ") and from tax enforcement under the Tax Procedure Act ("ZDavP-2") as well as from the bankruptcy estate in the personal bankruptcy proceedings under the Financial Operations, Insolvency Proceedings, and Compulsory Dissolution Act.

With the entry into force of ZIUZEOP, the implementation of all enforcement orders under ZIZ and ZDavP-2 is deferred.

We hope that the short explanations presented above will help you organize your workflow. We are at your disposal for any questions that may arise in the course of your business.

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Law firm Fatur Menard

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