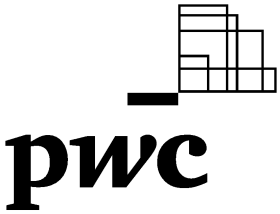
Responding to the Business Impacts of COVID-19

Navigating legal issues across 80+ territories

Report on key legal considerations, including answers to common questions relating to Labour Law, Contract Law, Insolvency Law, Cybersecurity & Privacy Laws and Corporate Law

VOLUME 2 - Europe & CEE
5 November 2020



Introduction

COVID-19: Global Legal Report

5 May 2020

Dear Reader,

In a constantly changing environment, COVID-19 is continuing to present significant challenges to both people and organisations around the globe. Many of you will be facing potentially significant business challenges to which you need to respond rapidly.

To help you navigate through the complexity, PwC's team of legal specialists have collaborated to create a resource covering some of the most relevant legal considerations for businesses. That information has been brought together in Volumes 1 and 2 of this Report and includes answers to common questions relating to:

- Labour Law,
- Contract Law,
- Insolvency Law,
- Cybersecurity & Privacy Laws; and
- Corporate Law.

Reflecting commentary from **more than 80 territories across our Global Legal Network**, this Report is one of the most geographically comprehensive legal resources currently available on these topics.

The hyperlinks in the '**Territories Index**' will allow you to easily navigate across the two Volumes and access information for countries that are of most interest to you in a print-ready format.

Alternatively, you can navigate this information, together with key insights regarding tax, economic and other government measures, using our online navigation tool: https://pwc.to/2QUBeCA

If you would like further assistance on these issues, please either reach out to your usual PwC contact or the relevant Territory Contact listed in the Report. In the meantime, please take care and stay safe in these unusual times.

Yours faithfully,

Tony O'Malley
Global Legal Leader

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Navigate to specific territories via the hyperlinks on this page:

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Volume 2

Europe & CEE

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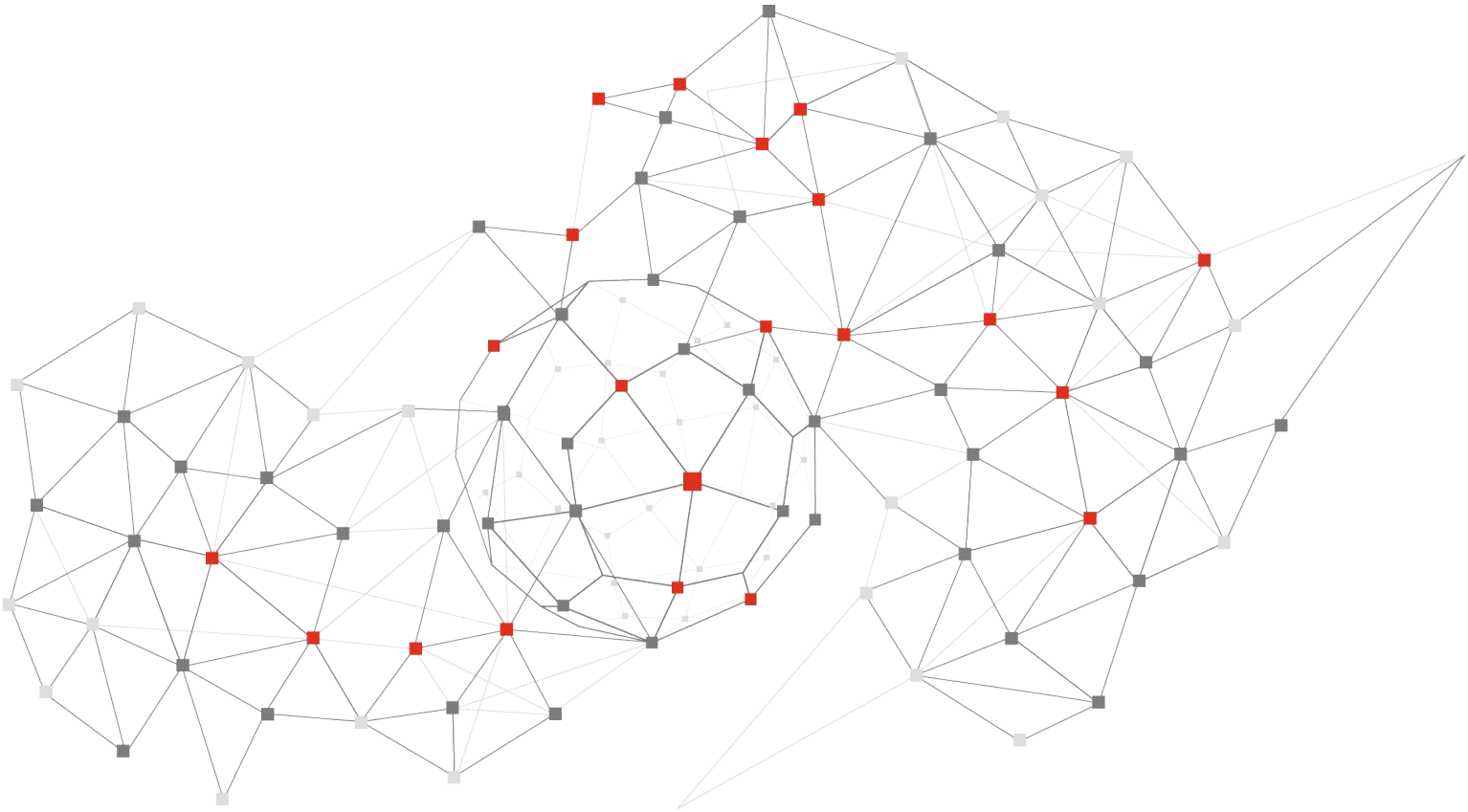
Europe & CEE



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Albania

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	**Periods of Sickness** The current position is that an employee has a right to sick leave for the whole period of sickness, until the doctor confirms that the employee is able to return to his/her working duties, or until the Commission of Medical Doctors declares a permanent lack of ability to work (which may occur in cases where COVID-19 symptoms are not mild, and the family doctor confirms the temporary incapacity to work via medical report). During sick leave, the employer must pay the employee at least 80% of the employee's salary for the first 14 days of illness. From the 15th day onwards, the employee is compensated by the Social Insurance Fund as follows: ● 70% of his/her average salary for the past six months, if the employee is insured for a period less than 10 years; or ● 80% of his/her average salary for the past six months if the employee is insured for a period more than 10 years. During the temporary incapacity to work, the benefit begins on the 15th day of the medical report and can last for no more than 6 months. **Periods of Quarantine** Where mandatory quarantine is imposed on an employee, the government has encouraged the use of smart working and working from home (if and when possible). However, in light of the extraordinary circumstances brought about by the COVID-19 pandemic, in practice, most employers are managing the situation by considering employees on a case by case basis, including where possible, preserving the employee's salary income. **Self Isolation** The same will be applicable in the case of of self-isolation due to COVID-19.
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	The Labor Code provides for certain benefits granted to employees that take care of dependents, including: ● up to 12 days of paid leave per year; ● up to 15 days of paid leave per year when the dependent children are 3 years' old, provided that the sickness of the children is proven by a medical report; ● additional sick leave for up to 30 days, unpaid; and ● up to 4 months of unpaid leave due to the need to personally take care of a child up to the age of 6 years. The right of sick leave for the dependents is granted to the parent that is effectively involved with taking care of the child, or otherwise to both parents, one after the other.
Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	The Albanian Government has not issued any new provision in this regard, apart from a general notice encouraging smart working procedures, if possible. To benefit from unemployment insurance, at least 12 months of uninterrupted social contribution is required. Thus, in practice, only a small portion of the unemployed are eligible for unemployment insurance benefits because the current system provides benefits only to those who have paid social contributions during their last year of employment. No new amendments have been introduced regarding layoffs, so employers should carefully assess each specific case where the grounds of dismissal is based on the operational needs of the company, comply with a detailed procedure (preliminary notice, seniority bonus, accrued annual leave) and where possible, offer alternative solutions. The employer cannot unilaterally impose measures that will affect the employment agreement, and a separate addendum agreed upon by the parties would be required to enforce measures of temporary nature.

Albania content as at 9 April 2020

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Albania

Labour Law (continued)

Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The following Corporate Income Tax measures were published on 26 and 28 March: • Taxpayers with an annual turnover of ALL 8 million to ALL 14 million can pay the corporate income tax for the year ended 2019 in the second half of 2020. • Taxpayers with annual turnover between ALL 5 million and ALL 8 million can pay the corporate income tax installments for the first and second quarter of 2020 by 20 October 2020, and pay the installments for the third and fourth quarter of 2020 by December 20, 2020. • Taxpayers with an annual turnover between ALL 8 million and ALL 14 million can pay their quarterly income tax installments for 2020, by 31 December 2020. Note that while the deadlines for the CIT payment and yearly instalments have been extended for taxpayers with an annual turnover up to ALL 14 million, taxpayers with an annual turnover bigger than ALL 14 million are still expected to pay the CIT for 2019 by 31 March 2020, and pay their income tax instalments for 2020 by the end of each quarter. Based on decision no. 254 dated 27 March 2020, issued by the Council of Ministers, beneficiaries of the financial assistance are self-employed individuals and employees employed in business entities with annual income up to ALL 14 million, that are forced to close their business activity due to governmental order, as per the following categories: • self-employed natural persons • unpaid family employees of a self-employed natural person • employees of a natural person • employees of legal entities The financial assistance will be determined in accordance with the declared payroll during the last quarter. More specifically: For entities that declare payroll on a quarterly basis, financial assistance will be determined based on the payroll declared during the last quarter of 2019, updated up to the date of closure of the economic activity. For entities that declare payroll on a monthly basis, financial assistance will be determined based on the payroll declared in January 2020, updated up to the date of closure of the economic activity.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	Generally speaking, there is no legal obligation to pay self-employed contractors, unless this is expressly provided for in the relevant agreement between the parties. In such cases, the provisions of the contract need to the assessed and interpreted accordingly (inability to perform, force majeure, etc). Nevertheless, a company can voluntarily decide to continue paying its contractors by mutual understanding of the parties.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	Companies that are facing a shortage of funds and are unable to pay their employees will be entitled to apply for governmental backed loans with private banks. More details regarding this procedure is still to come. Self-employed and small businesses with an annual turnover of 14 Mil LEK that have been ordered to close their activities due to the COVID-19 epidemic, can apply to benefit from the social insurance fund for a monthly salary equal to the minimum monthly salary approved by law (EUR 230 equivalent) until they may re-open their activities. Companies and individuals that are facing difficulties in honouring their monthly loan payments, are eligible to request rescheduling and postponement of payment for a period of 3 months, provided that they demonstrate that the inability to pay is directly related to the COVID-19 epidemic.

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Armenia

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	The employee may not be paid for idleness for reasons considered as force majeure in the manner prescribed by the legislation of the Republic of Armenia as well as for idleness due to the fault of the employee. Temporary restriction of the rights and freedom of individuals and legal entities during the prevention of natural disasters, technological accidents, epidemics, accidents, fires and other emergencies or immediate elimination of their consequences, in which it is impossible to perform work duties, including remotely, is considered a force majeure.
Can an employer direct an employee to take paid annual, holiday or similar leave?	No.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. In the case of a dismissal of an employee due to redundancy, the employer shall pay the employee severance pay: • in the amount of his/her 1 month average salary; or • a higher amount, where this is required by a collective agreement or the employment contract. The employee should be notified in a written form about the dismissal due to redundancy not less than two (2) months prior to the date of dismissal. This is an obligatory payment, irrespective of the financial difficulties faced by the employer.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are creditors of third stage.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	No.

Armenia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	Directors are obliged to file a bankruptcy claim. In the case of a financial recovery plan, directors are obliged to submit financial and other statements.
What personal liabilities can directors be exposed to as a company nears insolvency?	If a shareholder or other decision maker declare the company bankrupt, the founders (participants) of the company or certain given persons shall bear joint responsibility for any debt that are insufficiently covered by the company's assets.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There is no safe harbour legislation.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	N/A
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	N/A

Armenia

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. According to the general rule, a person who has not performed an obligation or has performed an obligation in an improper manner in the conduct of entrepreneurial activity shall bear liability unless it proves that proper performance became impossible due to force majeure (consequence of emergency and unpredictable circumstances in given conditions) unless otherwise provided for by law or contract. Such circumstances shall, in particular, not be the violation of obligations by counterparts of the debtor, the absence of required goods at market or of necessary monetary means with the debtor.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes.
Are commercial property or other leasing arrangements subject to any special arrangements?	Parties may suspend or renegotiate terms.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	Due to labour safety obligations, an employer must take all reasonable measures to prevent the spread of COVID-19 at the workplace. Therefore, for this purpose and in certain cases an employer may also process personal data about an employee, which in ordinary circumstances would not be permissible under data protection requirements. Under the Law on Protection of Personal Data, data relating to an individual's health is a special category of data. With respect to such personal data, the Law sets higher standard of protection and provides an exhaustive list of grounds for its processing. One of the grounds or processing such data is for health protection purposes. In such case data processing is permitted without an employee's consent. Therefore, an employer may process information about the employee's recent travel history and presence of symptoms, in case the employee has symptoms – with whom and when he/she had contact at the workplace etc. An employer must not collect or process employee's personal data that is not objectively related to the prevention of the spread of COVID-19. With respect to COVID-19, personal data from an employee shall be obtained only by the authorised person in the company (e.g. HC; TSL). The access to employee's personal data must be granted only to those individuals who per their official authority need such information in order to ensure the safety of the staff and prevention of the spread of the virus. If one of the employee's test is positive for COVID-19, it may be assumed that the employer is authorized to notify other employees about the fact, if this is necessary for the timely identification of other employees who may had contact with the infected colleague. An employer shall not disclose the employee's personal data to third parties, other than to the relevant state authorities.

Armenia

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Public Registries are now opened and accept filings/registrations without delays.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are now open and accept filing..
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes, notaries are operating.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	For joint stock companies remote board meetings are possible if such form of meeting is provided for in the company's charter (except for board meetings held till 1 November 2020). A decision adopted by a remote board meeting shall have legal force if more than half of the owners of voting shares of the company have participated in the vote. Meeting Minutes should be signed by the Chairman and Secretary of the meeting. For limited liability companies remote board meetings are possible and the procedure should be set forth by internal documents of the company.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes, remote board meetings are possible for joint stock companies if such form of participation is provided for in the company's charter (except for board meetings held till 1 November 2020). Meeting Minutes should be signed by the Chairman and Secretary of the meeting. For limited liability companies is also possible and the procedure should be set forth by internal documents of the company.

Austria

Labour Law

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Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?

Periods of Sickness

An employee that is unable to work due to illness retains his/her entitlement to remuneration. The duration of continued payment depends on the employee's years of service. Notification and documentation obligations must be met by the employee. The employee is not entitled to continued remuneration if the employee has caused his/her inability to work gross negligently or with intent.

Periods of Quarantine

If the employee is quarantined due to an official measure (under the Austrian Epidemics Act), the employee retains the right to remuneration from the employer. In this case, the employer will receive reimbursement of costs from the Federal Government upon timely application.

Self-Isolation

If the employee goes into self-isolation by official request, the employee may retain the claim for continued payment of remuneration for a "relatively short time," which so far has been considered to be one week at maximum. Reporting requirements must be complied with.

- If the employee goes into self-isolation at his/ her own discretion, and is well (i.e. able to work), the employee is not entitled to continued remuneration.
- If the employee goes into self-isolation and is unwell (i.e. unable to work), statutory provisions on continued remuneration in cases of sickness apply (see (i) above).

Are employees entitled to pay and/or leave where they take time off work to care for dependants?

Austrian law provides for different options in this regard:

- In general, if the school/other childcare facility has closed down and there is absolutely no alternative to care for the child, but the child is not yet mature enough to be left alone, employees may take paid time-off for important personal reasons for a ""relatively short time"" (case law so far suggests that the period is up to one week maximum).
- New COVID-19 legislation has introduced a new special paid leave for employees having to care for children (under 14 years) or disabled persons due to the fact that care facilities, schools etc are closed. An agreement between employee and employer is required. Under certain conditions, employers may receive subsidies from the Austrian state.
- in addition, employees may be entitled to paid time-off to care for certain sick close relatives, to care for children of up to 12 years or to accompany certain close relatives during a stay in the hospital. Requirements for taking time-off in this regard are relatively complex and must be assessed on a case-by-case basis.

Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?

Layoffs

Layoffs can be enforced by giving ordinary notice to the affected employees. When terminating employment relationships, employers generally must consider the following:

- notice periods and dates
- preliminary operational procedures according to the Labor Constitution Act (if there is a works council)
- general and special termination protection
- mass dismissal procedures (""Kündigungsfrühwarnsystem"").

(Continued on next page)

Austria content (Labour Law) as at 9 April 2020

Austria

Labour Law (continued)

	Reduction of pay or working hours A reduction of pay and/or working hours cannot be enforced on a unilateral basis. Instead, agreements are required: In this regard, employers may conclude individual agreements with individual employees. Besides, employers may also conclude collective agreements in the form of works council agreements (if there is a works council). **Short time working** A reduction of salary combined with temporary reduction of working hours can be combined with a short time working model (""COVID-19 Kurzarbeit""). Short term working cannot be enforced on a unilateral basis. Instead, individual / works council agreements as well as a social partner agreement are required. The COVID-19 short time working model applies to Austrian employers facing temporary (non-seasonal) economic difficulties caused by a loss in orders, operating supplies or operating resources. Detrimental economic consequences caused by COVID-19 are considered such temporary (non-seasonal) economic difficulties. Note that provisions and requirements for the COVID-19 short time working model are relatively complex and detailed. Besides, requirements and conditions may change. It must be assessed in detail: ● if an employer is eligible for such model, ● if the employees are eligible for such model; and ● if any further criteria is met. Many companies in Austria are already making use of the short-time work model and have filed applications at the competent authority (trend upwards).
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The Austrian government provides various support measures for businesses. Among others, the Austrian government provides for the following support measures: ● subsidies in connection with short time work (see above); ● facilitations in connection with social security contributions and taxation; ● various different subsidies for businesses. NB: In addition to the Austrian government, other organizations and the Austrian Federal States (""Bundesländer"") may provide for subsidies for Austrian companies.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	Austrian law differentiates between various types of contractors (e.g. freelancers [“freier Dienstnehmer”], contractors performing their services under a works agreement [“Werkvertragnehmer”]). A company is not obliged to pay its contractors during periods of sickness, quarantine or self-isolation. If the company wishes to do so, this would generally possible. However, we strongly recommend providing for a written agreement in this regard between the company and the contractor. Such agreement should provide that the company: ● makes any such payments on a voluntary basis; and ● that the contractor does not acquire any rights to any such payments for the future.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	--

Austria

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Public registries remain open. No delays have been noticed so far, however opening hours to the public are reduced. Electronic filings are most common and are still possible. In addition, statutory filing deadlines for the annual financial statements have been extended.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Yes. Courts remain open, however public hearings are generally suspended. Also, the opening hours to the public are reduced, and therefore delays are likely. The majority of procedural deadlines have been suspended and will start from 1 May 2020. Electronic filings are most common and are still possible..
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. Notaries are still operating. However, the working hours are being reduced, and therefore delays are likely. Appointments can either be held in person (generally at the notaries' offices) or by video conference, which is a new option that has recently been implemented. Thus, until the end of 2020, notarial deeds and other forms of notarisation can be done electronically.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signatures are permitted for documents with no legal form requirement. If written form is required, then only specific licensed electronic signatures are permitted. If a notarial form is required, electronic signatures have now also been permitted (until the end of 2020), whereas specific electronic identification and signing procedures (via a qualified virtual data room) need to be observed and coordinated with the notary.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Not entirely. However, until the end of 2020, any board or shareholder meeting can be held virtually by way of a video conference, where up to 50% of the participants can join the meeting via telephone. Specific provisions apply to general meetings of AG companies with numerous shareholders. In addition, the statutory deadlines for the holding of annual meetings as well as the filing of financial statements have generally been extended to 12 months (with few exceptions) in 2020 (i.e. by 31 December 2020 at the latest).
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Resolutions can also be passed in writing by way of circular resolutions (unless notarisation is required).

Austria content (Corporate) as at 11 May 2020

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Azerbaijan

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally, no. Currently, the government has declared a moratorium on the dismissal of employees on the basis of the pandemic. The legislation otherwise provides that during idle time, employees should receive at least two thirds of their salary (unless the idle time is in some way the employee's fault).
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes, subject to certain requirements. If there are factors affecting normal work conditions, or cases that may not be operatively prevented leading to suspension of company's operations with no fault of the employer, employees may be sent on paid or unpaid leave (which includes annual leave) on terms and conditions provided by the employment contract or collective agreement. The maximum duration of the unpaid leave many not be longer than double the employee's main leave entitlement (21 or 30 days).
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. In general, statutory redundancy pay is payable. The amount payable will depend on the length of the employment relationship as follows: • **Less than a year:** average monthly salary • **1 to 5 years:** 1.4 of the average monthly salary • **5 to 10 years:** 1.7 of the average monthly salary • **10+ years:** double the average monthly salary In addition, employers should give employees prior notification, which also depends on the length of the employment relationship (2/4/6/9 weeks respectively). The employer may offer the employee payment in lieu of the notification period (0.5/0.9/1.4/2.0 of the monthly average salary respectively). There is no capacity for relief from liability from these payment.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are regarded as priority unsecured creditors in relation to their salary, as well severance pay.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	No.

Azerbaijan content as at 9 April 2020

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Belgium

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough

In order to assist affected companies as much as possible, the Belgian government decided to streamline all COVID-19 related cases of temporary unemployment and simplify the application procedure as from 13 March 2020. This resulted in the simplified procedure for temporary unemployment due to force majeure resulting from the COVID-19 pandemic.

As from 1 September 2020, however, this simplified system is only still applicable for:

- employers that are active in a pre-determined list of industries that have been hit the hardest by the pandemic (e.g. hospitality industry); and
- employers who can demonstrate at least 20% of temporary unemployment in the second quarter of 2020.

This simplified system will remain in effect until 31 December 2020.

For employers who can no longer invoke the simplified procedure for temporary unemployment due to force majeure resulting from the COVID-19 pandemic as from 1 September 2020, a transitional system has been put in place. This transitional system will also remain in effect until 31 December 2020 and consists of the easing of several modalities of the regular system of temporary unemployment for economic reasons, both for white-collar and blue-collar workers.

These systems of temporary unemployment exempt the employer from paying the salaries of the employees concerned, while allowing the employees to receive an unemployment benefit from the Belgian National Employment Office (RVA/ONEM).

Can an employer direct an employee to take paid annual, holiday or similar leave?

Only in very limited circumstances.

Employers cannot force their employees to take time off. Nor can employees simply unilaterally decide when to take time off and for how long. Scheduling holidays should always be done through mutual agreement between the individual employee and the employer.

The only exception to this rule is the collective closure of the company, which forces all employees of the company to take their holidays during a fixed period. A collective closure must be agreed upon between the employer and the employee representative bodies or, in absence of representative bodies, between the employer and the employees collectively. Determining the collective closure for 2020 would normally have been done in December 2019, and although it is technically possible to currently still adjust the agreed upon collective closure for 2020 or introduce a new one altogether, this would again require an agreement with the employee representative bodies - or the employees collectively in absence of such bodies - which might prove to be difficult given the current circumstances.

Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?

In Belgium - apart from a dismissal for “gross misconduct of the employee” - there are two ways for an employer to terminate the employment relationship and dismiss an employee:

Firstly, the employer can dismiss the employee by giving notice. Hereby, the employer needs to respect (at least) a legally set notice period that depends on the seniority of the employee within the company. For example:

- Less than 3 months seniority = 2 weeks notice period
- 1 year seniority = 8 weeks notice period
- 5 years seniority = 18 weeks notice period
- 10 years seniority = 33 weeks

At 20 years of seniority, the minimum notice period is set at 62 weeks and from that point, the notice period increases with 1 week for every additional year of seniority. Special rules apply for employment contracts that started before 01/01/2014. During the notice period, the employee will continue to work, and the employer will continue to pay the salary.

Secondly, the employer can dismiss the employee with immediate effect. Hereby, the employer needs to pay the employee (at least) a legally set termination indemnity. This indemnity must be equivalent to the remuneration that the employee would have earned during the notice period that he would have been legally entitled to (taking into account the seniority of the employee within the company).

Even in case of bankruptcy, liquidation or manifest insolvency of the employer, the normal rules

Belgium content as at 9 October 2020

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Belgium

Labour Law (continued)

Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are treated as general priority creditors towards the movable assets of the company in the case of bankruptcy or the liquidation of the company. However, the claims of general priority creditors are in principle only paid after those of the special priority creditors. The priority status does not only apply to salary, wages and termination indemnities, but also to other remuneration benefits. As such, the priority status also applies to, among other things, variable pay, profit premiums, employer contributions in a group pension plan, specific termination indemnities for trade representatives, indemnity in the case of an apparently unreasonable dismissal.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. The Belgian legislation includes a government funding arrangement which can be accessed where a situation qualifies as a 'closure of undertaking', which is the case when cumulatively: ● there is a definitive cessation of the principal activity and ● whereby the staff is reduced to less than 25%. In the event of such closure, an employer with at least 20 employees is in principle required to pay out a closure indemnity to the employees. Where the employer or curator does not pay the said closure indemnity, a government Fund will take charge thereof. The closure indemnity is equal to EUR 166,48 (2020) per year of seniority of the employee within the company (with a maximum of EUR 6492,72). If, in the event of such closure of undertaking, the employer or curator cannot pay the claims of the employees, the government Fund will also take charge of the salaries due according to individual or collective agreements, as well as other remuneration elements that are due as a result of legislative provisions or individual or collective agreements. The intervention of the government Fund (per employee) is limited to EUR 25.000,00, with a maximum of EUR 6750,00 for unpaid salary, EUR 4500,00 for unpaid holiday pay (white-collar employees) and the remainder of the general cap for unpaid termination indemnities.

Belgium

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. The concept of "force majeure" can be found in articles 1147-1148 of the Belgian Civil Code. Two conditions must be met for an event to qualify as force majeure: • the event must have the consequence of making the performance of the contractual obligation impossible (or at least substantially more difficult); and • the impossibility to perform may not be due to the debtor (the event must be unavoidable and unforeseeable). Although the COVID-19 pandemic and its consequences will most probably qualify as force majeure, the application of force majeure will always need to be assessed on a case-by-case basis. If a force majeure event occurs, the performance of the obligation will be suspended for the duration of the force majeure. In case the performance of the obligation is no longer possible once the force majeure event is over, the debtor will be released definitively from its obligation. The debtor will also not have to pay any damages for non-compliance with the obligation due to force majeure. For more info, click here: https://www.pwclegal.be/en/news/difficulties-in-performing-your-contractual-obligations-due-to-c.html. Specifically for financing contracts, the financial sector undertakes to grant viable, non-financial businesses and the self-employed with payment problems as a result of the COVID-19 pandemic, postponement of payment for maximum 6 months without charge. Suspension can be requested as from 1 April 2020. For suspensions requested after 30 April 2020, the suspension period will be limited in time until 31 October 2020. Postponement is limited to principal, not interest. In order to qualify, applicants should not have been in arrears of payment on their bank debt, taxes and social security contributions prior to 1 February 2020, not have been in arrears for 30 days or more on 29 February 2020 and not have been subject to restructuring measures or defaults during the 12 month period prior to 31 January 2020. Leasing and factoring are not covered by this sectoral undertaking.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	In principle, Belgian courts will only be involved if the force majeure qualification is contested by the other party.
Are commercial property or other leasing arrangements subject to any special arrangements?	Belgium did not (yet) introduce specific rent relief measures. However, force majeure can be used to exonerate a party of its contractual obligation for the duration of the event qualified as force majeure. The current COVID-19 pandemic most probably constitutes an unforeseeable and inevitable event in the sense of the aforementioned provisions. However, the question whether or not and to what extent the COVID-19 pandemic can be used to adjust, suspend or waive rent payment obligations is being extensively discussed. Some arguments could be used on tenants' side and the landlord' side to claim or refuse to adjust, suspend or waive the tenant's payment obligations. As the situation and the containment measures have no real precedent in Belgium, there is no black or white situation and there is room to argue and most likely to negotiate. For more info, click here: https://www.pwclegal.be/en/news/impact-of-the-covid-19-crisis-on-rent-payments---news---pwc-lega.html

Belgium

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Directors always need to manage the company as a prudent and diligent manager. Taking decisions which are not in the interest of the company and which would lead to insolvency might trigger their personal liability. This is particularly important when heading near insolvency. Assuring good crisis management for companies in distress is therefore crucial. In doing so directors need to take into account that under certain circumstances, transactions entered into during the "suspicious period", are or can be (in case of later insolvency) declared non opposable towards the bankrupt estate. In case of non-opposability, repayments will have to be done and transactions will have to be unwind.

If the conditions for insolvency are met (cessation of payment and no more creditworthiness), directors have the obligation, within one month, to file for bankruptcy.

If the continuity of the business is threatened in the short term (but survival is feasible in the longer term), directors have the possibility to file for "judicial reorganization proceedings", aiming at reaching an (amicable or collective) agreement with one or more creditors or organising a transfer of (a part of) the business under judicial supervision. If such a request is approved by the court of enterprises, a period of moratorium (protection mechanism against creditors) is granted for 6 months (possibility of extension). Filing a request of judicial reorganization proceedings suspends the obligation to file for an admission of bankruptcy until a decision is taken on the application and, where appropriate, until the end of the moratorium period granted.

What personal liabilities can directors be exposed to as a company nears insolvency?

The most important general liability grounds outside bankruptcy are:

- liability for management errors (e.g. entering into an agreement with obviously disadvantageous conditions, consenting with extravagant costs or awarding excessive remuneration, entering into overly speculative operations or imprudent investment), and
- liability for damages resulting from a violation of the articles of association or the provisions of the CCA (e.g. no filing of annual accounts).

Directors are in principle jointly liable, which means that damages can be claimed from each director for the entire amount.

There are a few also special liability grounds which are only relevant in case of bankruptcy:

- a gross error committed by the directors that contributed to the bankruptcy (e.g. any form of serious tax fraud). There is an exception for "small" entities;
- liability for all social security contributions due at the time of the bankruptcy declaration, if, in the course of the period of five years prior to the declaration of bankruptcy, they have been involved – as a director – in at least two bankruptcies or liquidations of companies or not-for-profit associations with unpaid social security debt;
- in case of "wrongful trading": if

  (i) prior to the bankruptcy, the director(s) knew or ought to have known that there was no reasonable prospect of the company avoiding bankruptcy,
  (ii) at that time the person concerned was a director; and
  (iii) in knowing this and being able to act on this, the person concerned did not act as a prudent and diligent director in the same circumstances should have done.

Directors can also be held liable under criminal law if, **while being in a situation of bankruptcy**:

- they failed to their duty to collaborate with the court,
- they entered into commitments without sufficient consideration, with regard to the financial situation of the undertaking;
- they acted with the intention of delaying the declaration of bankruptcy,
- favouring a creditor or failing to make an admission of bankruptcy, they misappropriated or dissimulated assets.

Belgium

Insolvency (continued)

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Practical measures: • A director should act as a good and prudent director in similar circumstances would do: this includes making (or seeking advice to obtain) all required assessments (e.g. 13 weeks cash forecast, business plan, option analysis etc) and take decisions accordingly. Documenting why which decision was taken can also be an important precaution. • A director can be released from his liability if he has not personally participated in the actions which have led to such liability, and if he has informed his fellow directors that he did not participate in these actions. This notification (i.e. recording the disagreement by the director) must be recorded in the minutes of the meeting of the board of directors. • **Discharge:** the shareholders irrevocably waive the right to file a liability claim against its directors for errors possibly committed in the past in the exercise of their directorship mandate. The discharge means that the right of the company to seek compensation from the director(s) is completely nullified. Error and deception affect the validity of the discharge granted. Discharge will only apply to general liability for management errors, and not for all the others, including the one most used in cases of bankruptcy : gross errors having contributed to the bankruptcy. • **D&O insurance:** the director can enter into a director's liability insurance policy, a so-called "Directors and Officers Liability Insurance ("D&O"), in order to insure the financial consequences of a possible liability claim. The D&O insurance can cover serious errors, however not criminal liability, e.g. fraud. • **Exoneration possibilities:** the company itself cannot indemnify the directors in advance for their liability vis-à-vis the third parties. Exoneration or indemnification from liability after the facts have occurred is possible. Exoneration by another entity (e.g. mother company) is also possible, even in advance. There is no safe harbour legislation for directors' liability. There is however the possibility to ask for a judicial reorganisation with moratorium for the company. Also, the directors' liability is "capped" (range between 125 k and 12 M, depending on the size of the company), except in the following cases: • minor misconduct that occurs normally rather than accidentally, serious misconduct, fraudulent intent or intention to harm, • in case of certain tax liabilities • in case of liability for debts vis-à-vis the National Social Security Office. In practice, these exceptions cover most liability claims so the cap can very often not be applied.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	A general moratorium to freeze new bankruptcy proceedings during the crisis existed but has ended since 17 June 2020. Just recently, a new Belgian federal government has been formed. Before the new government there were rumours that a second moratorium of the same type would be implemented. It is unclear what kind of measures the new Belgian federal government will implement.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	The judicial reorganisation proceedings are mechanisms put in place to safeguard companies of bankruptcy in difficult circumstances and allow them to straighten up their business. Those proceedings allow the company to shelter from its creditors for a limited period of time in order to fall back. Also, a business mediator can assist the undertakings in difficulties - both before and during a judicial reorganization proceeding. The Chamber of Enterprises in Difficulty (a chamber of the company court) may, after examining the debtor's situation, suggest to the court that the company be dissolved in accordance with the rules laid down by company law. This is one of the alternatives to bankruptcy.

Belgium

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

With respect to privacy and the protection of personal data, the Belgian Data Protection Authority (the DPA) has issued various opinions since the beginning of the pandemic in March 2020 concerning several draft laws related to COVID-19.

These opinions relate to different topics including the use of digital contact tracing applications as a preventive measure against the spread of the COVID-19 coronavirus.

Concerning these digital contact tracing applications, the DPA reminded that the protection of personal data is not an obstacle to the implementation of technological tools in the fight against the COVID-19 epidemic, as long as they respect certain fundamental privacy and security principles. The draft laws which provide for and govern the use of these tools must in particular be precise and complete to ensure optimum transparency towards citizens and demonstrate the need to use a tracking application.

In addition to these opinions, the DPA published so far 5 specific privacy guidelines relating to COVID-19 on its website (https://www.autoriteprotectiondonnees.be/professionnel/themes/covid-19).

In the first guidelines (last updated 14 September 2020) the DPA reminds some principles and conditions for processing (sensitive) data specifically in an employment context to mitigate the impact of COVID-19. It also includes a FAQ section. For more info, click here: https://www.pwclegal.be/en/news/the-belgian-dpa-s-position-on-processing-personal-data-in-an-emp.html

In these guidelines, the DPA underlines that even in these exceptional circumstances, organisations shall still comply with the GDPR and applicable national privacy and data protection rules and principles (i.e. lawfulness, minimisation, specific purposes, proportionality, transparency, security, etc.).

It also specifies its understanding on the possibility to process personal data on the basis of the vital interest of the concerned individual. The FAQ section relates to some principles and conditions for processing (sensitive) data specifically in an employment context to mitigate the impact of COVID-19. New FAQ questions have been added in the past months, such as whether AI-based applications or other new technologies can be used to enforce COVID-19 measures.

In the second guidelines issued early April 2020, the DPA provides guidance to developers or users of mobile health apps in the mitigation or monitoring of COVID-19, stressing the importance of working with anonymous data, the prudence when introducing the use of an mHealth app in the provision of care and health services. The DPA also underlines that, in any case, the GDPR principles (as already described above) continue to apply. For more info, click here: https://www.pwclegal.be/en/news/belgian-data-protection-authority-communicates-on-new-privacy-be.html

In the third guidelines (last updated on 14 September 2020), the DPA provides further guidance related to the use of tracing applications, including through a FAQ section.

In addition to the remarks already provided in its opinions on the draft laws in this respect , the DPA recalls that any tracking application must comply with the rules and specifications defined by the EDPB (European Data Protection Board in which the DPA plays an active role), which recently published guidelines and a 'toolbox' on this subject. For more info on the toolbox, click here: https://edpb.europa.eu/our-work-tools/our-documents/linee-guida/guidelines-042020-use-location-data-and-contact-tracing_en

In the fourth guidelines (last updated on 18 June 2020), the DPA provides further guidance related to the temperature measurement as part of the fight against COVID-19.

Belgium

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The Clerk's office of the Commercial Court is open and fully operational. There are no delays.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The Clerk's office of the Commercial Court is open and fully operational. There are no delays.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries are operating.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	For all documents to be filed with the notary (for example, Powers of Attorney) or with the Commercial Court; original wet ink signatures are required. However, notaries are authenticating deeds based on scanned copies, if the original follows within 15 days. Other documents can be signed electronically.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Board meetings can be held by video/telephone conference, unless the articles of association provide otherwise. Meeting minutes can be signed electronically.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Board meetings can be held by video/telephone conference, unless the articles of association provide otherwise. Meeting minutes can be signed electronically. Unanimous written resolutions of the board are possible, unless the articles of association provide otherwise.

Bulgaria

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No. Where this is a work stoppage, an employer may direct an employee to take accrued but unused paid leave. However, an employer cannot direct an employee to take leave without pay. Recent amendments to the Labour Code, which address the current COVID-19 pandemic, state that even where there is a state of emergency and suspension of the employer's business activities (regardless of whether such suspension is discretionary or pursuant to a government order), an employer must continue to pay remuneration to an employee.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes. Bulgarian laws provide that during a state of emergency declared by the National Assembly: • an employer can direct an employee to take up to 1/2 of the employee's accrued, unused paid annual leave (see Art. 7, para. 2 of the Law on the Measures and Actions during State of Emergency); or • an employer can direct the employee to take the entirety of the employee's accrued, unused paid annual leave where the employer has suspended the work of the employee with a written order,(see Art. 173a, para. 1 of the Labour Code). In addition to the above, an employer can direct an employee to take accrued but unused paid annual leave in any of the following scenarios: • where there is a suspension of the work of the entire enterprise (work stoppage) for a period of more than 5 business days; • by simultaneous use of the leave by all employees within the enterprise, if such an option is provided in the internal labour rules of the employer; or • the employer has invited the employee in writing to use his/her paid annual leave by the end of the respective calendar year and the employee has failed to do so (see Art. 173, para. 4 of the Labour Code). The employer can make use of these statutory rules, regardless of whether or not a state of emergency has been declared.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. The Labour Code provides for compulsory compensation in the event of termination of an employment contract on certain statutory grounds (including closure of the entire enterprise or a part thereof, reduction of the number of working positions, decrease of workload). The amount payable will be the gross remuneration of the employee for the period during which the employee has remained unemployed following the dismissal. The maximum amount of such compensation will be one month's salary.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are regarded as priority unsecured creditors in relation to their salary, as well as any and all statutory compensation due by the employer.

Bulgaria content as at 9 April 2020

Bulgaria

Labour Law (continued)

Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. The Law on the Employees' Claims Guaranteed in Case of Employer's Insolvency provides for the funding of unpaid wages, leave, termination and redundancy, and other types of statutory compensation due by the employers up to certain threshold amounts. Amounts paid out are recoverable from the insolvency proceeds.

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. There is a legal provision regulating force majeure, which applies even to Bulgarian law governed contracts, which do not contain force majeure clauses. This provision relieves a party from the consequences of failing to perform a contract for a period of time. If the force majeure continues for a longer period of time, either party may opt to terminate the contract. In addition to the force majeure provision, there are further civil law provisions that exclude liabilities or entitle parties to terminate contracts, if performance becomes impossible based on circumstances beyond the parties' control.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. In cases of hardship, a contractual party can apply to a court to adapt the respective contract to the current economic situation or to terminate it. According to case law, exceptions apply to privatisation contracts. Parties to a contract may apply to an arbitration institution to adapt their contract to newly occurred circumstances.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. Special legislative arrangements exist only for tenants of some state-owned real estate properties. Regardless of the lack of special legislative regime, in practice, landlords of retail premises release tenants from their rent for the duration of the emergency situation or decrease the agreed amount of the rent.

Bulgaria

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	The directors may apply for restructuring if the company nears insolvency. If restructuring is allowed by the court, the directors have to act in accordance with the restructuring plan and have certain limitations that apply to contracts of the company. If the company is insolvent, the directors are required to apply for bankruptcy proceedings. Based on the application, the court may appoint a temporary trustee. In this case, the directors act under the supervision of the trustee.
What personal liabilities can directors be exposed to as a company nears insolvency?	The director is liable for any damages to third parties if the company is insolvent and the director does not apply for insolvency proceedings within 30 days from the date in which there are signs (specified by law) that the company is insolvent. Non-compliance with this application requirement may trigger criminal liability for the directors.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Directors can limit their personal exposure by: Reaching out-of-court settlement with creditors or commencing a restructuring procedure (these options are available when the company nears insolvency but before the company becomes insolvent); or Applying to the respective court for bankruptcy proceedings for the company. This application shall be filed within 30 calendar days from the date in which there are signs (specified by law) that the company is insolvent.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	The Bulgarian National Bank took a decision to follow the European Banking Authority's Guidelines on legislative and non-legislative moratoria on loan repayments applied in the light of the COVID-19 crisis (EBA/GL/2020/02). Additional measures are being discussed.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	So far, nothing specific is provided in this regard.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	Generally, there are no changes in the legislation in this regard. The Bulgarian Commission for Data Protection announced that it will stop its open hearings and continue to work without public access to its hearings. From practical perspective it is important for: • companies to asses their cyber risk and have in place measures to protect and secure data at a time of high vulnerability with staff using alternative working practices and online collaborative tools; • for employers to be vigilant when organizing the data processing procedures for the health condition of their employees (e.g. related to COVID-19), as under GDPR the health condition related information is highly protected.

Bulgaria

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Public registries are still open and accepting filings/registrations. There are no delays in processing times compared to the period before the COVID-19 pandemic and the emergency situation, declared in Bulgaria in this relation. We are not aware of any contingency plans, adopted or being discussed with respect to the public registries.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are closed (except for some criminal cases), but they continue to accept filings, sent by post/courier office. Open court hearings are postponed. There is no plan for online filings yet.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	The notaries are closed (except for emergency situations). There are delays in documents being notarised and there is no plan for documents to be notarised online yet.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Documents can be signed electronically. This will be a valid, binding signature. For certain cases (predominantly in administrative procedures), a qualified electronic signature under the EU Regulation 910 / 2014 is required.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	The shareholders in limited liability companies can take decisions in absentia, if all shareholders agree in writing with such decisions. These companies do not have boards. The boards in joint stock companies can take decisions in absentia, if all board members agree in writing with such decisions. Any communication means can be used for the above decisions of the shareholders/boards, but the minutes for the decisions shall be in writing.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Written consents are required in any case.

Croatia

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally, no. According to the Croatian Labour Act, an employee is entitled to salary compensation during a period of work interruption due to the fault of the employer or due to other circumstances beyond the employee's responsibility. There is an option of unpaid leave which may be granted by the employer at the employee's request, during which all rights and obligations arising from employment or related thereto are suspended.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Strictly speaking, no. The annual leave schedule is prepared by the employer, in accordance with collective agreement, employment regulations, employment contract and Labour Act provisions, by 30 June of the current year, at the latest. Employers are to inform employees of the duration and the period of use of annual leave at least 15 days before annual leave is to be taken. Otherwise, paid leave has to be initiated by the employee. It can be arranged for important personal purposes, in particular, those relating to marriage, childbirth, serious illness or death of an immediate family member. It can last up to seven working days a year in total, unless otherwise agreed.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. When the employer terminates the employment agreement following a two-year tenure, and unless the agreement is terminated due to the employee's misconduct, the employee is entitled to severance pay in an amount determined on the basis of the employees' tenure with that employer. Severance pay for each year of tenure with the employer must not be agreed upon or determined in an amount lower than one-third of the average monthly salary earned by the employee in a period of three months prior to the termination of the employment agreement. Unless otherwise agreed or provided for by the law, the aggregate amount of severance pay may not exceed six average monthly salaries earned by the employee in a period of three months preceding the termination of the employment agreement.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. According to the Croatian Bankruptcy Act, claims of the first higher payment order include claims of employees and former employees incurred up to the date of opening bankruptcy proceedings in total gross amount, severance pay up to the amount prescribed by law or collective agreement, and claims for compensation of damage suffered due to an injury at work or occupational diseases.

Croatia content as at 14 October 2020

Croatia

Labour Law (continued)

Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. The Croatian Agency for Securing of Employees' Claims is established for compensating employees in cases of an employer's incapacity to fulfil its obligations in the bankruptcy proceeding. According to the Croatian Act on Securing of Employees' Claims, in the case of a bankruptcy of the employer, employees are entitled to payment of: ● unpaid salaries, up to the amount of the minimum salary for each month of the protected period (last three months before the opening of bankruptcy proceeding); ● unpaid salaries for sick leave during the protected period, which the employer was obliged to pay from his own funds under the health insurance regulations, up to the amount of the minimum salary for each month spent on sick leave ● unpaid compensations for unused annual leave to which the employee has acquired the right before the opening of bankruptcy proceeding under the conditions laid down by law, up to the amount of the minimum wage, equivalent to the monthly salary ● severance pay under the conditions laid down by law, to the extent of half of the severance pay determined in bankruptcy proceedings, and up to half of the maximum amount of the statutory severance pay; ● awarded compensation for damage caused by an injury at work or occupational illness, up to one third of the final award of damages. By fulfilling the employees' claims, the Agency becomes the creditor in the bankruptcy proceeding.

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. According to the Croatian Civil Obligations Act, if some extraordinary circumstances arise after concluding the contract, that were impossible to foresee at the time of entering into a contract, making it excessively onerous for one party to perform or if under such circumstances a party would suffer an excessive loss as a result of the performance, the contracting party can request variation or even termination of the contract.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes, as stated in the previous response.
Are commercial property or other leasing arrangements subject to any special arrangements?	The provisions on termination/variation of the contracts due to force majeure stated in previous responses are also applicable to lease contracts. There are no special Government measures directed to leasing arrangements, but some local government units (cities/municipalities) have decided to temporarily release lessees from paying the business premises leases due to pandemics.

Croatia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	According to the Croatian Companies Act, if, during preparing annual or other financial statements or otherwise, management board realizes that a loss in the company amounting to a half of the share capital is incurred, the management board has to immediately convene the general meeting and notify shareholders of such loss. If the company is insolvent or over indebted, the management board has to, without delay and at the latest three weeks after the occurrence of the event which caused the bankruptcy, request the initiation of bankruptcy or compulsory settlement proceedings. After insolvency or over indebtedness has occurred, the management board has to suspend all payments. This is not applicable to payments made with the attention of a prudent businessman even after the occurrence of such events.
What personal liabilities can directors be exposed to as a company nears insolvency?	However, there shall be no liability where the director or administrator has proceeded to implement shareholders' meeting agreements, provided that they were not notoriously illegal or contrary to the company's statutory or regulatory rules.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	The management board members need to act with the attention of a prudent businessman. There is no safeharbour legislation.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	The Government measures that are currently in force are following: • monthly allowance in the amount of HRK 2,000 - 4000/employee as a job preservation measure, if conditions are met (50% or 60% drop in revenue for certain industries or inability to work due to resolutions of the Civil Protection Headquarters); • moratorium on existing loans from HBOR, new cheap HBOR and HAMAG-BICRO liquidity loans.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	The Croatian Bankruptcy Act from 2015 has introduced the institute of pre-bankruptcy procedure. Pre-bankruptcy procedure is a type of a financial company restructuring aiming to establish liquidity and solvency. The procedure is usually launched by the debtor for their own purposes, or by the Croatian Financial Agency. Through financial restructuring in a pre-bankruptcy procedure it is possible to turn short-term liabilities into long-term ones with the possibility of debt cancellation. The advantages of a pre-bankruptcy procedure are unblockage of a business account in just a few days after introducing the procedure, cancellation of the part of the old liabilities in agreement with creditors, installment payment of the old liabilities.

Croatia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The Croatian data protection authority has remarked that several activities require a data protection impact assessment (DPIA) to be carried out. In that sense, companies should pay special attention and conduct DPIAs, besides in other situations, when:

- using new technologies or technological solutions for personal data processing or that enable the processing of personal data aimed at analysing or predicting the economic situation, health, personal preferences or interests, reliability or behavior, location or movement of natural persons (e.g. consumers or employees),
- processing personal data in a manner that involves monitoring the location or behavior of an individual in the case of systematic processing of communication data (metadata) generated by the use of the telephone, the Internet or other communication channels such as GSM, GPS, Wi Fi, monitoring or processing of location data, and
- processing personal information of employees using applications or monitoring systems (e.g. processing of personal data for monitoring of work, movement, communication, etc.).

Moreover, the companies are facing situations they have not predicted. These situations include implementing new data processing activities (e.g. teleworking, implementation of new communication channels or processing of health data) without a proper risk assessment. Therefore, it is highly recommended to:

- conduct assessments of legal basis for new processing activities, especially regarding health data and monitoring of employees,
- ensure that proper contracts with data processors are in place,
- ensure the implementation of proper data transfer mechanisms to third countries,
- determine an effective method to delete the data once the new emergency processing activities end
- assess which data and how should be disclosed to other entities, including state bodies.

Croatia

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes, public registries, such as Tax Authority and Financial Agency are still open and accept filings / registrations, but they also encourage a more use of electronic communications.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The Courts have started working regularly, but the pandemics and an earthquake left consequences. For example, the Commercial Court in Zagreb, which maintains operations of the Court Register, as of 29 May 2020 receives the parties only from 9 a.m. to 12 p.m.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Public Notaries are now working regularly, i.e. their working hours are no more limited from 9 am to 12 pm.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. The Electronic Signature Act, which is no longer in force, introduced the possibility for documents to be electronically signed in 2002. Now the electronic signature is regulated by the Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC and the Croatian Act on Implementation of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Management board meetings can be held telephonically. There are no requirements regarding signing of the meeting minutes.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Telephonic board meetings can't be held in lieu of written consents.

Cyprus

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally no. There are no general statutory provisions allowing for stand-down without pay in Cyprus (with the exception of the hotel industry during winter months). Following the relevant legislative amendment voted by Parliament on 27 March 2020 as a result of Covid-19, the Minister of Labour, Welfare and Social Insurance exercised the powers granted to her by the Law and issued Regulations governing the provision of the Special Unemployment Benefit under the Special Plans for the Complete or Partial Suspension of Businesses' operations respectively. In order to participate in the above plan, it is a requirement that: ● the business is not to have laid-off any of its employees since 1 March 2020; and ● where the application has been approved, that the business will not proceed with the dismissal of any of its employees until 31 December 2020 (unless a dismissal is made for reasons justifying the non-provision of notice). Businesses will not be able to proceed with any employee layoffs for financial reasons throughout the above period. For businesses with more than 9 employees, the Special Unemployment Benefit will be paid to 90% of their employees. The remaining 10% (i.e. relating to shareholders/directors, partners holding more than 20% of the shares, general managers and other managers) will not be eligible to the Special Unemployment Benefit. Nevertheless, where the number of the above positions exceeds 10%, the benefit may be payable to such employees subject to conditions. For businesses with less than 9 employees, the Special Unemployment Benefit can be payable to all employees. Businesses with more than 9 employees, will need to submit a relevant application along with a list of employees who will remain in active service those who will be temporarily disengaged and for whom an application for the granting of the Special Unemployment Benefit is made.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Generally, no. Annual paid leave should be taken by an employee in communication with his or her employer. While an employer cannot require an employee to take annual paid leave, in the context of COVID-19 it has been proposed that an employer and employee may come to an arrangement for the employees to utilise their annual paid leave entitlement during a suspension period.

Cyprus content (Labour Law) as at 10 October 2020

Cyprus

Labour Law (continued)

Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. Where the employment of an employee, who has been employed for 104 or more weeks by the same employer, is terminated because of redundancy before the attainment by the employee of the pensionable age, the employee is entitled to a redundancy payment out of the Redundancy Fund. The amount of redundancy payment is calculated taking into account the period of the employee's continuous employment and his final wages, as follows: • **Up to 4 years** - 2 weeks wages for each year of continuous employment; • **5 to 10 years** - 2,5 weeks wages for each year of continuous employment; • **11 and up to 15 years** - 3 weeks wages for each year of continuous employment; • **16 and up to 20 years** - 3,5 weeks wages for each year of continuous employment; • **21 and up to 25 years** - 4 weeks wages for each year of continuous employment. Where an employee is entitled at the same time to redundancy payment both out of the Redundancy Fund and from an employer (by custom, law, collective agreement or contract), the employee receives the amount payable out of the Redundancy Fund, and from his or her employer, any amount due by the employer that exceeds the payment out of the Redundancy Fund. Payment out of the Redundancy Fund is not considered as payment by the employer.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees will be treated as priority unsecured creditors in respect of the following: • any salary owed to an employee and any sum withheld by the employer from the employee's salary for the payment of any obligations of the employee or otherwise, that the employer has not paid; • any other sum or benefit of the employee that arises as a result of an agreement or employment relationship, including any sum owed to a recognized union that arises from the employment relationship between the employer and the employee or otherwise, that the employer has not paid. The above do not apply in cases where an employee of a private company is a shareholder or member of the company's board of directors unless he holds shares or participates in the board of directors as a representative and in an evidently procedural and non-substantive manner, and provided that there is no first or second degree relationship between himself and the person being represented. • every amount of compensation which the company is obliged to pay to an employee, on account of bodily harm suffered by the employee as a result of an accident caused by the employment and during the employment with the company. An employee of a private company who is a shareholder thereof is exempted, unless the company is voluntarily wound-up or wound-up for reconstruction or merger purposes. • every amount due to the employee, excluding an employee of a private company who is a shareholder, concerning the leave which he is entitled to from his employment in the company for an employment period of only one year.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	No.

Cyprus

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. There are both contractual and statutory remedies. The position in Cyprus may be summarised as follows: • **Force Majeure:** Force majeure is not defined at Cyprus law save where the contract is rendered impossible (addressed below) and so will apply subject to the relevant clause (if included) and the terms of the contract as a whole. The force majeure clause excuses one or both of the parties from performance of their contractual obligations or suspends performance, upon the occurrence of a 'specific event'. Determining whether the COVID pandemic constitutes a "specific event" will be a matter of construction of the force majeure clause. • **Material Adverse Effect/Change (MAE/MAC) clauses:** An alternative contractual remedy to Force Majeure which is often included in finance documents or long-term supply agreements a MAE/MAC clause is triggered when a material event occurs. As with Force Majeure there is no statutory definition and will depend on the construction of the relevant clause. • **The doctrine of frustration:** Cyprus has codified in contract law the doctrine of frustration (section 56(2) of the Contract Law (Cap.149)), which states that if a contract to carry out an act which, after the contract is made becomes impossible, or by reason of some event which one of the parties could not prevent becomes unlawful, then the contract will automatically come to an end or be deemed void. It is important to note that this is not an objective but a subjective test which does not depend on the parties' views, wishes, circumstances or other personal factors.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. In the event of dispute, a party can apply to the courts to enforce either a contractual right (e.g. force majeure or MAC / MAE event) if a common ground cannot be reached between the parties or to seek a court order affirming the termination of a contract due to frustration under s.56 of Cyprus' Contract Law.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. On 23 March 2020, Parliament introduced temporary emergency provisions, under amendment Law 30(I)/2020. Law 30(I)/2020 suspends evictions for commercial and residential tenants for up to two months (This phrase should be deleted). The emergency provisions prohibit the repossession of any property by a landlord, no matter what stage the repossession of the property is at, until 30 September 2020 (it may be that the government reassesses and extend this deadline in line with other emergency measures it has taken).

Cyprus content (Contract Law) as at 10 October 2020

Cyprus

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	Directors owe fiduciary duties to the Company. This has been interpreted to mean that they must have regard to the interests of all shareholders. When the Company is insolvent or nearing insolvency the directors must also have regard to the interests of creditors as well. Directors should not enter into transactions which are not at arms' length if it would prejudice creditors rights.
What personal liabilities can directors be exposed to as a company nears insolvency?	In the normal course of business directors are not liable for the debts of a company. Directors may be personally liable for fraudulent trading. Certain tax statutes and social insurance statutes impose personal liability on the officers of a company in the event that a company has not complied with its obligations under such statutes.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Directors of a public company must call a general meeting to resolve whether the company must be wound up or any other measure needs to be taken where a company loses its capital by 50% or any other amount which in the opinion of the directors raises doubts as to whether the company can achieve its purpose. Failure to call a general meeting will render the directors personally liable (jointly and severally).
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Legislation adopted following the pandemic allows companies to ask for a suspension of bank loan payments for a period of 9 months (conditions apply as to which entities are eligible to apply the principal one being that the loan was properly serviced before implementation of the measure). Foreclosure proceedings have also been suspended. There is a ministry of labor program subsidizing employee's wages (conditions apply and subsidy per employee is subject to a ceiling). Other measures employed from the government is the postponement for the payment of tax obligations. In addition, all processes for repossession of rented property have been suspended until 30 September 2020.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	A company may apply for the appointment of an examiner where it can show that there is a reasonable chance that following restructuring it may or any part thereof continue in existence as an ongoing concern. If successful a moratorium on payments and enforcement proceedings for a limited time will apply.

Cyprus content (Insolvency) as at 10 October 2020

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	**Data Privacy** The Office of the Commissioner for the Protection of Personal Data in Cyprus has issued a statement reassuring the public that all measures implemented by the Government in relation to COVID-19 have been introduced in consultation with her office. In addition the Cyprus Commissioner has published online the statement of the European Data Protection Board in relation to the processing of personal data in the context of the COVID-19 outbreak. **Cyber Security** The Cyprus Digital Security Authority (supervised by the Commissioner of Electronic Communications and Postal Regulation) has issued statements online in an effort to raise public awareness for cyber threats including inter-alia, COVID-19 themed malware and password stealing ware, and security guidance for remote working.

Cyprus content (Cyber & Privacy) as at 15 October 2020

Cyprus

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. The Registrar of Companies is operational and is accepting filings electronically.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The Courts have re-opened and special measures are being applied in relation to Covid-19.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. Certifying officers continue to provide their services as required and it is still possible to apostille documents.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Documents can be signed electronically in line with the EU Regulation 910/2014 (some documents require a qualified electronic signature).
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Meetings of directors and shareholders can take place through electronic means, through which each participant can hear and be heard by all other participants. The minutes should be signed by the Chairman of the meeting, and such signing may be electronic.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Meetings of directors and shareholders can take place through electronic means through which each participant can hear and be heard by all other participants. The minutes should be signed by the Chairman of the meeting and such signing may be electronic.

Cyprus content (Corporate) as at 15 October 2020

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Czech Republic

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally, no. However, under the relevant laws in the Czech Republic: • An employer can reach an agreement with the employee, allowing for leave without pay. • An employer that is unable to provide work to an employee must pay the employee a compensatory wage amounting to the employee's average earnings. This will be somewhere between 60% -100% of the employee's average earnings, and will depend on the conditions and/or reasons that have led to the full or partial closure of the workplace. NB, the amount of the compensatory wage should be discussed with a trade union (where applicable). The government has recently approved a compensation scheme for employers to cover a part of wage compensation paid to employees. According to the approved scheme, the government will cover: • 80% of wage compensation, including social security advances (but only maximum up to 39,000 CZK per one employee and one month) in cases of quarantine or business closure due to governmental measures; or • 60% of wage compensation, including social security advances (but only maximum up to 29,000 CZK per one employee and one month) in cases of business closure due to issues connected with suppliers or customers.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes, subject to meeting some requirements. An employer may direct an employee to take paid leave by giving 14 days prior notice (this period may be shortened by agreement). However, the legitimate interests of the employee must be taken into account (e.g. childcare). The length of the leave taken must not exceed two weeks (the prolongation may be agreed with an employee).
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. An employer that terminates an employment relationship on the basis of redundancy must provide the employee with 2 months written notice, and pay severance pay. The amount of severance pay that is payable will be 1 to 3 multiples of the employee's average monthly earnings, depending on the length of employment relationship.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are priority unsecured creditors and all their claims arising from the employment relationship (but not claims originating otherwise) are paid from the employer-debtor's assets continuously during insolvency proceedings. There is no limit on amount of such claims.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. An employee is entitled to require that unpaid employment claims related to the decisive period (and up to an amount of ca. 1,100 EUR per month) are paid by the respective labour office. The decisive period means one month of declaring of employer's insolvency, three calendar months preceding, and three calendar months following such month (i.e. 7 months in total).

Czech Republic content as at 9 April 2020

Czech Republic

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. According to Czech law, if, after entering into a contract, a contractual obligation becomes impossible to be performed, the contract is extinguished by operation of law due to impossibility of performance. In some cases, the current pandemic could be considered as legitimate reason for so called subsequent impossibility of performance. In such a case and provided that the affected party notifies the other party of such non-performance, the former is not liable for damage and costs incurred by the other party. On the other hand, a performance is not impossible if an obligation can be performed under more difficult conditions, at higher costs, with the help of another person or only after a determined period. Nevertheless, if there is a substantial change in circumstances which led the parties to the conclusion of the contract to the extent that the performance arising from the contract becomes more onerous for one of the parties and such change creates a gross disproportion in the rights and duties of the parties by disadvantaging one of them either by disproportionately increasing the cost of the performance or disproportionately reducing the value of the subject of performance, the affected party has the right to claim the renegotiation of the contract with the other party if it is proved that it could neither have expected nor affected the change, and that the change occurred only after the conclusion of the contract or the party became aware thereof only after the conclusion of the contract. Asserting this right does not entitle the affected party to suspend the performance. On the other hand, a performance is not impossible if an obligation can be performed under more difficult conditions, at higher costs, with the help of another person or only after a determined period. Nevertheless, If there is a substantial change in circumstances which led the parties to conclude the contract to the extent that the performance arising from the contract becomes more onerous for one of the parties and such change creates a gross disproportion in the rights and duties of the parties by disadvantaging one of them either by disproportionately increasing the cost of the performance or disproportionately reducing the value of the subject of performance, the affected party has the right to claim the renegotiation of the contract with the other party if it is proved that it could neither have expected nor affected the change, and that the change occurred only after the conclusion of the contract or the party became aware thereof only after the conclusion of the contract. Asserting this right does not entitle the affected party to suspend the performance.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, this is not required. In case of (subsequent) impossibility of performance, the contract is extinguished by operation of law and no party needs to apply a court to declare such impossibility of performance except in case of dispute between the parties or if other party challenges it. In case of substantial change in circumstances which led the parties to the conclusion of the contract, and upon failure to reach agreement on renegotiation of the contract within a reasonable time limit, a court may, on the application of any of them, decide to change the contractual obligation by restoring the balance of rights and duties of the parties, or to extinguish it as of the date and under the conditions specified in the decision.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. The government has introduced bills under which the landlord will not be entitled to terminate the lease contract in respect of housing units or commercial property leases until 31 May 2021 (applies on housing units) and 31 March 2022 (applies on commercial property leases) in case that the sole reason for doing so is the delay with the payment of rent or for services for the decisive period (from 12 March 2020 until 30 September 2020 for housing units and 30 June 2020 for commercial properties), if the following conditions are fulfilled. The first condition is that the delay occurred for the decisive period. Secondly, the delay was largely due to the constraints of the extraordinary measures in the event of the pandemic. According to the introduced bills, the landlord will have the right to demand the termination of the lease if it cannot be fairly demanded of him to tolerate restrictions to said extent, especially if the lease is the sole source of his/her income. However, this will only be possible after the emergency measures are terminated and not before the end of the official emergency. Landlord's right to terminate the lease for other reasons or other rights of the landlord arising from the delay are not affected.

Czech Republic

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Directors are obliged to act with the necessary loyalty as well as with the necessary knowledge and care (due managerial care) at all times and under all circumstances. The pandemic does not change this, on the contrary, due to the exceptional nature of the situation, directors must act in many respects more cautiously.

Directors shall be deemed to act with due care and the necessary knowledge where, in business-related decisions, they could in good faith and reasonably assume to be acting on an informed basis and in justifiable interest of the business corporation. The foregoing shall not apply in cases where such decision-making was carried out without the necessary loyalty.

Directors are among others obliged to convene the general meeting of the company without undue delay after becoming aware of the fact that the company is threatened by insolvency or for other serious reasons and shall propose that the general meeting dissolves the company or takes another appropriate action (e.g. decrease of share capital). Directors are further obliged to file an insolvency petition to an insolvency court in case they will have learn of the company's insolvency or threat of insolvency. Nevertheless, the government introduced an amendment of the Insolvency Act according to which the obligation to file an insolvency petition will not apply for the determined period connected with extraordinary measures related to the pandemic.

What personal liabilities can directors be exposed to as a company nears insolvency?

There are several extraordinary liabilities that directors can be exposed to in relation to company's insolvency. If a director contributed to the insolvency of a company by breach of his / her obligations, the insolvency court:

- will decide on the obligation of that director to hand over (repay) to the insolvent estate the benefit obtained from his/her contract for the performance and any other benefit received from the company, that is up to 2 years before the opening of insolvency proceedings, in the case of insolvency proceedings initiated at the request of a person other than the debtor; and
- where bankruptcy has been declared on the assets of the company, it may also decide that that member is obliged to provide to the insolvent estate the performance up to the amount of the difference between the sum of debts and the value of the assets of the commercial corporation; when determining the amount of performance, the insolvency court will take into account, in particular, the extent to which the breach of the obligation contributed to the deficient amount of the insolvent estate.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

First of all, a director shall be deemed to act with due care and the necessary knowledge where, in business-related decisions, he or she could in good faith and reasonably assume to be acting on an informed basis and in justifiable interest of the business corporation. The foregoing shall not apply in cases where such decision-making was carried out without the necessary loyalty.

Directors may (and in some cases must) convene the general meeting of the company and shall propose that the general meeting dissolves the company or takes another appropriate action (e.g. decrease of share capital). The directors may limit their liability also by convening the general meeting for the purpose of receiving its instruction on a strategic decision (e.g. choose between two potential options).

It is also advisable to take all necessary measures to ensure that the current crisis has a minimal negative impact on company. If directors are not sure of the correctness of their action, it should choose a suitable advisor in the relevant area in due time.

In view of the impending approval of the final statements and decisions on the allocation of its economic results, the director should also consider the possible negative consequences of the COVID-19 crisis in the long term. When considering the payment of dividends on profit or other part of the equity, the directors are among others obliged under all circumstances (not only now) to ascertain whether this will not cause the company to become insolvent.

Czech Republic

Insolvency (continued)

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	The moratorium is standard instrument which can be used by companies under the Insolvency Act. Actually, the government of the Czech Republic has introduced an amendment to the Insolvency Act, which would enable the possibility of an extraordinary moratorium. Based on this, the affected company will be able to file a moratorium petition to the court and obtain a protective period of up to three months during which the creditors will not be able to act. During the moratorium, the debtor may determine in particular which creditors it considers to be crucial for the maintenance of his business and pay their claims preferentially (irrespective of whether others were due earlier). Other creditors whose contractual relationships with the debtor have lasted for at least a certain period are prohibited from terminating their contracts with the debtor or withdrawing from them due to the debtor's delay in repayment.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	According to the newly introduced amendment to the *Insolvency Act*, a debtor is not obliged and a creditor is not entitled to file an insolvency petition within the determined period connected with extraordinary measures related to the pandemic.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	**Privacy** According to the Czech Labour Code, the employer is obliged to create a safe working environment and working conditions by the appropriate organization of health and safety at work and by taking measures to prevent risks. The employer may process personal data for this purpose (see art. 6(1)(c) of the GDPR). A similar possibility of processing health data, i.e. special categories of personal data is stated in the GDPR, in relation to the legislation of the Member States (see art. 9 (2)(h) of the GDPR). However, other legal grounds/exceptions may be applicable as well. The Czech Office for Personal Data Protection states: "It is advisable to act in cooperation with public health protection authorities, which the employer is also obliged to inform in certain situations." The principle of minimization of personal data also applies to the processing of personal data during the pandemic period. For example, if the employer informs his employees that one of their colleagues has been infected with a viral disease, the employer should do it in an anonymized form, if possible. There have not been adapted any new/additional rules applying directly to privacy during the pandemic period. Therefore, the general legal scope applies. New legal acts dealing with privacy matters have been issued in connection to the so clever quarantine, but these rules do not directly affect businesses. **Cybersecurity** The current pandemic period together with the associated uncertainty often attracts fraudulent activities; digital space is no exception. For example, a Czech hospital in Brno has been a target of a recent cyber-attack. Especially phishing and other social engineering techniques are commonly used to attack individuals and organizations. A successful phishing attack can cause data loss, identity theft, compromise of sensitive information, disclosure of trade secrets and others. Such information can then be monetised by the attacker, for example, by selling to a third party or by extorting the attacked person or organization. In the Czech Republic, cyber-attacks are in general regarded as crimes according to the Czech Criminal Code. The Czech institutions have also issued warnings regarding the security risks associated with the use of videoconferencing. Since many people are now working from home, it should not be forgotten to continuously secure the computers and other devices used for work. This also applies to the networks to which the devices are connected. Companies and employees should also be mindful about what type of information is shared through which platform. There have not been adapted any new/additional rules applying directly to cybersecurity during the pandemic period. Therefore, the general legal scope applies.

Czech Republic

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The public registries are open and accepting filings. We have not recognised any extraordinary delays in processing times.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The filing office of the courts are working in restricted opening hours but online filings are still possible. The oral court hearings were suspended in most cases except for urgent matters.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	The most of notaries are operating as usual. We have not recognised any extraordinary delays.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	The Czech law envisages the signing the documents electronically by e-signature or conversion of physical documents into electronic form. Such documents may be delivered to courts or governmental authorities via data box of the respective person and via online filing office.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	If there are specific rules in articles of association or other internal documents (i.e. rules of procedure) for holding the meeting of board via phone or other electronic means, the meeting can be held in this way. At the moment, however, a government bill is being discussed which will allow such methods of meetings without changing of respective corporate document for the duration of emergency measures. In each case, the meeting minutes need to be drafted within 15 days after the meeting and signed by chairman in any possible way.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	All decisions of board (including granting any consent) must be recorded in meeting minutes. The meeting minutes need to be drafted within 15 days after the meeting (including meeting held via phone) and signed by chairman in any possible way. The Czech law does not require the written consent of board in any cases and oral approval is usually sufficient in all case; the meeting minutes are only prepared to record respective decisions and for the purpose of proving they content (e.g. in case of dispute).

Denmark

Labour Law

Contact for Denmark

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Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	**Periods of Sickness** Yes, however, the specific rate depends on whether the employee is a salaried employee or not. If the employee is a salaried employee, the employer is obliged to pay the employee's full salary during sickness. If the employee is paid by the hour/not a salaried employee, the employer shall pay a sickness benefit, which will typically be a lower rate than the full salary. Furthermore, payment of full salary during sickness for employees paid by the hour can be agreed individually or in a collective agreement. **Periods of Quarantine** Mandatory quarantine (ordered by the Danish Health Authorities) should be regarded as absence due to sickness, given that such quarantine is ordered due to the risk of spreading sickness. **Self-Isolation** (iii) No. In such cases the employer and employee would typically agree that the employee takes holidays, special holidays (“feriefridage”) or similar. If the employee can work from home, such solution would also be available as well with the agreement of the employer.
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	Such an entitlement depends on the specific agreement between the employer and employee. Many collective and individual agreements include such an entitlement.
Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	To require employees to work under a short term working system, and/or to reduce their pay or hours,an employer should notify an employee by way of an individual notice, as such changes would be considered a material change of the employment. It is, however, possible to agree on such reductions in working hours and/or pay, either individually or collectively. Due to the specific circumstances, our assessment is that holidays can be directed with 1 days’ notice if there is shortage of work in the company. Under normal circumstances, the employer should notify employees of holidays with 3 months notice (for the main holiday) and 1 month notice (for the remaining holiday). Special holidays (""feriefridage"") and time-off in lieu can be notified with 1 days’ notice as well. It is possible to collectively agree with employees to reduce working hours for a period of time, as an alternative to termination of employment. By introducing a so-called short-time working system, full time employees shall work and be paid for a reduced number of hours for a period of time. During the days where the employees do not work, they are entitled to a supplementary unemployment benefit from the unemployment fund, provided that they are a member of a fund and provided that certain requirements are met (see below). Short-time working systems are provided for in a number of collective bargaining agreements already, but it is also possible for companies not bound by a collective bargaining agreement to agree to short-term working. **(Continued on next page)**

Denmark content as at 9 April 2020

Denmark

Labour Law (continued)

	On 15 March, the Danish Government entered into an agreement with the the private labour market, which provides salary compensation where an employer contemplates to terminate employees, but instead retains them and puts them on paid leave during the period in which there is a shortage of work. If the company has contemplated to dismiss 30% of its employees or more than 50 employees, and instead puts them on paid leave, the company will be compensated as follows: • 75% of the employees' salary is compensated by the Government, however maximum DKK 30,000 per month for salaried employees; • 90% of the employees' salary is compensated by the Government, however maximum DKK 30,000 per month to employees paid by the hour. It is a condition that the employee takes 5 days of holidays/time-off in lieu/special holidays during the period of salary compensation. To the extent that the employee has no such leave left, the leave shall be paid by the employee himself or herself. It is a condition for salary compensation that the company sends the employees on paid leave at home, and does not terminate any of the employees due to the financial difficulties experienced during the period in which the salary compensation applies.
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	Yes, the above description under point 4 is a public aid package for employers/employees. Furthermore, a new bill has passed introducing payment of sickness benefits from the first day of absence if the employee's sick leave is caused by COVID-19 (whether due to sickness or mandatory quarantine). Usually, employers are not reimbursed until after 30 calendar days of uninterrupted sick leave. The bill also introduces sickness benefits to the self-employed from the first day of absence, if the self-employed's absence is caused by COVID-19 (again, whether due to sickness of mandatory quarantine). Usually, the self-employed are not entitled to sickness benefits until after two weeks of uninterrupted sick leave.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	This would be atypical, however, it is possible by agreement.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	Yes, a new bill recently passed regarding holidays and an extended entitlement to postpone non-taken holidays to the next holiday year.

Denmark

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. Governmental services are still up and running.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Most courts are closed except for some, which cannot be closed
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. We are not aware of any restrictions.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	E-signatures are permitted.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Meetings can be held by phone or video. Electronic signatures are possible
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings can, to a certain extent, be held as a written resolution.

Estonia

Labour Law

Contact for Estonia

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No. However, an employer may reduce an employee's remuneration, to a reasonable extent, for up to 3 months during a 12 month period. Such remuneration decrease is taken to be an exceptional and drastic measure, which requires an employer to meet the following conditions: • Due to unforeseeable economic circumstances not dependant on the employer, the employer is unable to provide the employee with work in the agreed extent (e.g. COVID 19); and • Paying the agreed remuneration is unreasonably burdensome to the employer.
Can an employer direct an employee to take paid annual, holiday or similar leave?	No. The employer cannot direct employees to take their annual leave unilaterally. However, the employer and employee can agree on the taking of annual leave, and the period of such leave.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. If the employment relationship is terminated due to job elimination/ redundancy, the employer must make a payment to the employee in the amount of one month of the employee's average remuneration.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	No. Employees are generally not treated any different to other creditors.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. The payment is referred to an "insolvency benefit" and its purpose is to compensate the employee for any unpaid salary, holiday pay and/or benefits, that had not been received at the time of cancellation of the employment contract but which were prescribed by the law. The Unemployment Insurance Fund pays compensation to employees within the set limits. An employer is deemed to be insolvent if a court has declared bankruptcy, or terminated the bankruptcy proceedings by abatement.

Estonia content (Labour Law) as at 9 October 2020

Estonia

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. Upon the occurrence of force majeure, the obligated person can excuse the non-performance of his or her private law obligation. Force majeure is defined in **Article 103 (2) of the Law of Obligations Act** as a circumstance which the debtor could not influence and could not, in accordance with the principle of reasonableness, expect him to take into account or avoid at the time of the conclusion of the contract or the non-contractual obligation or to overcome the impediment or consequence. The occurrence of force majeure does not terminate the obligation (contract) in its entirety but releases the debtor from liability only for the time when the force majeure or its consequences actually prevented the performance of the obligation. For example, if an undertaking has a contractual obligation to supply a hospital with equipment manufactured abroad, in a situation where the movement of goods is impeded (lorries stand on the German-Polish border), non-compliance during the period of force majeure is excusable. The existence of force majeure must be assessed separately for each obligation and must be relied on by the debtor himself. At a time when the performance of one obligation is impeded, the performance of another obligation may not be impeded. The law regulates that in the event of force majeure, the entitled person (creditor) has the right to refuse to perform his or her obligation (e.g. to pay for the goods until their delivery), terminate the contract and reduce the price. However, the entitled person (creditor) may not demand a contractual penalty, default interest and compensation for damage. The parties may agree otherwise in the contract, including providing for a contractual penalty in case of force majeure. The obligation to pay money cannot generally be excused by force majeure. Exceptions are situations where the payment of money itself as an activity is prevented (for example, Internet banking does not work). Thus, in a situation where an undertaking's activities (such as running a sports club, restaurant or store in a shopping mall) have been suspended by emergency measures, it does not have the right to refuse to fulfil its financial obligations (such as payment of rent, etc.) on grounds of force majeure. In addition and also applicable for financial obligations **Article 97 of the Law of Obligations Act** provides for the possibility of requiring the other party to the contract to amend the contract in order to restore the original balance of obligations of the parties or, if this is not possible or reasonable, to terminate the contract. Such a right may arise in a situation where, the circumstances under which a contract is entered into change after the entry into the contract and this results in a material change in the balance of the obligations of the parties due to which the costs of one party for the performance of an obligation increase significantly or the value of that which is to be received from the other party under the contract decreases significantly. Its implementation may be particularly relevant in the case of long-term contracts, such as leases. At the same time, the law sets several restrictions on the exercise of this right, which is why there is not much court practice on the implementation of the provision. At the same time, no state of emergency has been declared in Estonia before, therefore it cannot be ruled out that it can be used more widely in the current circumstances. These provisions are not mandatory and may be deviated from in specific agreements.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. A party to a contract could bring an action to a court for a declaratory judgment that a certain obligation does not have to be fulfilled due to the implications of the COVID-19 pandemic. The plaintiff would of course have to demonstrate that the conditions to justify non-performance or non-payment exist. However, the need to bring the action to the court may arise only in the case of a dispute, more particularly, when the creditor has off-set the penalty or damage claims against the party relying on the *force majeure* and the debtor has to dispute the right of a set-off.

Estonia content (Contract Law) as at 9 October 2020

Estonia

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?	No. Within the state of emergency regime (declared by the Government of Estonia in March 12) many commercial properties (cinemas, sport clubs, other than grocery stores in shopping centres) are physically closed. Currently Estonia has not introduced any rent relief measures. However, in the case of "extraordinary circumstances", making the premises fully or partially unusable, the Article 278 4) of the *Law of Obligations Act* might (lack of relevant court practice to be sure) provide the right for rent reductions. More surely the current situation may give the right to cancel the lease agreement under Article 313 of the *Law of Obligations Act*, which gives either party the right to cancel the contract with good reason. A reason is good if, upon the occurrence thereof, a party who wishes to cancel cannot be presumed to continue performing the contract taking into account all the circumstances and considering the interests of both parties. These provisions are not mandatory and, therefore, any lease agreement needs to be examined for any deviations from the law.

Estonia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	If a company is insolvent, the management board has an obligation to lodge a bankruptcy petition with the court within twenty days after the date on which the insolvency became evident. After insolvency has become evident, the members of the management board are forbidden to make payments on behalf of the company, except in the case where making the payments in the situation of insolvency conforms to the due diligence requirements (Commercial Code sec. 187 subs. 51 and sec 306 subs. 31). The management board has a duty to inform the shareholders or the supervisory board about the company's insolvency. Before lodging the bankruptcy petition the management board should call a meeting of shareholders since the company's net assets are less than one-half of the share capital or less than the minimum amount of share capital set forth by the law (Commercial Code sec. 171 subs. 2 and sec 292 subs. 1).
What personal liabilities can directors be exposed to as a company nears insolvency?	If a member of the management board makes unlawful payments that are prohibited under Commercial Code sec. 187 and 306, then the member has a duty to reimburse such payments to the company and is personally liable for the decrease of the company's assets (Commercial Code 187 subs. 51 and sec. 306 subs. 31). If a member of the management board fails to lodge a bankruptcy petition in due time and this has caused damages to the company or the creditors, he or she may be personally liable in front of the company and the creditors of the company (Commercial Code sec.187 subs. 2 and 4, sec. 315 subs. 2 and 4 and Law of Obligations sec. 1043 and sec. 1045 subs.1 pt. 7 or 8.). Failing to lodge a bankruptcy petition in due time does not bring about criminal liability. However, a member of the board may be criminally liable for causing the insolvency by knowingly damaging the company's financial state or by knowingly preferring one creditor to another and thereby decreased the ability to satisfy the debts of other creditors (Penal Code sec. 384 and sec 3841). If a director or member of the management board thereby intentionally or due to gross negligence violates any obligations arising from tax regulation, then he or she is personally liable for the tax arrears incurred as a result thereof (Taxation Act sec. 40 subs. 1).
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Members of the management board should keep the shareholders informed about the financial state and perform their obligations with due diligence. Most importantly the management board should lodge the bankruptcy petition without any delay and within the time limit set forth by the law. If there are indications showing that the company is likely to become insolvent, the directors and management board may try to commence reorganisation proceedings (see Reorganisation Act sec. 8). Commencement of reorganisation proceeding suspends all enforcement proceedings against the company and stops the calculation of fines for delay or contractual penalty which in other would increase in time (Reorganisation Act sec. 11 subs. 1).
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	The Government of Estonia imposed legislation which temporarily halted the management board's duty to lodge a bankruptcy petition. This did not prohibit the creditors from using their right to lodge a bankruptcy petition. This temporary exemption for the management board was effective from 12.03.2020 until 17.07.2020.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	If the company is not yet insolvent or the insolvency is not permanent, it may have the right to commence reorganisation proceedings (Reorganisation Act sec. 8). Reorganisation proceeding gives the possibility for the company to draft a reorganisation plan by which the company may be allowed to decrease its debts, defer them or apply other measures to regain or maintain solvency. If bankruptcy proceedings have been commenced, the company and creditors have the possibility to conclude a compromise, by which the debts are decreased or deferred (Bankruptcy Act sec 178).

Estonia content (Insolvency) as at 9 October 2020

Estonia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Cybersecurity

In the current crisis, where many employees are working remotely, the Estonian Information System Authority has opened for people with an Estonian personal identification code and a recognised eID tool for testing the following secure IT solutions: a secure communication environment (https://vestlus.eesti.ee - primarily intended to be a text-based communication environment that allows creating different chat groups and inviting other participants) and a file exchange environment (https://sahver.eesti.ee - companies and their partners can exchange large data securely) for testing.

The Estonian Information System Authority constantly monitores trends and challenges in cybersecurity, and publishes quarterly assessments. In addition, on 12.05.2020, the Authority published a comprehensive overview of cyber security in Estonia ""Cyber Security in Estonia 2020" (available at www.ria.ee), which explains the landscape, the responsibilities and activities of different public sector organizations in Estonia who all contribute to keep Estonians safe online.

In February 2020, the Cybercrime Unit of the Central Criminal Police opened the website https://cyber.politsei.ee/ which can be used for reporting cybercrimes and information to the Police. The website also gives tips on how to recognise phishing e-mails or restore access to personal accounts.

Starting 20.08.2020, Estonian residents can download the mobile application HOIA, the aim of which is to help limit the spread of the coronavirus. The Information System Authority has recommended everyone to contribute to the fight against the virus by downloading and using the HOIA application. The general recommendation is to not use devices that do not receive software updates. However, in case of an older device, the user should be more cautious about both data communication and Bluetooth. Overall, the Authority is of the opinion that the societal benefits of using the HOIA application to outweigh the mostly theoretical risks of using Bluetooth.

Privacy

On 01.07.2020, The Estonian Data Protection Inspectorate (the AKI) published Estonian versions of two guidelines adopted by the European Data Protection Board in 21.04.2020: Guidelines 03/2020 on the processing of data concerning health for the purpose of scientific research in the context of the COVID-19 outbreak; and Guidelines 04/2020 on the use of location data and contact tracing tools in the context of the COVID-19 outbreak.

In addition, The Estonian Data Protection Inspectorate has issued specific guidance analysing the processing of personal data in relation to the situation resulting from the spread of COVID-19. According to this guidance:

Employers should be mindful of their obligations under GDPR, and limit questions to the following:

- whether the employee was traveling to a 'country of risk',
- whether the employee was in contact with an infected person, or
- whether the person is ill (without specifying a specific disease or other reason).

The recording of any health information must be justified and factual, and must be limited to what is necessary in order to allow an employer to implement health and safety measures.

Informing other employees of an infectious disease is only permitted if such information (in a personalised form) is communicated to other employees in order to protect their life, health or liberty, and consent cannot be obtained from the employee concerned. For example, in the case of an infectious disease, the affected employee should first be asked who he or she has been in sufficient contact with during the potentially infectious period and then talk to them in person. The same is true of people outside work - for example, when a joint meeting is held. However, the risk to the health of other employees must be so significant as to justify the dissemination of health data relating to one employee. The infectious disease that every employee can easily get from anywhere else is not sufficient justification.

(Continued on next page)

Estonia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	Starting 20.08.2020, Estonian residents can download the mobile application HOIA, the aim of which is to help limit the spread of the coronavirus. The application notifies the user if the user has been in close contact with an infected person. Users' phones exchange anonymous codes via Bluetooth, and the phone of a person who has marked themselves as COVID-positive warns those who have been in close contact with them. Neither the Estonian government agencies, the creators of the application, nor phone manufacturers can find out who was in close contact with whom, or who has declared themselves ill. Furthermore, the notification does not disclose when and for how long the contact with the COVID-positive person occurred, so there is no way to identify the infected person. Thus, the creators of the application have already taken into account the privacy and protection of personal data when developing the application.

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	All registers shall accept filings. In addition, it is possible to submit documents electronically, if the person has Estonian ID-card.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are accepting the filings electronically. In Estonia, most of the documents are submitted to court online.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes, but with limitations, therefore organising an appointment may take time. It is already possible to notarise some documents electronically and this option is going be extended to even more actions and documents.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	All Estonians, e-residents and other persons who have an Estonian ID-card have the possibility to sign documents online. The authorities do not accept documents, which are signed otherwise digitally, e.g. with help of Adobe Pro.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes, board members may participate in a meeting of the board, and exercise their relevant rights, via electronic means, without being physically present at the meeting, having recourse to two-way real-time communication or to other similar electronic means that allow the member, while at a remote location, to follow, and speak at, the meeting and to vote in any matters that have been tabled for resolution. There is no need to sign management board member resolutions. For supervisory board resolutions please see next response.

Estonia content (Corporate) as at 9 October 2020

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Estonia

Corporate (continued)

Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?

The decisions of the meeting of the management board could be fixed also for example via email.

The supervisory board has the right to adopt resolutions without calling a meeting, unless the articles of association prescribe otherwise and if prescribed by the work procedure of the supervisory board, or if all of the members of the supervisory board consent to it. The chairman of the supervisory board shall send a draft of the resolution to all members and specify the term by which the member must present his/her position on it.

The position of a member shall be expressed in writing, unless the articles of association or work procedure of the supervisory board prescribe otherwise. If a member does not give notice of whether the member is in favour of or opposed to the resolution during this term, it shall be deemed that he/she votes against the resolution.

If a resolution is made pursuant to such procedure, the resolution shall be adopted if more than one-half of the votes of the members of the supervisory board are in favour unless the law or the AoA prescribe a greater majority requirement.

The chairman of the supervisory board shall prepare a record of voting on the results of voting in lieu of minutes of the meeting and shall send the record promptly to the members of the supervisory board and management board. A record of voting shall set out:

- the business name and registered office of the company;
- the adopted resolutions and the number of votes in favour (incl. the names of the members of the supervisory board who voted in favour of each resolution);
- other circumstances of importance with regard to the vote.

Finland

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Employers can lay-off an employee temporarily if the employer has a financial or production-related reason for terminating the employment contract or if the work or the employer's potential for offering work have diminished temporarily and the employer cannot reasonably provide the employee with other suitable work or training corresponding to its needs. The work or the potential for offering work are considered to have diminished temporarily if they can be estimated to last a maximum of 90 days. The employer must promptly present the employee or employees' representative an advance explanation of the grounds for the lay-off and the estimated extent, implementation, commencement and duration. After presentation of the explanation but before the lay-off notice, the employer shall reserve the employees or their representative an opportunity to be heard concerning the explanation given. After that the employee must be given a notice on the lay-off. Employers obligation to notify employees before the lay-off has been temporarily reduced from 14 days to 5 days during the period of March 30 - June 30, 2020. In case the company has 20 employees or more, a mandatory cooperation consultation process shall be completed before layoffs. The length of the process for layoff situations is temporarily shortened from 14 days to 5 days during the period of March 30 - June 30, 2020. In specific circumstances determined in the Act on Cooperation within Undertakings the employer and complete the cooperation consultation process retroactively if there are particularly weighty unforeseen reasons harming the productive or service operations or the finances of the undertaking which hinder the cooperation negotiations. Temporary amendments have also been implemented to certain collective bargaining agreements. According to the Finnish employment law practice, the regulations included to the applicable collective agreement prevails. The applicable collective agreement and its content should be investigated on a case by case basis.
Can an employer direct an employee to take paid annual, holiday or similar leave?	The employee can be instructed to take a summer holiday as of the beginning of the summer holiday period (as of 2.5.2020).The employee must be consulted according to the Annual Holidays Act and the 2-week notice period must be applied. The employer could also advise the employees to spend their working-hour shortening leaves (so-called Pekkanen-days and based on the collective agreement). Alternatively, it is possible to start negotiations with an employee in order to convert his/her holiday allowance into vacation.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	According to the Employment Contracts Act, if the work to be offered has diminished substantially and permanently for financial or production-related reasons or for reasons arising from reorganization of the employer's operations, the employer may terminate the employment. Before the employer can make a decision on the redundancies it is liable to complete with co-operation consultation procedure for a certain minimum period (if there are at least 20 employees) or according to the employer's requirement to consult the employee as included to the Employment Contracts Act (if there are less than 20 employees). When the employment has been terminated due to the reason mentioned above, the employer is liable to pay the salary from the notice period and reimburse possible accrued holidays and other employment related reimbursements (overtime compensation). Please note that there is no statutory redundancy or severance pay liability in Finland. However, the employers pay severance payments on a voluntary basis and at their discretion usually in cases where the employees conclude a mutual agreement on ending the employment i.e. leave the company voluntarily.

Finland content (Labour Law) as at 3 June 2020

Finland

Labour Law (continued)

Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	The employee has a possibility to apply for the unpaid salaries (monthly salary, vacation pay, vacation compensation, vacation allowance, working hour shortening compensation, travel allowance, per dems, salaries for the notice period, overtime payment, compensation for damages based on the employment relationship) via wage security system.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Wage security is a statutory system in Finland that guarantees the employee a salary and other employment-based receivables in a situation where the employer has lost the ability to pay the remaining employment benefits (i.e. usually due to bankruptcy). Wage security is applied for from the Centre of Economic Development,Transport and the Environment (ELY-keskus in Finnish) within three months after the receivable has arisen. The employee's right to wage security is regulated by the Wage Security Act. The law includes a detailed provision on when an employer is considered insolvent for the purpose of paying wage security.

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes, the parties may be able to obtain relief. However, the existence of the COVID-19 situation alone does not entitle parties to invoke the force majeure clause in their contracts. The wording of the contractual clauses and the situation must be assessed on a case-by-case basis. If a force majeure clause is included in the contract, the wording of the clause has a significant impact when assessing whether the COVID-19 situation constitutes a force majeure event in the case in question. Even if the contract does not include an explicit force majeure clause, it can be possible to invoke force majeure. For example, the Finnish Sale of Goods Act recognises force majeure. Under the Finnish Contracts Act, the terms and conditions of the contract can be adjusted, if the enforcement would lead to an unreasonable result. However, the threshold for an adjustment in business-to-business contracts is high.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, this is not required as the relief from contractual obligations may be agreed between the parties. However, if there is disagreement between the parties, the party may initiate a court procedure.
Are commercial property or other leasing arrangements subject to any special arrangements?	There is no special new legislation enacted or changes made to the applicable legislation governing the rights and obligations of contracting parties due to the COVID-19 situation. Ordinary rules of contract as well as the applicable laws apply.

Finland content (all topics except Labour Law) as at 15 May 2020

Finland

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	The Board of Directors shall make a register notification on the loss of share capital once it notices that the company has negative equity. In addition, the Board of Directors of a public company shall without delay draw up financial statements and annual report in order to ascertain the financial position of the company once the Board of Directors notices that the equity of the company is less than half of the share capital. If according to the balance sheet the equity of the company is less than one half of the share capital, the Board of Directors shall without delay convene a General Meeting to consider measures to remedy the financial position of the company. The General Meeting shall be held within three months of the date of the financial statements. Furthermore, the directors shall bear in mind that, pursuant to the Finnish Limited Liability Companies Act, the management of the company shall act with due care and promote the interests of the company.
What personal liabilities can directors be exposed to as a company nears insolvency?	The directors shall be liable for damages deliberately or negligently caused to the company in violation of the duty to act with due care and promote the interests of the company. The same applies to damages deliberately or negligently caused to the company, a shareholder or a third party in violation of other provisions of the Finnish Limited Liability Companies Act or the Articles of Association. The directors may be exposed to criminal sanctions e.g. if they intentionally violate the protection of the shareholders or creditors by distributing the assets of the company in contravention of the provisions of the Finnish Limited Liability Companies Act.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There is no safeharbour legislation. The directors shall act with due care and promote the interests of the company. The directors must also take account of the equal treatment of the shareholders. Decisions shall be based on the proper information required by the situation and no conflict of interest shall affect the decision-making. It's important to document the decisions and reasons behind the decisions diligently. If a director dissents from other directors, it should be documented in the minutes of the meeting.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	The Finnish Parliament has made temporary amendments to the Finnish Bankruptcy Act due to the COVID-19 situation. The amendments restrict the creditor's right to file for bankruptcy. The purpose of the amendment is to help companies overcome financial difficulties caused by the COVID-19 situation. The debtor can be declared bankrupt, if the debtor is presumed insolvent. Previously, the debtor was presumed insolvent, if it has not paid a clear and overdue debt within a week of receiving the demand for payment. The amendment temporarily removes this presumption (with certain exceptions), and the period of insolvency must last longer before the creditor may file for bankruptcy.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	The Finnish Parliament has passed a temporary act increasing the flexibility of the enforcement procedure if the debtor's payment difficulties have been caused by the COVID-19 situation. Pursuant to the amended legislation, debtors have the option to apply for time for payment for six months instead of the usual three. Time for payment can only be granted if it is deemed probable that the debtor will make the payment. Enforcement officer can perform a protective attachment if necessary. Granting time for payment will not interrupt the accumulation of interest on late payment. In addition, a time of twelve months instead of the usual six can be granted with the creditor's consent.

Finland

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The Finnish Data Protection Ombudsman has given general advice on privacy and COVID-19 including:

- In Finland the GDPR and national data protection legislation applies notwithstanding the circumstances caused by the COVID-19. Health related data is a special category of personal data, which has to be given special protection.
- Employment related personal data is also subject to Act on the Protection of Privacy in Working Life.
- If an employee tests COVID-19 positive, the employer, as a rule, is not permitted to name the employee. Other employees can be informed on a general level about a confirmed or possible case of the virus and advise them to work from home. Employee related health data can only be processed by persons whose work related responsibilities include such processing. The employer must appoint these persons in advance or define those tasks, which include the processing of health related data. Persons processing such data are subject to confidentiality obligations.
- Employment related health data is confidential information. If necessary, the employer can on a general level, and in accordance with the organisation's practises, inform outside parties that an employee is not available for his or her normal job responsibilities. If an employee is confirmed to be carrying the COVID-19 virus or has been placed into quarantine, the employer, as a rule, is not permitted to disclose this information.

Finland

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. Public registries are open, but physical services are limited. Digital services are available, and the authorities' aim is to process notifications and applications normally despite the exceptional situation caused by the COVID-19 situation.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The customer services of the courts serve normally. The courts have delayed some of their court sessions and the possibilities to participate remotely have been added. Due to the COVID-19 situation, the processing times are lengthened.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Services of notary public are organized by the Digital and Population Data Services Agency, which is operating. Services of notary public, which includes apostilles, are available via telephone and email. In addition, the service locations serve customers by appointment.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are permitted.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Board meetings can be held telephonically. The meeting minutes must be signed by the person chairing the meeting and, if there are several members of the Board of Directors, at least by one member designated by the Board. Electronic signatures are permitted.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Board meetings can be held telephonically. The meeting minutes must be signed by the person chairing the meeting and, if there are several members of the Board of Directors, at least by one member designated by the Board. Electronic signatures are permitted.

France

Labour Law

Contact for France	Contact for France	Contact for France
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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No. In France, an employer will generally not be able to lay off an employee with no payment of salary.
Can an employer direct an employee to take paid annual, holiday or similar leave?	In the current environment, yes. In the context of COVID-19, employers (of both blue-collar and white-collar workers) may: • require employees to take 6 days of paid leave (or to modify the dates of the leave in the limit of six working days) subject to a collective agreement; • require employees to take supplementary rest days ("RTT") in the limit of 10 days. In both cases outlined above, employers must comply with a notice period of one clear day.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. In the event of job elimination/redundancy, the employer must pay severance pay to the employee. The minimum statutory severance pay is calculated as follows: • 1/4 month's salary per year of seniority for the first 10 years, • 1/3 of a month's salary per year of seniority from the 11th year onwards. In addition, the employer may also have to pay compensation in lieu of notice, and compensation in lieu of paid leave for earned but unused leave. Economic or financial difficulties do not, in principle, exempt the employer from the payment of these indemnities. NB: There may be more generous employee entitlement or indemnities specific to each sector of activity in the applicable national collective bargaining agreement (NCBA). Where this is the case, the provisions of the NCBA will apply.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	In the French jurisdiction, when safeguard, recovery or compulsory liquidation proceedings are opened, remuneration of any kind due to employees for the last sixty days of work is (after deduction of any advance payments already received, paid, notwithstanding the existence of any other preferential claim) up to the same monthly ceiling for all categories of beneficiaries. This ceiling shall be fixed by regulation and may not be less than twice the ceiling used for calculating social security contributions. The benefits subject to priority creditor status are bonuses or commissions as well as incidental expenses and notably compensation in lieu of notice, compensation in the event of an accident at work or occupational disease, termination benefits for fixed-term contracts and end-of-assignment benefits.

France

Labour Law (continued)

Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?

In France, the "Partial Reduction of Activity Scheme" (the **Scheme**) is in place to assist employers when they are required to temporarily reduce or suspend its activities for one of the following reasons:

- a decline in business or economic activities at large;
- difficulties obtaining raw materials or energy supply;
- an accident or exceptional weather conditions;
- the transformation, restructuring or modernization of the business; and/or
- any other exceptional circumstances (notably force majeure).

Under the Scheme, when an employer reduces working hours or closes an establishment, it must continue to pay affected employees an hourly indemnity equal to 70% of the employee's gross salary. In turn, the employer receives a flat allocation (co-financed by the State and the Unedic) of:

- 7.74 euros per hour not worked for companies employing between 1 and 250 employees; or
- 7.23 euros per hour not worked for companies employing more than 250 employees.

Following COVID-19, a decree was published on 25 March 2020, which provided more flexibility to employers and eased the Scheme's eligibility criteria.

The new rules provide for the following:

- Where an employer indemnifies employees for no less than 70% of the gross salary, 100% of this indemnification would be reimbursed by the authorities (reimbursing up to 4.5 times the national monthly minimum wage).
- One application can be made per business, even where the business has several sites or branches.
- An employer may submit an application to the Scheme within 30 days after the start of the reduced work activity (provided that it meets the criteria of experiencing exceptional circumstances);
- Until 31 December 2020, the administration has 2 days from the date of the application for authorization to make its decision. Failure to respond within 2 days will be deemed to be an acceptance of the request;
- The reduced work activity arrangement can be in place for up to 12 months (instead of the previous 6 months);
- The non-binding opinion delivered by the works council must be submitted within two months from the reduced work activity request (whereas previously, the works council had to have been informed and consulted prior to the employer resorting to the Scheme).
- Employees working a fixed number of days or hours of work would benefit from the measure even if the business in not entirely shut down (in derogation of standard rules);

NB: this decree comes into force for all claims made or renewed since 1 March 2020 (therefore with a retroactive effect). Further, there may be specific provisions in the metallurgy sector pursuant to the National Collective Bargaining Agreement.

France

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. The concept of force majeure justifies: ● the suspension of a contract for a temporary period or ● its termination if the impossibility to perform the contract is definitive. Specific conditions under article 1218 of the Civil code must be met for an event to be qualified as force majeure. Notably, the contractor who invokes an event of force majeure shall demonstrate the impossibility of implementing appropriate measures enabling the performance of its obligations as well as a causal link between the COVID-19 and the impossibility of performing its obligations. In the case where the COVID-19 situation and its consequences do not meet the conditions of force majeure, the parties may seek to rely on the French legal concept of being unforeseeable, if notably the COVID-19 situation makes it excessively onerous for a party to perform its contractual obligations. The concept of unforeseeable ('imprévision') enables a party to a contract entered into after October 1, 2016 to renegotiate the contract under the conditions of article 1195 of the Civil code. In this regard, a change of circumstances, unforeseeable at the time of the conclusion of the contract, shall render its performance excessively onerous. It should also be checked whether the parties did not agree in the contract to bear the risks of such a change of circumstances. The parties remain free, in the contract, to exclude the application of the force majeure or unforeseeable, or to adjust their conditions of application. In addition to the 2 specific legal provisions above, the parties can include in their contract other clauses such as renegotiation, hardship or mediation, that could apply to the Covid-19 situation depending on their wording. It is therefore very important to assess each specific situation in perspective with the terms of the contract. Please note that a specific regulation adapted to COVID-19 allows the tour operators and trip agencies to provide the customers with a credit note / voucher that can be used during 18 months instead of an immediate reimbursement. This regulation applies to the cancelled travel bookings from March 1, 2020 to September 15, 2020. More generally, the 'astreintes', penalty clauses and all contractual penalties are suspended for a period from March 12, 2020 to 1 month after the end of the quarantine period.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, this is not required. In general, the party who invokes the force majeure does not have to apply to court, except in case of dispute and contestation of the other party. Regarding the concept of being unforeseeable, in case of failure to renegotiate the contract, the parties may either terminate the contract or agree to initiate an action before a court for revision of the contract. If the parties do not reach an agreement within a reasonable period of time, a party may request a judge to revise or terminate the contract. Pending the negotiation, the parties shall continue to perform the contract. These two legal concepts have to be assessed contractually and case-by-case taking into account the factual circumstances of each case, the date of the contract and the wording of the relevant provisions.

France

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?

Yes.

Current law as per the civil code

In the case where premises are fully or partially unusable or have been destroyed, French law provides rent reductions or possibly lease termination. However, its applicability to COVID-19 is unclear.

Specific COVID-19 relief

Such rules have been introduced by the emergency Covid law allowing the French government to implement ordinances to address the Covid situation, the specific ordinance dated 25 March 2020 on the payment of rents and gas and electricity bills.

As per this ordinance certain companies may not incur financial penalties, interest for late payment, or damages, or termination of the lease due to non-payment of rent or rental charges.

The eligibility criteria for these provisions is set by a decree dated 31 March 2020 and are reserved to small companies only. Indeed criteria include notably: start of activity before 1 Feb. 2020, workforce up to 10 employees, turnover threshold of max. 1m€, a profit of less than 60k€, and limited to entities that have been forced to close their premises(lockdown as per next slide)) and have lost 70% of turnover compared to 2019 during the lock-up period.

Those pursuing their activity in the context of safeguarding proceedings, receivership or compulsory liquidation within the meaning of French insolvency and bankruptcy law may also benefit from these provisions.

These provisions apply to rents and rental charges for which the due date for payment is between 12 March 2020 and two months after the end of the state of health emergency (the date of cessation of the state of emergency is currently set at 24 May 2020).

Force majeure

Like in many jurisdiction, force majeure can be used to exonerate a party of its contractual liability for the duration of the event qualified as force majeure. Please refer to comments on “force majeure” in the contract section.

France

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Pursuant to Articles L.631-4 and L.640-4 of the Commercial Code, Insolvency proceedings must be applied for by the Debtor at the latest 45 days after the date of 'cessation of payments' (which is deemed to occur when their debts due exceed their liquid assets) unless a Conciliation Proceeding has already been opened.

The debtor's failure to file for insolvency proceedings in due time may be considered as mismanagement and involve the liability of the management/directors in case of subsequent liquidation proceedings.

On March 27th, the French government enacted a new ordinance in order to temporary amendments to French Bankruptcy law. The Ordinance provided that until the expiry of a period of three months after the end of the 'state of health emergency' (i.e., until August 24, 2020 under the current schedule), the 'cessation of payments' test must be applied as at March 12, 2020, irrespective of subsequent events or situations. So, if a company was not in 'cessation of payments' on March 12, 2020, it will be able to continue operations as going concern, and will not be required to file for bankruptcy even if its liquidity position subsequently meets the 'cessation of payments' test.

This freeze of situations will enable companies to benefit from the preventive measures or procedures.

What personal liabilities can directors be exposed to as a company nears insolvency?

Directors can be held personally liable to pay all or part of the company's debts. However, no liability action can be initiated before the company is placed into liquidation, and the power to initiate that liability action essentially belongs to the liquidator. Liquidator must prove existence of managements errors and the link between the management's errors and the insufficiency of assets.

Directors may also be exposed to non-pecuniary / professional sanctions and / or criminal sanctions knows as 'banqueroute'.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

To encourage use of pre-insolvency proceedings (i.e. conciliation) and safeguard proceedings, the French legislator has allowed the directors who have agreed to give a personal guarantee, to take advantage of any payment deferrals or reductions negotiated during the ""conciliation"" / ""Safeguard proceedings"" process between his company and its creditors.

The Ordinance n°2020-341 on 27 March 2020 relating to insolvency proceedings extending the legal timeframe of some pre-insolvency proceedings and insolvency proceedings. In particular:

- the extension of the maximum duration of 'conciliation' proceedings (normally five months) is extended for a period of time equal to the duration of the "state of health emergency" plus three months and
- the duration of the plan of 'safeguard proceedings'.

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

In response to the COVID-19 outbreak, the French authorities have put into place immediate measures allowing businesses encountering cash issues to postpone certain tax and social security payments without penalty or late payment interest. Other economic measures are focused on maintaining the level of employment, with extended partial operation measures.

Measures related to social security contributions:

Employers whose social security contributions ('Urssaf') due date was on March 15th (this deadline applies mostly to companies with less than 50 employees) can postpone all or part of the payment of their employee and employer social security contributions by up to 3 months, without any justification.

Supplementary pension contributions ('Agirc-Arrco') due on March 25 by all companies, whatever their size, can also be deferred.

(Continued on next page).

France

Insolvency (continued)

Other economic measures:

Extension of the regime of partial operation measures (‘activité partielle’), whereby the State will fully compensate indemnities paid by companies to their workers (corresponding to 70 % of gross wages), with a cap of 4,5 times the French Minimum wage.

Other measures include support from the State and the Banque de France to negotiate a rescheduling of bank credits, a State guarantee for new bank credits, mobilization of Bpifrance to guarantee bank cash lines which companies may need because of the epidemic.

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

French insolvency law currently provides two (pre-)insolvency proceedings (ad hoc mandate and conciliation proceedings).

Common features:

These proceedings are both confidential, informal, amicable proceedings where no creditor can be forced into a restructuring agreement and where the management still runs the business. These proceedings are conducted under the supervision of a court-appointed practitioner (ad hoc agent or conciliator) to help the debtor reach an agreement with its creditors, typically to reduce or reschedule its indebtedness.

Mandat ad hoc:

Mandat ad hoc's effectiveness relies on flexibility. The President of the Court may appoint a mandataire ad hoc upon the request of a debtor that, though not insolvent, encounters difficulties. Both the mandataire ad hoc's mission and duration are freely determined by the President of the Court having regard to the debtor's application.

Conciliation proceedings:

Conciliation proceedings are more closely regulated. Such proceedings apply to debtors that, though not insolvent for more than 45 days, are facing actual or foreseeable legal, economic or financial difficulty. The conciliator is appointed for a period not exceeding four months, which can be extended by the President of the Court so that proceedings can last up to five months.

The agreement reached, which is intended to put an end to the difficulties faced by the business, may be either acknowledged and made enforceable by the President of the Court or approved by the court. Only the judgment approving the agreement is public.

However, the agreement's approval enables the granting of legal privilege in case of subsequent insolvency proceedings to creditors that provided new money at the time of the conciliation proceedings ('new money privilege') and the prevention of the clawback period starting prior to this judgment.

France

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

In the context of the Covid-19 health crisis, the CNIL recalled, on March 6, 2020, the principles to be applied in terms of personal data collection in the context of the current pandemic. The European Data Protection Committee (EDPB) also issued two opinions statements on 16 and 19 March.The employer is responsible for the health and safety of its agents/employees. It must therefore implement preventive measures to limit the spread of the Covid-19 virus (such as limiting travel, observing hygiene measures, limiting meetings, etc.).

In this context, the employer cannot infringe violation the data subjects' privacy of the persons concerned (employees, agents, visitors and their relatives) through the unjustified collection of personal data and particularly health data. This is why the French Data Protection Act Law No. 78-17 of 6 January 1978 and the general regulations on data protection n° 2016/679 of 27 April 2016 govern the processing of personal data operations.

Non-exhaustive list of good practices and pitfalls to avoid

DO:

- Educate/raise employees/agents' awareness regarding the risks associated with COVID-19.
- Implement a business continuity plan.
- Invite employees/agents to report possible exposure (to health authorities or employer).
- Collect and retain the following data in case of a report:

  (i) the date and identity of the person suspected of having been exposed
  (ii) the organizational measures taken.

  [This data may be communicated to the health authorities which request it in the context of the health or medical care of the exposed person.]
- Limit the collection of health data to only that data required by the competent health authorities.
- Inform employees/agents of the existence of cases of COVID-19 in the company (provided that the individuals involved are not identifiable).
- Establish a retention policy for data collected in the context of the health crisis.
- Include the processing of personal data processing operations related to the health crisis in your register record of processing activities.
- Duly inform employees/agents and any other data subjects of the processing operations carried out on their data in the context of the health crisis.

DON'T:

- Collect health data for purposes other than the management of suspected exposure to COVID-19.
- Collect, in a systematic and generalised manner, information related to the search for symptoms presented by an employee/agent/visitor or his/her relatives (e.g. through individual inquiries or requests).
- Request or arrange for daily temperature readings to be taken and sent to management.
- Circulate medical questionnaires to employees/agents.
- Require/oblige employees/agents to complete questionnaires about their recent trips.

(Continued on next page).

Cyber & Privacy (continued)

- Reveal the names of people with symptoms or COVID-19.
- Implement "invasive" measures to monitor employee telework activity (e.g. keyloggers).
- Geolocate employees/agents in order to assess health risks by installing a non-parameterizable application in their professional mobile (e.g. contact with people exposed to COVID-19, travel to areas with high exposure risks, etc.).
- Extend the exceptional measures implemented beyond the period of health crisis.

How can I limit my company's exposure to cyber risks (from a legal point of view)?

- Identify the risks, taking into account the specificities of the context (which equipment, which applications, which data?), and estimate them in terms of severity and likelihood.
- Make employees aware of cyber risks and the means used by cyber attackers (e.g. malware, ransomware, phishing via SMS, phone calls, e-mails, false calls for donations, etc.).
- Write (or update) an IT charter and give it binding force (e.g. annex to the internal rules of procedure). If necessary, remind employees of the terms and conditions for the use of IT tools in the context of telework.
- Provide a framework for IT shadowing (i.e. the use of personal equipment unauthorised applications for professional activity). Write instructions and recommendations for the use according to of the company's IT tools.
- Set up a cyber crisis management system allowing for enabling a rapid quick reaction in case of an incident.
- Classify remotely accessible corporate information and documents according to their sensitivity and provide appropriate security measures.
- Ensure that your insurance policy covers cyber risks.
- Be attentive to orders or modifications of fraudulent bank transfers in order to limit the risk of identity theft.
- Write internal procedures for managing security breaches.
- Keep a record of data breaches.

France

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Clerks of Commercial Court in charge of the Trade & Companies Register are operating. Visiting the Clerk in person is possible under certain conditions. Since early May 2020, all requests via the electronic platform have been processed.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are now open and accepting filings. Access to hearings is possible under certain conditions. Hearings are held physically or using audio/video conference.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries are rarely needed for corporate law matters. Public notary offices are open. The delivery of apostilles, which require input from the courts, is now possible. However, certain courts (notably Paris and Versailles) will be closed to the public for the purpose of apostille services during July and August.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signatures are permitted under French law. They must meet certain legal requirements and the system must be secure. For any important documents, qualified electronic signatures should be preferably used. Documents signed electronically are not accepted by the FTA for registration purposes.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	For board meetings, it depends on the type of company and on the Articles of Association. Derogating measures, applicable as from 12 March 2020, until 3 July 2020, unless an extension is provided by way of a decree and no later than 30 November 2020, allow for the use of video conference or telecommunication for board meetings. These measures apply regardless of the purpose of the decision and without the need for a statutory clause or internal regulations permitting it.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	The derogating measures, allow the decisions of the board to be held electronically or by telephone, subject to certain conditions.

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Georgia

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally, no. Under the Georgian Labour Code, an employee is entitled to at least 15 days of unpaid leave annually. However, an employer cannot direct the employee to take unpaid leave (i.e. employees will need to agree to take the leave).
Can an employer direct an employee to take paid annual, holiday or similar leave?	No. An employer cannot unilaterally direct an employee to take leave. However, the employer and employee can agree on the taking of annual leave.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. If the employment is terminated due to economic circumstances, the employer must: • pay 2 months of wages, where it provides 3 days notice to the employee; or • pay 1 month of wages, where it provides 1 month prior notice to the employees. Under the Georgian Labour Code, financial difficulties is not grounds for non-payment of severance pay. However, where termination of employment is due to the liquidation of the employer, the employer is not obliged to pay the severance payment.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Under the Law on Insolvency Proceedings, employees are treated as other unsecured creditors. However, the Law provides the possibility of a rehabilitation plan to envisage the full satisfaction ahead of time (without observing the order of priority, and before satisfying the claims of the preceding priority) of those claims that have arisen from the labour relations between the debtor and the debtor's employees and/or former employees. This is in relation to salary, reimbursement of business trip expenses, compensation and other related debts.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	At this stage, no.

Georgia content (except Corporate and Contract Law) as at 9 April 2020

Georgia

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. In cases where a force majeure clause is not provided by a contract, a party may still rely on the provisions of the Civil Code of Georgia and request exemption from liability. According to the general rule, a person shall be liable for failure to perform obligation if this is caused by his/her fault. If the person proves that the failure to perform the obligation is caused not by his/her fault but by an independent and unavoidable event, (s)he may not be liable for damages, penalties or other liabilities. Where a contract provides a force majeure clause, this clause shall be analysed, including: how force majeure events are defined; how force majeure clause can be triggered; what specifically the force majeure clause excuses; what contractual requirements and procedures apply in case of arising force majeure events; whether the event directly causes failure to perform the contractual obligations, etc. As a general rule, during the force majeure period, a party is temporarily exempted from performance and is not liable for breach. However, once the force majeure ends, the party will be responsible for performing the contractual obligation (if there is no frustration of purpose). In addition, subject to certain conditions, a party may request to adapt/modify the contract to the changed circumstances. If modification is impossible, or if the other party disagrees, then a party may repudiate the contract.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. In case of disagreement, either party may apply to court. The court will decide on a case-by-case basis whether a party may be relieved from contractual obligations and/or liabilities. Force majeure can be confirmed by different types of evidence, such as statutory acts made by state authorities, certificates issued by administrative bodies, etc. For example, the Georgian Chamber of Commerce & Industry (“GCCI”) may issue a certificate confirming the existence of force majeure in the context of a specific contract. However, it should be noted, that the GCCI only verifies the existence of force majeure and does not provide opinion on whether a liability shall be exempted. It is up to the court to assess whether a party may be released from contractual liabilities.
Are commercial property or other leasing arrangements subject to any special arrangements?	Within the state of emergency regime (declared by the Government of Georgia in March) almost all commercial properties were physically closed. However, there was no moratorium or similar legal regime announced in respect of obligations under lease/rental agreements.

Georgia content (Contract Law) as at 5 June 2020

Georgia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	If a company is insolvent or faces insolvency, directors shall, without delay, but no later than three weeks from the moment the company becomes insolvent, submit application for insolvency.
What personal liabilities can directors be exposed to as a company nears insolvency?	Directors can be held to be jointly and severally liable for damages incurred by the company, if they do not conduct company's business in good faith. Further, in some cases directors may be charged with criminal law offenses such as: • failure by director to file an application for initiating insolvency proceedings in case of insolvency shall be punished by a fine, or forced labour for up to 1 year, or imprisonment for up to 1 year. • failure by director to fulfil his/her duties which caused significant damage to state interests shall be punished by a fine, or house arrest for 0.5-2 years; or imprisonment for up to 3 years. • disposing or hiding property for the purposes to make it inaccessible for creditors that during insolvency proceedings would have become trust property, also damage or destruction of property in violation of proper management requirements shall be punished by a fine, or house arrest for 0.5-2 years, or imprisonment for up to 3 years.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There is no safe harbour legislation in Georgia. It is a director's duty to file for insolvency proceedings when company becomes insolvent or is within the zone of insolvency.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	There is no moratorium or similar regime in place specifically for insolvency proceedings. As a general rule, under a court ruling on the admission of an insolvency application: • a trustee shall be appointed; and • the date of the creditors' meeting shall be fixed. From the moment when a court ruling on the admission of an insolvency application has been rendered, the company (debtor) may not enter into any transactions and/or terminate existing transactions without the consent of the trustee or the court.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	According to the Law of Georgia on Insolvency Proceedings, insolvency proceedings cover: • **rehabilitation** - the combination of procedural, managerial and administrative actions aimed at a gradual and full satisfaction of creditors' claims, mainly by improving the financial situation of the debtor; • **bankruptcy** - the combination of procedural and administrative actions aimed at satisfying creditors' claims to the fullest possible extent mainly through the realisation of trust property (property that is in the ownership of a debtor at the moment of the opening of insolvency proceedings). By submitting insolvency application, company director either request rehabilitation or bankruptcy procedure. In the event of requesting rehabilitation, the draft of a rehabilitation plan shall be attached to the application. The court will consider the plan based on the opinions of the trustee and conciliation board. There is no other insolvency regime in Georgia.

Georgia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Due to the labour safety obligations, an employer must take all reasonable measures to prevent the spread of COVID-19 at the workplace. Therefore, for this purpose and in certain cases, an employer may process that personal data about an employee, which in ordinary circumstances would not be permissible under data protection requirements.

Under the Law on Personal Data Processing ("PDP Law"), data related to individual's health is a special category data. With respect to such personal data, the PDP Law sets higher standard of protection and provides for the exhaustive list of the grounds for its processing. One of the grounds to process such data is for health protection purposes. In such case data processing is permitted without an employee's consent. Therefore, an employer may process information about the employee's recent travel history and presence of symptoms, in the case the employee has symptoms – with whom and when he/she had contact at the workplace etc.

An employer must not collect or process employee's personal data that is not objectively related to the prevention of the spread of COVID-19.

With respect to COVID-19, personal data from an employee shall be obtained only by the authorised person in the company (e.g. security officer).

The access to employee's personal data must be granted only to those individuals who per their official authority need such information in order to ensure the safety of the staff and prevention of the spread of the virus.

If one of the employees' test is positive for COVID-19, it may be assumed that the employer is authorized to notify other employees about the fact, if this is necessary for the timely identification of other employees who may had contact with the infected colleague.

An employer shall not disclose the employee's personal data to third parties, other than to the relevant state authorities.

Georgia

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Public registry offices in Georgia are physically open. In order to receive registry services, prior booking through the website (my.gov.ge) is required. Remote registry services are also available and can be accessed through the website (napr.gov.ge and my.gov.ge). Remote services include: ● Registry of Entrepreneurs and Non-entrepreneurial (Non-commercial) Legal Entities; ● Registry of Economic Activities; ● Real Estate Registry; ● Registry of Public-law Restrictions; ● Registry of Tax Liens/Mortgages, etc. In some cases, a qualified electronic signature is required in order for an applicant to submit documents remotely.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are open and continue to accept filings. An application/lawsuit/complaint can be filed to courts electronically. A person may use an electronic signature to submit the documents. In the absence of an electronic signature, a printed application/complaint must be signed, scanned and uploaded to the special court e-system.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notarial bureaus are open upon the approval of Ministry of Justice. Individuals can receive notarial services in the following notarial bureaus: <https://www.my.gov.ge/ka-ge/services/10/notary-service-without-reservation> Apostille and legalization for official documents can be exercised in Georgia through Public Service Halls.

Georgia content (Corporate) as at 9 October 2020

Georgia

Corporate (continued)

Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Georgian law provides the option to use a qualified electronic signature. A qualified electronic signature has the same legal effect as a handwritten signature
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	The possibility of telephonic or electronic board and shareholders' meetings should be assessed on a case-by-case basis considering the requirements of company's articles of association and measures taken for the identification of participants. Generally, shareholders or their representatives attend meetings physically. As soon as shareholders' meeting makes a decision, the chairperson shall prepare and sign the minutes. Georgian law provides following other options: ● Shareholders' meeting need not be called if all company shareholders give written consent on an issue under consideration. Such written consent shall be equivalent to minutes of the meeting. In this case shareholders may use a qualified electronic signature instead of a handwritten signature. ● It is possible for a limited liability company to call a shareholders' meeting electronically through the Public Registry portal (my.gov.ge.) In order to use this method, a company and its shareholders shall be registered on the portal.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	See previous response: The possibility of telephonic or electronic board and shareholders' meetings should be assessed on a case-by-case basis considering the requirements of company's articles of association and measures taken for the identification of participants. Generally, shareholders or their representatives attend meetings physically. As soon as shareholders' meeting makes a decision, the chairperson shall prepare and sign the minutes. Georgian law provides following other options: ● Shareholders' meeting need not be called if all company shareholders give written consent on an issue under consideration. Such written consent shall be equivalent to minutes of the meeting. In this case shareholders may use a qualified electronic signature instead of a handwritten signature. ● It is possible for a limited liability company to call a shareholders' meeting electronically through the Public Registry portal (my.gov.ge.) In order to use this method, a company and its shareholders shall be registered on the portal.

Contact for Germany

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Germany

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	**Periods of Sickness** If an employee has tested positive to COVID-19, the German Continued Remuneration Act applies, and the employee receives his or her normal continued remuneration for up to six weeks. **Periods of Quarantine** In the event of an official order and the existence of an employment ban, employees are entitled to compensation from their employer, limited to up to six weeks. The employer may, on request to the competent authority, demand reimbursement of the amounts paid out. **Self-Isolation** There is no entitlement to continued payment of remuneration if the employee is not unfit for work and, for example, does not attend work due to fears of infection. Employees will generally be obliged to work unless they can agree with their employer to work under a home-office-solution.
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	Adequate childcare is in principle in the employee's sphere of risk, so the employee must check whether alternative childcare facilities are available. If the child is healthy but, for example, the day-care centre has closed and the employee has no other possibility to accommodate the child, the employee retains his or her claim to remuneration for an insignificant period of time, which should be determined on a case-by-case basis, but will usually not be longer than a period of one week. If the child is ill and has not yet reached the age of 12, the employee is entitled to time off work and a sickness benefit provided that certain further conditions are met and the employment contract does not expressly exclude such claims. In that case, the employee may have claims against the health insurance. NB: at the moment, the legal position is subject to constant change depending on the region of Germany in which the child care or school is based. We can advise clients on these as required.
Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	There is the possibility to release the employees from work, if there is no work to do. However, if an employer does this, the released employees retain their claim to normal (full) remuneration without having to perform work . In other words, it is basically at the risk of the employer, if the employer cannot utilise his workforce - this is judged as his entreprenurial risk (i.e. "Betriebsrisiko"). Germany has a regime for short time work under social security law (i.e. ""Kurzarbeit""). This is the temporary reduction of working hours (up to zero working hours) in response to a significant shortage of work. The implementation of short-time-work leads to reduced payments to the employees (corresponding to the reduction of working time) and the employee, subject to meeting certain pre-conditions, could be entitled to additional payment from the social security authorities to compensate for the salary lost due to the reduced working hours ("Kurzarbeitergeld"). The introduction of short-time work always requires a contractual or other basis. In the absence of collective law regulations (especially agreements with the workers union or workers councils), short-time work must be agreed with each employee on an individual contract basis, or with the unopposed acceptance of the employee, or with a notice of change. In view of the increasing burdens resulting from the spread of COVID-19, the legislator has decided to reduce the requirements for receiving short-time working benefits under the "Working of Tomorrow Act". These will take effect from backdated date of 1 March 2020 (and further changes may be implemented). It is expected that the system of short time work will be widely used all over Germany by small and large companies. **(Continued on next page)**

Germany content (all topics except Corporate) as at 9 April 2020

Germany

Labour Law (continued)

	In terms of "small businesses" (i.e. business with up to 5 employees, or in some cases, ten employees), it is possible to terminate an employment relationship without social justification. Where an employer is not a small business, there is the possibility of a dismissal for operational reasons, but such a dismissal is an exceptional remedy and limited by the German Act against unfair dismissals (""Kündigungsschutzgesetz""). Termination of employment for operational reasons during short-time work is socially unacceptable if it is based on the same reasons that led to short-time work.
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The legislator has decided to reduce the requirements for receiving short-time work and to support employers by reimbursing social security contributions. The liquidity of companies is improved by tax measures. To this end, deferral of tax payments is made easier and advance payments can be reduced more easily. The liquidity of companies is protected by new measures, rather unlimited in volume. To this end, the existing programs for liquidity support will be expanded and made available to more companies. This legal work is in progress by the German Legislator.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	In principle, the self-employed person/entrepreneur bears the risk of not earning any money (except for in cases where the person is not really "self-employed" and in reality should be treated as an employee, in which case they may be able to make an employee claim). If self-employed persons are (or become) subject to a prohibition of activity due to COVID-19 (whether because of a prevention strategy, suspicion of infection, suspicion of illness, or otherwise as a carrier of pathogens) on the basis of the German Protection against Infection Act, the self-employed person will suffer a loss of earnings. Although they are not ill, they are generally entitled to compensation of money according to § 56 of the German Protection against Infection Act. Should a company wish to provide contractors with sick pay due to COVID-19, this may be agreed contractually with consent of the employer and contractor.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	The Federal Ministry of Labour and Social Affairs is currently examining ways of avoiding unreasonable wage losses in the event that childcare facilities are absolutely unavoidable for employees. Further measures may be implemented.

Germany

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. There are certain legal concepts which can be used in events like a pandemic. Firstly, on 27 March 2020 the German legislator has enacted various laws which have a bearing on contractual obligations: Basically, the laws aim at protecting consumers and small businesses who are not able to meet their contractual obligations due to the implications of Covid-19. Thus, a moratorium until 30 June 2020 has been established in the field of consumer loan agreements if the consumer can no longer pay his rates. The same has been set forth for certain types of consumer contracts, e.g. as to electricity, water, telecommunication services and the like. Moreover, small businesses can also rely on a moratorium under certain conditions. Apart from these brand-new rules, German law also entails the following general concepts: Section 275 of the German Civil Code provides for an exclusion of the duty of performance if such performance is impossible for the obliged party or for any other person. The obligor may refuse performance to the extent that performance requires expense and effort which, taking into account the subject matter of the obligation and the requirements of good faith, is grossly disproportionate to the interest in performance of the obligee. Events like the COVID-19 pandemic could lead to an objection based on section 275 of the German Civil Code. Moreover, an adaption or revocation of a contract might be legally possible under section 313 of the German Civil Code if and when the circumstances which became the basis of a contract have significantly changed since the contract was entered into and if the parties would not have entered into the contract or would have entered into it with different contents if they had foreseen this change. Depending on the circumstances of the individual case, severe problems hindering performance might qualify as allowing for an adaption pursuant section 313 of the German Civil Code. Furthermore, if German law leads to the application of the CISG, then this would enable a party to rely on force majeure. If a commercial contract explicitly contains a specific force majeure clause, German law would uphold such clause. Whether such clause reliefs a party completely from its obligations, is of course dependent on the wording of such clause.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. A party to a contract could bring an action to a court for a declaratory judgment that a certain obligation does not have to be fulfilled due to the implications of the Covid-19 pandemic. The plaintiff would of course have to demonstrate that the conditions to justify non-performance or non-payment exist.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. On 27 March 2020 the German Legislator has also addressed the field of commercial and private lease agreements. Landlords are not allowed to terminate lease agreements in the event that the tenant has not paid the rent in the time period from 1 April through 30 June 2020. The tenant must demonstrate that the non-payment is due to the implications of the Covid-19 pandemic. The fact that various large companies and chains have relied on the new law and announced that they would not pay the monthly rent in the next three months has caused substantial political debate in Germany and in some instances also lead to calls to boycott certain companies.

Germany

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	Directors and board members have an obligation to file for insolvency, Sec. 15a German Insolvency Statute (InsO). If directors permit a company to incur a debt where there are reasonable grounds to suspect the company is insolvent or will become insolvent by incurring the debt, the director can be subject to a range of penalties including (1) becoming personally liable for the debt, (2) civil and criminal penalties. Further liabilities relevant to directors and board members of companies in a crisis are: • Liability for unlawful acts, Sec. 823 subs. 2 German Civil Code (BGB); • Liability for withholding of Social Insurance Contributions; • Liability for breach of tax obligations.
What personal liabilities can directors be exposed to as a company nears insolvency?	Managing directors and board members are subject to a considerable liability risk in the crisis of a company. According to the relevant legal provisions (dependent on legal form of the company), all payments that are still initiated or permitted by the company after the occurrence of insolvency or over-indebtedness might lead to personal liability of the director or board member. They can also be held liable for a breach of obligations of due care pursuant to Sec. 43 German Limited Liability Companies Act (GmbHG). Criminal Law risks might arise from delayed filing of insolvency, the breach of the obligation to notify losses, fraud and embezzlement.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Directors and board members shall file a request for the opening of proceedings without culpable delay, if a reason to open such proceedings exist according to the German Insolvency Statute (InsO). Generally, directors and board members shall take their duties with the due care of a prudent and diligent businessman, they should always keep themselves up to date with the daily financials, turnovers and losses. They also shall be sensible for other indications like a decline in sales, fall in earnings, bad debts, operative losses and/or negative operative cash flows and on the financial side by exhausted or overdrawn credit limits, liquidity squeezes or an atypical rise in indebtedness.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	As a reaction to the economic effects of Covid-19-pandemic, the German government implemented some adjustments and exemptions to the German Insolvency Statute (InsO). These include the temporary suspension of the obligation to file for insolvency and for the limitation of the liability of directors and board members for insolvencies caused by the COVID-19-pandemic. The adjustments and exemptions will initially be valid until 30 September 2020.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	There are further main legal exemptions and adjustments in connection with the Covid-19-pandemic: • To prevent a creditor from using its right to file for insolvency despite the debtor's suspended obligation to file for insolvency, a creditor's application for insolvency shall only be permittable if there were grounds for insolvency prior to 1 March 2020; • During the suspension period, the liability of members of the representative body of the creditor will be limited. To this end, it will be assumed that payments made in the ordinary course of business, in particular for continuing or resuming the business or the implementation of restructuring concepts, are deemed compatible with the due care of a prudent and diligent businessman within the meanings of the respective liability provisions; **(Continued on next page)**.

Germany

Insolvency (continued)

- To facilitate access to further liquidity, obstacles for financing will be reduced. The provision states to end that any repayments by 30 September 2023 of a new loan granted during the suspension period as well as the provision of guarantees for such loans during the suspension period shall not be deemed disadvantageous to the creditor. Thus, providers of loans for restructuring no longer face the threat that the debtor's transaction prior to insolvency proceedings may be challenged. This explicitly also extends to shareholder loans. In this respect, the subordination status of newly-granted shareholder loans is abrogated during the suspension period in insolvency proceedings filed for until 30 September 2023. In addition, loans and guarantees granted during the suspension period will not be deemed an improper contribution to a delay in the filing for insolvency.

- In order to protect contractual partners and facilitate the continuation of business operations, also any contest of debtors' transactions other than loan repayments prior to insolvency proceedings will also be substantially limited. Legal acts will mostly not be contestable in a later insolvency proceeding, unless the contractual partner knew that the debtor's restructuring and financing efforts were not suitable to resolve an occurred insolvency. At the same time, it does not give free rein not to file for insolvency and under no circumstances exempts from liability risks.

Directors and managers must strictly verify whether they are able to restructure the companies led by them and make them survive the economic crisis caused by Covid-19-pandemic without insolvency, otherwise an insolvency at this time may even be the better option.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Since a lot of companies have adapted to home office in times of the COVID-19 crisis, it is important to maintain the required privacy level according the European General Data Protection Regulation (GDPR), when it comes to the processing of personal data. In particular, technical and organisational measures (art. 32 GDPR) must be taken into account when configuring the home workstation (e. g. the secure storage of sensitive documents or the use of protective foil on screens) and selecting collaborative tools (e. g. third party communication software).

The special regulations on employee data protection in national law (sect. 26 of the German Federal Data Protection Act) must also be complied with if employers eventually introduce new methods of collecting employee data.

In the context of containing the pandemic, the handling of employees' health data can as well become a concern, as this is specially protected by the GDPR (art. 9). In several guidelines European and national supervisory authorities, such as the European Data Protection Boards (EDPB), the German Data Protection Conference (Datenschutzkonferenz - DSK) and various supervisory authorities of the federal states, have outlined how the processing of particularly sensitive data can be structured in a lawful manner. As is often the case, the legality of a specific measure (e.g. a questionnaire, a fever measurement or a swab test) depends on the individual situation and the interests to be protected.

Germany

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Filings with the commercial register have to be done electronically by the notary. All commercial registers are open. Delays still possible.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	All courts are open. Delays still possible.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	All notaries are operating. Apostillation will be handled by the competent Court, which are all open. Delays still possible.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are permitted. However, they are not permitted if written form is required (i.e. not possible for acknowledgement of debt or personal security).
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Shareholder resolutions of German limited liability companies (GmbH), are more relevant than board meetings. Depending on the Articles of Association shareholder resolutions can be executed in written form, via phone (recorded subsequently) and via telefax. Signatures of all attending shareholders are required. In case of a resolution to be used for a filing the original wet-ink signature is required. For some transactions (e.g. mergers) a notarised shareholder resolution is required.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Shareholder resolutions of German limited liability companies (GmbH), are more relevant than board meetings. Depending on the Articles of Association shareholder resolutions can be executed in written form, via phone (recorded subsequently) and via telefax. Signatures of all attending shareholders are required. In case of a resolution to be used for a filing the original wet-ink signature is required. For some transactions (e.g. mergers) a notarised shareholder resolution is required.

Germany content (Corporate) as at 1 June 2020

Greece

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No, employee consent is required. Unilateral granting of leave without pay is strictly prohibited under Greece's labour legislation. Such leave may only be granted pursuant to an agreement by the employer and the employee, following the employee's request.
Can an employer direct an employee to take paid annual, holiday or similar leave?	According to the Greek labour law, as in force, the period of granting the employees' annual leave shall be agreed between the employer and the employee, and in any case, it shall be granted within two (2) months of the relevant employee's request (art. 4 par.1 of Law 339/1945 as in force). In other words, the employer is not allowed to unilaterally grant to the employees part or the total of their annual leaves' entitlement, without the explicit consent of the latter. The same applies also during the "COVID-19 period", as no specific provisions or instructions have been yet published by the Labour Ministry, in this regard. However, there are other types of leaves that an employee may receive, as an exceptional COVID-19 measure, such as: • The special purpose paid leave in the case of suspension of the operation of the educational units or the employees' child care units, if applicable, where the first three (3) days are called "special", while every fourth (4) day derives from the employees annual leave entitlement . In case of special purpose leave, one part of the employees' salary and social security contributions will be covered by the employer (2/3) and the other part will be covered by the state (1/3). • Special leave due to sickness of employees children. In such case, the "sickness leave" is granted for fourteen (14) days or more, if this is certified by a doctor or if the child is hospitalized. The remuneration of the employees in the private sector is covered at 2/3 by the employer and at 1/3 by the state, while the remuneration of the employees in the public sector is totally covered by the state.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. According to the generally applicable rules of Greek labour law, there is a specific statutory severance package calculated by a formula that takes into consideration the employee's salary and years of past service with the same employer. No such relief is available. Therefore if an employer upon termination, does not pay the employee's severance on the day of termination, such termination is null and void.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. The Greek Bankruptcy Code ("GBC") provides that creditors in insolvency proceedings are classified in the following categories: • General Privilege creditors (whose claim has a general priority privilege for satisfaction from the whole of the debtor's estate), • 'Secured creditors' (whose claim is secured by special privilege or real security on a specific asset of the debtor's estate), **(Continued on next page)**.

Greece content as at 12 October 2020

Greece

Labour Law (continued)

- Unsecured creditors (whose claims are satisfied by the debtor's estate not secured by a general privilege claim or real security right), and
- Reduced Protection creditors (whose claim will be satisfied from the debtor's estate after the satisfaction of the unsecured creditors, e.g. shareholders).

By way of general rule, under the GBC, employees' claims for the provision of dependent employee services as well as claims for fees, expenses and compensation for lawyers remunerated with a fix periodic fee, are vested with a general privilege (fourth rank) provided that these have ensued within the last two years prior to the declaration of insolvency.

Further, the same (i.e. general privilege) applies also to claims for damages due to the termination of an employment relationship, as well as lawyers' claims for damages due to the termination of their salaried contract, irrespective of the time they incurred.

However, following certain amendments of the relevant GBC provisions (by virtue of L. 4512/2018), an extra layer of protection (in the form of super priority) is provided for wages deriving from an employment relationship after the 17th of January 2018, within six months prior to the declaration of bankruptcy and up to an amount equal to six monthly wages per employee. More precisely, said claims are vested with a super seniority privilege (first rank) following the deduction of the legal and bankruptcy expenses including the bankruptcy administrators' remuneration. For calculation purposes, the monthly wage is equal to the minimum wage of an employee working over 25 years multiplied by 275 per cent.

Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?

No.

There are no specific measures for unpaid employment benefits in an insolvency scenario, other than those referred to in this questionnaire.

Greece

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?

One basis stemming from established case law that could be invoked to pursue relief from contractual obligations in the event of a pandemic is that of force majeure. In particular, the concept of force majeure is met when unforeseen and extraordinary events occur (whether de facto or events related to a contracting party) and could not be prevented by measures of exceptional diligence and prudence by the average person. The legal concept of force majeure in Greek law falls under the category of random events (τυχηρά) and is not regulated by a general rule of law. In the Greek legal system, contractual liability in case of a breach of an obligation is governed by the principle of fault and/or negligence. Random events (such as force majeure) constitute events for which the contracting party has no liability, since they constitute extreme cases that are, for human forces, impossible to prevent. In such cases no liability can be attributed to the contracting party. Due to the significance of determination of what constitutes negligence and random event, it is common practice for contracting parties to regulate what is to be considered a force majeure event by including relevant clauses in agreements regulating the affairs of the parties should a force majeure event occur.

The second legal basis that stems from general law and could be invoked to pursue relief from contractual obligations in an event of a pandemic is the concept of unexpected change of circumstances provided in article 388 of Greek Civil Code.
Said provision provides a waiver from the principle of contractual compliance. In the event of an unexpected change of the circumstances upon which the parties were based to form their contractual agreement due to extraordinary reasons that were not possible to be predicted and if due to such change the agreed provision of the one party (debtor), taking in to account the consideration agreed, became excessively burdensome, then law provides for a judicial settlement possibility or a possibility for revision of the agreement, in order to deal effectively and fairly with the problem and the deadlock created.

This approach is a manifestation of the principle of good faith, applicable under the following conditions:

- A bilateral agreement is required;
- A change to the terms agreed by the parties, in good faith, for concluding the contract;
- The change occurred after conclusion of the contract;
- The change is attributed to an extraordinary and unpredictable event;
- Due to that change, the provision of the one contracting party (debtor) became excessively burdensome;

Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?

Yes, however this is under the general procedures and the analysis described in previous section, there is no ad hoc or specific process for the covid related crisis

Are commercial property or other leasing arrangements subject to any special arrangements?

Pursuant to Government legislative Act with title "Emergency measures to address the effects of COVID-19, the dispersal risk, to support the society and entrepreneurship and to ensure the smooth functioning of the market and public administration" dated March 20th 2020 (Government Gazette A΄ 68), the Greek Government passed regulation re professional leases and family leases of employees working in businesses that their operations were suspended and hence these businesses suspended the employees employment contracts. In particular, for professional leases of the businesses captured by the special and extraordinary measures issued to suspend or temporarily prohibit their operation for precautionary or repressive reasons related to the COVID-19, the lessee of such lease shall be released from the obligation to pay 40% of the total rent for the months of March and April 2020, in derogation of the existing lease provisions. The partial non-payment of the rent pursuant to such provision does not give rise to a right to terminate the lease to the detriment of the lessee or any other civil claim.

(Continued on next page)

Greece

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?

The same provisions apply for employees granted the use of movable or immovable property for rent, the use of the granted property is intended solely for business activity and relates to a business operation for which special and emergency suspension measures have been taken for precautionary reasons related to the COVID- 19. Finally, same provisions apply to lease agreements of main residence, whereby the lessee is an employee of a company captured by the special and extraordinary measures to suspend or temporarily prohibit its operations for precautionary reasons related to the COVID-19, and the employee's employment contract has been temporarily suspended due to such measures to avoid dispersal of the COVID-19.

Furthermore, the Government legislative act stipulated that the partial non payment of rent for main residence is applicable also if a spouse or partner in a civil partnership or in cases that only one of the parents is employed in a company captured by the special and extraordinary measures to suspend or temporarily prohibit its operations for precautionary reasons related to the COVID-19, and such employee's employment contract has been temporarily suspended up to and including September 2020 due to measures to avoid dispersal of the COVID-19.

The benefit of release from the obligation to pay 40% of the total rent for their main residence was also extended to lessee's who are seamen whose impressment contract has been suspended or spouses or counterparties to a civil partnership with a seamen.

Additionally, a release from the obligation to pay 40% of the total rent was established for businesses affected by the epidemic being lessees with a right to use of movable or immovable property or both, that is aimed at professional use within a financial leasing scheme, through the extension of the payment profile of said 40% with up to 12 monthly installments for property financial leasing agreements and 6 monthly instalments for mobile assets financial leasing agreements through refinancing agreements agreed by the financial leasing companies.

The right for release from 40% re the payable rent has been extended by the latest Government legislative Act up to and including the month of September 2020 (Act nr 1214).

At the same time, pursuant to Government legislative Act 1213, the Government has foreseen that for the period from September 2020 up to and including December 2020, the lessor and lessee can contractually agree the release of the lessee for a percentage of the rent being not less than 30% of the contractually agreed rent, in which case a process of electronic notification to the independent authority of public revenue is followed. The provision authorises the Minister of Finance to specify the affected business in every business area and month that the regulatory provision covers.

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Under Greek company law the company Directors owe a duty of care to the Company. The duty is to act exclusively to the interests of the Company with the aim to achieve its long-term financial sustainability and going concern. This is not affected when the company is in the situation where insolvency is near or imminent.

Further to the above, the Greek Bankruptcy Code ("GBC") introduces additional duties to directors when the company is in a financially distress situation, by virtue of which:

- Directors cannot ignore/set aside creditor's interests when the company enters into financial distress/insolvency situation. To that effect, the BoD/Administrator(s) has an obligation to proceed promptly with a petition for declaration of insolvency whereas delay from its part triggers the several liability of its members vis a vis corporate creditors for damages inflicted to them from the reduction of their portion from the bankruptcy estate recovery; and

- in case the company Directors cause the cessation of the Company's payments, acting with willful misconduct or gross negligence, a further liability is triggered by which said individuals are severally liable for damages against the corporate creditors, for the damages the latter have suffered while the company is trading insolvent on account of the conduct exhibited by said individuals. This liability extends to shadow directors exercising influence to the respective BoD members/Administrator(s) of the Company.

The above may also trigger criminal sanctions set out in the GBC.

Greece

Insolvency (continued)

What personal liabilities can directors be exposed to as a company nears insolvency?

Civil and criminal liabilities may be triggered for directors in instances where they are found to have caused loss-making, extraordinary or inappropriate risky transactions including borrowings or asset transfers, misleading entries or failure to keep appropriate books and records, failure to prepare and approve financial statements as required by law, or preferential treatment of third parties (including related parties) which are found detrimental to creditors' rights (including the depreciation of bankruptcy estate assets).

Furthermore, Directors and company legal representatives may face civil and criminal liabilities for offences deriving from tax evasion and non-payment of taxes, pursuant to the relevant tax provisions. They may also face criminal and civil liability sanctions for non-payment of salaries and other employment benefits, including social security contributions. With particular reference to the non-payment of social security contributions, in case of the company's wind up/liquidation, Directors may be found to have joint and several liability for their payment.

Notwithstanding the above, any other compulsory Company law provisions remain in effect and applicable (e.g. share capital, annual balance sheet, granting of loans etc) and to that effect the same applies to sanctions for their violation.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

By way of general rule, directors are considered to discharge their duties as prescribed in law when they act in good faith, exercise due diligence and using professional advice (from qualified independent third party advisors, when so required.

If they have exhibited the above, they may invoke the business judgement rule defense when taking a business decision and proceed with its implementation, including a decision to proceed with debt restructuring or filing for insolvency as soon as they realize that the company is facing financial difficulties/distress.

Furthermore, the decision to preserve the going concern value of the enterprise can be validly argued/defended if the business judgment rule conditions are met.

The above general approach is qualified in instances where the company is in cessation of payments whereby, in accordance to the GBC provisions, management may attempt to preserve the going concern value through a recovery agreement filed for court ratification, assessing that this will benefit the creditors expected recovery and rights, on condition that at the same time they will file an application for declaration of bankruptcy/insolvency (suspended until the court decides on the restructuring application).

Furthermore, Directors/Administrators may opt to resign from their duties if the above principles are not adhered to by the BoD/Shareholders and/or shadow directors of the company.

Finally, D&O's including specific clauses for such instances may also provide a safeguard towards mitigating risk exposures.

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

Measures in relation to business loans

a.For businesses that had performing business loans as at 31 December 2019, the repayment of loan principal has been deferred until the 31st of December 2020 (with each bank having announced its respective measure facilitation plan). The Greek Government is currently examining further expansion of said measure. To be noted that the payment of such loans' interest has not been deferred but a subsidy scheme capturing interest payments of SME's with performing loans and working capital facilities was also set-up. .

b. State guarantees for new loans: this scheme aims to provide guarantees, amounting up to EUR 1 billion in total, on new working capital loans originated by financial intermediaries to support undertakings active in Greece. State guarantees will cover 80% of the losses incurred on the individual working capital loans to eligible companies and concern new fixed maturity loans that will be granted until 31 December 2020, with a duration up to 5 years. Each loan is covered throughout the 5-year period and until the full and complete repayment of each liability.

A subsidization of guarantee premiums, up to a total amount of EUR 250 million, will also be available. Starting from 3 June 2020, interested companies will have to file a relevant application via one of the cooperating Banks until 31 December 2020.

(Continued on next page)

Greece

Insolvency (continued)

Beneficiaries of the measure are all undertakings active in all economic sectors in Greece, including the sectors of aquaculture, fishing and agriculture. Specific exemptions include: offshore companies, holding companies, companies in the financial sector, public bodies and their subsidiaries, as well as local authorities and their subsidiaries.

Interested companies among others should be creditworthy, not having been in difficulty as at 31 December 2019, not have loans in arrears longer than three months and not have a prior aid, which has been declared incompatible by the European Commission. Furthermore, companies that have joined previous HDB (formerly ETEAN) schemes and have shown unfavorable transactional behavior in repaying their debts (loan termination or overdue debts for more than 90 days), will be excluded.

The maximum capital of new loans covered is defined according to certain criteria.

c. Cash advance: a type of state aid - loan with preferential terms and concerns companies of all legal forms and industries. Businesses applying for a refundable advance must be based in Greece and have been financially affected by the coronavirus pandemic. It is provided via the 'taxis' information system as a tax-free amount, which will not be able to be offset or confiscated. Enterprises interested in utilizing the refundable advance incentive, should have expressed their interest in a special online platform (named myBysinessSupport) until 28 September 2020. Said measure consisted of three phases.

Bridge Programme

L. 4714/2020 enacted said programme pertaining to the support of mortgage loan debtors that will cover not only non-performing loans, but also debtors that are not in arrears but have been impacted by the coronavirus crisis. In particular, provided that they meet certain eligibility requirements as these are defined in law, said debtors may apply, until the 31st of October, for a state subsidization of a significant part of the monthly installments of mortgage loans with the primary residence as collateral, for a duration of nine (9) months. As eligible debtors may be evaluated, among others, the partners of Greek partnerships or shareholders of capital companies whose business has been compulsorily suspended or have received aid.

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

The insolvency laws in Greece have not been amended due to COVID-19.

Courts: Greek civil and Administrative Courts have resumed their operations as of 1.6.2020.

Auction processes: Following the lapse of the time period set by L. 4690/2020 (i.e. cancellation of auctions until 31.07.2020) and upon the Judicial Summer Break (15.07.2020 – 31.08.2020) auctions have been re-initiated as of 1.09.2020. However, auctions may be further suspended until 31.12.2020, for those debtors who have received mortgage loans with the primary residence as collateral given that they fulfill certain eligibility criteria. For said auctions to be suspended, the debtor should file a relevant request towards the bank.

Greece

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Data Protection & Privacy

The Hellenic Data Protection Authority ("HDPA") has issued guidelines for data controllers and processors, as well as employees and the public in general on appropriate security measures in the context of teleworking. The HDPA has stressed out that organizations should take all the appropriate steps to adequately inform and train their staff on the relevant technologies and risks associated with their use, considering that the users have not the same degree of familiarity with the technologies, and also be attentive to the protection of their employees' personal data, given that teleworking establishes greater expectations for the respect and protection of their private life. The guidelines focus on issues of safe network access, data storage, secure use of email and safe conduct of teleconferences. Indicatively proposed measures are as follows:

Network Access:

- Connection to corporate databases / systems should be secured (e.g. IPSec VPN and secure WPA2 protocol with strong security credentials for wi-fi access).
- Teleworker access should be limited to strictly necessary resources and on a need-to-know basis.
- Storage at online hosting services should be avoided (e.g. Dropbox, One Drive, google drive), unless appropriate safeguards are in place.

Use of E-mail/ Instant Messaging Applications:

- Employers should ensure that staff refrains from using personal email accounts.
- Instant messaging ("IM") (text and/or video) for the transfer of personal data should be avoided.
- Services with strong security features (encryption, data protection settings) should be preferred.

Use of End User Devices / Storage Media:

- The latest software, operating system and browser application versions should be installed to employees' devices.
- Antivirus programs and firewall software applications should be installed and regularly updated on corporate end-user devices (e.g. computers, laptops).
- Employers should ensure that teleworkers delete their search history or search via an incognito window, when surfing for personal use.
- Exclusive use of "virtual machines" are encouraged during teleworking when possible.
- Files containing work-related personal data should be separated from personal data kept on employee's device (e.g. in clearly distinct folders, with an appropriate identification name)
- Personal data on main devices and external storage devices (e.g. USB sticks) should be stored in encrypted form.

Greece

Cyber & Privacy (continued)

- A regular back up procedure in line with the company Security policy should be followed to all teleworking files.

- Devices via which teleworking is carried out, should be locked (e.g. screen saver, with deactivation code) when remaining idle for any reason.

Conduct of Teleconferences:

- Teleconference platforms with end-to-end encryption are preferable.

- The privacy of teleconference links to calls should be protected.

- Privacy policies and terms and conditions of teleconferencing platforms should be reviewed before use.

On March 18th, 2020, the Hellenic Data Protection Authority ("Hellenic DPA") published certain guidelines (decision no.5/2020), regarding the processing of personal data by both public and private bodies, in light of the extremely urgent and unprecedented needs that have arisen in the context of combatting COVID-19, by addressing inter alia the following key issues:

- Information regarding the status of an identified or identifiable natural person as affected by covid-19 or not, his/her remaining at home due to illness or any findings on signs of illness, possibly also through his/her clinical picture (cough, temperature higher than normal etc..) are indicative cases of data, which constitute special categories of data. However, information regarding a natural person's recent visits to a foreign country with high number of COVID-19 cases, or his/her coming in contact with third persons, which have been confirmed as affected by COVID-19 or as being COVID-19 patients may be considered personal data under particular circumstances.

- The right to personal data protection is not absolute and should be subject to restrictions for the protection of other fundamental rights, such as the right to health, which in the present case, is being protected through the imposition of the necessary measure for combating COVID-19.

- Employers in the private sector may lawfully process personal data for the purpose of protecting the health of their employees and in accordance with the principles set out in art.5 of the GDPR.

- No act of personal data processing shall be excluded as prohibited by data controllers under the present and unpreceded circumstances. However, the principle of purpose limitation in combination with the principle of proportionality ought to be adhered to, while data confidentiality ought to be protected through the requisite security measures.

- Data processing of a privacy-intrusive nature, which results in the restriction of individuals' rights, such as temperature measurement at the entrance of facilities, shall only be applied on an exceptional basis. The Hellenic DPA has stressed out that in any case, systematic, constant and generalized data collection leading to the creation and regular updating of employee health profiles cannot be considered to be compliant with the principle of proportionality.

- Articles 5 and 6 of the GDPR may exceptionally apply to disclosure of data of deceased persons, in cases where the disclosure of identifying elements of persons, who passed away from COVID-19, may lead to the indirect identification of living natural persons, who have come in contact with them or were part of their close circle.

(Continued on next page)

Greece

Cyber & Privacy (continued)

- In cases where persons affected by COVID-19 proceed with voluntary disclosing of their health status, processing of that personal data by third parties is deemed lawful, in accordance with art.9.2 of the GDPR, provided that the principles of art.5 of GDPR are adhered to.
- Disclosing information on the health statues of data subjects by Data Controllers to third parties is not permitted, when it may result in prejudice and stigmatization against the data subjects and ultimately hinder the application of the measures in place for protection against COVID-19.
- Regarding the processing of personal data of persons affected by COVID-19 for journalistic purposes, a prior assessment of the necessity of disclosing the identification data of these persons is mandatory.

Cybercrime

The National Authority for Transparency has issued statements online, in an effort to raise public awareness for cyber-threats, including inter alia, COVID-19 themed malware and password stealing ware. The website gives tips on how to recognize phishing emails and provides security guidance for remote working.

In particular, regarding cybersecurity, internet users are required to:

- secure their home wifi and all their devices with codes, PINs or biometrics (fingerprint or face recognition)
- install antivirus software
- update the software they are using
- install powerful and different passwords per application
- keep backups on external storage media, which are unconnected to their devices
- check the privacy settings of their social media accounts and the rights of the applications installed in their devices
- delete inactive applications.

The National Transparency Authority in cooperation with Hellenic Police's Cybercrime Division has recently published Guidelines on IT Security, for both employees and employers regarding teleworking. Indicatively, employees, when working from home, are recommended:

- not to open links or attached files sent by unknown e-mail senders,
- not to share their personal information and especially their passwords, no matter how legitimate the e-mail senders may appear (e.g. Ministry of Health, Bank, Word Health Organization etc..)
- to use strong passwords, (d) to use their personal devices or devices provided by their employer.

In any case, employees are required to ensure that their operating system and applications have been updated, the appropriate antivirus software has been installed and their internet connection is secure. On the other hand, employers are strongly recommended, among others, to:

- keep their operating system and device applications updated, by reducing the vulnerabilities of the systems that could potentially be exploited by malicious users,
- inform and train their employees about the Policy of Remote Working/Teleworking, and any cyber-related risks, and in particular about "phishing" and social engineering,
- check regularly the VPN connections, for unusual users' activity,
- secure communication channels, by applying two-point factor control for their employees to log in their email accounts.

Greece

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The General Commercial Registry still operates, but it does not accept visits by physical presence; however, the submission of applications and documents may take place electronically, through a specific electronic application provided by the website of the Registry ("business portal"). With respect to any documents which may not be filed through a specific application on "business portal", they may be submitted to the Registry by email.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The courts are open and accept filings, however, technological means should be used where this is feasible. In addition, specific rules should be followed due to COVID-19 circumstances (e.g. use of mask, presence of limited number of persons during the trials, etc.).
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notary Public offices operate duly. The apostillization of documents is made normally by public authorities (not a notary), which do not currently accept visits by (unscheduled) physical presence, but strictly only upon the arrangement of a relevant appointment.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	In principle, and according to Greek legislation, private documents may be electronically signed. Greek law envisages three different kinds of electronic signature: a simple electronic signature, an advanced electronic signature and an advanced electronic signature based on a qualified certificate and created by a secure-signature-creation device. An electronic signature is valid in the same way as handwritten execution, provided that it is “advanced”, in the sense that it is certified by a recognized authority according to the procedures set out in Greek law (Presidential Decree No. 150/2001, as in force). It should be highlighted that private contracts may be also concluded electronically, except for: ● contracts that create or transfer rights "in rem" in real estate; ● contracts requiring by law the involvement of courts, public authorities or professions exercising public authority; ● contracts governed by family law or by the law of succession (Presidential Decree No 131/2003, as in force).

Greece

Corporate (continued)

Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Any meetings of the Board of Directors (“BoD”) of a societe anonyme (SA) may normally take place via teleconference, provided that this possibility is explicitly mentioned in the Articles of Association of the SA, or all BoD members unanimously agree in this respect. In this case, the invitation to be addressed to the BoD members should contain the necessary information and the technical instructions for attending the conference. In addition, the drafting and signing of the Minutes by all BoD members, or by their representatives, is deemed as a valid decision of the BoD, even if no meeting has taken place ("decision by circulation"). The "original version" of the Minutes should be signed (in handwritten form) by the attending BoD members, whereas, the "true copy version" thereof may be signed only by the Chairman or by any other person who has been authorized for that purpose.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Any meetings of the Board of Directors (“BoD”) of a societe anonyme (SA) may normally take place via teleconference, provided that this possibility is explicitly mentioned in the Articles of Association of the SA, or all BoD members unanimously agree in this respect. In this case, the invitation to be addressed to the BoD members should contain the necessary information and the technical instructions for attending the conference. In addition, the drafting and signing of the Minutes by all BoD members, or by their representatives, is deemed as a valid decision of the BoD, even if no meeting has taken place ("decision by circulation"). The "original version" of the Minutes should be signed (in handwritten form) by the attending BoD members, whereas, the "true copy version" thereof may be signed only by the Chairman or by any other person who has been authorized for that purpose.

Contact for Guernsey

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Guernsey

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Lockdown restrictions have been completely lifted as of 20 June 2020. The Guernsey Registry is closed and staff are working remotely. All correspondence is to be submitted through the registry portal or via email: enquiries@guernseyregistry.com.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The courts are reopening certain areas of service, where they can ensure the safety of staff, however the majority of staff are still working remotely and are available to respond to emails. The contact email is: HMGreffier@gov.gg. Court attendance is by appointment only.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	There is limited availability as staff are working remotely and most offices are closed
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signatures are permissible under Guernsey Company Law on the majority of documents, as long as the company's Articles of Incorporation also permit this.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	This is permitted, as long as the company's Articles of Incorporation allow telephone board meetings.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	This is dependent on the Articles of Incorporation of the company.

Guernsey content as at 3 July 2020

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Hungary

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Yes, unpaid leave (i.e unpaid holiday) is allowed under Hungarian law, but the employer and the employee must agree the conditions of the unpaid leave. If an employer releases the employee from the work duties unilaterally (i.e. they cannot agree), the employee will be entitled to his regular pay during the term of the absence.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes employers can direct their employees to take paid annual leave, however the employees must be notified about the paid annual leave at least 15 days in advance, unless agreed otherwise by the parties. Seven working days of vacation time however shall be allocated in accordance with the request of the employee.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. If the employer terminates the employment by (ordinary) termination due to organisational reason the employer must pay a severance payment of 1 to 6 months average salary depending on the length of the employment (amount can be up to 9 months average salary in specific cases), additionally the employer has to pay compensation for the notice period as specified by law and compensation for the untaken holiday. Financial difficulty is not a relief. However, the employer and the employee can agree in the termination and they can agree in the application of different financial conditions (i.e. in less payment then the above specify payments for the redundancy).
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. The priority treatment is applicable for all benefits arising in connection with the employment relationship.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. There is an insolvency fund which grants compensation for employees in an insolvency scenario. The compensation is paid from the Wage Guarantee Fund but the payments are capped.

Hungary content (Labour Law) as at 20 April 2020

Hungary

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. On the basis of the definition of 'force majeure' determined by the Hungarian courts, COVID-19 is a force majeure event regarding which the two following legal options should be mentioned: ● If due to the pandemic, one of the parties is not able to perform in accordance with the contract, i.e. the party breaches the contract (for instance the party delays) causing damages to the other party, the said party shall be relieved of liability if: (i) the damage occurred in consequence of unforeseen circumstances (ii) these circumstances are beyond his control, and (iii) there had been no reasonable cause to take action for preventing or mitigating the damage. A case-by-case consideration is required to examine the date from which the contracting parties had to reckon with the spread of the virus and its consequences. ● If due to the pandemic, one of the parties is not able to perform at all, the contract shall be determined as the performance has become impossible. In this case, the parties are required to settle with each other, i.e. the cash consideration for the service provided before the performance becomes impossible, and the cash advances shall be refunded. After that, other obligations do not arise from the contract.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. On the basis of the definition of 'force majeure' determined by the Hungarian courts, COVID-19 is a force majeure event regarding which the following legal options should be mentioned: Either of the parties can request the court to amend the contract (i.e. eases certain obligations) if the following conditions are met: ● the parties have a long-term contractual relationship; ● the performance in accordance with the current of terms of contract is likely to harm the requesting party's relevant lawful interests; ● the above situation is caused by a circumstance that has occurred after the conclusion of the contract; ● the possibility of that change of circumstances could not have been foreseen at the time of conclusion of the contract; ● the requesting party did not cause that change of circumstances; and ● such change in circumstances cannot be regarded as normal business risks.

Hungary content (Contract Law) as at 17 April 2020

Hungary

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?

Commercial properties

According to a government decree effective from 19 March 2020, lease agreements concluded in certain industrial sectors (e.g. tourism, catering, film industry) regarding non-residential premises (basically the commercial properties) cannot be terminated until 30 June 2020. This prohibition can be extended until the end of the state of emergency by a government decree.

Private lease agreements

Until now, there is no such special legal provision as described above which covers residential premises, however, there are some legal options ensured by the Hungarian civil law.

In view of the measures introduced as a result of the COVID-19 epidemic, the provision regarding the release of rent can be applied but only in a very narrow scope: if the restriction introduced as a result of the COVID-19 epidemic directly affects the operation of the rental property and makes the use of the property impossible.

COVID-19 as a force majeure event can only be referred to if one of the parties breaches the contract, e.g. the lessee does not pay the rent. In this case, the lessee shall be relieved of liability if the conditions determined in the first response above are met.

The amendment of the lease agreement is possible by mutual consent of the parties or by the order of the court for the request of one of the parties if the conditions determined in the response above are met.

Hungary

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Generally, the director manages the operation of the company independently, in accordance with the primacy of the company's interests. In this capacity, the director discharges his/her duties in due compliance with the relevant legislation, the company's deed of foundation and the resolutions of the company's supreme body. The director may not be instructed by the members of the company and his/her competence may not be withdrawn by the supreme body. (Note: in the case of a single-member company, the sole member may give instructions to the management, which the director must carry out.) In the event of a situation threatening with insolvency, the director must act in the interests of the company's creditors.

The Hungarian Civil Code further prescribes that the director of a limited liability company or that of a private limited company must convene the members' (or shareholders') meeting or initiate decision-making without holding a meeting in person, if the director becomes aware that:

- the company is threatened with insolvency or has terminated its payments, or
- the company's assets do not cover its debts.

(Please note that under Gov. Decree 102/2020 (IV.10.) issued for the term of the state of emergency due to the pandemic, if certain conditions are met the Decree provides a moratorium to these companies. In this case, the company has an obligation to decide on the necessary measures to take at an extraordinary general meeting that must be convened no later than 90 days from the end of the state of emergency.)

With regard to insolvency procedures, there are two types of such procedures under Hungarian law, bankruptcy and liquidation proceedings. Basically, bankruptcy aims to rescue the distressed businesses and to promote the adjustment of debt and reorganisation. Thus, if a company's assets do not cover its debts or the company is threatened with insolvency, the company can initiate bankruptcy proceedings in which the company is granted an extended grace period for payments and it also attempts to enter into bankruptcy settlement.

During bankruptcy proceedings a bankruptcy administrator is assigned by the competent Court. The company's director may exercise his/her powers only if such exercise does not violate the rights granted to the administrator. If the director fails to fulfill his/her obligation to cooperate with the administrator, the court may impose a fine on the company in any sum between HUF 100,000 and HUF 500,000.

If no bankruptcy settlement is reached by the end of the bankruptcy proceedings, the procedure turns into liquidation proceedings. Please note that liquidation proceedings may not necessarily be initiated only unsuccessful bankruptcy proceedings, they may also also be initiated for reasons that are set out in Act XLIX of 1991 on Bankruptcy Proceedings and Liquidation Proceedings ("Bankruptcy Act").

During liquidation proceedings a liquidator is appointed. The company's director must cooperate with the liquidator, and the liquidator has obligations to prepare, among others, a closing inventory, closing balance sheets, an annual report and tax returns forms and to inform employees and creditors about the liquidation proceedings. The director may be subjected to a fine up to 50 per cent of his /her income provided by the concerned company during the year preceding the starting date of the liquidation proceedings, or up to HUF 2,000,000, (1) for any breach of the obligations defined in Bankruptcy Act, or (2) for failure to comply with such obligations in due time, or (3) for providing false information or (4) for failure to cooperate with the liquidator.

Hungary

Insolvency (continued)

What personal liabilities can directors be exposed to as a company nears insolvency?	Under the Hungarian Civil Code, if a company is wound up without legal succession, creditors may bring action for damages up to the amount of their outstanding claims against the company's directors on the grounds of non-contractual liability, if the director has failed to take the creditors' interests into account in the event of an imminent threat to the company's solvency. This provision is not applicable if the company is wound up without liquidation processings. Further, the directors may be released from liability if they prove that they have performed their obligations with due diligence. Furthermore, the Bankruptcy Act prescribes that a creditor, or on behalf of the company, the appointed liquidator may request the Court to declare that those persons who served as directors of the company in the three years preceding the starting date of the liquidation proceedings did not perform their managing duties in accordance with the interests of the company's creditors after the company had been threatened with insolvency, in consequence to which the assets of the company have decreased or the full satisfaction of creditors' claims may fail. Depending on the judgment and the declared liability, creditors may request the Court to impose an obligation on the company's directors to pay claims that were not recovered in the liquidation proceedings. A director will be released from the aforementioned liability if he/she proves that he/she did not assume an unreasonable business risk after the occurrence of the insolvency situation, or took all measures to avoid and reduce creditor losses in the given situation, or initiated the necessary measures to be taken by the company's supreme body.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There is no relevant safe harbour legislation related to insolvency but directors may rely on general law defences under which the director may be relieved of liability (please see the question above) . As mentioned before, directors must act in the interests of the company's creditors; therefore, they must refrain from taking unreasonable business risks and they must take all the necessary measures to avoid creditor losses. Further, directors must fulfil theirs obligations set out in Bankruptcy Act, such as the obligation to provide information and prepare the company's annual financial statements.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Government Decree 47/2020. (III. 18.) on immediate measures to mitigate the effects of the pandemic virus on the national economy prescribes the followings: • Unless the parties provide otherwise, the debtor's payment obligation (including capital, interest or fee payment obligation) arising from a credit, loan agreement or a finance lease agreement provided on commercial basis shall be modified during the emergency situation so that the debtor receives a deferral of payment until 31 December 2020. This payment moratorium can be extended by a government decree until the end of the state of emergency. • Lease agreements concluded in certain industrial sectors (e.g. tourism, catering, film industry) regarding non-residential premises (basically the commercial properties) cannot be terminated until 30 June 2020. This prohibition can be extended until the end of the state of emergency by a government decree. In respect of these contracts, the rent cannot be increased either during the state of emergency, even if the contract otherwise allows.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	There are no special regimes that might be relevant to a company in the case of insolvency. However, the Hungarian Government have taken measures that might help specific industries that are the most affected by the pandemic (e.g. film industry, sports industry, catering industry etc.). Further, a new financial program has also been introduced. The Government has also issued a decree that facilitates the company's daily operation and decision-making.

Hungary

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The Hungarian DPA issued guidance on the processing of health-related personal information in relation to COVID-19 (see link for English version below) during the first wave of the pandemic in the first quarter of 2020.

https://naih.hu/files/NAIH_2020_2586_EN.pdf

It contained the initial expectations of the authority on both transparency requirements towards the data subjects as well as ensuring proportionality. Notably, it allowed data controllers to deploy measures to test the COVID-19 exposure of their employees, partners, visitors or other data subjects they came into contact with, provided that this does not constitute an unjustified invasion into their private sphere. However, it specifically pointed out that medical diagnostics tools cannot be used by the employer as a general rule, as this task is reserved for the authorities and medical staff.

Therefore, during the first wave of the pandemic, the clinical thermometer could not be used by data controllers in order to identify presumably infected employees and other individuals. However, in light of the current second wave of COVID (fourth quarter of 2020) pandemic situation the DPA has reconsidered their point of view and universal fever measurement is now considered an acceptable measure, as long as the actual result of the measurement is not recorded in a database and is used solely to ban the given individual from entering a specific area, or in the case of employees, to order home office quarantine.

It is also notable that the special legal regime introduced during the first wave of COVID (state of emergency), which granted extraordinary powers to the executive branch of the state (the government) has now been lifted and the legal system is back to normal functioning as enshrined in the Hungarian constitution and other cornerstone acts.

Hungary content (Cyber & Privacy) as at 9 October 2020

Hungary

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The Court of Registration is open.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Normal court hearings are held.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries are operating.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Documents can be signed electronically but certain documents require qualified electronic signatures.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Rules enabling board meetings and shareholders meetings to be held through electronic means will continue to apply despite the emergency regulations ending on 17 June, unless the Articles of Association prohibits this.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Rules enabling board meetings and shareholders meetings to be held through electronic means will continue to apply despite the emergency regulations ending on 17 June, unless the Articles of Association prohibits this.

Hungary content (Corporate) as at 3 July 2020

Ireland

Labour Law

Contact for Ireland

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Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?

Periods of Sickness

When an employee is off sick with COVID-19, they will be entitled to any sick pay entitlements set out in their contract of employment. However, there is no statutory sick pay entitlement in Ireland.

Accordingly, where a contract of employment does not provide for sick pay, then an employee will not be entitled to be paid while absent from work owing to illness. In these circumstances, employees who are sick with COVID-19 are entitled to apply for Enhanced Illness Benefit of €305 per week from the Department of Employment Affairs and Social Protection and do not need to satisfy the usual PRSI conditions for Illness Benefit. They will be eligible for the payment even if they have only recently started working. Employees found to be clear of COVID-19, will only receive payment for a maximum of two weeks and if they test positive, will receive payment for the full duration of their illness.

Periods of Quarantine

Where an employee is fit to work but the employer directs the employee to remain away from the workplace, it is good practice for the employer to continue to remunerate the employee. In situations where the employer cannot continue to pay an employees wages, the employee will be considered to have been temporarily laid-off and can apply for an income support in the form of a Jobseeker's Payment or Supplementary Welfare Allowance

Self-Isolation

Where an employee self-isolates on medical advice or to prevent infection or contamination with COVID-19, they are entitled to apply for Enhanced Illness Benefit (as set out above).

Where an employee is fit to work and voluntarily self-isolates and remains away from work, they will not be entitled to sick pay. However, employers should listen to their concerns. Under the general principles of equality law, employers must provide employees with reasonable accommodation in respect of disabilities such as anxiety rendering the employee unfit to work and, as such, the employer should provide a reasonable period of sick leave, but not necessarily sick pay.

If the employee is able to work remotely and the employer agrees, they will be entitled to their usual pay.

Are employees entitled to pay and/or leave where they take time off work to care for dependants?

If an employee is absent due to a dependent, they can request paid leave or to work from home.

The Government has asked employers to be as flexible as possible in allowing staff time off to look after their children or other members of their families. Parental Leave Acts 1998 and 2019 give an employee a limited right to paid 'force majeure' leave from work for 3 days in any 12-month period or 5 days in a 36-month period.

Employees can also apply for statutory unpaid parental leave for a period of up to 22 weeks for a child up to the age of 12 (or 16 if the child has a disability) or for caring for a child up to age 1 who was born after 1 November 2019. Normally, an employee should give his or her employer 6 weeks' notice to take parental or parent's leave, but in these circumstances, the employee can ask an employer to waive this notice period. Employees can apply for Parent's Benefit and for a means-tested Supplementary Welfare Allowance.

Ireland

Labour Law (continued)

Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	An employer may decide to close their business for a period of time and/or lay off employees for this period whilst continuing to retain them as employees. The Irish Government has encouraged employers to retain employees where possible and pay a flat rate of €203 per week for each worker (see below refund scheme). This will mean that workers retain their link with employers and there is no need for them to personally submit a jobseeker's claim. The employer must have a contractual right within the employee's contracts to lay off or put employees on short time or if it is custom and practice in their workplace (e.g. certain manufacturing businesses). Otherwise, there is a risk of breach of contract and a potential risk of the employee resigning and claiming constructive dismissal. Alternatively, the employee may choose to work under protest, essentially protecting their right to bring an employment related claim at a future point. Employees who have been laid-off or where a short-time situation exists and has continued for 4 weeks or more, or for 6 weeks in the last 13 weeks, may give their employer a notice in writing of their intention to claim redundancy under the Redundancy Payments Acts 1967-2014.
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The Department of Employment Affairs and Social Protection has introduced an Employer COVID-19 Refund Scheme to refund employers. Under an arrangement developed with Revenue, employers who have to temporarily lay-off staff and who are not in a position to make any wage payment to them, are asked to keep their employees on the payroll and pay them an amount of €203 - the equivalent of the COVID-19 Support Payment.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	Genuine self-employed contractors will not be entitled to sick pay or SSP unless otherwise stated contractually. However, the Government has introduced a COVID-19 Pandemic Unemployment Payment which is available to self-employed individuals who have lost employment due to the pandemic.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	COVID-19 Pandemic Unemployment Payment for a period of 6 weeks at a flat rate payment of €203 per week for jobseekers. Employees will also need to apply for another social welfare payment such as Jobseeker's Benefit or Jobseeker's Allowance. Employees with reduced hours to 3 days or less per week from their normal full-time hours, can apply for a payment called Short Time Work Support, which is a form of Jobseeker's Benefit. Employees will be entitled to apply for increased Enhanced Illness Benefit of €305 per week for a maximum of two weeks for anyone in medically required self-isolation or for the full absence from work on account of a diagnosis of COVID-19.

Ireland

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The Public Registry (Companies Registration Office) is closed however documentation can be posted in and certain filings are being processed albeit more slowly than normal. Email copies of Summary Approvals Procedures are being accepted. All annual returns due between 19 March 2020 and 31 October 2020 will be deemed to have been filed on time if all elements of the annual return are completed and filed by 31 October 2020. The obligation to have financial statements presented to the shareholders within nine months of the period end still applies and no extension has been granted on this requirement.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	No. All courts are closed. No contingencies are currently in place.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Documentation can be notarised, however the Department of Foreign Affairs have announced that authentications/ apostille offices in Dublin and Cork are currently closed until further notice. Queries can be submitted to authentications@dfa.ie. Documents can be submitted by post, however these will not be processed until the office reopens.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signatures are permitted for some documents. Guidance on electronic signatures has been issued by The Chartered Governance Institute: https://www.icsa.org.uk/ireland/news/guidance-note-on-electronic-signatures.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings can be held without directors being physically present, subject to the company's constitution permitting this. Resolutions can be passed at these meetings. The board minutes can be signed subsequently by the Chair.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings can be held without directors being physically present, subject to the company's constitution permitting this. Resolutions can be passed at these meetings. The board minutes can be signed subsequently by the Chair.

Ireland content (Corporate) as at 17 June 2020

Italy

Labour Law

Contact for Italy

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally, no. Under Italian Labour Law, an employee that is dismissed is always entitled to receive severance payment (i.e. TFR, unpaid leave and holiday, 13rd and 14th monthly accrual, etc.). In addition, the notice period (or the indemnity in lieu of notice) must be recognized. Dismissal without notice is permissible only in cases of just cause. This will include where the employee commits such serious conduct that intervenes with, and does not allow even temporarily, the continuation of the employment relationship. These rules still apply during the COVID-19 outbreak. In order for a dismissal to be valid and lawful, it must be grounded on specific reasons listed in the Italian provisions. In the current context of the epidemiologic emergency, the Italian government (with Law Decree no. 18/20) also established a ban on individual dismissal for objective reasons, and on collective dismissal procedures (involving at least 5 workers in 120 days) for the 60 days following the entry into force of the decree and until May 16th. Nevertheless, it is still possible to proceed with a dismissal grounded on disciplinary reasons (eg, misconduct of the employee) provided that certain substantial and procedural requirements are met. NB: In the case of an unlawful dismissal, as ascertained by a Court, the employee would also be entitled to reinstatement in the workplace (that can however be replaced, at the employee's choice, with an indemnity of not less than 15 monthly salary instalments). They may also be entitled to a certain economic indemnity, depending on: • whether the employee was hired before or after 7 March 2015; • the reason of the unlawfulness of the dismissal; and • the social security contributions accrued during the period of exclusion from work. It is not possible for an employer to suspend the employment relationship or direct them to take leave without pay. However, the Italian Government, in response to the COVID - 19 emergency, has provided for a series of economic measures to support companies and workers (see responses to the other questions).
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes, in some circumstances. From a general point of view, accrued holiday and paid leave can be imposed by the employer based on prevailing organizational reasons and business needs, but subject to the general principles of correctness and good faith. However, holidays not yet accrued cannot be imposed. Article 1, paragraph 7, of the Italian Prime Minister's decree dated 11 March 2020 confirms this approach. It suggests that in order to contain the spread of the COVID-19 virus, employers should encourage the use of holidays and paid leave, as well as other similar leave provided for by collective bargaining agreements.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. In the case of a dismissal (meaning any kind of dismissal, for subjective/objective reasons or on the basis of a redundancy) the employee is always entitled to receive severance payment. This payment will include TFR, unpaid leave and holiday, 13rd and 14th monthly accrual, etc. In addition, the notice period (or the indemnity in lieu of notice) must be recognized. In the case of an unlawful dismissal, the employee is entitled to reinstatement wit the company and/or to an economic indemnity (depending on the length of service, and on the reason of the unlawfulness). All these sums shall be paid by the company, even where there is a financial crisis.

Italy content (all topics except Corporate) as at 9 April 2020

Italy

Labour Law (continued)

Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. According to the relevant legislative provisions, employees are considered preferred creditors. Pursuant to article 1751-*bis* of the Italian Civil Code, any kind of amount due to employee, including salary, severance payments, indemnity in lieu of notice, indemnity for unlawful dismissal, damages for omitted payment of compulsory social security and insurance contributions are all considered preferred credits.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	In addition to ordinary social security measures (Ordinary and Extraordinary Redundancy Fund), the Italian Government has put in place a series of measures to mitigate the significant economic consequences arising from the COVID-19 outbreak. Companies may be able to request a specific redundancy fund, which responds to a transitory crisis. Depending on the type of applicant company, a specific support measure is envisaged. In particular, Law Decree 9/20 and 18/20 provide for: ● the introduction of a simplified procedure to apply for the ordinary redundancy fund (CIGO) or ordinary allowance for suspension or reduction of working activity; ● the possibility of submitting an application for ordinary redundancy fund by way of derogation (CIGD) with reference to the duration of the suspension of the employment relationship. Industrial companies can ask for the so-called Ordinary Redundancy Fund (CIGO) due to COVID-19. It provides for the possibility of suspending all or some of the workers in force, for a maximum of 9 weeks, until 31 August 2020. In this event, the employment relationship (and the salary) are suspended and INPS (social security body) pays to each worker (who must have been in force since at least 23 February 2020) an allowance equal, at most, to 80% of the salary. The employer can increase this allowance. The payment of the allowance is normally paid by the employer which will then be reimbursed by INPS, but it is possible for the employer to ask INPS for the direct payment to the employee in case of insolvency. NB: Relevant companies can apply for these measures even where they have already activated, for other reasons, the “extraordinary redundancy fund” (CIGS) and solidarity allowance paid by wage supplement Fund (FIS). In such a cases, the new social shock absorber replaces the old one. Companies within other sectors (e.g. commercial companies with more than 50 employees) can apply to the redundancy fund by way of derogation (CIGD). They can apply for a maximum of 13 weeks, until 31 August 2020.The above-mentioned treatment is provided exclusively by direct payment by INPS, pursuant to art. 44, paragraph 6-ter, Legislative Decree no. 148 of 2015. The application procedure, as mentioned, is simplified and provides for a preliminary and very brief union discussion phase (lasting between 3 and 5 days depending on whether it is CIGO or CIGD) followed by the transmission of the application to INPS. During the layoff period, workers are in any case covered for contributions and related ancillary charges. **(Continued on next page)**

Italy

Labour Law (continued)

Below is summary with more details on the main of the measures recently introduced:

- Social shock absorber for industrial enterprises and some further companies expressly listed in article 10 of Legislative Decree no. 148/15:

  (i) type of shock absorber: CIGO;
  (ii) beneficiaries: all employees in force as of February 23rd, 2020, except for home employees and Managers (i.e. Dirigenti);
  (iii) reason grounding the application and relevant procedure: suspension or reduction of company activity due to COVID-19, upon agreement (for companies with more than 5 employees) to be entered into, also in telematic form, with the comparatively most representative Trade Unions at national level;
  (iv) amount paid: 80% of the total remuneration due for hours not worked, within the limit of the ceiling;
  (v) maximum duration: 9 weeks within August 2020;
  (vi) exceptions: exclusion from the payment of the additional contribution.

- Social shock absorbers for companies excluded from CIGO:

  (i) type of intervention: CIGD;
  (ii) beneficiaries: open-ended employees, fixed-term employees, on-call employees, apprentices, in force as of February 23rd, 2020;
  (iii) reason grounding the application and relevant procedure: suspension or hourly reduction with the indication of "COVID-19 emergency";
  (iv) mount paid: 80% of the total remuneration due for hours not worked, within the limit of the ceiling;
  (v) maximum duration: 9 weeks, in the period from February 23rd, 2020 to the end of August 2020.

- Social shock absorbers for craft enterprises:

  (i) type of intervention: ordinary allowance (“assegno ordinario”);
  (ii) beneficiaries: all employees (including apprentices) in force as of February 23rd, 2020, excluding home employees and Managers (“Dirigenti”);
  (iii) reason grounding the application and relevant procedure: suspension of business activity because of COVID-19;
  (iv) amount paid: 80% of the total remuneration due for hours not worked, within the limit of the ceiling laid down for wage subsidies;
  (v) maximum duration: 9 weeks by August 2020.

- Social shock absorbers for companies with more than 15 employees registered with FIS:

  (i) type of intervention: ordinary allowance (“assegno ordinario”);
  (ii) beneficiaries: all employees, excluding Managers (“Dirigenti”), home employees, apprentices with a non-professionalizing contract (type I and III), in force as of February 23rd, 2020;
  (iii) reason grounding the application and relevant procedure: suspension or hourly reduction with the indication of “COVID-19 emergency”;
  (iv) amount paid: 80% of the total remuneration due for hours not worked, within the limit of the ceiling;
  (v) maximum duration: 9 weeks, in the period from February 23rd, 2020 to the end of August, 2020;
  (vi) exceptions: exclusion from the payment of the additional contribution.

- Social shock absorbers for companies with more than 5 and up to 15 employees registered with FIS:

  (i) type of intervention: ordinary allowance "by way of derogation”;
  (ii) beneficiaries: employees with an open-ended/fixed-term contract, on-call employees, apprentices, in force as of February 23rd, 2020;
  (iii) reason grounding the application and relevant procedure: suspension or hourly reduction with the indication of "COVID-19 emergency”;
  (iv) amount paid: 80% of the total remuneration due for hours not worked, within the limit of the ceiling;
  (v) maximum duration: 9 weeks, from February 23rd, 2020 to the end of August 2020.

Italy

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. Article 1218 of the Italian Civil Code states that if the debtor does not perform exactly those service due or behaves in a manner incompatible with the subsequent implementation of it, he shall be liable to pay damages, if he does not prove that the non-performance or the delay in the performance of his obligations, was caused by the inability of performance resulting from a cause not attributable to him. In the latter case, the obligation is extinguished, pursuant to Article 1256 of the Italian Civil Code, which also provides that in case of temporary impossibility, the debtor is not responsible for the delay in performance for as long as it lasts. Among the causes that the debtor may invoke to prove that the inability of performance is not attributable, are the arguments of unforeseeable circumstance and force majeure, i.e. those linked to a natural event, such as an epidemic, or the factum principis, such as government measures.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. In the event that a party is sued before a Court or a similar body, to excuse its failure it might prove that the non-performance or the late performance is the result of an impossibility of performance which was due to a cause not attributable to it: for instance, due to force majeure. In this regard, pursuant to article 91 of *Decree-Law no. 18 of March 17, 2020* (the so-called '*Cura Italia'* Decree) the compliance with the emergency measures adopted for the containment of COVID-19 shall always be considered for the purpose of excluding the debtor's liability, also with regard the application of any forfeiture or penalties related to delayed or omitted performance. However, with regard to the propagation of COVID-19 and its legal and economic effects, a case by case evaluation shall be opportune to estimate whether and to what extent a cause of force majeure or the so-called *factum principis* shall apply, having regard also to the concrete impact the alleged events have had on the performance and on the fulfillment of the contractual obligations, whether or not the further commitments set out in the agreement have been meet, the degree of care that the defaulting party has taken once the emergency commenced and using the necessary caution to avoid the abusive exercise of rights. To this purpose the Italian Supreme Court, in its recent case law, stated that the breaching party cannot invoke the impossibility arisen from an order or prohibition of the administrative authority if this was reasonably and easily foreseeable according to common diligence at the time of assuming the obligation, or with respect to which it has not experienced all the possibilities offered to overcome or remove the resistance of the case.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. In order to mitigate the effects of the temporary suspension of "non-essential" commercial activities imposed by the Italian Government to contain the COVID-19 outbreak, by means of Decree-Law no. 18 of March 17, 2020 (the so-called "Cura Italia" Decree) have been introduced measures also concerning commercial lease of properties. In particular, pursuant to Article 65 of the above-mentioned Decree, a tax credit of 60% of the amount of the rent paid for the month of March 2020 will be granted to those carrying out business activities in buildings falling under cadastral category C/1 (shops and stores). In general, with regard to the lease of properties for commercial use, according to Article 27 of Law no. 392/1978, the lessee is entitled to withdraw from the agreement at any time by means of a 6-month prior written notice, to be sent by registered letter, if serious grounds occur (*e.g.* unpredictable positive or negative events both making the lessee's stay in the premises not advantageous any longer). Although the COVID-19 outbreak, which has been declared a pandemic by the Word Health Organisation, can be qualified as a fortuitous and unpredictable event overwhelming beyond the human will, the enforceability of the above-mentioned rule will depend also on the existing terms and conditions of the executed contract.

Italy

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	Note: The bankruptcy is currently ruled in Italy by Royal Decree no. 267 of 16 March 1942 (the "Bankruptcy Law"). Notwithstanding the above, Italy has just approved a reform of the current Bankruptcy Law by which a new Code of Corporate Crisis and Insolvency was passed. Most of the forecasts of the new code have not yet entered into force (they should have entered into force next 15 August 2020 but, due to COVID-19 issue, the date should be postponed of one year). Thus the comments provided below have been made on the basis of the provisions currently in force. Directors have a general duty to prudently manage the company, in compliance with laws, regulations and by-laws, and owe their shareholders a fiduciary duty. Directors are jointly and severally liable for breach of their duties, except where one can establish lack of fault. More precisely, the directors, in the event of a distress scenario, must carry out all the activities needed to restore the debt exposure or in any case not to increase it and not to worsen the company's assets. To this end, the directors may apply for the measures provided for by the Bankruptcy Law. In any case, Directors are under a duty to call a meeting without delay if the corporate capital decreases by more than one-third because of the company's losses and, in particular, if the share capital of the company, as a result of losses exceeding one third of the share capital, is decreased below the legal minimum provided by law. Likewise, when the corporate capital of the company is reduced to zero due to losses and the net equity is negative, the directors have the duty to call promptly the shareholders' meeting in order to take the proper resolutions (*i.e.* recapitalization, transformation or liquidation of the company). In the event that the directors, despite signs of crisis and possible insolvency of the company, do not intervene (taking the most appropriate measures) leaving the company to incur further debts, they may be subject to a series of sanctions, both civil and criminal.
What personal liabilities can directors be exposed to as a company nears insolvency?	In the event of a breach - or improper performance of their duties - in preventing the worsening of the crisis in the company i.e. i) detecting signs of the crisis too late and not reacting to it in a timely manner, ii) making improper use of remedies to deal with or minimise the crisis], the directors could be liable for civil penalties for any damage suffered by the company. In particular, the directors may be held jointly and severally liable for damages resulting from failure to comply with management duties imposed by law and the bylaws, both to (a shareholders and third parties for damage directly caused by their wilful intent or gross negligence, and (b the company's creditors for failure to protect the integrity of the company's assets. In addition, the directors may also be liable for criminal penalties for bankruptcy offences that emerge following the company's declaration of bankruptcy, at the request of the Receiver.

Italy

Insolvency (continued)

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

In a situation of financial distress, the directors must react promptly by taking the most appropriate action to protect the company, its assets and its creditors. To this end, the Italian Bankruptcy Law provides for different solutions that can be applied alternatively to each other, depending on the case and the concrete circumstances. The important thing is that in choosing the action to be taken, the directors pursue the greatest interest for the company itself and its creditors, avoiding actions that involve an unnecessary increase in exposure and prejudice to the creditors.

Having said the above, more precisely, the directors can choose the following solutions:

- the recapitalization of the company;
- start of the liquidation process;
- filing promptly an application for a declaration of bankruptcy;
- starting one of the other bankruptcy proceedings provided for by the Bankruptcy Law i.e.
  (i) Arrangement with creditors by Article 160 et seq. of the Bankruptcy Law,
  (ii) Debt Restructuring Agreements pursuant to Article 182-bis of the Bankruptcy Law,
  (iii) Turnaround Plan pursuant to Article 67.

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

Due to the difficulties related to the COVID-19 issue, the Italian Government, with Legislative Decree no. 18 of 17 March 2020 (*i.e.* "Cura Italia Decree"), has introduced various incentives for companies. In particular, some of the main measures refer to moratoria process regarding loans, credit facilities and leasing.

Finally, the Government approved a further decree-law (which has yet to be published) introducing new urgent measures regarding access to credit by means of guarantee released by the State.

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

As an alternative to bankruptcy, the current Italian Bankruptcy Law provides for already mentioned remedies for an insolvent/in crisis company. The most relevant are the following:

- *Arrangement with creditors by Article 160 et seq. of the Bankruptcy Law*: is a Court-supervised procedure, aimed at discharging the debtor's debts and avoiding bankruptcy.
- *Debt Restructuring Agreements pursuant to Article 182-bis of the Bankruptcy Law*: is an agreement with the creditors representing at least 60% of the value of the debts of the company aimed at settling their respective obligations and how the same shall be performed .
- The debt restructuring agreement is subject to confirmation (homologation) by the Bankruptcy Court.
- *Turnaround Plans pursuant to Article 67(3)(d) of the Bankruptcy Law*: is an out-of-court procedure for the settlement of the crisis that allows the company in a state of crisis or insolvency to reach an agreement with its creditors that appears suitable to allow the recovery of the company's debt exposure and to ensure the rebalancing of the financial situation.

Note: At the moment, as a result of the issuance of the COVID-19, it is possible to apply for one of these proceedings but - at least until 11 May 2020 (save for following postponement) - the hearings and the deadlines for filing documents with the Court are interrupted (except in cases of specific urgency to be assessed by the Court).

Italy

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Cybersecurity issues

In the context of the current pandemic disease, as a general rule, companies shall:

- assess the adequacy of the security measures implemented on corporate systems to ensure information confidentiality and protection of personal data (e.g., vulnerability assessment and penetration testing);
- adopt a plan of business continuity and disaster recovery;
- provide employees with all information related to cyber risks (e.g., malware, social engineering, fake news, online scams), and the good practices to be followed in order to contrast them (e.g., using of a VPN authentication, adoption of strong login credentials, prohibition to connect to public networks);
- draw up a policy regarding the use of devices the company has provided the employees with (e.g., personal computer, smartphone and/or tablets) setting out at least the main rules governing their usage;
- set up Bring Your Own Device recommendations/manuals, should employees be allowed to perform professional duties by making use of their own personal devices.

In addition, employers shall make clear to their employees the importance of reporting any security incident affecting devices containing confidential information or personal data.

Data Protection issues

In the first place, the Italian Data Protection Supervisory Authority (Garante per la protezione dei dati personali or “Garante”) issued guidelines titled "Coronavirus: No do-it-yourself (DIY) data collection" warning private and public bodies to refrain from collecting - in advance and in a systematic and generalised manner - information on the presence of any sign of influenza in the workers and their closest contacts. The Garante, then, calls all controllers to comply strictly with the instructions provided by the Ministry of Health and the competent institutions to prevent the spread of the COVID-19 without undertaking autonomous initiatives aimed at the collection of data on the health of users / workers where such initiatives are not regulated by the law or ordered by the competent bodies.

Later on, in the light of recent provisions issued by various competent bodies, the Italian Data Protection Supervisory Authority has collected the main arrangements having reference to processing of personal data in the “Covid era” within a sort of report. It includes those clauses of the Protocol that regulate measures to combat and contain the spread of the COVID-19 virus in workplaces, which, by permitting employers to control the body heat of any data subject who enters their premises, recommend them:

- not to keep data as to data subjects’ body heat unless it being strictly necessary;
- to provide data subjects with a dedicated information notice under article 13, Regulation (EU) 2016/679 ("GDPR"), where it is said that;
- the purpose of the processing is the prevention of Covid-19 infection,
- the legal ground for it is the implementation of anti-contamination security protocols as provided for under Government decrees on Covid-19, and
- the retention period is no longer than the end of the healthcare emergency;
- not to disclose said personal data to third parties;
- to adopt, in any case, measures ensuring the dignity of the data subjects.

Italy

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The Italian Companies Register remains open but with limited public access. There are delays due to reduced staff.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are reopening from 1 July 2020 and regular hearings will be held, in accordance with anti-covid measures.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries remain operational. However there are delays. Offices for apostillation are open only upon reservation and with limited access for public. Some local offices may be open only on specific days.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	The Digital Signature is permitted, only if they are a particular type of qualified electronic signature. Other kind of electronic signatures unlikely to be permitted.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Shareholder and board meetings can be held with all attendees telephonically. The meeting is considered to be convened and held where the Secretary is. Signature of the Secretary is sufficient, there is no need for the Chairman to sign the minutes.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Shareholder and board meetings can be held with all attendees telephonically. For private limited liability companies, it is also possible to adopt decisions by means of written resolution even if a specific provision in this respect is not included within the companies' Articles of Association.

Italy content (Corporate) as at 3 July 2020

Contact for Jersey

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Jersey

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Lockdown is starting to lift and is now in phase 2. Businesses are starting to resume operations with restrictions in place. The Jersey Financial Services Commission is still open with the majority of staff working remotely.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Yes. The Jersey courts are operating. However, it has been requested that paperwork is emailed to them, as they want minimal face to face interaction.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. Operating with limited opening hours. The legalisation office is only accepting deliveries between 14.30 - 15.30pm.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes, Unless there is a specific requirement in the Articles of Association for a wet signature.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. This is permitted as long as the Articles of Association for each company allow for this. Best practice would be to sign them electronically or with wet ink as soon as is practical.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	This is dependent on the Articles of Association of the company.

Jersey content as at 3 July 2020

Contact for Kazakhstan

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Kazakhstan

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Some of these options are possible. While furlough without pay is possible, stand down without pay is not. Some of the preventive measures taken by the government require temporary closure of business. E.g. non-food trading markets, shopping and entertainment centers, malls, cinemas. This could be considered downtime for the employees concerned, during which time they are entitled to the minimum wage (unless a higher salary is agreed). An employer should issue an order which defines conditions of payment for the period of downtime. Furlough (leave without pay) may be granted upon: • mutual agreement; • on the basis of an employee's application. The duration of the furlough (leave without pay) is determined on mutual agreement between employee and employer.
Can an employer direct an employee to take paid annual, holiday or similar leave?	No. Paid annual leave for the employee is provided by agreement of the parties at any time of the working year.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. An employer has discretion to reduce staff. However, an employer should comply with requirements stipulated by the Labour code (e.g. notifying the employee, a local employment center and payment of compensation, etc.). It is important to consider restrictions on reduction of employees of pre-retirement age, pregnant women, women with children under the age of 3, single mothers raising children under the age of 14 or a disabled child under 18 etc. Instructions of the Prime Minister (20 March 2020) on preservation of jobs within the pandemic period should be considered.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. If there is liquidation of a legal entity, employees are considered second priority creditors. Employees are entitled to remuneration and compensation (e.g. salary, leave entitlements).
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. The Kazakhstan Government pays social benefits if there is loss of income due to restrictions on activities during the state of emergency.

Kazakhstan content as at 9 April 2020

Kazakhstan

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	COVID-19 or circumstances arising therefrom, may be regarded as force majeure and thus exempt a party from liability due to failure to perform a contractual obligation. For an event to be the force majeure, following preconditions must be met: • the event must directly cause non-performance of contractual obligations; • the event must be unusual and must occur beyond control of the party; • it should not be reasonably possible to foresee and avoid the event. Kazakhstan introduced state of emergency regime, within the period of which issuance of certificates is free of charge.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	In order to recognize an event as force majeure, an entity has to obtain certificate from an authorized body (Kazakhstan Foreign Trade Chamber LLP). It is important to understand that certificate cannot be issued when an obligation has yet to be violated or is only anticipated, which is why violation should take place. As well as there has to be direct causal relationship between an entity's non-fulfillment (violation) of an obligation and the circumstances to which it refers.
Are commercial property or other leasing arrangements subject to any special arrangements?	Currently special arrangement was introduced only in relation to state property, which is leased to small and medium-sized enterprises. President is instructed to suspend from 20 March 2020 for a period of three months the rental fees on state-owned real estate. He also instructed the local executive bodies (akimats) to elaborate the possibility of exempting commercial real estate from rent. As for now commercial property and other leasing arrangements are regulated by the Civil Code, which also envisages the impossibility of fulfilling obligations due to force majeure. For complete understanding, each case must be considered individually.

Kazakhstan

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	In the following cases directors of companies are obliged to apply to court for declaring it bankrupt: • if company does not have enough property to satisfy claims of creditors in full upon liquidation; • if, when satisfying claims of some creditors, it becomes impossible to pay money to other creditors; • within six months from the day when occurrence of insolvency became known.
What personal liabilities can directors be exposed to as a company nears insolvency?	If bankruptcy is caused by the actions of participants/shareholders, then in case of insufficient funds to creditors, participants/shareholders bear subsidiary liability to them. Also, participants and (or) directors bear subsidiary liability to creditors of their property for intentional bankruptcy. The following types of liability are provided: • civil liability - if the bankruptcy of a legal entity is caused by the actions of its participant/shareholder, then if a company has no sufficient funds, participant/shareholder bears subsidiary liability to creditors; • criminal liability is provided for major damage, which amounts to USD 13,000 or more; • administrative liability is provided up to USD 4,550 in the absence of signs of a criminal offense.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There is no safeharbor legislation. According to judicial practice, it is possible to minimize the risks of subsidiary liability under the following conditions: • appeal to the court on declaring company bankrupt within 6 months from the date of insolvency; • providing court and the administrator with complete information on financial and economic activities within the appropriate time frames, as well as ensuring the completeness and reliability of accounting documentation, accounting systems and financial statements; • from the date of appointment of the interim manager, providing him access to accounting records for examination.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	There are certain enterprises that were permitted to continue their business: • Retail trade, food services and construction: grocery stores; pharmacies; gas station; restaurants / bars / cafes / canteens (for pick-up or delivery only). • Other important services: food delivery services; warehouse / distribution of food, medicines and medical devices; banking services; nursing home; shelters for children; shelters for the homeless; animal shelters; funeral services agencies, crematoriums and cemeteries; mass media. • Healthcare system: hospitals; laboratory services; institutions providing medical services at home; veterinary and livestock emergency services; dentistry for emergency dental services; medical supplies distribution. **(Continued on next page)**

Kazakhstan

Insolvency (continued)

- Urban infrastructure and utilities: electricity companies; water supply; services of electricians, plumbers; fire service; street and room cleaning services; collection, processing and disposal of garbage and waste; disinfection; telecommunications; transport services, including officially registered taxi services; airports; train stations; postal, courier and freight services; social security.
- Manufacturing and agriculture: food industry, including the production of essential goods; agriculture; chemicals; medications; medical equipment / instruments; sanitary hygiene products; paper products for the home; engineering; metallurgy; light industry.

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

In connection with the quarantine imposed, Kazakhstan Government pays social benefits in case of loss of income due to restrictions on activities during the state of emergency. This measure will help employers who are unable to pay wages for periods of inactivity.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Under the Code on Health of People and the Healthcare System (the “Healthcare Code”), information about medical care that has been applied, the state of an individual's health, the diagnosis, and other information obtained during his examination and (or) treatment is considered a medical secret. With respect to such personal data, the Healthcare Code sets a higher standard of protection and provides for an exhaustive list of the grounds for its processing.

One of the grounds to process such data is for health protection purposes when there is a threat of disease spread that is dangerous to others. In such cases data processing is permitted without an employee’s consent.

An employer can process information about an employee’s recent travel history and presence of symptoms, in case the employee has symptoms – with whom and when he/she had contact at the workplace, etc.

An employer must not collect or process an employee’s personal data that is not objectively related to prevention of the spread of COVID-19.

Kazakhstan

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. The Jersey Financial Services Commission is still open with the majority of staff working remotely.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Yes. The Jersey courts are operating. However, it has been requested that paperwork is emailed to them, as they want minimal face to face interaction.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. Operating with limited opening hours. The legalisation office is only accepting deliveries between 14.30 - 15.30pm.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes, Unless there is a specific requirement in the Articles of Association for a wet signature.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. This is permitted as long as the Articles of Association for each company allow for this. Best practice would be to sign them electronically or with wet ink as soon as is practical.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	This is dependent on the Articles of Association of the company.

Contact for Latvia

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Latvia

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Yes, subject to meeting some requirements While the terms “stand down” and “furlough” are not used in Latvian law, employees can be left without pay in some scenarios: • An employer may suspend an employee without pay in cases where a failure to suspend may be detrimental to the employee's health and safety or the health or safety of third parties, or where the employee has performed his or her work duties under the influence of alcohol or drugs. However a suspension cannot exceed three months (Art. 58 of the Labour law). • If the employee has requested, and the employer has granted, unpaid vacation to the employee. For the avoidance of doubt, unpaid vacation can be granted only upon request of the employee (Art. 58 of the Labour law). • If idle time has occurred due to the fault of the employee (Section 2 of Art.74 of the Labour law).
Can an employer direct an employee to take paid annual, holiday or similar leave?	No. The employer may not direct an employee to take leave. However the employer may initiate negotiations with the employee and grant a vacation if the employee agrees to it (or if the employee has requested that such leave, with or without pay, is granted).
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. If an employment relationship is terminated due to redundancy, the employee is entitled to the following severance pay in the absence of a large amount required under a collective or employment agreement: • One months average earnings if the employee has been employed by the specific employer for less than five years; • Two months average earnings if the employee has been employed by the specific employer between five and ten years; • Three months average earnings if the employee has been employed by the specific employer between ten and twenty years; • Four months average earnings if the employee has been employed by the specific employer more than twenty years; There is no capacity for relief from payment of termination benefits due to financial difficulty of the employer.

Latvia

Labour Law (continued)

Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. If an employment relationship is terminated due to redundancy, the employee is entitled to the following severance pay in the absence of a large amount required under a collective or employment agreement: ● One months average earnings if the employee has been employed by the specific employer for less than five years; ● Two months average earnings if the employee has been employed by the specific employer between five and ten years; ● Three months average earnings if the employee has been employed by the specific employer between ten and twenty years; ● Four months average earnings if the employee has been employed by the specific employer more than twenty years; There is no capacity for relief from payment of termination benefits due to financial difficulty of the employer.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. Each employer has a monthly obligation to allocate a certain amount to the employee claims guarantee fund, which is managed by state authorities. At first, the claims of the employees are settled from the resources of this fund, if there are not enough resources in the fund to settle the employees claims, these claims are settled from the state budget. This is the only funding which would constitute being "funded by the government". No other funding arrangements are stipulated in the regulation of Latvia.

Latvia

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes in some cases. Latvian national law strictly follows the principle *pacta sunt servanda* and therefore neither the exceptional difficulty of the transaction nor difficulties in performance arising after the conclusion of contract shall give one party the right to withdraw from the contract. The Supreme Court of Latvia has also confirmed the importance of separating force majeure circumstances from cases where, despite difficulties, performance of contract is still possible. Consequently, circumstances where performance, although adversely affected by an external event beyond control, would be still possible, would not qualify as force majeure under Latvian law. Whether or not any situation can be considered as force majeure is evaluated on a case by case basis depending on the facts surrounding each case as well as the specifications under the agreement parties entered into. Most agreements will include general force majeure clause which serve to allow relief from contractual obligations when arise such circumstances which are outside the parties' control. It is possible that a pandemic qualifies under a force majeure provision. The party seeking to rely on a force majeure provision must prove that the unforeseen event has made the performance of their obligations impossible, and that the event's consequences were beyond the reasonable foresight and skill of the parties at the time they entered into the contract. In other words, the party claiming the benefit of the clause must prove that they cannot perform their contractual obligations due to unforeseeable, extraordinary circumstance beyond their control. Impossibility of performance indicates that, if the performance of an obligation is completely impossible, the party may be released from performing such obligations, but if the performance only becomes partially impossible, then the party is released from performing the part of its obligations that become impossible. However, it should be noted that the sole presence of a Covid-19 pandemic or any other similar force majeure event will not always result in the impossibility of performance for all contracts. In each concrete case, it should be determined if the performance of the contract becomes objectively impossible and whether there is sufficient causal link between the force majeure and the impossibility of the performance of the contractual obligations. The party invoking force majeure is under an obligation to immediately inform the other party thereof. Such obligation derives not only from international contract law, but also from the principle of good faith that applies also to domestic matters. In the event of failure to notify, the party which has failed to fulfil its obligations due to force majeure shall be liable for the loss resulting from the failure to inform the other party. The occurrence of force majeure typically allows the affected party to postpone the fulfilment of its contractual obligations for the period during which the specific circumstances exist but does not release the party from the fulfilling its obligations entirely. However, in practice, there may be situations where the delay in the performance of obligations is so significant that the performance of the contract becomes useless
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, this is not required. The party who invokes the force majeure does not have to apply to court, except in a case of dispute. In the case of dispute the court shall decide on a case-by-case basis whether a party may be relieved from contractual obligations and/or liabilities or not.

Latvia content (Contract Law) as at 15 October 2020

Latvia

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. The Cabinet of Ministers on 2nd April of 2020 adopted Regulation No.180 regarding the exemption or reduction of the lease of property of a public person and a capital company controlled by public persons due to the outbreak of COVID-19. In such cases late payment interest and contractual penalties shall not apply. Lessee shall pay only for consumed services like electricity, thermal energy, water supply and other property maintenance services. The lessees which lease the property from a public person or a capital company controlled by public persons shall correspond to certain conditions to receive benefits from Regulation No.180. For example the lessee shall simultaneously meet all of the following criteria – revenue of the commercial activity in March or April 2020 compared to the relevant month of 2019, has to be decreased by at least 30%, the lessee shall not have the tax debt administered by the State Revenue Service, which exceeds 1000 euros in the total amount; the lessee has not commenced insolvency proceedings; the lessee has not had three or more arrears of rental charges and other related charges during the last year, or any other significant unfulfilled contractual obligations towards the lessor. If all of the mentioned criteria have been met, than to receive exemption from a lease the lessee shall not be able to use the property for commercial activity at all, or to receive reduction of lease but not more than 90%, according to percentage reduction of revenue of commercial activity. Unfortunately, it does not apply to those lessees which lease the property from commercial lessors, and there is no special regulation for the rent of residential spaces.These special regulations apply from 12th March until the announcement by the government of Republic of Latvia regarding the end of emergency situation caused by COVID-19. Within the state of emergency situation caused by COVID-19 many commercial properties (cinemas, sport clubs etc.) are physically closed. Only pharmacies, stores for veterinary goods, gardening and construction goods, optician stores and groceries stores are open in the shopping malls at the weekends.

Latvia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Directors have a duty to fulfil their obligations with diligence and act in the best interests of the company.

If legal protection proceedings (formal debt restructuring proceedings) are initiated for the company, directors are limited in their ability to conduct business operations and must abide by these limitations.

More specifically, directors are prohibited from:

- entering into any transactions or performing activities which may deteriorate the financial situation thereof or harm the overall interests of the creditors;
- issuing loans (credits), except cases when the issuance of loans (credits) is the basic activity of the debtor and this has been entered in the plan of measures of the legal protection proceedings;
- giving guarantees, giving presents or donating, awarding bonuses to members of the board and council of the debtor or other type of additional financial remuneration;
- alienating or encumbering an immovable property with rights in rem, except cases where this is provided for in the plan of measures of the legal protection proceedings;
- dividing and paying dividend profits; (vi) performing financial obligations which are not included in the plan of measures of the legal protection proceedings.

When the company has been declared insolvent and entered into formal insolvent liquidation proceedings, directors lose their right to oversee the business activity and are replaced by an insolvency administrator.

What personal liabilities can directors be exposed to as a company nears insolvency?

Directors of insolvent companies may face civil, administrative and criminal liability in the subsequent insolvency proceedings.

Insolvency administrators have a duty to review the actions undertaken by the directors of insolvent companies and to submit civil claims for the recovery of damages from directors if the insolvency administrator establishes that directors have been responsible for causing damages to the company.

Directors of companies may be subject to civil liability for failures to submit documents to the insolvency administrator or if the submitted documents are in a state which does not allow obtaining a true and fair view of the company's transactions and the state of property within the last three years preceding the proclamation of insolvency proceedings.

Moreover, administrative liability may also be applied if directors fail to submit applications for the initiation of insolvency proceedings on time.

According to the rules regulating tax matters, directors of companies can be held personally liable and be subject to an obligation to cover company's tax debts with their personal assets.

Law enforcement authorities may initiate investigation and criminally prosecute directors if evidence exists that directors have committed gross negligence or intentionally caused the insolvency of the company which has resulted in significant loss to stakeholders.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

Directors have to act as honest and careful managers. Directors would do well to attempt to avert the insolvency of the company by utilizing debt restructuring tools and should avoid making transactions and committing actions that cause loss to the company and are not backed by economic reasoning (companies should not be strippped of their assets, assets should not be transferred to other entities, etc.).

Upon the onset of features of insolvency and/or in the event that the majority of creditors do not support the restructuring plan, directors should submit an application for the initiation of insolvency proceedings to the court without undue delay.

Latvia content (Insolvency) as at 5 October 2020

Latvia

Insolvency

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Companies facing financial difficulty may access debt restructuring proceedings which offer a moratorium period of 2 months (with the possibility to prolong the period by an additional month with prior authorization from the creditors and the court). During the moratorium period, the company (debor) drafts a restructuring plan which has to be coordinated with creditors. The moratorium offers companies a number of benefits: ● enforcement of judgments against the company are suspended (if any exist); ● secured creditor cannot request the sale of pledged property (if this does not significantly harm the creditor); ● creditors cannot initiate insolvency proceedings; ● the company cannot be liquidated; ● contractual penalties, interest (above the statutory interest), late payment charges (also for tax claims) are suspended. Company continues to trade during the moratorium period.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	Legal protection proceedings: an aggregate of measures of a legal nature the purpose of which is to renew the ability of a debtor to settle their debt obligations, if a debtor has come into financial difficulties or expects to do so. The company (debtor) drafts and coordinates a restructuring plan with creditors which, when approved by a court, binds the minority of creditors. During the fulfilment of the restructuring plan, a court-appointed supervisor monitors the company (debtor). Extrajudicial legal protection proceedings: procedurally does not differ from legal protection proceedings except that the two month moratorium period is not afforded to debtors.

Latvia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Employers' actions to counteract the spreading of COVID-19 (COVID-19) may lead to the collection and further processing of additional personal data of employees as well as other categories of data subjects (visitors, vendors' employees etc.). In this context, some actions may seem questionable, for example: collecting information regarding recent trips (including private trips), introducing innovative solutions to examine employees' body temperature or obliging employees to keep their employer informed about their health.

The Data State Inspectorate of the Republic of Latvia has indicated that the protection of personal data should not be an obstacle to the effective fight against the spread of infectious diseases (including COVID-19), but should prevent the dissemination of unjustified and disproportionate information on specific infected persons or persons at risk and it is important that relevant information is used to take specific public health actions / activities.

The employer may, in the light of it's legitimate interests and the public interest in health, and in order to ensure protection against the risk of illness to other employees and customers, obtain information from employees as to whether the employees have been abroad and have not been in contact with COVID - 19 patients or contacts. If the employer has such information at its disposal, the employer is obliged, in compliance with the requirements referred to in the Labor Protection Law, not to allow this employee to perform his or her duties and to send him or her home. On the other hand, if the employee does not follow the instructions of the employer and comes to work, the employer has the right to report it to the State Police. The employer is not entitled to pass on information that has become known to other employees, but is entitled to pass it on to the Center for Disease Prevention and Control or other responsible authorities, if necessary, taking into account the competence of these authorities.

The Data State Inspectorate of the Republic of Latvia has indicated that, where information on patients is published in a way that does not allow the identification of specific patients, the provisions of the General Data Protection Regulation (GDPR) shall not apply to the publication of such information. If it is possible to publish the most detailed map without identifying the persons concerned, the responsible authority may do so, for example by indicating the city or town in question with a larger population of Covid-19 patients. On the other hand, if only one diseased person is diagnosed in a small settlement and this information will be published publicly, there is a high probability that the specific person will be identified. In this case, the information would have to be published at the level of the largest settlement. The size of the site should be determined by the responsible authority, which has information on both the number of patients and their location and can assess the risks.

The Data State Inspectorate has received information from financial institutions about the activities of fraudsters by sending an SMS to the population, which contains fraudulent links or asks to take an action, ostensibly to receive banking services - this is called phishing.

Latvia content (Cyber & Privacy) as at 7 October 2020

Latvia

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The major public register entities are closed for on-site visits, however, the documents can be submitted electronically (with electronic signatures) or by post. The registrations are being made as usual.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Court hearings are mostly postponed and those cases which can be reviewed in written procedures are being reviewed. Documents can be submitted electronically using electronic signature.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries are still operating and notary services are provided in a timely manner. The notary services can be provided by means of electronic platforms. Notary visits can be performed subject to specific rules.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes, Latvian law provides the option to use authentic electronic signature.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes, distance board meetings can be held. Latvian law requires at least two signatures on the minutes of the meeting - from chairman of the meeting and another participant of the meeting.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes, distance board meetings can be held. Latvian law requires at least two signatures on the minutes of the meeting - from chairman of the meeting and another participant of the meeting.

Latvia content (Corporate) as at 15 October 2020

Lithuania

Labour Law

Contact for Lithuania

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No. Unless the employee through culpable act or omission, commits a violation of the duties established by labour law provisions or the employment contract.
Can an employer direct an employee to take paid annual, holiday or similar leave?	No. The employer may only grant leave upon an employee‘s request.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. In the case of job elimination/redundancy, the employee should be paid the amount of 2 average monthly salaries (or 0.5 x the average monthly salary where the length of the employment relationship is less than 1 year). The following notice periods will also apply: ● 1 month; ● 2 weeks for employees working less than 1 year; ● a longer notice period (double or triple) for certain categories of employees. Where the termination has occured on the basis of these grounds, in addition to severance pay, a long-term work social security benefit is payable to employees who have worked for the employer for 5 years. The benefit amounts to 77,58 percent of the respective employee's average monthly salary (up to 3 months, depending on the length of service). There is no capacity for relief from liability for termination benefits due to financial difficulty. An employer and employee can also mutually agree to terminate the employment contract. Where this occurs, the parties would agree the amount of severance pay, but the long-term work social security benefit does not need to be paid to the employee.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. This applies to any benefit due by the employer to the employee arising out of employment relationship.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. There is an insolvency benefit, which has the purpose of compensating an employee for the benefits that had not been received at the time of termination of the employment contract (e.g. salary, holiday pay). The compensation paid by the Guarantee Fund is capped to 6 minimum monthly salaries.

Lithuania content as at 9 October 2020

Lithuania

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. There is a statutory concept of force majeure incorporated into the Civil Code, which may be activated, depending upon each individual contract and the circumstances surrounding its contractual performance. In addition, the affected party may rely on the statutory concept of essential changes causing the disbalance of contractual obligations (contractual performance upon change of circumstances) specified in the Civil Code, with a due regard to each individual contract and individual circumstances surrounding its performance. The party affected by the essential changes causing the disbalance of contractual obligations may claim for a change or termination of the contract. Also due pandemic situation a few legal acts in order to facilitate existence for legal entities were adopted (i.e. Law of the Republic of Lithuania on the Impact of the Quarantine Consequences of COVID-19 (Coronavirus Infection) on the Execution of Consumer Contracts for the Provision of Event Organization Services, Law on the Impact of the Consequences of the New Coronavirus of the Republic of Lithuania (COVID-19) on the Application of the Law on Insolvency of Legal Entities of the Republic of Lithuania).
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, this is not required. The party to the contract relying on a force majeure event shall notify the other party of the occurrence of the event of force majeure and its impact on the contractual performance. The existence of the particular event of force majeure can be supported by a writ of the event of force majeure issued by a local chamber of commerce and crafts. If the counterparty does not receive a notice of force majeure event from the affected party within a reasonable time frame upon the latter having known or ought to have known of the event of force majeure, it may claim for the losses occurred due to non-receipt of the notice from the affected party. In the event of the essential changes causing the disbalance of contractual obligations, where the parties to the contract fail to agree upon change of the contract, each party may apply to a court of law seeking for change of the contract to restore the balance of the contractual obligations or termination of the contract.
Are commercial property or other leasing arrangements subject to any special arrangements?	No. No special arrangements are in place, though there were some debates regarding rental assistance measures. As a general rule, it is unlikely that the COVID-19 pandemic will, of itself, give rise to a rent suspension or a termination right for either party under a commercial lease. However, there is no standard form for commercial leases so the terms of each lease need to be considered on a case-by-case basis. General statutory rules of force majeure may be activated, as long as the contractual performance of a party under a commercial lease or leasing arrangement has been directly affected by one or several quarantine bans established by the Government for particular businesses. In practice, it is not a rare case that the landlord offers specific discounts to the tenant for the whole quarantine subsistence.

Lithuania content as at 9 April 2020

Lithuania

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	A director of a company that is insolvent shall have an obligation to initiate bankruptcy to the company. Under the circumstances of COVID-19, temporary changes were adopted. The director could not initiate the insolvency proceedings during the quarantine and for three months after its end, thus a director of the company form this obligation was relieved for a temporary term. However, as the quarantine has already expired, as well as three months after its end, there are no exceptions to the initiating the insolvency proceedings. Upon becoming aware of the company's insolvency, a director shall notify the shareholders of the company with suggestions to solve the issues. Upon becoming aware of insolvency circumstances, the director shall notify creditors of the company about this and offer to conclude agreement on financial aid or to settle bankruptcy procedure out of court.
What personal liabilities can directors be exposed to as a company nears insolvency?	Director of a company that is insolvent shall be liable for any damages incurred due to his or her failure to comply with applicable requirements (e.g. initiation of bankruptcy procedure). Also, if a director fails to initiate bankruptcy when the company is insolvent, the bankruptcy was deemed as wilful or director does not transfer all company's assets to the administrator, such director may be deprived from the right to take management positions in other legal entities from 1 to 5 years.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Director should follow company's financial state carefully and be ready to initiate insolvency proceedings in case of need and upon initiation of bankruptcy proceedings should cooperate with the creditors and bankruptcy administrator.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Lithuanian government has adopted several measures, such as tax postponement, compensation for credit interest for small and medium enterprises, granting loans for settlement with suppliers, issuing state guarantees for loans and other.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	As an alternative to bankruptcy, restructuring may be an alternative for businesses facing insolvency risk. Compared to bankruptcy, restructuring does not limit company's commercial activities, however extensive restructuring plan is required (similar to business plan), which aims to recover solvency of the company and to settle company's debts to its creditors.

Lithuania

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The State Data Protection Inspectorate of the Republic of Lithuania (SDPI) has indicated that the processing of certain personal data related to the current situation due to COVID-19 is compatible with the General Data Protection Regulation (GDPR).

Employers and other data collectors are allowed to process the following personal data: whether the person was traveling to a 'country of risk'; whether the person was in contact with a person traveling to a 'country of risk' or suffering from COVID-19; whether the person is at home due to quarantine (without giving a reason) and the quarantine period; whether the person is ill (without specifying a specific disease or other reason).

An employer or other data controller shall have the right to ask their employees or visitors whether they have symptoms of COVID-19 or whether they have been diagnosed with COVID-19. However, SDPI emphasizes that the right of access to this information does not imply that employers or other data controllers can document the information received or compile relevant data files. Employers may also process such personal data related to the employee as grounds for remote work and other restrictions on the employee's work. However, data controllers should refrain from collecting temperature readings of staff or visitors, medical records, or other. This cannot be considered as an obligation on the employer.

The employer must ensure appropriate technical security measures in order to manage cyber risks in organizing remote work. Furthermore, the employer has the right to control and monitor information and communication work tools in accordance with the principles of proportionality, expediency and transparency (prior information of the employee).

Lithuania

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. Although, there is a suggestion to use services by electronic means or by post. If there is a need or desire for physical presence during provision of services it is possible without prior registration.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Yes, courts during this period work ordinary, however there is an inducement to submit documents electronically using electronic signature, if it is possible. Due to COVID-19 pandemic and following quarantine regime in the Republic of Lithuania significant part of oral hearings were postponed, thus the load of court performance at this moment is higher than usual.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. Notary services were provided in the best part of the quarantine, thus there is no significant delays and services are provided in a timely manner.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	The documents signed with a qualified electronic signature are accepted by the public authorities.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. The meeting minutes must be signed by chairman and secretary of the meeting. The board meeting minutes confirmed with signatures of the all board members is not required, but the decision of the board signed by all board members is required.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. The meeting minutes must be signed by chairman and secretary of the meeting. The board meeting minutes confirmed with signatures of the all board members is not required, but the decision of the board signed by all board members is required.

Contact for Luxembourg

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Luxembourg

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	An employer who is facing with a decline in activity and cannot employ its employees on a full-time basis may apply for short-time work ("chômage partiel"). During the lockdown period due to the COVID-19 situation, the Luxembourg government has authorized companies to apply for short-time work due to force majeure pursuant to a specific and accelerated procedure. Since the end of the lockdown and to further assist companies suffering from a reduction of their activity / economic difficulties, new modalities of short-time have been implemented (4 modalities with different eligibility conditions depending on the sector of activity). If the company's application is approved, employees are entitled to receive, for the hours not worked, a compensation indemnity amounting to 80% of their normal salary, with a maximum of 2.5 times the minimum social wage for an unskilled employee (i.e. max. EUR 5,354.98 at the 834.76 index applicable as from 1st January 2020). The indemnity is paid by the employer and reimbursed by the Employment Fund ("Fonds pour l'Emploi"). Prior to applying for short-time work, the company must first recourse to its own resources and measures to maintain a normal level of occupation in the company (e.g. non renewal of fixed-term contracts that have expired, no recourse to new fixed-term contracts, exhaustion of leave remaining from previous year). Some modalites of the new short-time work scheme for economic recovery imply the obligation to negotiate an employment safeguarding plan with staff representatives.
Can an employer direct an employee to take paid annual, holiday or similar leave?	In principle, no. An employer cannot force its employees to take holidays or time-off, except for holidays accrued from previous years, and which would be lost if not taken. The employee should, in principle, schedule days off at his or her convenience. However, holidays already requested by the employee and approved by the employer, may not be cancelled by the employee without the employer's agreement.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. The Labour Code provides for: • a notice period of 2, 4 or 6 months depending on length of service (NB, in the banking and insurance sector, the CBA provides for a doubled notice period if termination is based on economic reasons); and • a statutory severance payment in the case of a dismissal (for personal or economic reasons). The amount ranges from 1 to 12 months of salary depending on the length of service of the employee (some CBAs have more favourable provisions). For small businesses (with less than 20 employees), the severance indemnity may be converted into the months of the notice period. There is no relief where the company is facing financial difficulty (except for in the case of bankruptcy, which leads to the automatic termination of the employment contract and reduced severance payments).
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are considered privileged creditors and their claims benefit from a preferential ranking (i.e. before any other claims after bankruptcy fees). Employees receivables include: • outstanding salaries relating to the last 6 months of work prior to the bankruptcy (beyond this limit, the outstanding amount is considered an unsecured claim); • untaken leave; **(Continued on next page)**

Luxembourg content as at 6 October 2020

Luxembourg

Labour Law (continued)

	• any amounts due by the employer due to the termination of the employment contract (severance payment, notice period, unpaid leave); and • indemnities due by the employer as a result of the bankruptcy.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. Should the company's assets be insufficient to pay the employees' receivables, the Employment Fund ("Fond pour l'Emploi") guarantees the payment with a maximum of 6 times the minimal social wage for an unskilled employee (i.e. max. EUR 12,851.95 at the 834,76 index applicable as from 1st January 2020).

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. Pursuant to the Luxembourg Civil Code, force majeure is deemed to arise when a contracting party's performance is prevented by an event beyond its control, the effects of which could not have been foreseen at the time the contract was entered into and avoided by appropriate measures. While it is debatable whether the current COVID-19 outbreak should be considered an unforeseeable event given other outbreaks in the recent past (such as SARS in 2003), it cannot be denied that the scale of the present crisis is unprecedented. The courts will have to assess if the outbreak constitutes a foreseeable contingency for which reasonable measures could have been taken by the affected party. In this regard, they could rely on guidance provided by WHO declarations and national health services. The COVID-19 outbreak will clearly not be considered an unforeseeable event when it comes to new contracts.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	No. Except if the non-performance of the contractual obligations is due to a case of force majeure (to be assessed on a case by case basis - the COVID-19 pandemic has not been considered by a Court at this stage as being a case of force majeure) or if there is a particular contractual provision. However, in any case, force majeure would be invoked as an argument to resist a claim from the counterparty requesting the performance of the contract, and not by the party in default as a request to be relieved from its contractual obligations.
Are commercial property or other leasing arrangements subject to any special arrangements?	No. On 25 March 2020, a Grand-Ducal Regulation has suspended eviction proceedings (for residential and commercial lease) during the COVID-19 crisis. At this stage, no decision has been taken regarding the suspension or reduction of the rents during the crisis. Luxembourg government appealed for solidarity. **Specific Covid relief:** Two draft bills are currently being considered by Luxembourg parliament, which remains in progress: • On transitory dispositions for the rental agreements with regard to the sanitary crisis : aiming at prohibiting the termination of the lease by the landlord in the situation where a non-payment of the rents occurred between 1 April and 30 June 2020; the residential and rural leases would be concerned. **(Continued on next page)**

Luxembourg

Contract Law (continued)

- On the suspension of the rents of the commercial and for a professional use leases during all the state of crisis aiming at suspending for these leases the rents payment obligation during the period of the state of crisis, as well as the related prohibition for the landlord to terminate the lease for such a non-payment (these rents would have to be paid at the latest on 30 June 2021, otherwise the landlord could terminate the lease at that time). It also proposed a tax incentive for the landlords who will voluntarily reduce or waive the rents.

Market trends:

- Some public and private landlords have voluntarily waived or reduced some rents.
- The Government is still working on tax measures to induce the landlords to reduce the rents linked to commercial leases : in particular a tax rebate equivalent to twice the amount of the rent reduction (granted for a maximum amount of EUR 15,000).

Other specific measures:

Impossibility to increase the rents of the residential leases (intended to be prorogated until the 31 December 2020).

Luxembourg

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Directors must always act in the interest of the company. They owe a duty to:

- diligently manage the company to prevent the insolvency from aggravating,
- if necessary, engaging into any of the legal rescue procedures to avoid bankruptcy; and
- filing for bankruptcy when the company meets the bankruptcy requirements (irreversible suspension of payments and lack of credit).

What personal liabilities can directors be exposed to as a company nears insolvency?

Directors of a Luxembourg company can generally be held personally liable on civil grounds (i.e. for mismanagement, infringement of the law and of the articles of association, tort) and on criminal grounds (i.e. for abuse of company's assets, fraudulently organizing the company's insolvency, etc.).

In particular, actions undertaken by the directors during the months preceding the company's declaration of bankruptcy may potentially lead to their personal liability throughout the process of bankruptcy (notably if such actions are against the company's interest or prejudice creditors).

Such specific liabilities in case of bankruptcy may typically involve directors' personal liability for company debts, extension of bankruptcy to the directors, prohibitions of exercising mandates or commercial activities.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

To limit their personal exposure when managing through the COVID-19 crisis, directors should in practice reinforce control over the company, monitor closely how the situation evolves, seek professional advice, implement a business continuity plan, if necessary, in order to ensure the company's sustainability in the long term.

Good governance in this context might typically involve reorganizing the priorities, suspending non-essential activities (for instance with preventive unemployment measures), reallocating funds as necessary, seeking additional financing to provide for sufficient cash flow, using the facilities proposed by the Luxembourg government if appropriate, engaging in a debt restructuring process to avoid bankruptcy.

Management should also assess whether the company should make use of the exceptional measures introduced in Luxembourg allowing to:

- request a repayable loan of EUR 800,000 to the Ministry of the Economy in case of liquidity issue, to be introduced prior to 1 December 2020. Repayable loans will only be granted until 31 December 2020;
- request a guarantee of up to 85% to cover the principal amount of a bank loan entered into between 18 March and 31 December 2020, with a guarantee duration of up to 6 years and with different guarantee caps depending on whether the companies have been incorporated prior or after 31 December 2019 (i.e. a certain percentage of the company's turnover, etc.); and
- benefit from the adapted short-time work regime (available until 31 December 2020 but under stringent conditions).

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

There is no such a specific moratorium in Luxembourg.

The Luxembourg government has taken exceptional measures to support companies, such as a set of financial assistance, direct financial aid, the scheme for short-time work due to a situation of force majeure to protect jobs and avoid redundancies.

Luxembourg

Insolvency (continued)

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

Although not often used in practice, Luxembourg law provides for three formal rescue procedures for companies facing temporary financial difficulties to restructure the debts, which require a court involvement and generally the approval of company's creditors representing the majority of the sums due by the companies:

- **Suspension of payments** (sursis de paiement), allowing companies to apply for a suspension of payments until its financial liabilities can be satisfied.
- **Controlled management** (gestion contrôlée), allowing companies having a recovery perspective to request the appointment of a supervisory auditor, who becomes responsible for overseeing the management of the company and the preparation of a reorganisation plan with the creditors, to restructure the debts and business.
- **Composition with creditors** (concordat préventif de faillite), allowing companies to negotiate a settlement or a rescheduling of their debt payments with their creditors.

Finally, once declared, the bankruptcy leads to the appointment of a receiver whose mission is realising any remaining assets in order to pay the company's debts, to the extent possible and with a certain order of priority. The receiver shall have the duty of bringing, on behalf of the company, any available legal claim that may help recovering sums. The deadline within which the directors of a company must declare the bankruptcy is currently suspended.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

It is important for companies to assess their cyber risks and have in place measures to protect and secure data at a time of heightened vulnerability with staff using alternative working practices and online collaborative tools. Businesses need to be vigilant in applying the security principles in the GDPR and have in place appropriate measures to respond to any compromises to data (esp personal information) and the notification requirements under the applicable data breaches regime.

The Luxembourg Commission for the Protection of Personal Data has issued guidelines for companies on how to process personal data in the context of the COVID-19 pandemic.

Luxembourg

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The Luxembourg Business Register continues to provide its online services (electronic filing, extracts, declaration to the RBE, etc.). The corporate law dated 12 May 2020 extends by 3 months the deadlines for filing of financial statements with the Luxembourg Trade and Companies Register (Registre de Commerce et des Sociétés) and publication with the Electronic Official Gazette (Recueil Electronique des Sociétés et Associations). This law also grants an additional 3 months' period to approve the financial statements, so that the annual general meeting can be held up to 9 months after the end of the financial year, instead of the usual 6 months. This extension applies to companies whose financial year close between 18 August 2019 and 24 June 2020.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The Grand-Duchy of Luxembourg courts have reopened in compliance with new health regulations.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. Regarding the signature of the supporting documents through e-signature, please refer to section E. In addition, please note that the notary we are used to work with accepts DocuSign and Luxtrust as trusted e-signature softwares. This may not be the case for all notaries. There is an update to follow in Luxembourg in the coming weeks or months on the possibility to enact deeds through e-signatures. The apostille of documents is possible as usual (within 3 open business days).
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are allowed provided that the software/tool used for this purpose is a trusted certificate provided by a certified trusted company. Electronic signatures cannot be used for contracts creating or transferring rights on real property (except rental rights), contracts requiring intervention by tribunals, or public authorities, or security agreements and personal non-professional guarantees.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Board meetings can be held either telephonically or by video-conference. Luxembourg has adopted regulations and laws during this state of emergency, which permit telephonic board meetings even if the companies' articles of incorporation forbid it or do not allow it. Pursuant to a law dated 23 September 2020, these measures will be applicable until 31 December 2020. Minutes are usually signed by Chairman but there is no specific legal requirement.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Shareholder and board meetings can be held with all attendees telephonically of by video-conference. This is possible for any type of company, regardless of their number of shareholders, and is possible even if the companies' Articles of Incorporation forbid it or do not allow, as the regulation would prevail. Minutes are usually signed by Chairman but there is no specific legal requirement.

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Malta

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	No. Malta Business Registry offices are closed. Services still available via online submissions (in limited cases) and there is a dedicated 'letter box' service for drop off of originals. Delays are expected.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	No. Courts are closed and related legal time periods accordingly suspended, however this has limited relevance to the intra-group reorganisation project context.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	No. The Ministry of Foreign Affairs has suspended its legalisation services until further notice. Apostilles are currently not possible.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signatures are permitted for private documents, however they are not permitted for public deeds.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Electronic signatures are permitted for private documents, however they are not permitted for public deeds.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Subject to entity's constitutional documents, written resolutions are an alternative to meetings and therefore, phone meetings should be possible for all corporate approvals.

Malta content as at 20 April 2020

Moldova

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough

Yes, under certain conditions.

If remote work is not possible, employers could implement one of the legal mechanisms that suspend work (i.e. paid technical unemployment, paid temporary stay of work, invoke force majeure if the employer may prove such circumstances or grant unpaid leave (upon employees' request).

Technical unemployment may be disposed by the employer in case of temporary reduction / interruption of activity, subject to payment of a monthly indemnity of at least 50% of the salary, except if employees consent to unpaid technical unemployment. Technical unemployment may not exceed four months per calendar year. The employer may resume work at any time during technical unemployment.

Temporary work stay is a temporary impossibility to continue the production activity either of the entire company or an internal subdivision thereof, by an employee or a group of employees, and which may be caused for reasons not depending on the employer or employees, caused by the employer or by the employee. Employees are entitled to at least 2/3 of the salary, but not less than the legally set minimum salary for each hour of interruption. If the employer causes labour interruption, the employee is entitled to receive full salary for this period. If the employee causes the interruption, no remuneration is due.

Employment agreements are suspended by effect of the law for reasons of force majeure. Employees are not to be paid during this period. However, the COVID-19 pandemic may not serve as general force majeure ground for all employers. Each situation should be analysed carefully, on a case-by-case basis. This ground for employment suspension could be applied, as an exception, if the employer is able to demonstrate the causal link between the restrictions imposed during the state of emergency and the objective impossibility for employees to continue working.

Employees may take up to 120 days of unpaid leave for personal reasons, subject to employer's consent. Normally, the initiative for taking this unpaid leave belongs to the employee, however given the current special circumstances, discussions may be initiated by the employer, in consideration of the fact that employees may not be forced to take unpaid leave. No payment is due to employees for unpaid leave periods.

Can an employer direct an employee to take paid annual, holiday or similar leave?

Generally, no.

Annual paid leave, unpaid leave or social leave (i.e. medical, maternity, etc) are generally requested in writing by employees upon their initiative and granted based on a decision/order of the employer. Under normal conditions, annual paid leave is scheduled annually by the employer, who considers both the employee's desire and the entity's interests.

Employers are required to take all necessary measures to ensure that all employees use their eligible annual paid leave each year. In exceptional cases, the annual leave eligible for the current year may be partially postponed for next year, however at least 14 days of annual leave must be taken/granted each year by/to each employee. Still, employers must follow the rules on scheduling annual paid leave and taking into consideration employees' needs when implementing such measures.

Employees are entitled to unpaid leave with a duration of up to 120 calendar days, which is granted subject to the employer's consent. However, employers may not force employees to take such unpaid leave.

If remote work is not possible, employers could, in theory, talk employees into taking annual paid leave or request unpaid leave, however employees may not be forced to do so.

During 30 March 2020 – 3 April 2020 and 7 April 2020 – 17 April 2020, Moldovan authorities passed a set of measures to address the pandemic lockdown, under which all employees of public institutions / authorities (with a few exceptions), were forced to take paid leave.

(Continued on next page)

Moldova

Labour Law (continued)

	In addition, the Commission for Emergency Situations passed several decisions under which employees of public institutions did not work for about 12 days within the period 30 March - 30 April 2020. These employees received their salaries, subject to subsequent recovery of these days. In June 2020, the Government issued the Decision no. 332 to regulate the recovery of the days declared off by the Commission for Emergency Situations, as described above. Thus, the public sector employees will have to work 12 Saturdays, with special working regime until the end of the year to recover this time.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	In case of staff redundancy, Moldovan Labor Code require employers to pay out to each redundant employee severance payments as follows: • for the first month, a severance pay equal to the weekly salary for each full year worked at the unit, but not more than six monthly salaries and not less than an average monthly salary. • for the second month, a severance pay equal to the amount of an average monthly salary if the redundant employee has not been employed by another employer; • for the third month, a severance pay equal to the amount of an average monthly salary, if the redundant employee has not been employed by another employer; • upon employer's liquidation (windup), payment of 3 monthly salaries in full, which may be paid at one upon employment termination subject to a written agreement between the parties. Individuals subject to termination due to changes in the organization, including liquidation, reorganization or turn-arounds may register as unemployed to the Territorial Agency for Employment to obtain unemployment allowance. On 10 April 2020, the Commission for Exceptional Situations issued a decision to increase, for the duration of the emergency period (17 March – 15 May 2020), the unemployment allowance to 2775 MDL (about 137 EUR) for all unemployed, regardless of the period for which they paid contributions to the state budget. Moldovan legislation does not foresee relief from liability to pay termination severance due to financial difficulty. In case of insolvency, employees also participate in the distribution of accounts receivable. Individuals who are unable to confirm payment of contributions to the state budget for a period of 12 months within the last 24 months and individuals who worked abroad, must insure themselves individually by acquiring mandatory health insurances by paying the mandatory health insurance contribution (a fixed sum of 4.056 MDL (approx. 200 EUR), prior to requesting the unemployment allowance.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Under Moldovan Insolvency Law no. 149/2012, salaries owed to employees is ranked 2 among unsecured claims, with certain exceptions (i.e. management staff, which is ranked last). The insolvency law does not distinguish between salary and other due payments. Therefore, our understanding is that all mandatory payments due by the employer under the employment contract would fall under the salary payments category.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	No. There are no special governmental funding arrangements (or special funds) in Moldova for unpaid employment benefits in an insolvency scenario. Employees could benefit of unemployment allowance if they meet the criteria set out by the law (i.e. register as unemployed, paid contributions to state budget in the manner provide by law).

Moldova

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. There are civil law provisions on force majeure (impediments in executing contractual obligations) for contractual relations. Under force majeure circumstances, liability is excluded or parties are entitled to terminate contracts, if performance becomes impossible based on circumstances beyond the parties' control and if the debtor could not reasonably be required to avoid or overcome the impediment or its consequences. Non-performance is not justified if the debtor could reasonably have considered the impediment at the time of closing the contract. If the justifying impediment (force majeure) is only temporary, the justification is effective for the duration of the force majeure situation. In case of essential non-performance, parties could appeal to general protection rights for such non-performance. However, if the justifying impediment is permanent, the contractual obligations terminate, where parties could use general restitution rights as protection. The party invoking force majeure must notify the other party on the impediment and its effects on the ability to execute, within a reasonable amount of time after becoming aware or after should have known about such circumstances. The other party is entitled to compensation for any damage resulting from failure to receive such notification. Parties may establish other rusle on force majeure in the contracts, including defining specific situations as force majeure (e.g. pandemic, war, climate disasters, etc.).
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, the relief from contractual obligations may be agreed between the parties, based on the law and the contractual provisions on force majeure. However, if the party who is notified of the impediment in performance refuses to accept relief, a court dispute may be initiated. The National Bank of Moldova issued a decision in March 2020 to allow commercial banks to make payment deferrals or extend payment deadlines and/or change the monthly installments of due payments on loans granted to businesses until 30 June 2020. The decision refers to businesses whose financial situation is temporarily affected due to the state of emergency and the economic consequences generated by COVID-19. The measures have been applied individually by each bank, based on internal regulations, contractual provisions with clients and their payment ability. Thus, businesses are required to notify the lending bank about temporary payment difficulties and start negotiation of deferrals. In addition, the National Bank of Moldova allowed banks to grant some facilities to individuals (loan consumers) for paying their existing loans granted before 31 May 2020, such as payment deferrals and/or change in of monthly installments on loans until 31 July 2020. The National Bank decision does not cover loans granted after 31 May 2020.
Are commercial property or other leasing arrangements subject to any special arrangements?	There are no special provisions imposing the parties to special arrangements available for commercial property or leasing arrangements beyond what is prescribed by the law and the contract. Lease contracts and commercial property arrangements are governed by the contracts negotiated to and agreed upon by the parties as well as the applicable legal provisions. Regardless of the lack of special legislative provisions or measures, in practice, landlords and leasing companies may agree to decrease the amount of the rent / leasing rate for the duration of the emergency situation.

Moldova

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Based on the Insolvency Law no. 149/2012, the company director (or shareholder/s) is required to file for insolvency within 30 days as of occurance of any of the following situations:

- the company is in the state of inability to pay;
- the company is in the state of over-indebtedness;
- full execution of due receivables of one or more creditors may cause impossibility of full satisfaction of other creditors' claims upon maturity and
- within voluntary liquidation procedure (winding up), it becomes obvious that the company is unable to fully satisfy the creditors' claims.

After commencement of insolvency proceedings, the powers of the company director (executive body) cease and the company is lawfully managed by the insolvency administrator.

In case of companies nearing insolvency, directors are required to diligently manage the company, withhold from transfering goods or undertake obligations free of charge on behalf of the company, or ansfering goods or undertake obligations in which the company's performance is clearly higher than the one received.

What personal liabilities can directors be exposed to as a company nears insolvency?

The insolvency court may order that part of the debts of the insolvent company be borne by the members of its management and / or supervisory boards, as well as by any other person, who caused the company's insolvency through at least one of the following actions:

- use of company's goods or credits for personal interest;
- carrying out a commercial activity for personal interest under the company's umbrella;
- fictitious increase of the company's liabilities and / or misappropriation (concealment) of part of the company's assets;
- procuring funds for the debtor at exaggerated prices;
- keeping fictitious accounting or contrary to the provisions of the law, as well as contributing to the disappearance of the accounting documents, incorporation documents;
- continuation of an activity which obviously leads the company to insolvency;
- failure to file for insolvency, etc.

These provisions apply to members of the company's management and / or supervisory boards who held the respective positions at the date of filing for insolvency, as well as to those who held these positions during the last 24 months prior to filing for insolvency.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

In a situation of financial difficulty, the directors must take most appropriate actions to protect the company, its assets and its creditors and always act in the best interests of the company, avoid actions that involve unnecessary increase in exposure and damage to the creditors and the company.

Based on the law, a company's administrator has the burden of proving that he/she acted with diligence and proficiency.

The Civil Code provides for the companies the possibility to contract an insurance to cover the risks related to the exercise of the director's responsibilities. The insurance must cover at least 10% of the damage.

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

There is no general moratorium on trading, or to stop operating without meeting its obligations to creditors.

However, for companies operating in tourism industry, the Government placed a 540-day moratorium during which the tourists cannot ask to be refunded the payments they made for scheduled vacations before March 17, 2020.

Moldova

Insolvency (continued)

What are the other insolvency regimes that might be relevant to a company in the current pandemic?	On 14 August 2020, a series of amendments to the Insolvency Law came into force. The law is supplemented with the possibility of out-of-court negotiations between the debtor and the creditors for the purpose of approving a restructuring plan and apply for the accelerated restructuring procedure. In order to benefit from this procedure, the debtor, who is in financial difficulty, will submit to the insolvency court a notification regarding the out-of-court initiation of negotiations with the creditors. Once the notification has been submitted, the debtor may request the insolvency court to suspend the enforceability of the judgements over debtor's assets during the negotiations, a period which shall not exceed two months. Following the negotiations if a restructuring plan is approved, the debtor will submit to the insolvency court an application to commence the accelerated restructuring procedure. Once the accelerated restructuring procedure is commenced, the insolvency court will appoint the interim administrator, who is bound to draw up an independent report on the real possibility of restructuring and maintaining the debtor's activity.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	One issue that businesses need to be particularly aware of is the one related to cyber attacks that could take advantage of the COVID-19 pandemic to create digital content and email campaigns with phishing links and malicious code distribution to steal data and infect devices. In terms of remote work, companies should make sure that have in place explicit rules that are brought to the attention of employees in relation to use of work-related documents, use of internet and equipment for work purposes, confidentiality.

Moldova

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Public authorities have been imposed to provide a short range of services in case of emergencies and work under reduced schedules to minimize contact with the public. For the period of state emergency starting 18 March 2020 the Public Services Agency (PSA) has provided only a limited type of services related to: issuance of temporary identity documents, registration of deaths, cadastral services, registration and licensing of companies, vehicles' registration, documentation of drivers, registration and release of birth certificates, registration of marriage, issuance of identity cards, issuance of passports, etc. Starting March 2020, PSA suspended the activity of some territorial subdivisions for limited periods. The employees have a special regime of working hours with the public subject to a prior online registration or by phone to the Multifunctional centers (with certain exceptions) and in compliance with mandatory norms of protection against COVID-19 infection. Payments for the services provided by the PSA are encouraged to be made via Mpay - the Governmental Service for e-payments (with a card or via Internet Banking).
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Under Decision no.1/18.03.2020 of the Commission for Exceptional Situations, almost all court proceedings were postponed for the duration of the state of emergency (17 March – 15 May 2020), except for urgent or specific cases (i.e. cases examined without the parties' presence; cases pending announcement of court decision; cases regarding protection orders; cases in criminal investigation stage, administrative cases where the urgency was justified by the purpose of establishing the state of emergency and that relate to the infringement of resolutions of the Commission for Exceptional Situations, etc). The courts organised hearings by videoconference in case of the proceedings that were not postponed. The procedural documents may be sent by fax, e-mail or any other methods. In consideration of the exceptional circumstances, the courts of justice have set short deadlines, including from one day to another, or even the same day in case of the proceedings that were not postponed. During the period of the state of emergency (17 March – 15 May 2020), the limitation and preclusive terms do not start to run or are adjourned for the period of the state of emergency. All time limits for appeal in the postponed proceedings has been interrupted. The new time limits with the same duration restarted from the date of lifting the state of emergency. Within 10 days from the lifting of the state of emergency, the suspended proceedings start ex officio and the court will set new terms and summon the parties.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Under Decision no.1/18.03.2020 of the Government Commission for Exceptional Situations, the activity of notaries was suspended until 27 March 2020. Only notary services in emergency cases at the request of commercial banks were allowed. Currently the notaries are providing the services without any restrictions except for the rules mandatory for protection against COVID-19 infection (social distancing, wearing masks, etc.)
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Moldovan law recognises three types of electronic signatures (simple, advanced non-qualified and advanced qualified). The most frequently used electronic signature is the advanced qualified signature legally recognized as equal to wet signature. A document signed with a simple electronic signature or with an unqualified advanced electronic signature is assimilated to the analog paper document, signed with a wet signature, only in the cases expressly established by the laws or by the agreement of the parties. **(Continued on next page)**

Moldova

Corporate (continued)

	In relation to public authorities the law provides for using only advanced qualified electronic signature. Mobile signature is most frequently used to submit tax returns, report to the National Health Insurance Commission or National Social Security House, issue an e-Invoice, request civil status services, etc. DocuSign, Adobe Pro and other such e-signatures are usually considered simple e-signatures and may be used in practice, except for cases in which the law or the agreement between the parties stipulate for another type of e-signature (i.e. qualified).
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Under the law on limited liability companies. On 20 February 2020, the Law on Joint Stock Companies was amended, providing for the possibility to hold the general meetings of shareholders (GMS) by electronic means. However, this rule will enter into force starting 1 January 2021 (Law no. 18 dated 20.02.2020 regarding the amendments to the Law on Joint Stock Companies 1134/1997). Based on the amendments, the holding of the GMS by electronic means shall be regulated by the company's Articles of Incorporation. The requirements regarding the electronic means used for shareholders' participation in the general meeting shall be regulated insofar as they are necessary to ensure the identification of shareholders and shareholders' representatives. In addition, the amendments provide that the participation in the general meeting by electronic means shall be ensured by the company through one or more of the following ways: ● real-time transmission of the GMS; ● two-way communication in real time, which allows shareholders to address remotely during the general meeting; ● using of a voting system, other than voting by correspondence, before or during the general meeting, which does not require the appointment by the shareholder of a representative to be physically present at the meeting. Under the law, each copy of the minutes of the GMS must be signed by the Chairman of the GMS and the secretary, whose signatures must also be either authenticated by the censor in office or legalized by a notary.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	See response above.

Contact for Montenegro

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Montenegro

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	According to the Law on Compulsory Health Insurance of Montenegro, employees have the right to compensation of salary during temporary work disability in the following circumstances: • in the event of an illness or injury that causes temporary disability for performing their working duties; • in the event of placing an employee under medical supervision or quarantine; • in the event of isolation of the employee as a germ carrier or due to a household infection; or • if the employee is determined to care for ill family member; Temporary disability for up to 30 days is determined by the selected team or the selected doctor, and after 30 days, by the competent medical committee. The employer is obliged to calculate and pay the salary during periods of temporary work disability. The salary during temporary work disability is at least 70 % of the basis for compensation. However, the above law also prescribes that the salary during periods temporary work disability in the case of quarantine illness is 100% of the compensation basis. Accordingly, there could be possible differences in the treatment of compensation basis between an employee suffering from a quarantine illness and an employee who is isolated but not suffering from quarantine illness.
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	Due to the COVID-19 outbreak, new measures have been implemented in relation to the protection of employees due to schools\kindergartens closure. During the shutdown of schools and kindergartens, one parent of a child not older than 11 years of age, is entitled to a paid leave from work, with the exception of healthcare employees and employees in certain state institutions. The order of the Ministry of Labour and Social Welfare of Montenegro has not regulated the precise terms and conditions for exercising such rights and we expect further clarification from the authorities in the coming days. In any event, since the order refers to employees receiving paid leave, it is likely that employers would be expected to pay the salary compensation in the same way it would pay other types of paid leave (i.e. 100% of the salary) in accordance with the General Collective Agreement.
Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	In accordance with Labour Law, an employer that intends to terminate the contracts of at least 20 employees within 90 days must start a consultation process, where it seeks and considers the opinions and proposals of trade unions or employees' representatives before proceeding to terminate. In this case, an employer must provide employees with information on measures taken to take care of employees whose work is no longer needed, among which are: • assignment to other jobs with the employer, for which the employee has the appropriate degree of qualification; • schedule with another employer, for which the employee has the right qualification, level of education or professional qualification, with the employee's consent; • vocational training, retraining or retraining to work at another job with the same or another employer, and other measures in accordance with a collective agreement or employment contract. **(Continued on next page)**

Montenegro content (Labour Law) as at 9 April 2020

Montenegro

Labour Law (continued)

	Notification on the above procedure must be delivered to the Employment Office of Montenegro. Employers cannot terminate contracts within 30 day of the date of this notification to Employment Office of Montenegro. The Employment Office can postpone the termination of contracts for at least 30 days if during that period it can provide employees with continuation of employment. If an employer terminates such contracts, the employer will not be able to hire new employees into the same position. In addition, we do not consider the current situation to represent a relevant basis for the individual dismissal of employees in accordance with Labour Law. NB: the COVID-19 pandemic is just in its initial phases in Montenegro. As such, there are no examples of, nor do we have knowledge about, how layoffs or any other employment implications will work in the future days.
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The Investment-Development Fund of Montenegro offers working capital loans to companies in the sector of medical supplies, tourism and hospitality, and food processing, of up to EUR 3 million per borrower. Measures of the Government of Montenegro to support the economy in the COVID-19 circumstances, in accordance with the Decree of the Ministry of Health, prescribes the possibility of postponing the obligation of payment of taxes and contributions on the basis of all incomes which are reported through IOPPD form, and on which personal income tax and contributions for compulsory social insurance are calculated, as well as the payment of obligations under the Law on Rescheduling of Tax Claims up to 90 Days. These measures of the Government of Montenegro refer to liabilities incurred on the basis of the salary of employees.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	The Law on Compulsory Health Insurance related to right on compensation of the salary during temporary work disability enumerates cases in which the right on compensation is applicable and the contractors are not included in this group of cases. Accordingly, the companies are not obliged to pay contractors during of their sickness or quarantine/self-isolation due to COVID-19. It is possible for the companies to pay contractors if they're still providing the services despite isolation/quarantine.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	No amendments to any local employment laws have been made or announced in the context of the current COVID-19 pandemic.

Montenegro

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes, Law on Contracts and Torts stipulates that the affected party may seek for amendments or termination of the contract in case that extraordinary circumstances (such as pandemic) arise after concluding the contract. Necessary condition for lawful request is that these consequences were impossible to anticipate at the time of entering into a contract but that now they are making the contract burdensome for the affected party or it will thus suffer an excessive loss, in the case that contract remains into force as it its.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. Should the parties fail to agree on amendments or termination of the agreement due to occurrence of the extraordinary circumstances the affected party may file a lawsuit to the competent court in that regard.
Are commercial property or other leasing arrangements subject to any special arrangements?	Force Majeure (such as pandemics) could be used as a reason for alteration and termination of the contract due to changed circumstances. Mutatis Mutandis it is applicable on the lease agreements too. If the affected party leases some property but it cannot get expected benefits from it due to pandemics it could file a force majeure relief request towards its lessor and e.g. decrease the rent. However, it is very important to always check the Force Majeure clause in the agreement.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	There are no specific instructions regarding data protection issued by the Agency for Personal Data Protection and Free Access to Information (hereinafter: “Agency”). However, the Agency issued recommendations in form of statement. In accordance with the above statement Agency pointed out that data concerning state of health represents special category of personal data that can be processed when the processing of such data is necessary for the detection, prevention and diagnosis of diseases and treatment of persons, as well as for the management of health services, if data is processed by a healthcare professional or other person who has the obligation to keep secret and when such processing is required in order to protect the life or other vital interests of the data subject or of another person.

Montenegro content (Contract Law) as at 22 April 2020
Montenegro content (Cyber & Privacy) as at 9 April 2020

Montenegro

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	Where the net assets of a company are half or less of the amount of the company's share capital, the Board of Directors shall, not later than 14 days from the day of finding out of such fact, duly convene an Extraordinary General Meeting of Shareholders of the company. The Extraordinary General Meeting of Shareholders shall be held within 30 days from said date in order to consider measures to be taken to remedy the situation. In addition, directors of the company should carry out their duties in good faith, with due diligence and in the reasonable belief that they act in the company's best interest.
What personal liabilities can directors be exposed to as a company nears insolvency?	Causing a company's bankruptcy is stipulated by the Montenegrin Criminal Code as a criminal act. Namely, if the directors cause the bankruptcy of the company resulting in damages to the third parties with actions such as waste of money, excessive borrowing, undertaking of disproportionate obligations, frivolous conclusion of contracts with parties unable to pay, failure to timely collect the company's receivables, destruction of the company's property, or other operations that are not in accordance with conscientious business the director may be imprisoned for period between 6 months to 5 years.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	The obligations of the Board of directors is to assure that appropriate measures are taken to adequately oversee activities of the company, as well as to give adequate consideration of each matter to be decided by the Board. There is no specific safeharbour legislation.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Yes, the most significant measures are: Deferral of repayment of loans to commercial banks, micro-credit institutions and Investment Development Fund up to 90 days. This measure applies to both corporate and individual borrowers and relates to payment of loan principal, interest and fees as well as late payment interest. Deferral of payment of personal income tax and mandatory social security contributions and other tax liabilities in line with the Law on Rescheduling of Tax Receivables. No details are currently available. Deferral in payment of rental fees for state owned properties for period of 90 days.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	A company in financial distress may avail itself of the procedure of reorganisation within the insolvency legal framework by submitting the reorganisation plan to the relevant bankruptcy court. The reorganisation plan may be submitted simultaneously with the motion for the initiation of insolvency proceeding or after the opening of the insolvency proceedings. Reorganisation is to be implemented if it provides a more favourable settlement of creditors than the bankruptcy proceedings would, especially if there are economically justifiable reasons for the continuation of the debtor's business. Please note that the bankruptcy court has a right to dismiss the reorganisation plan if it determines that the submitted plan is not prepared in accordance with the Bankruptcy Act. In addition, the majority of creditors should agree with the pre-packed reorganisation plan in order for it to be adopted. The aim of filing the pre-packed reorganisation plan is to restructure or reduce the obligations of the insolvent company.

Montenegro content (Insolvency) as at 22 April 2020

Montenegro

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	There are no announcements or decisions of the Central Registry of Montenegro that the way of work of registry has been changed.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	All courts continue to operate, but the lower grades courts are only carrying out emergency procedures that do not suffer delays. Courts are accepting fillings.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notary offices work in shifts and provide emergency services only. To our current knowledge, there is no possibility of notarizing or legalizing a document online.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Documents can be signed with qualified electronic certificate.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Commercial Company Law of the Montenegro do not prescribe telephonically or any specific kind of the board meeting.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	

Montenegro content (Corporate) as at 8 May 2020

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Netherlands

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?

Periods of Sickness

If an employee is ill due to COVID-19, the employee will receive his or her salary as agreed in the employment agreement or collective labour agreement (""CLA""). Under Dutch law, employees are entitled to at least 70% of their last earned salary capped at 70% of the maximum daily wage (for social security purposes) during a maximum of 2 years. The maximum daily wage in 2020 as defined by social security legislation is € 219,28 per day. Where the amount is lower than the statutory minimum wage, the employer must supplement it to the minimum wage in the first year of illness. This statutory minimum wage guarantee does not apply to the second year of illness. It is common practice for the employer to continue to pay 100% of the employee's full salary during the first year of illness and 70% of the employee's full salary during the second year of illness.

If the employee is not ill, but is unable to work due to a mandatory quarantine, the employer must continue paying the full salary.

The employee is not entitled to stay home out of fear of infection on his/her own initiative. If the employee refuses to resume his/her duties, the employer can use a suspension of wages as a pressure medium, but only after giving an official warning to the employee.

Are employees entitled to pay and/or leave where they take time off work to care for dependants?

In these cases, the employee is entitled to emergency leave or short-term care leave:

- Emergency leave is to be used for short leave due to immediate private emergencies - with full pay (e.g. the first day when a family member is admitted to a hospital or summoned to quarantine).
- Short-term care leave is to be used when an employee has to take care of relatives. It is available for a short period, and the length of such leave depends on the circumstances (with a maximum of two times the weekly working hours during 12 months). During this short-term care leave, the employee remains entitled to 70% of the normal salary, but additional rules may apply (e.g. pursuant to an employee handbook and/or CLA).

If an employee wants to or must stay at home for longer than is permitted by law, the employer and employee will have to make agreements about this (e.g. agreeing to the employee using unpaid leave or holiday days).

Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?

Layoffs due to the COVID-19 can only be enforced if the following conditions are met:

- employers must obtain an administrative law permit from the Employee Insurance Agency (the 'UWV') to give notice of termination;
- dismissals must be caused by a poor financial situation and/or decrease in work;
- there must be a structural loss of jobs for at least 26 weeks;
- dismissal is not possible if the employee can be redeployed;
- dismissal is not possible if a termination ban applies (e.g. sickness);
- the last-in-first-out system must be applied within certain age categories (balancing system); and
- employees are entitled to a statutory severance payment equal to 1/3 of the monthly salary per year of service.

(Continued on next page)

Netherlands

Labour Law (continued)

	Short term working and/or a reduction in pay or hours can in principle only be enforced with the employee's consent. The employee's consent may not be required where the employment contract includes a 'unilateral amendment' clause which allows the employer to unilaterally make changes when there is a "substantial interest" that outweighs the interests of the employee. This is generally only the case when economic, technical or organizational interests are at stake that are so important that they reasonably justify changes in the employment contract to the detriment of the employee. This is a very strict test, so it should not be invoked too quickly. In the Netherlands, a large employer in the aviation sector has already announced that they will cut 1,500 to 2,000 full-time jobs to deal with the crisis caused by the COVID-19 outbreak.
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The Dutch government introduced the emergency measure bridging for retention of work scheme. Under this scheme, employers who are confronted with at least a 20% expected loss of turnover can - related to the loss of turnover - apply to the Employee Insurance Agency ("UWV") for a period of three months for a compensation of up to 90% of the wage bill. The following rules apply: • Employers can apply for the allowance for a decrease in turnover from 1 March 2020. • On the basis of the application, the UWV will provide an advance payment (at least 80% of the amount) to the compensation. • The amount of the wage costs allowance depends on the fall in turnover, up to 90% of the wage bill, probably capped at the maximum daily wages (for 2020 57,232 euro per employee per year). • The three-month period can be extended once by another 3 months. Further conditions may be imposed on the extension • When applying, employers commit in advance to the obligation not to apply for a dismissal permit based on economic reasons for their employees during the period in which the allowance is received. Employers must continue to pay the wages to the employees involved in full. • This wage costs allowance can be requested for both employees with an indefinite term contract and flexible contract but only insofar as they remain employed during the application period. Temporary employment agencies can also apply for the wage costs allowance for their temporary employment workers. • The actual loss in turnover will be determined afterwards. An auditor's opinion is required for large applications. When the allowance is definitively determined, an adjustment will be made if there has been a decrease in the wage bill.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	Self-employed workers do not have the same level of rights and protection as regular employees. In contrast to regular employees, it is not compulsory for businesses to have insurances for illness, invalidity or unemployment, for self-employed workers. Therefore, self-employers must make arrangements for these kinds of insurances themselves if they want to receive any benefit in the event of illness or disability. It is not advisable to pay contractors during sickness voluntarily, as there is a risk that the Dutch tax authorities or civil court could requalify the relationship between the contractor and the company as an employment relationship.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	No.

Netherlands

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. In the Netherlands, parties may obtain relief by way of force majeure or unforeseen circumstances. **Force Majeure** The concept of Force Majeure is set out in the Dutch Civil Code, which provides that the party relying on force majeure must show that its failure to perform cannot be attributed to it, by showing that the failure is neither its fault nor for its account pursuant to the law, a legal act or generally accepted principles. Parties may contractually limit or extend the circumstances giving rise to force majeure. Parties often include a force majeure clause specifying specific events that will constitute force majeure. The assessment of whether there is a situation of force majeure depends on the facts and circumstances of each case. Unless otherwise stated in the agreement: ● force majeure can only be invoked if it is impossible to perform the obligations under the agreement and ● it cannot be used as a justification in the event performance of the obligations would be more expensive or more difficult due to e.g. COVID-19. If the agreement contains a force majeure provision and this provision qualifies circumstances as diseases, epidemics, pandemics or quarantines as a force majeure event, the COVID-19 certainly justifies invoking force majeure. **Unforeseen Circumstances** The concept of unforeseen circumstances is also set out in the Dutch Civil Code. Unforeseen circumstances are circumstances that occur after the conclusion of an agreement and which parties to the agreement have not included in the agreement. The court can, at the request of one of the parties amend the agreement or (wholly or partly) dissolve the agreement on the ground of unforeseen circumstances. These circumstances must be such that the other party, according to standards of reasonableness and fairness, may not expect the agreement to remain unchanged. In this case the non-performing party can still perform its obligations (as opposed to force majeure), but the contractual balance has been disturbed to such an extent that it can no longer reasonably be expected to perform its obligations. For agreement existing prior to the COVID-19 parties will not have taken the COVID-19 and its major consequences into account at the time of concluding their agreements. These may therefore be qualified as unforeseen circumstances. In general, Dutch courts do not quickly dissolve or amend an agreement on the grounds of unforeseen circumstances (e.g. the economic crisis in 2008 was not accepted as a basis for dissolution or amendment of agreements). If the COVID-19 crisis causes a company major financial problems and it can no longer be considered a normal entrepreneurial risk, there is a possibility that Dutch courts would resolve or amend the agreement.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, this is not required. In general, the party invoking force majeure or unforeseen circumstances does not have to apply to court, except in case of a dispute.

Netherlands

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?

No.

Lease agreements are not subject to special arrangements. Under Dutch law the (contractual) terms and conditions agreed by parties are decisive (as far as these do not conflict with mandatory law). Dutch law, however, provides for some legal concepts like:

- force majeure,
- unforeseen circumstances; and
- the standards of reasonableness and fairness,

which may be used as a remedy to (temporarily) relieve a party from its contractual obligations (provided that the criteria are met).

Since the current circumstances, as a result of COVID-19, are extraordinary and unprecedented, it is unsure how judges/courts will decide in case a party demands rent relief or invokes force majeure and/or takes the position that the (lease) agreement should be amended or dissolved based on unforeseen circumstances and/or the reasonableness and fairness. Given that uncertainty, many landlords and tenants are discussing with each other in order to see whether they can reach a workable solution.

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

There are no statutory insolvency tests that require a director to file for insolvency proceedings. Directors are required to perform their duties based principles of Dutch law, special duties as set out in Dutch law and regulations and adhere to the company's articles of association and its by-laws. Duties include maintaining a proper financial administration, preparing and filing the annual accounts as well as reporting any inability to pay certain taxes, social premiums and pension contributions within a certain timeframe. Failure to perform duties properly could lead to director liability.

Directors should be aware of any government relief and other COVID-19 measures and familiarize themselves with the available insolvency proceedings under Dutch law and the do's and don'ts in times of distress. Directors are required to act in the best interest of the company and consider the interests of all stakeholders. Dutch (case) law gives some guidance on director liability and directors should for instance refrain from selling assets at an undervalue or entering into obligations on behalf of the company if it is not clear that these obligations can be met. Filing for insolvency proceedings may sometimes be the better option particularly if there is no reasonable expectation that the company can continue on a going concern basis or a settlement or restructuring cannot be agreed or implemented. The insolvency proceedings companies are suspension of payments and bankruptcy.

Netherlands

Insolvency (continued)

What personal liabilities can directors be exposed to as a company nears insolvency?	Personal liability very much depends on all circumstances and information at hand and is determined on a case-by-case basis. A director may be liable for the damages suffered by one or more creditors due to an act or failure to perform an act when such act or failure is attributable to the director. The director must personally be blamed for tort which is for instance the case when a director takes on a new obligation on behalf of the company when he/she knew or should have known that the company would not be able to meet this obligation. Another example is selective payment of creditors on behalf of the company at a point in time when the company does not have sufficient funds to pay all creditors and the company has ceased (or intends to cease) its activities. If a director fails to properly perform its duties towards the company and serious blame thereof can be attributed to him/her, this director is in principle liable for all damages suffered by the company because of such failure. In that case, due to the concept of collective liability towards the company, all directors of the company are in principle jointly and severally liable for these damages, unless a director proves that he/she cannot be blamed for the failure by the other director and has taken steps to prevent the consequences thereof (in which case the objecting director is not liable). A discharge granted to the board does not automatically clear a director from any liability towards the company, for instance when it considers an act by a director or information not brought to the general meeting's attention at the time of discharge. Dutch law and regulation also provides for other potential grounds of director liability, for instance towards the tax authorities in the event certain taxes, social premiums and/or pension contributions were not paid when due or such failure was not reported on time. In bankruptcy, both the trustee and creditors can hold a director liable and the requirements for liability towards the trustee (bankrupt estate) are slightly different than the above requirements. Please also see our response to the previous and next questions.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There is no specific 'safe harbour' legislation for directors in these circumstances. In any event, directors should make sure to keep a proper financial administration, prepare and file the company's annual accounts and pay or report the inability to pay certain taxes, social premiums and pension contributions within the set timeframes. For instance, there is an assumption in bankruptcy that the board has performed its duties improperly and that such performance was an important cause of the bankruptcy, if there is no proper administration or the annual accounts were not prepared and filed on time. In that case, directors are jointly and several liable for the entire deficit in bankruptcy, unless the assumption is rebutted. Directors also need to pay or timely report the company's inability to pay certain taxes, social premiums and/or pension contributions in order to limit their liability. Directors should carefully consider all interests and information at hand, when making decisions and it is recommended to also document the decision-making process.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Outside bankruptcy proceedings there are no statutory provisions to request a moratorium (a cooling-off period). Suspension of payments proceedings include a moratorium for unsecured debts. It is an insolvency proceeding which is aimed at reorganising the company's business or debt while preserving the company itself. During these proceedings the company may continue to trade but only with prior approval of the court appointed receiver. If the company ceases to trade it will end up in bankruptcy in which case the trustee may determine if he/she will continue to trade or cease activities of the company. In both proceedings court approval will be required.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	There are no other insolvency proceedings for companies in the Netherlands other than suspension of payments and bankruptcy. There is a proposal of law pending that will, among other things, provide more flexibility on agreeing a settlement with creditors or other stakeholders such as shareholders. The Dutch government has now qualified the proposal of law as an urgent proposal and is requesting Parliament to deal with it on an urgent basis with a view to having it enter into force on 1 July 2020.

Netherlands

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The government body called "the National Cyber Security Centre" has advised that the following precautions should be taken if employees are mainly working from home because of COVID-19:

- Check the IT and telecom (network) capacity to be able to serve the larger number of home workers.
- Make an assessment of which employees need to be present at the office to support the IT facilities needed for the home workers.
- Consider what adjustments may be required for your incident response plans in the event of a limited presence of employees.
- Ensure the use of a secure connection to the corporate network with, for example, a Virtual Private Network (VPN) or similar solutions.
- Ensure that remote access capabilities are tested and updated.
- If necessary, set up additional monitoring for your applications that are critical to working remote.
- Make maximum use of multi-factor authentication (MFA) for access to your corporate network and enforce strong passwords.
- Install the latest hardware and software updates.
- Make sure your employees are aware of phishing about COVID-19 and know how to report it.
- Ensure that your organisation's guidelines are up to date and that your employees are aware of information security, including the use of hardware and software at home and the possible use of private IT facilities.
- Check whether the security products you're using are safe. There is a list available at the Dutch government institution "AIVD".

The Dutch Data Protection Authority published a web page called "Corona on the work floor" containing advice about employee data protection. There they state that health data is special (and sensitive) personal data, for which a strict privacy regime applies, even in times of COVID-19: checking for the COVID-19 may only be done by a qualified doctor, as well as recording or processing the infection and other medical data. This information is subject to doctor-patient confidentiality. You may, however - and this is a COVID-19 crisis exception - send employees home who have symptoms of the virus. You may also ask your staff to be vigilant about the symptoms and to regularly check the temperature themselves during working hours, especially if the staff member does not work from home. If an employee is infected, the doctor will report this to the Public Health Service (GGD), which can, among other things, start an investigation at the workplace to learn more about the persons who may have come into contact with the infected person. The employee has to report sick leave in the usual way. An employer may not ask whether an employee has the COVID-19. If he or she reports this on his or her own initiative, an employer may not record this either.

Netherlands

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The Dutch Chamber of Commerce (CoC) is still open, however, staff are mostly working remotely. Hence, delays with filings/registrations, are currently being experienced. Electronic filings/registrations (where possible) are preferable, however, a slight delay of 2-3 business days is expected. Processing times of hard copy filings/registrations are currently at least two weeks.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	All courts, tribunals and special colleges continue to work remotely and digitally as much as possible. The Central (information) desks will provide assistance only by postal service, telephone and/or e-mail. One counter of the central desk of the court in Amsterdam has remained opened. Only urgent matters that cannot be handled digitally are being dealt with. For the time being, legalisations and apostilles can be submitted in the usual manner, however, delays are expected. From 11 May 2020, in person court hearings will be possible again to a limited extent, if the physical presence of the parties is necessary.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Some notaries are still operating, but with reduced staff. Legislations and apostilles may take longer due to mailing logistics. The Dutch notary has temporarily waived the requirement to have an apostille in place for inbound transactions (if the necessary district court is in lock down) as long as the apostille will follow in due course. Some notaries are flexible with regards to legalisations, additionally some are agreeing to proceed on the basis of a PDF copy, as long as the originals will follow in due course.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are permitted, except for documents which are required to be filed with the Dutch notary (e.g. Powers of Attorney) or with the Dutch court.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. In the Netherlands board "meetings" can be held via telephone, but the articles of association should be checked for specific requirements. A meeting by telephone qualifies as a "meeting" and decisions taken should in principle be documented in minutes. Signatures on minutes are often required, but electronic signatures are permissible. Alternatively, the minutes of a meeting by telephone could be circulated by the chairman via email after the meeting, asking the other directors to confirm their consent by email. The Chairman can sign the minutes at a later point in time. If the articles allow decision-making by the board without holding a physical/telephonic meeting (which the articles often allow), it is also possible to adopt "written board resolutions". Subject to the articles, email is often a valid way of adopting "written resolutions". This way of decision-making implies exchanging emails in which the board members give their consent to the proposed resolution(s). No signatures required in this case; the board decision adopted via email is valid (but was not taken in a "meeting").

Netherlands content (Corporate) as at 5 May 2020

Netherlands

Corporate (continued)

Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Telephonic meetings are an alternative to both: ● physical in-person meetings and ● written resolutions (bearing signatures). However, alternatively to telephonic meetings, if the articles allow (which they often do), it is often possible to adopt "written board resolutions" by simple email exchange. This can be done by exchanging emails in which the board members give their consent to the proposed resolution(s). No signatures required in this case; the board decision adopted via email is valid (but was not taken in a "meeting").

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North Macedonia

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No. The law does not provide for any situation where an employer is not required to pay a salary to its employees. However, the employer is not obliged to pay a salary if the employee seeks unpaid release for a period of up to three months, or if the employment is suspended due to specific reasons stipulated in the law (e.g. a prison sentence). If an employee cannot work due to a force majeure event (e.g. the COVID-19 outbreak) the employee will be entitled to payment of 50% of his or her salary. Also the employer may send the employees on forced vacation with 70% salary if the same cannot operate due to certain business reasons.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Generally, no. It is generally not possible for an employer to direct an employee to take paid leave, without the consent of the employee. However, as part of the measures adopted by the Government due to the COVID-19 outbreak, employees who are affected by the outbreak (including employees employed by a business that is forced to close, or employees who are required to self-quarantined) should utilise their remaining vacation days from 2019 until 31 May 2020, and should use 10 vacation days from the 2020 annual vacation until 30 June 2020. The specific days during which the leave should be taken, should be agreed with the employer.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. If the employment is terminated due to financial difficulties, a structural reorganization or similar reasons based on the needs of the employer, this will constitute a termination for "business reasons". Termination for business reasons will generally attract severance pay. Severance pay will be payment of between 1 month net salary and 7 months net salary, depending on the length of the employment relationship. The law does not provide relief from liability for termination benefits due to financial difficulties.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes, but only only in the event of a bankruptcy of the employer. Claims related to salaries, salary contributions for pension and disability insurance, health insurance and insurance in event of unemployment (for the period of three months prior to the opening of the bankruptcy procedure), damage compensation for work related injuries and for professional sickness, and unused vacation, are considered priority unsecured claims, which will be settled prior to other unsecured claims during the bankruptcy procedure.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	No. No such arrangements exist within the Macedonian regulations.

North Macedonia content as at 9 April 2020

North Macedonia

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. **Force Majeure** If the COVID - 19 outbreak prevents one contractual party to fulfil its obligations under a specific agreement, such party may inform the other party of an event of a force majeure. In such case, the party affected by the force majeure event will be released from its obligations under the affected agreement. If such party receives any payments or other benefits from the other party, the same should return such benefits. The parties may also agree to extend to stop with the performance of the agreement during the force majeure event, and continue thereafter. However, the occurrence of the COVID-19 alone cannot be considered as a force majeure. It is required for the pandemic to actually prevent one or both parties from meeting their obligations under a specific agreement. **Change of conditions** In addition, if the occurrence of the COVID-19 affects one of the parties on a manner which will make the fulfilment of the agreement more difficult, or if it affects the purposes due to which the agreement has been entered, such party may seek from the other party termination of the agreement. Termination will not be possible if the other party suggests or agrees for the existing terms of the agreement to be amended in order to adjust the agreement to the changed circumstances.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. **Force Majeure** In event of force majeure, it is not required for a court or other procedure to be initiated in order for the affected agreement to be terminated. However, the other party which is not affected by the force majeure event may initiate court procedure to evaluate the justification of the termination of the agreement due to the force majeure (if such event truly affected the terminating party). **Changed conditions** In event of changed conditions, the party affected by such change should initiate a court procedure, and the court should determine if the agreement should be terminated.
Are commercial property or other leasing arrangements subject to any special arrangements?	No. There are not special regulation which affects such arrangements due to the COVID - 19 outbreak. However, the general rules regarding force majeure and changed conditions also apply to these arrangements as well.

North Macedonia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	The directors and other representatives of a company are obliged to file to the court proposition for opening of a bankruptcy procedure within 21 days as of the date when the conditions for bankruptcy have been met. The conditions for bankruptcy are met if the company's bank accounts are blocked for more than 45 days. In addition to the above, the management bodies of a joint stock company should call the company's assembly, explain to the shareholders that the conditions for bankruptcy are met and inform the shareholders on the next steps which should be undertake (opening of the bankruptcy procedure). However, at this time the Government has adopted a directive which: • postpones all opened bankruptcy procedures for a period of three months as of the date when the current state of emergency is revoked; and • prevents opening of bankruptcy procedures against companies which meet the conditions for bankruptcy for a period of three months as of the date when the current state of emergency is revoked. Therefore, at this moment the directors are not obliged to initiate a bankruptcy procedure even upon expiration of 21 days as of the date of fulfilment of the relevant bankruptcy conditions.
What personal liabilities can directors be exposed to as a company nears insolvency?	Directors can be personally liable towards the company's shareholders and third parties, if the directors perform their work contrary to the law and the company's articles of association. If one company has more directors their responsibility will be joint. In addition, if due to the irregularities in the actions of the directors the company falls under bankruptcy, the directors may even bare criminal liability.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	At this moment, directors cannot be held liable if they do not initiate a bankruptcy procedure, considering that the initiation of such procedure cannot be done until three months after the revocation of the current state of emergency (as per the directive adopted by the Government). However, directors can still be held liable if they operate contrary to law and the company's articles of association.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Many retail business have been affected from the COVID-19 operations. Some companies are not able to operate at all due to the measures adopted by the Government. These are companies operating mostly in the catering business (restaurants, cafes etc.), and the tourism business (travel agencies, hotels etc.). Part of these business have transferred their operations online in order to decrease the negative effects of the COVID-19 outbreak.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	At this time the Government has adopted a directive which: • postpones all opened bankruptcy procedures for a period of three months as of the date when the current state of emergency is revoked; and • prevents opening of bankruptcy procedures against companies which meet the conditions for bankruptcy for a period of three months as of the date when the current state of emergency is revoked. Therefore, during the COVID-19 outbreak the implementation of the bankruptcy procedures in North Macedonia is postponed.

North Macedonia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The Macedonian Government has not adopted any regulation regarding data protection and cyber-security during the COVID-19 outbreak.

However, the Personal Data Protection Agency has published on its official website set of recommendations to be undertaken in relation to personal data protection during the COVID-19 outbreak. Such recommendation include:

- the data collected for the health of patients should not to be published to third parties;
- the person collecting the personal data should make clear the reasons for such collection;
- the person collecting the data should collect the minimum required personal data;
- the persons collecting the personal data should document the decisions for implementation of the COVID - 19 measures;
- the law on personal data protection represent a valid legal basis for collection of personal data for health related purposes.

Norway

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Yes. For companies that are not covered by the collective bargaining agreement (CBA), the right to temporary lay-off (furlough) is regulated in non-statutory law. The rules under non-statutory law are largely in line with the rules around temporary lay-off that result from CBA. The Fixed Pay Act regulates pay during periods of temporary lay-off. In order for an employer to be able to temporarily lay-off employees, the following conditions must be met: • There must be a factual and just reason for the lay-off (e.g. necessary cost reductions due to lack of orders, loss of income, natural and other "Force Majeure" events such as the COVID-19 outbreak). The key consideration is whether or not the employee can be usefully or economically employed for a limited period by the employer. • The lay-off must be necessary. The employer must be able to show strong reasons for the use of lay-offs (e.g. the lay-offs must be necessary to ensure proper operation and jobs in the future). The employer must consider whether there are alternative courses of action it can take. • The lay-off must be transient/temporary. The employer must also consider whether the CBA or applicable contract contains any other provisions in respect of lay-off rights.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes, subject to some requirements. The employer, to an extent, has a certain right of management when determining how and when holidays will be taken. However the employer must exercise this right within the framework set by the Holiday Act and other agreements. Under the Holiday Act, employers are required to consult with the employee (or the employee's representatives) when fixing holiday dates, and must provide sufficient notice to the employee. If no agreement is reached, the employer may make a final decision on when the employee is to take a holiday, subject to the limits set out by Sections 7–9. Employees can as a main rule, require that the main holiday (which includes 18 working days), be granted during the main holiday period spanning from 1 June to 30 September. The employee may take the remaining 7 working days days of holiday either separately, or at once, during the holiday year. Employees aged 60 and older are entitled to an additional 6 working days of holiday. In respect of extra vacation days stemming from collective bargaining agreements, the collective bargaining agreements must be reviewed (as different rules may apply). When an employee is entitled to extra holidays under the employment contract, whether or not the employer can require you to take a holiday will depend on the terms of the contract.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	No. However, the employer must comply with requirements around notice. The Working Environment Act provides for payments during notice periods, ranging from 1 to 6 months pay, based on years of service and the age of the employee. Section 15-3 (1) in the Working Environment Act states that if accidents, natural events or other unforeseen incidents make it necessary to stop operations in whole or in part, and the employee is therefore terminated, the notice period for dismissal of employees in the work that must be canceled can be reduced to 14 days from the event. It remains to be seen whether the provision applies in a case like COVID-19. NB: a CBA or contract (or employer policy) may provide more favourable benefits than those under the Working Environment Act.

Norway

Labour Law (continued)

Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are regarded as priority unsecured creditors in relation to entitlements such as salary and other wages/employee pay.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. The Wage Guarantee Scheme provides for the funding of unpaid wages, leave, vacation pay, termination and redundancy entitlements within a certain period of time.

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	There is no general "Force Majeure" provision in Norwegian law. Commercial contracts/ contracts between professional parties normally contain Force Majeure clauses. Whether or not an event such as Covid-19 may be regarded as a Force Majeure event depends on the wording of the Force Majeure clause in the contract. Further it is relevant to take into consideration the situation at the time when the contract was entered into (e.g. was the COVID-19 situation known at the time), and contract/ industry practice. Even if no Force Majeure clause is agreed, it is however a general principle in Norwegian law that a contracting party can fail to fulfill its contractual obligations without becoming liable if the situation that prevented the fulfillment is beyond the control of the defaulting party. Whether an event is beyond the defaulting party's control depends on a broader consideration of the parties' situation. In said consideration emphasis is in particular placed on whether the party could foresee the possibility of the impediment at the time of the agreement, and whether it is reasonable for the defaulting party to be exempt from the fulfillment obligation, hereunder it is relevant to consider the (increased) cost of fulfilling the contract. For sale and purchase of goods, the aforementioned "beyond the control" rule is made statutory in the Norwegian Sale of Goods Act.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Generally, an application to the courts is not required in order to be relieved from contractual obligations. The parties may agree on the enforcement or non-enforcement of any provision of their contract. In case of dispute or disagreement regarding an actual default or liability relating thereto, the parties may initiate court proceedings to obtain judgement in respect of default/ non-default and/ or compensation for a potential breach of contract.
Are commercial property or other leasing arrangements subject to any special arrangements?	There are currently no special legislation governing the rights and obligation of contracting parties due to the COVID-19 situation. Ordinary rules of contract applies.

Norway content (Contract Law) as at 14 October 2020

Norway

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	The directors and other representatives of a company are obliged to file a petition for bankruptcy to the court when the conditions for bankruptcy have been met. There are two conditions that must be met for the court to open bankruptcy. First, the company must be illiquid. This means that the company is unable to pay its obligations as they mature. Second, the business must be insufficient. This means that liabilities in the company must exceed assets (deficit).
What personal liabilities can directors be exposed to as a company nears insolvency?	Directors can be personally liable to replace damages the company, the company's shareholders and third parties have been inflicted, if the directors have acted intentionally or negligently. In addition, if due to the irregularities in the actions of the directors the company falls under bankruptcy, the directors may even bare criminal liability.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	What we recommend is to obtain the best legal and economic support for the directors decisions. We encourage them to be aware of their responsibilities and document the assessments and decisions that are made. We also remind them that directors and officers liability insurance is rational. There is no safe harbour legislation.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	A new temporarily legislation has been ratified. Thus, a company can achieve reconstruction through negotiations with its creditors with help from an insolvency expert (i.e. lawyer) appointed by the district courts. Whilst negotiating, the company receive protection from bankruptcy and individual claims from creditors.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	

Norway content (Insolvency) as at 6 October 2020

Norway

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The Norwegian Parliament adopted the so-called **"Corona Act" (LOV-2020-03-27-17)** on March 21st which was put into force March 27th. The Act enables the Government to supplement or defer from a range of regulations in so far as this is necessary in order to maintain the purposes of the Corona Act, which is to help the consequences of the COVID-19 outbreak. The Act is valid until May 27th. The government will look at alternative legal bases for maintaining the necessary measures beyond May 27th.

Cybersecurity

The Norwegian National Security Authority (NSM) has together with the Norwegian National Cyber Security Center (NCSC) published certain guidelines on how to maintain a safe digital environment with work-from-home solutions.

The NSM elevate an increased use of phishing, particularly in the form of fake information on COVID-19. They urge people to be especially aware of e-mail and SMS relating to COVID-19 and suspect domains.

The NSM reports of an increased use of vulnerabilities in thin client solutions. These solutions work in the same way as VPN in the way that thin client solutions give access to business internal services and applications. Several reports show that actors use vulnerabilities in these solutions to leave back doors in order to maintain access to the relevant systems after the vulnerabilities have been closed. They recommend that solutions for remote access is secured sufficiently.

The NSM recommends that businesses enact two-factor authentication and systems which catch large amounts of incorrect log-ins. This is due to an increased level of security threats in the form of login attempts by way of brute-force on internet exposed services. The increased level of vulnerabilities may be traced back to the vast use of work-from-home solutions.

Businesses that have outsourced IT operations must assess whether or not they have a form of fall-back of operations and monitoring, and which alternative operation solutions may be enacted in the case of a systematic shut-down.

Privacy

The Parliament adopted a **regulation on digital tracking of infection and epidemic control in relation to the COVID-19 outbreak** March 27th. The regulation enables the Norwegian Institute of Public Health to create a system for digital and automated tracking of close contacts with persons infected with COVID-19 and for giving information to the relevant persons. The Institute has launched an app for tracking infection, which can be downloaded on iOS and Android systems. Downloading the app is voluntary, and it works in the way that you, after registering, receive a message if you have been in contact with other users of the app who prove to be infectious. The app must be accompanied by sufficient, understandable and easily accessible information, hereunder about processing of personal data. The Institute is the controller of this data, and may enter into agreements with processors relating to the processing of this data in accordance with Art. 28 GDPR. The purposes of processing the data is contacting and informing persons who have been in close contact with COVID-19 positive persons.

The Norwegian Data Protection Authority (Datatilsynet) has issued guidance on the processing of personal data specific to COVID-19. The focus lies primarily on the processing activities in the health system, in schools and in the workplace. On a general level, the Norwegian Data Protection Act - which incorporates the GDPR into Norwegian law and adds a few alterations - covers the requirements for processing personal data in Norway.

Guidance on **digital consultations**: due to extraordinary circumstances, it must be allowed to put into use technical solutions for performing digital consultations between health personnel and patients that have not been sufficiently risk evaluated. One must however clearly define and limit the purposes of processing, and the processing in the relevant technical solutions must be closely connected with the immediate need that has appeared following the pandemic. All assessments being made should be documented as thoroughly as possible.

(Continued on next page)

Norway

Cyber & Privacy (continued)

Guidance on **COVID-19 and the workplace**: personal data stating that a person has been infected with the COVID-19 virus is special category data. Data stating that a person has returned from a risk area or has been put into quarantine (without stating the cause) is not special category data. The employer shall give information to the employees proportionate to what is necessary for a safe work environment. The employer has a legal obligation to maintain a safe work environment cf. section 4-1 of the Working Environment Act. The employer shall avoid naming infected persons, but may do so in as far as this is necessary to safeguard other employees. The employer shall give out necessary information to externals relating to the availability of the employees, but must not give out more detailed information on employees beyond the fact that they are unavailable if they are infected or in quarantine.

Guidance on the **use of digital tools in schools**: Schools must give out information to parents, teachers and students relating to the use of digital tools in teaching activities. Teachers shall not make use of new digital tools without prior approval from school management. School management shall keep close contact with the data protection officer and those responsible for cyber security in the relevant institution. Students should keep both cameras and microphones off during teaching sessions in order to avoid sharing special category data and other data that is not necessary for the purpose of teaching.

Guidance on **processing data relating to infected students or teachers**: data relating to infected students or teachers must be reported to the official health services in the relevant municipality. Schools and other public teaching institutions should confer with the relevant health authorities (in the respective municipality) before giving out information on infected students or teachers. The information must in any case exclude personal data on the infected persons. Grade levels 1-4 and upper secondary schools will open April 20th.

Guidance on the **use of mobile data for head counting purposes and alerting purposes**: the use of mobile data may under certain circumstances be permitted. The telecom operators and the municipalities initiating this type of processing are subject to different sets of rules. As a basis, the telecom operators have a duty of confidentiality. Exceptions are applicable, thus allowing municipalities access to this data, where:

- there is a law expressly allowing the disclosure of such data for the purposes of national security
- if the personal data are anonymized and
- if each and every mobile user/client have consented to such disclosure.

Guidance on **visitor registration and infection tracking**: the entities acting as data controllers for such processing activities/purposes must:

- give information of the purposes of the specific processing
- collect only the necessary data
- ensure that the collected data is protected from unauthorised access
- avoid using the data for other purposes
- erase the data on an ongoing basis; and
- establish and maintain a data processing agreement in the event that an external party is engaged for the relevant processing activities.

Norway

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. Governmental services are up and running.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The courts of Norway are currently open for filings, and aim to hear all framed cases with no delays. To comply with infection control issues due to the corona pandemic, a selection of the cases are p.t. held as remote hearings and by written procedures. In order to ensure the legal safeguard protection of the individual, a large selection of the cases are also held in the court or in external courtrooms. We note that each court and judge decides on how to proceed with each individual case, and that special infection control measures are implemented.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	N/A
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signatures are permitted.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Meetings can be held telephonically. Electronic signatures are possible.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Meetings can be held by phone or video. Electronic signatures are possible.

Norway content (Corporate) as at 9 October 2020

Poland

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No. Where an employer decides to stop its operations entirely (or part thereof), it is obliged to pay the employee remuneration for the time of not performing the work. This applies where the employee is ready to perform the work, but is unable to, for reasons concerning the employer. In such cases, the employee is entitled to remuneration for the time of not performing work. The remuneration is to equal to his/her individual monthly or hourly rate of pay, or if such elements of remuneration are not determined, 60 percent of the remuneration. Due to the COVID-19 pandemic, a new program was introduced: ● the entrepreneur affected by a decrease in turnover (15% - for a two month reference period - comparison of equivalent periods of 2020 vs 2019 or 25% - for one month reference period - month to month comparison in 2020) due to the occurrence of COVID-19 with no outstanding tax and social security contributions liabilities may reduce the remuneration applicable in case of work stoppage down by 50% (the amount of the remuneration may not be lower than the minimum remuneration for work); ● reduce working hours of an employee by 20%, but not more than down to 1/2 of the FTE, provided that the remuneration cannot be lower than the minimum remuneration for work. The conditions of such stoppage and working hours reduction must be agreed with the employees representation. Such remuneration may be subsidised subject to meeting specific requirements. From 24 June 2020 possibility of reducing the working hours or applying economic downtime is also available to employers who experienced a significant increase in the burden on the remuneration fund due to a decrease in revenues from the sale of goods or services as a result of COVID-19 (increase related is calculated based on ratio of remuneration fund to the revenues from sales of goods or services in accordance with the rules set out in the law). The conditions of such stoppage and working hours reduction must be agreed with the employees representation.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes, in some circumstances. An employer has the right to decide unilaterally on the employee's holiday leave where: ● the employee has outstanding holiday leave from previous years to use; and ● the employee is during their notice period. In other situations, the employer cannot decide unilaterally on the use of the holiday leave. Unpaid leave needs to be requested by, or agreed in writing with, the employee. For the duration of the state of epidemic threat or epidemic state announced due to COVID-19, a special rules of granting overdue leave, unused in previous years was introduced. An employer may grant an employee a holiday leave not used by the employee in the previous calendar years, up to 30 days of leave. An employer has the right to oblige an employee to use such leave: ● on the date indicated by the employer; ● without obtaining consent of the employee; ● omitting the vacation plan. The employee is obliged to use such leave.

Poland content as at 11 October 2020

Poland

Labour Law (continued)

Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	In some circumstances, yes. Where the dismissal is due to economic reasons, the severance payment entitlement applies only where the employer employs at least 20 employees. It applies both to collective and individual dismissals. The amount of the severance payment depends of the length of employment of a given employee and is equal to: ● one-month remuneration – if employed for less than 2 years; ● two-months remuneration – if employed at from 2 years to 8 years; ● three-months remuneration - if employed for over 8 years. The amount of the severance payment is statutorily capped at, and cannot exceed, the amount of 15 times the minimum remuneration for work in Poland being in force at the date of the employment relationship termination per employee (minimum salary in Poland for 2020 is PLN 2600 gross). For the duration of the state of epidemic threat or state of epidemia announced due to COVID-19, in case of employers with: ● decline in economic turnover; ● a significant increase in the burden on the remuneration fund a limitation was introduced in the amount of certain benefits paid to employees in the event of termination of the employment contract. If in connection with the termination of the employment contract, the provisions provide for the obligation to pay severance pay, compensation or other cash benefits, the amount of such benefits may not exceed ten times the minimum remuneration for work, i.e. for 2020, the limit amounts to PLN 26,000 gross. The same shall apply accordingly to termination of civil law agreements (except for agency agreement) or performing function based on appointment.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. The scope of priority depends on the procedure - whether normal enforcement or bankruptcy proceedings. In the case of normal enforcement, the following are prioritised (with different levels of priority): ● remuneration due for three months of work, up to the minimum value of remuneration for work; ● other receivables under employment relationship; In the case of bankruptcy, priority will apply to the amounts under the employment relationship due for periods prior to the date of declaring bankruptcy.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. In the case of employer insolvency, unpaid employee remuneration will be paid from the Guaranteed Employee Benefits Fund. In general, claims regarding remuneration and benefits associated with remuneration shall be satisfied for a period of: ● no more than 3 months immediately preceding the date of the employer's insolvency; or ● for a period of no more than 3 months immediately preceding the termination of the employment relationship, if the termination of the employment relationship falls within a period of no more than 12 months preceding the date of the employer's insolvency. In principle, the value of claims for a period of one month to be satisfied by the Fund may not

Poland

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. The liability for damage under the Polish Civil Code is mainly based on fault principle. Consequently, a party to the agreement will not be obliged to compensate damage caused by non-performance or improper performance of such agreement, if the latter results from circumstances for which that party is not responsible. Under the Polish jurisprudence and legal doctrine it is accepted that force majeure may constitute such circumstances. The term is not defined in the Polish Civil Code but it is commonly accepted that occurrence of a sudden, external event which the parties could not foresee at the time of the conclusion of the agreement and effects of which could not be reasonably prevented, including e.g. epidemics or pandemics may be qualified as a force majeure. However, it should be also taken into account that the agreements concluded between business partners may differently regulate the parties obligations in the event of force majeure, e.g. may impose an obligation to perform additional acts of diligence by the affected party (obligation to notify the contractor in due time about the occurrence of force majeure, taking joint actions aimed at limiting the losses of both parties to the contract, etc.), define what circumstances constitute a case of force majeure or contractually extend their liability to circumstances for which the parties are usually not responsible, including force majeure events. Under Polish law there is also a clause on material adverse change. If due to extraordinary change of situation, performance of an obligation is to be connected with excessive difficulties or flagrant loss, which were not anticipated at the moment of contract conclusion, the court may, subject to balancing interests of all parties and in accordance with rules of social coexistence, determine the way the obligation is to be performed, the value of performance or even decide on termination of the agreement. In case of terminating the agreement, the court may decide on settlements between the parties (in line with above indicated principles).
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. If the renegotiation of the contractual arrangements is unsuccessful, an action based on an extraordinary change in economic relations principle (rebus sic stantibus) provided in the Polish Civil Code may be considered. When resolving such a case, the court may change the manner in which the agreement is performed or the amount of parties' benefits or even terminate the agreement.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. The set of special legislative programme called "anti-crisis shield", was adopted on 31 March 2020. In respect of lease agreements the anti-crisis shield includes: • **Expiration of the mutual obligations of the parties to the lease agreement:** The parties to lease agreements in shopping centres with the sale area above 2,000 sqm are exempted from their obligations under the agreements. The regulation is not clear. However, as we understand: (i) the waiver applies to the tenants who have been prohibited from conducting their activities under the regulations issued by the Minister of Health and the Council of Ministers; (ii) the waiver seems to mean, in particular, that the tenants are not obliged to pay the rent and other charges; (iii) the waiver is retroactive and effective from the moment of imposing the above listed prohibitions; (iv) the tenants will be obliged, within 3 months from lifting the prohibitions, to submit a binding offer for prolongation of the lease for the period of prohibitions increased by 6 months; (v) the failure to submit the offer seems to mean that the landlord is not bound by the waiver, and, in particular, the tenant may be invoiced for the period of the prohibition; (vi) the landlord is not obliged to accept the offer. • **Prolongation of the lease:** the tenants may prolong the lease agreements (under the existing terms and conditions) by 30 June 2020. The right to prolong may be exercised with respect to leases which period ends on 30 June 2020 at the latest and provided that the tenant is not in a default under the agreements (the "default" has been defined under the draft bill). • **Termination of the lease:** the landlords are prohibited from terminating the lease

Poland

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

As a general rule members of the management board, while performing their duties, are under obligation to act in accordance with high standards of due care resulting from the professional nature of the activity. If the company becomes insolvent or it is nearing insolvency members of the management board are obliged to take following measures to appropriately perform their duties.

If the company has become insolvent in the meaning of the provisions of the act of 28 February 2003 on bankruptcy law (the "**Bankruptcy Law**"), each person entitled to conduct the affairs of the company and to represent the company on his own or jointly with other persons (under the provisions of law or under the provisions of the articles of association) is obliged to file a petition for bankruptcy with the competent court within 30 days of the date on which the basis for declaring bankruptcy occurred. The specific grounds on which the company is considered insolvent are indicated in the Bankruptcy Law.

If the company is nearing insolvency or is already insolvent, members of the management board of the company might also file a petition for opening one of the restructuring proceedings / a petition for approval of the arrangement in the proceedings for the approval of the arrangement.

In this context please note our comments regarding liability of the management board members for failure to file the bankruptcy petition on time.

*Our comments regard so-called capital companies, i.e. limited liability companies, joint-stock companies and simple joint-stock companies.

What personal liabilities can directors be exposed to as a company nears insolvency?

Liability of the management board members in situation when the company nears insolvency

Members of the management board are obliged to conduct the company's business in an appropriate manner, i.e. to act in the best interest of the company they are managing, to the extent to which they have been entrusted.

In the event that company nears insolvency and this situation is aggravated by the failure to exercise those duties by the members of the management board they may be held liable for the damage caused to the company or to another person.

This liability includes criminal liability and to some extent civil liability.

- **Criminal liability**

  Member of the management board may bear penal liability in case he causes substantial financial damage to the company (amounting to at least PLN 200,000 / approx. EUR 45,000), or brings direct danger of causing substantial damage, by abusing powers or failing to comply with the obligations imposed on him.

  Committing such offence is sanctioned with a fine or a penalty of imprisonment (from 3 months up to 10 years), depending on the level of fault and the scope of the damage.

  Additionally, there are special offences which may be committed in the state of insolvency or insolvency threat.

  In particular, the member of the management board may bear penal liability for offences such as foiling or diminishing satisfaction of the company's creditor in particular by satisfaction of selected creditors to the detriment of other creditors.

- **Civil liability**

  Member of the management board may be potentially held liable under general civil law liability regime for damage caused to another person in relation to the company's insolvency. In principle, member of the management board may be held liable towards both the company and any third party, if he unlawfully and faulty caused a damage.

(Continued on next page).

Poland

Insolvency (continued)

Liability of the management board members in situation of insolvency of the company

- **Civil liability**

  Members of the management board of the limited liability company are liable jointly and severally for the obligations of the company if execution against the company proves ineffective.

  At the same time, according to the Bankruptcy Law member of the management board is liable for any damage that may arise through the failure to file the petition within 30 days of the date on which the basis for declaring bankruptcy occurred. This legal basis of liability of members of management board applies to all capital companies. In case of the limited liability company it is an alternative legal basis in relation to the legal basis mentioned above.

  Notwithstanding the above, pursuant to the provisions of Polish tax ordinance and Polish social security system act members of the management board are liable jointly and severally with all their assets for the tax arrears of the company as well as social security contributions, if the execution against the company's assets proved to be fully or partially ineffective.

- **Criminal liability**

  As already mentioned, Polish law provides for special offences which may be committed in the state of insolvency or insolvency threat.

  In particular, the member of the management board may bear penal liability for offences such as foiling or diminishing satisfaction of the company's creditor in particular by satisfaction of selected creditors to the detriment of other creditors, transfer of assets to newly established entity, etc.

  In the context of the criminal liability of the management board members it should be also noted that member of the management board may also bear penal liability if:

  (i) he does not file a petition for bankruptcy of a company despite the fact that conditions for declaring bankruptcy occurred,
  (ii) he indicates false data in the petition for bankruptcy, or he does not issue to the trustee all assets that constitutes bankruptcy estate, books of accounts or other documents relating to his assets after bankruptcy is declared.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

As a general rule, members of the management board of the limited liability company are liable jointly and severally for the obligations of the company if execution against the company proves ineffective.

In order to avoid this personal liability the members of management board should:

- file the petition for bankruptcy with the competent court within due time, or
- successfully lead to the issue of a decision on the opening of restructuring proceedings by the relevant court.

Member of the management board may also release himself from the liability if he can prove that:

- failure to file the petition for bankruptcy was not at his fault or
- despite the fact that he did not fulfill obligations to file a petition for bankruptcy or a petition for opening of restructuring proceedings, the creditor of the company has not suffer any damage.

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Poland

Insolvency (continued)

	According to Bankruptcy Law member of the management board is liable for any damage that may arise through the failure to file the petition within 30 days of the date on which the basis for declaring bankruptcy occurred unless he can prove that he was not at fault. He can also release himself from the liability if he can prove that either a restructuring procedure has been opened or an arrangement has been approved in the procedure for the approval of the arrangement. Moreover, member of the management board is not liable for failure to file a bankruptcy petition: • if the creditor of the company has not suffer any damage, • during enforcement proceeding if the obligation to file a bankruptcy petition arose while enforcement was being carried out. The above legal basis of liability of members of management board applies to all capital companies. In case of the limited liability company it is an alternative legal basis in relation to the legal basis mentioned in the first paragraph above. Notwithstanding the above, pursuant to the provisions of Polish tax ordinance and Polish social security system act, members of the management board are liable jointly and severally with all their assets for the tax arrears of the company as well as social security contributions, if the execution against the company's assets proved to be fully or partially ineffective. Member of the management board can release himself from the liability if he can prove that petition for bankruptcy was filed in a due time or at that time restructuring proceedings were opened or an arrangement was approved in the proceedings for the approval of the arrangement or the failure to file petition for bankruptcy was without his fault. Moreover, he can release himself from the liability if he indicates the company's assets that could satisfy a significant part of the company's tax arrears.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	In order to reduce the adverse effect of COVID-19 the Polish government implemented the law on special arrangements for the prevention, prevention and combating of COVID-19, other infectious diseases and the emergencies resulting from them. Under those regulations some benefits are granted to the companies, e.g. postponement of payment of tax and social security contributions, contribution to employees' remuneration or offering a low interest rate loans for entrepreneurs. If the grounds for declaring bankruptcy arose during the state of epidemic threat or state of epidemia related to COVID-19 and the insolvency is due to COVID-19, the deadline for submitting motion for declaring bankruptcy is stopped. After end of the state of epidemic threat or state of epidemia, the deadline starts to run from the beginning. If the insolvency occurred during the state of epidemic threat or state of epidemia, it is deemed to be caused by COVID-19. Furthermore, in connection with COVID-19, a new simplified restructuring procedure was introduced in addition to existing types of restructuring proceedings. The solution is temporary - it can be initiated by 30 June 2021 and this may be done only once.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	The insolvency regime that might be relevant to a company facing financial issues as a result of COVID-19 might be restructuring proceedings. In order to open one of the four restructuring proceedings the company need to file a relevant petition. The restructuring proceeding is aimed at getting the company out of insolvency / state of insolvency threat, e.g. by entering into an arrangement with creditors of the company to repay the debt or taking other measures to maintain the business of the company. The petition to open restructuring proceedings takes precedence over the petition for bankruptcy. In connection with COVID-19, a new simplified restructuring procedure was introduced in addition to existing types of restructuring proceedings. The solution is temporary - it can be initiated by 30 June 2021 and this may be done only once.

Poland

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Health monitoring

Employers' actions to counteract the spreading of COVID-19 (COVID-19) may lead to the collection and further processing of additional personal data of employees as well as other categories of data subjects (visitors, vendors' employees etc.). In this context, some actions may seem questionable, for example: collecting information regarding recent trips (including private trips), introducing innovative solutions to examine employees' body temperature or obliging employees to keep their employer informed about their health.

So far, the announcements of the President of the Personal Data Protection Office in this respect have not clarified all doubts relating to the issue, thus a case by case analysis is required with respect to measures to be undertaken by the employers.

Polish employers who decide to take action to monitor the health of their employees should take into account the need to guarantee an appropriate legal basis for collecting personal data (including, in some cases, health data). It seems that the prerequisites legalizing the processing of additional information about employees may be the provisions of Article 207 of the Labour Code imposing an obligation on the employer to ensure safe and hygienic working conditions. According to the content of Article 207 § 2 of the Labour Code ""The employer is obliged to protect the health and life of employees by ensuring safe and hygienic working conditions with appropriate use of scientific and technical achievements"". The applicable regulations also impose an obligation on the employer to respond to the needs of ensuring safety and hygiene at work and to adjust measures taken to improve the existing level of protection of health and life of employees, taking into account the changing conditions of work). Taking additional action by employers in connection with the combating COVID-19 may therefore be based on grounds relating to the necessity to fulfil the legal obligations imposed on the controller (Articles 6(1)(c) and 9(2)(b) of GDPR).

Any health monitoring activity should be in line with the general data processing principles set out in Article 5(1) of GDPR. The employer should therefore ensure, inter alia, an appropriate level of transparency and adequacy of the processes involved in collecting additional data on workers. The principle of minimization should also be respected when implementing appropriate mechanisms to combat COVID-19.

Remote work

Increasing the number of employees who work remotely leads to many instances of data breaches and cybersecurity threats.

Many organizations have not been prepared to effective switch to remote working. We have identified instances of lack of relevant procedures regarding BYOD policies, IT policies aimed at ensuring safety remote connections as well as data breach response plan procedures.

Employers also struggle with issues regarding monitoring of work equipment. Polish regulations put strict requirements on conditions under which the IT monitoring may be carried out. The monitoring should be limited to necessary measures and should take into account the potential risks related to violation of privacy of employees.

The emerging trends in the Cyber & Privacy area are also related to higher numbers of cloud implementation.

Cyber security threats

The crisis related to COVID-19 lead to increasing number of phishing attacks. The public reports of cyber attacks show that cyber criminals exploit higher anxiety levels, non-standard notices and communication with public authorities.

Poland

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Public registries are still operating but with reduced working hours. There are significant delays already observed. No contingency plans known.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are still operating but with reduced working hours. All non-substantial court sessions are suspended. Delays are expected. No contingency plans known. Some courts allow (based on decisions of their Presidents) for filing certain types of motions (in particular appeals and motions for justification judgments) via email.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries are still operational. No delays observed. No contingency plans known.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signatures are permitted to the extent that it is a qualified electronic signature. Simple electronic signatures are permissible only for documents that do not require to be documented in written form. Based on the new legislation during a state of epidemic emergency members of statutory bodies of commercial companies are allowed to make their declarations of will in a documentary form. Such form does not require filing electronic form or placing qualified electronic signature, trusted profile (ePUAP) or personal signature, even in the case of other statutory provisions provides such requirement.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Board and supervisory board meetings can be held telephonically unless the company Articles of Association provides otherwise. In case of a telephonic meeting the Chairman is obliged to draft minutes of the meeting, sign it and keep altogether with the proofs of notice all the members. The resolutions are valid only if all the members of a given statutory body have been notified on the meeting. In case of Supervisory Board it is also required to provide all the members with drafts of the resolutions to be adopted.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Board and supervisory board meetings can be held telephonically unless the company Articles of Association provides otherwise. In case of a telephonic meeting the Chairman is obliged to draft minutes of the meeting, sign it and keep altogether with the proofs of notice all the members. The resolutions are valid only if all the members of a given statutory body have been notified on the meeting. In case of Supervisory Board it is also required to provide all the members with drafts of the resolutions to be adopted and observe the quorum of half of the composition of the board.

Portugal

Labour Law

Contact for Portugal

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Subject to some requirements, yes. The employer may grant the employee, at his or her request, leave without pay. The unpaid leave will cause the suspension of the employment agreement, while maintaining the rights, duties and guarantees of all the parties, as long as they do not imply the actual performance of the work. In addition, unpaid leave counts for length of service purposes.
Can an employer direct an employee to take paid annual, holiday or similar leave?	As a general rule, the holidays period is scheduled by agreement between employer and employee. If such agreement is not reached, the employer can unilaterally schedule the employees' holidays. However, this holiday period cannot start in a employee's weekly rest day, and employees representatives should be consulted. Also, the employer can only unilaterally schedule the holiday's period between 1st May and 31st October.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. The compensation, overdue credits and those due as a result of the termination of the employment agreement, must be paid by the end of the employment. There are no relief rules due to financial difficulties or similar. Regarding compensation, a transitional regime exists. For permanent employment contracts entered into before 1 November 2011: • 1 month's salary per year of service for services rendered until 31 October 2012; • 20 days' salary per year of service for services rendered between 1 November 2012 and 30 September 2013; • 18 days' of salary per year of service for services rendered between 1 October 2013 and until the moment the employee completes 3 years of service, provided that on 1 October 2013 the employee had less than 3 years length of service – once the employee completes three years of service, compensation is 12 days' of salary per year of service; • If, on 1 October 2013 employees' length of service was greater than 3-years, compensation for work rendered after 1 October 2013 shall be 12 days' salary. The amount of compensation calculated as described above for employment contracts entered into before 1 November 2011 is subject to a minimum amount of 3 x reference base salary (RBS). For permanent employment contracts entered into after 1 November 2011: • 20 days' salary per year of service for services rendered until 30 September 2013; • 18 days' of salary per year of service for services rendered between 1 October 2013 and until the moment the employee completes 3 years of service, provided that on 1 October 2013 the employee had less than 3 years length of service – once the employee completes three years of service, compensation is 12 days' of salary per year of service; • For permanent employment contracts entered into after 1 October 2013; **(Continued on next page)**

Portugal

Labour Law (continued)

	Compensation shall be calculated on the basis of 12 days' salary per year of service. Notes on the calculation of compensations: ● The maximum global amount of compensation cannot exceed 12 x RBS or 240 x GMR. ● If compensation calculated until 31 October 2012 is equal to or greater than 12 x RBS or 240 x GMR, the employee will be entitled to the full amount (including excess), but no additional compensation will be accrued for service after 31 October 2012. If compensation calculated for employment up to 31 October 2012 is less than 12 x RBS or 240 x GMR, the overall compensation due will be capped at such amounts. For fixed term employment contracts: ● Compensation shall be calculated on the basis of 18 days' salary per year of service.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Employees are creditors of the company in respect of their salaries, holiday and christmas subsidies, meal allowances, compensation or indemnification for breach or termination of their employment contract. Labour credits have a privileged special real estate credit, which is granted by the property of the employer where the employee works, which prevails over any other credit. Labour credits that benefit from this privilege are considered, for all purposes, as guaranteed credits. Furthermore, employees also benefit from a general credit privilege, which even prevails over the general credit privileges of the Tax and Social Authority. In this case, labour credits will be qualified and graduated as privileged credits.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. In the event that labour credits cannot be paid under the insolvency proceedings after liquidation of all the undertaking's assets, employees may recourse to the Salary Guarantee Fund. The purpose of the Salary Guarantee Fund is to pay employees' labour credits resulting from salaries, holidays and Christmas subsidies, compensation, indemnifications and other benefits which cannot be paid by the employer due to the declaration of bankruptcy of the company. In any event, employees always have access to unemployment benefits paid by social security.

Portugal

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Firstly, it is necessary to confirm whether the contract, explicitly or implicitly, provides for mechanisms that can address this type of extraordinary events (e.g. force majeure or changes of circumstances clauses, which may determine the right to terminate, suspend or apply a moratorium to the execution of the agreement, to provide for the non-application of penalties in case of failure to meet service levels, etc.). Under the exceptional circumstances we are currently facing, it is advisable to assess the validity of these contractual mechanisms under the applicable law. Even if the contract does not provide for specific mechanisms, Portuguese law sets out solutions that govern situations where contractual obligations are impossible to be complied with, definitively or temporarily, in full or in part. In general terms, if the execution of a certain obligation becomes definitively impossible for reasons not attributable to the debtor, the law provides for the termination of the respective contractual obligations. Under those circumstances, the debtor has no obligation to pay a compensation; if, however, the obligation has already been complied with by the other party (the creditor), there is an obligation to give it back to the creditor or, if this is not possible, to compensate the creditor. Specific consequences are also provided for temporary and partial impossibility to comply with contractual obligations. Those legal mechanisms require that the relevant legal requirements are demonstrated, including evidence on the causal nexus between the alleged event and the impossibility to perform the contractual obligation. The law also provides for circumstances under which a contractual obligation becomes excessively difficult or burdensome. This may lead to the possibility of terminating or modifying the contract according to principles of fairness, if the circumstances on which the parties based their decision to contract have undergone an abnormal alteration and the compliance with the contractual obligations seriously affects the principles of good faith and is not covered by the risks inherent to the contract. However, in practical terms and given the court precedent on events with a global impact on society, this is a mechanism to be resorted to exceptionally. It is important to note that these mechanisms are not automatic and must be carefully assessed on a case-by-case basis, contract by contract. So that the use of these mechanisms is viable and to safeguard a potential litigation scenario, it is also crucial to ensure that evidence of such impossibility, circumstances and requirements are properly documented or evidenced by other means.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Portuguese law admits legal actions just for the mere recognition of the existence of a right, but the use of this mechanism is very residual and subject to very strict requirements, which do not usually apply in these cases. Even if the resort to such a mechanism would be possible, given the long duration of judicial procedures, it is not likely that a decision could be obtained in time to relieve the compliance with the contractual obligations The normal course of action would be to use one of the mechanisms referred to in the left column (either contractual or legal). As mentioned, these mechanisms are not automatic and must be carefully assessed on a case-by-case basis, contract by contract. So that the use of these mechanisms is viable and to safeguard a potential litigation scenario (started by the counterparty), it is also crucial to ensure that evidence of such impossibility, circumstances and requirements are properly documented or evidenced by other means.

Portugal

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?

Yes.

Tenants are allowed to not pay the rent during the state of emergency period and in the first month thereafter, provided that they settle that payment within 12 months from the end of that period, in monthly instalments of not less than one twelfth of the total amount, paid together with the rent for each month.

Failure to pay the rent due during the state of emergency period and the first month thereafter, may not be invoked by the landlord to terminate the agreement, nor as grounds for an obligation to vacate the property.

Such regime shall apply:

- To establishments open to the public for retail trade and service provision activities that are closed or have their activities suspended by legislative or administrative determination, including in cases where they maintain the provision of electronic commerce activities, or the provision of services at a distance or through an electronic platform; and
- To restaurants and similar establishments, including in cases where they maintain activity for the exclusive purpose of confection intended for consumption outside the establishment or home delivery.

These measures shall also apply to other contractual forms of exploitation of property for commercial purposes.

Finally, the effects of the revocation, opposition to the renewal or expiration of lease agreements for non-housing purposes are suspended.

Portugal

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

Under the Portuguese legal framework, the company's directors – who have the full and exclusive powers of management and representation of the company – have a general duty to act with the diligence of an attentive and careful manager, in the interest of the company, of the respective shareholders, creditors and employees. There are two main duties of directors of Portuguese companies:

- a duty of care, which implies the availability, competence and specific capacities to perform the respective functions, including a diligent performance of the respective functions; and
- a duty of loyalty towards the company, so that the directors' own interests are with the long term interests of the company and respective shareholders, employees and creditors.

In what concerns the Portuguese insolvency regime and in particular when the company is insolvent or nearly insolvent, the debtor has a general duty to abstain to perform acts that can be deemed as prejudicial to the company. Moreover, the company - through its directors - must request the declaration of insolvency within the 30 days after having knowledge of the insolvency situation. Nevertheless, such knowledge is presumed (without doubt) after at least three months of general default.

However, this week and in the context of the extraordinary measures that are being decreed related to the pandemic, this mandatory deadline has been suspended.

What personal liabilities can directors be exposed to as a company nears insolvency?

If some requirements are met after the declaration of insolvency of the company, the directors may be considered personally liable (both civil and criminally) for the company situation and face serious consequences, such as the inhibition to manage a company for a certain time period and may have to compensate directly the creditors of the company.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

There is no specific provision under the Portuguese insolvency regime for these purposes. However, under the business judgment rule, directors are obliged not to dissipate the company's assets and to avoid unreasonable risks, but the technical competence and the so-called "business discretion" of directors must be considered, since directors have the power to choose between several reasonable decision alternatives.

Therefore, the merits of certain directors' decisions are not judged by the courts on the basis of 'reasonableness' criteria, and they should only be civilly liable when such decisions are considered 'irrational', i.e. incomprehensible and without any coherent explanation. That being said, the directors only have to prove that no legal or contractual duties were infringed since the provisions set forth under the Portuguese law do not enshrine more than an obligation of means, and the manager may exonerate himself from responsibility even if the result of his activity has not been the most desired.

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

The Portuguese Government has decreed several extraordinary measures during the last few weeks, including the deferment of beneficiaries' obligations towards the financial system, such as:

- extension, for a period equal to the duration of this measure (until 30 September 2020), of all the credits with capital payment at the end of the contract; and
- suspension, in respect of credits with instalment repayment of capital or with instalment payment of other cash instalments, during the period in which this measure is in force (until September 30, 2020), of the payment of the capital, rents and interest with instalment payment foreseen until the end of this period, rents, interest, commissions and other charges automatically extended for the same period as the suspension, in order to ensure that there are no charges other than those which may arise from the variability of the reference interest rate underlying the contract, and that all elements associated with the contracts covered by the measure, including guarantees, are also extended.

Portugal

Insolvency (continued)

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

Two debt restructuring procedures are available for Portuguese companies:

- an Out-of-court Regime for Business Recovery; and
- a Special Revitalization Process. Companies can file for both procedures if they experience financial difficulties or are in a situation of imminent insolvency with a chance of avoiding it (financial distress must be certified by an accountant or auditor and is defined as a serious inability to punctually comply with obligations due to a lack of liquidity or inability to obtain additional credit) Companies are restricted from entering a Special Revitalization Process if they have previously ended negotiations on their own initiative in the preceding two years.

The RERE - Regime Extrajudicial de Recuperação de Empresas (Out-of-court Regime for the Business Recovery) defines the possibility of an out-of-court voluntary restructuring agreement between the company and one or more creditors. The RERE is a voluntary proceeding, where the restructuring agreed plan is only applicable for the participating creditors, and typically confidential. The content of the negotiation is defined freely by the entities. To be subject to the RERE regime, the negotiation must involve 15% of the creditors and the negotiation protocol must be deposited in the Commercial Registry.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Although there were no particular measures taken regarding data security and privacy issues by the Portuguese government, the applicable European regulations are still in force.

However, and taking into account that a lot of employees from different business are working from home, companies should assess their IT risks and have data protection and security measures in place given the increased vulnerability to possible attacks from third parties.

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?

No.

All public registries are closed.

All filings must be submitted online.

We expect that the registrations will be severely delayed.

The time limits for performing any administrative before public services and administrative authorities are suspended.

Portugal

Corporate (continued)

Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	In the courts of first instance, only those procedural acts in which fundamental rights are at stake should be performed. Other services can be performed if the judge in charge of each procedure assures that those can be remotely guaranteed. However, some complementary measures were taken: ● The time limits for performing any administrative or judicial acts before judicial, administrative and tax and arbitral courts, public prosecutor's office and alternative dispute resolution bodies are suspended; ● The time limits for private companies and individuals performing any administrative acts are suspended; ● The time limits for performing any administrative or judicial acts regarding administrative offence liabilities before notary offices, public services and administrative authorities are suspended.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. As long as the notaries respect the health regulations imposed, they may remain open. Some have already closed their offices, however some remain open to the public. The time limits for performing any administrative before notary offices are suspended.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are legal in Portugal to be extent they are certified. However, it is not a widely spread mechanism, although Portuguese ID cards contain digital signature certificates. Severe operational constraints are likely.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Both board and general meetings can be held without physical presence if the company's bylaws do not expressly prohibit telematic means. The minutes are not considered formalised until they are duly signed. The alternative is to use an electronic signature (please see previous response on this subject).
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings can be held through a phone call if the company's bylaws do not expressly prohibit telematic means. The minutes are not considered formalised until they are duly signed. The alternative is to use an electronic signature (please see previous response).

Romania

Labour Law

Contact for Romania

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough

Yes.

Employment agreements are suspended by effect of the law for reasons of force majeure. Employees are not to be paid during this period. NB: the special legislation adopted during the state of emergency has not limited the applicability of this provision.

However, the COVID-19 pandemic is not enough in itself to justify a force majeure case for every employer. Each situation should be analysed carefully, on a case-by-case basis. According to the Civil Code, force majeure is any external event, unpredictable, absolutely invincible and inevitable.

Employees may also take leave without pay, which also involves the suspension of the individual employment contract, however, in this case only by the parties' mutual agreement. Normally, the initiative for taking this kind of leave belongs to the employee, however, given the current special circumstances, discussions may be initiated in this respect by the employer. During the entire period in which the employee is on unpaid leave for personal interests, the employer will not pay the salary. The period of unpaid leave does not represent contribution period to the public pension system.

Technical unemployment

Employment contracts can be suspended (technical unemployment) in case of temporary reduction / interruption of the activity, and with the payment by the employer of an indemnity of at least 75% of the basic salary corresponding to the job occupied.

Throughout the state of emergency declared by Presidential Decree, during the suspension period of the employment contract due to technical unemployment caused by the effects of the COVID-19 pandemic, the employees' indemnities may be borne from the unemployment insurance budget up to the limit of 75% of RON 5,429, provided that the employer temporarily reduces or interrupts the activity in whole or in part as a result of the effects of the COVID-19 epidemic, during the state of emergency.

The indemnity paid to employees during temporary reduction / interruption of activity is not capped at the amount to be borne from the unemployment insurance budget (i.e. up to the limit of 75% of lei 5,429). More specifically, if the employer's budget destined to pay the personnel expenses allows, the indemnity borne from the unemployment insurance budget can be supplemented by the employer with amounts representing the difference of up to at least 75% of the basic salary corresponding to the job occupied, under the conditions provided by the Labour Code.

The payment of the indemnity will be performed pursuant to the employer's statement on own responsibility. More specifically, in order to be granted the necessary amounts for the payment of the indemnity, the company will have to submit, by electronic mail, to the territorial unemployment agency, an application signed and dated by the legal representative accompanied by a statement on its own responsibility and of the list of persons who are to benefit from this indemnity, signed by the legal representative of the company, according to a template approved by order of the Minister of Labour and Social Protection.

The payment term from the unemployment insurance budget is of 15 days, and will be performed to the bank account opened by the company, while the term in which the company will have to pay the employees the indemnity is of 3 working days from the receipt by the employer of the amounts.

In case an employee has concluded several individual employment contracts of which at least one full-time contract is active during the state of emergency, he / she does not benefit from the indemnity.

If an employee has several individual employment contracts and all are suspended pursuant to the establishment of the state of emergency, he / she will receive the indemnity for the most favourable individual employment contract.

Romania

Labour Law (continued)

Can an employer direct an employee to take paid annual, holiday or similar leave?	Generally, no. Under normal conditions, performance of rest leave shall take place based on collective or individual scheduling as established by the employer with the consultation of the union / employees' representatives for the collective scheduling, or with the employee's consultation, for the individual scheduling. However, given the current situation, rest leave can be taken by the employer and employee's mutual agreement. For the period in which he / she is on rest leave, the employee benefits from an indemnity paid by the employer. This represents the daily average of the salary rights of the last three months prior to the one in which the leave is taken. In the case of a temporary reduction of the activity, employers may grant employees paid free days, under the following conditions: ● days off granted in advance are paid in advance and, in compensation, overtime will be performed within the next 12 months (since the respective days off were granted), ● there is no maximum limit for the number of paid days off that the employer may grant, still when performing the overtime the Labour Code's provisions with respect to the maximum legal daily working time and the minimum daily rest time should be observed, ● paid days off can be granted to a part of the employees or to the whole group of employees, the option being as well applicable both for management and execution staff, ● overtime in the account of the paid free days previously granted is mandatory for the employee and is performed on the basis of the exclusive will of the employer and only if a temporary reduction of the activity took place.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	No. There is no statutory redundancy or severance pay. In practice, severance payments are usually provided for under the collective bargaining agreement. In cases where such provisions exist in the collective bargaining agreement, the employer will be held to grant them, even if it has financial difficulties.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Salaries are paid before any other cash obligations of the employer. All benefits assimilated to salary rights will be paid with priority.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes, subject to meeting certain requirements. If the insolvency procedure was initiated against the employer and the administration right was totally or partially revoked, the national legislation establishes that the payment of the salary claims resulting from the individual and collective bargaining agreement will be performed from the Guarantee Fund for payment of salary claims.

Romania

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	The directors are obliged to submit to the court a bankruptcy claim, within a maximum of 30 days from the appearance of the insolvency state. However, if the debtor is involved, in good faith, in extrajudicial negotiations for restructuring his debts, the director has the obligation to submit to the court the bankruptcy claim, within 5 days from the failure of the negotiations.
What personal liabilities can directors be exposed to as a company nears insolvency?	The director can be personally held liable for the company's debts if it is proved that he contributed to the insolvency status of the legal entity (i.e. he used the assets or credits of the legal entity for his own or another person's benefit). Moreover, in some cases the director may be charged with offenses under the criminal law.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	In a situation of financial difficulty, the directors must take most appropriate action to protect the company, its assets and its creditors and always act in the best interest of the company and avoid actions that involve an unnecessary increase in exposure and prejudice to the creditors.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	In an effort to reduce the spread of COVID-19 virus, several restrictive measures have been taken. The restriction has a direct impact on several businesses such as tourism, retail, leisure. Due to this fact, most companies have moved their business online, thus avoiding meetings and travels. In order to support the business activity several measures have been taken: postponement of payment of bank rates, postponement of payment of rent and utilities, granting state guarantees. The companies can benefit of most of these measures if they have obtained the certificate for emergency situations.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	According to the President's decree through which it is established the state of emergency in Romania, prescriptions and deadlines of any kind do not start to run, and if they have started already, they will be suspended for the duration of the state of emergency. In practice, there are opinions that claim that this provision also applies in the case of deadlines for filing the insolvency application, both for the debtor and for the creditor. However, at the moment there is not an official interpretation of the authorities regarding the application of the above mentioned provisions in the field of insolvency.

Romania

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Cybersecurity

The Romanian Cyber Security Authority (CERT.RO) in cooperation with Europol, issued a set of recommendations related to teleworking (working from home) stating that companies should:

- implement relevant internal policies and procedures (tested if possible), including policies related to teleworking (containing guides on resources and support) and incident management policies;
- implement security measures such as hardware encryption, inactivity tracking, confidential screens, complex authentication, as well as control/encryption of storage devices (i.e. USB);
- have the ability to deactivate lost or stolen devices from distance;
- allow employees working remotely to connect to the company's network only via VPN and multiple authentication factors (sessions should discontent automatically upon lapse of a certain period of inactivity);
- constantly update systems and applications;
- ensure internal and external communication security (i.e. multifactor authentication for corporate email accounts);
- constantly check for unusual activities on corporate devices and increase the level of alert in case of VPN related attacks;
- increase the level of awareness among employees regarding potential risks related to teleworking (i.e. phishing and social engineering);
- periodically check the activities of the employees by establishing objectives, working schedules and realistic/flexible control mechanisms.

Privacy

The Romanian Supervisory Authority (ANSPDCP) issued on March 18, 2020 a general recommendation with regards to processing of health data in context of COVID-19 pandemic, as well as in the context of the state of emergency declared in the country. To this end, ANSPDC stated that health data might be processed based on the provisions of article 9, letters (a), (b), (h) or (i) in the GDPR. Additionally, the authority indicated that transparency obligations and the need to implement appropriate technical and organizational measures should be observed when processing such data.

Aside from the recommendations above, we point out that, under current Romanian health and safety at work legislation, employers must protect employees and ensure a healthy and safe workplace. Additionally, employers must inform authorities in case of any situations that might affect health and safety at the workplace. Consequently, employers might be entitled to screen employees health status. However, such screening should be limited to general issues (i.e. recent travels to affected areas, information on self-isolation or quarantine with no specific details on the causes, contact with infected individuals) and should not be related to specific symptoms (i.e. body temperature, breathing issues). Further screening of health status might be done by the occupational medicine doctors. The employer shall be transparent to employees regarding the health data processing in the context of implementing measures against COVID-19, providing information on the purpose of collecting the personal data, the storage period, the recipients of the data, the rights of the data subjects in connection to personal data. Employers shall use a concise, easily accessible, easy to understand, and in clear and plain language notification.

Employers must inform health authorities in case COVID-19 infections occur at the workplace. Sharing personal health data internally should also be avoided, unless necessary to determine if other employees are at risk due to contact with the infected employee. Even in this case, it might be recommended to limit the data provided, if possible. Sharing personal health data internally within a group of companies should be avoided unless necessary for reasons of public interest in the area of public health (i.e. protection against cross-border health threats).

Romania

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The Romanian Trade Registry reopened on 15 May 2020. The Romanian Trade Registry is open to the public (for 4 hours a day, in intervals of 2 hours each) and is accepting filings / registrations, under certain conditions. For a period of 6 months starting 15 May 2020, the activity of the Romanian Trade Registry will be carried out mainly by electronic means and by correspondence.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	As the state of emergency ended on 15 May 2020, the cases will no longer be suspended by default and the courts will gradually re-open for the public. From 15 May 2020 – 31 August 2020 the activity of the Romanian courts will take place in accordance with COVID-19 prevention measures. Each relevant court in each county / district issued or will issue specific rules regarding the protection measures taken after re-opening for the public. Fillings are accepted starting from 15 May 2020 either by direct submission or correspondence (email, fax, post office, courier).
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	As the state of emergency ended on 15 May 2020, the notaries have resumed their regular activity in accordance with Covid-19 prevention measures. Notarisation or apostillation cannot be performed online.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes, private documents for which there is no specific legal requirement regarding their form can be signed electronically. However, those which do have legal form requirements, such as documents which require notarisation, cannot be electronically signed. However, in the 6 month period following 15 May 2020, documents such as shareholders statement, director's statement and specimen signatures which usually need to be notarised (and maybe apostilled) can bear a simple (wet or electronic) signature.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	The provisions of Government Emergency Ordinance no. 62/2020 referring to the shareholders meetings, derogating from the general provisions regulated by the companies law 31/1990, were applicable for the meetings either convened during the state of emergency but which were held after the state of emergency ceased, or those convened and held in the first 2 months as of 15 May 2020. Thus, such provisions are no longer applicable starting with 15 July 2020. As of 15 July 2020, the general provisions of Companies Law no. 31/1990 are once again applicable. The general rule is that the board meetings / shareholders meetings can be held remotely only if expressly permitted by the company's Articles of Association.

Romania content (Corporate) as at 10 October 2020

Romania

Corporate (continued)

Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Starting with 15 July 2020, the provisions of Government Emergency Ordinance no. 62/2020 are no longer applicable. Therefore, the general rules will apply - meaning that the board meetings can be held telephonically provided that it is expressly provided in the articles of association. The minutes of the board meetings need to bear signatures.

Contact for Russia

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Russia

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough

Yes, in some circumstances and subject to meeting certain requirements.

Under Russian legislation, it is possible to announce a stand down due to temporary suspension of work based on economic, technological, technical or organizational reasons (part 3 of article 72.2 of Employment Code of the Russian Federation). The stand down is possible where it is due to the fault of the employer, the fault of the employee, or reasons beyond the control of the parties.

If the stand down occurs due to the employee's fault, this period should not be paid, provided that the employee's fault is established during the investigation. If the stand down occurs due to the fault of the employer then at least 2/3 of the average salary of the employee should be paid. If the stand down occurs due to circumstances beyond the control of the parties, then at least 2/3 of the employee's base salary should be paid. The above salary should be calculated in proportion to the time of the stand down.

To announce the stand down, the employer must issue a written order with the fixation of the start and end of the stand down, the procedure for remuneration of employees for this period and other details. The employer must also proceed with other formalities, including familiarization of the employees with such order.

Russian legislation provides with the possibility of sending an employee on unpaid leave. At the same time, for sending the employee on unpaid leave, his/her written consent is required. There is no possibility to send the employee on unpaid leave without the consent.

It should also be noted that according to Decree of the President of the Russian Federation dated 02.04.2020 No. 239 non-working days are established in Russia from 4 April 2020 till 30 April 2020 while employees (except for very limited categories) should retain their salary.

Can an employer direct an employee to take paid annual, holiday or similar leave?

Only where certains conditions are met.

The employer has the right to send the employee on annual paid leave:

- subject to the consent of the employee and his/her respective application, or
- in accordance with the vacation schedule approved for the respective year (such approval takes place before the calendar year begins), if the leave is planned and there is no legal reason to postpone it for another term.

Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction?
Is there any capacity for relief from liability for termination benefits due to financial difficulty?

Yes.

Under the general rule, the employer should pay to the employee who is dismissed due to job elimination/redundancy:

- accrued but not paid salary;
- compensation for all unused vacation; and
- the severance payment in the amount of one average monthly salary that covers first month of unemployment.

Such payment should be processed on the date of dismissal. Moreover, the affected employee is entitled to an average monthly salary covering second month of unemployment (such unemployment should be confirmed by the employee). In addition, the period for which the average salary should be retained may be extended up to 3 months after the dismissal date, subject to special conditions. In some cases, this period can be extended for an even longer period, depending on the employer' location.

In order to carry out the redundancy, a certain procedure is required, including issuing the order, providing 2 months prior notification to the employee before the dismissal (during which time the employee should retain his or her normal salary) as well as processing with other formalities.

Russian legislation does not currently provide for relief from liability for termination benefits due to financial difficulty.

Russia content (all topics except Corporate) as at 9 April 2020

Russia

Labour Law (continued)

Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	• According to Article 134 of the Federal Law of October 26, 2002 N 127-ФЗ "On Insolvency (Bankruptcy)", employees are creditors of the second stage. • The following benefits are subject for their satisfaction: all salary-related payments, as well as severance payments related to termination.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	• At the moment, Russian legislation does not provide for such payments to employees, except for an unemployment allowance based on the application filed by the employee to state authorities subject to certain procedures.

Russia

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. As a general rule of the Russian Civil Code, in case of a force majeure a party can be relieved from liability for improper performance or non-performance of a contract. Importantly, the question whether or not pandemic or similar event can be viewed as a force majeure needs to be considered on a case-by-case basis, taking into account the terms of individual contracts and other applicable factors. Given the Russian legislation, as it currently stands, and existing court practice, the occurrence of a force majeure per se does not terminate the contract if performance remains possible after the force majeure has ceased to exist. With that, the creditor is not deprived of the right to withdraw from the contract if, as a result of the delay arising from the force majeure circumstances, they have lost interest in performance of the contract. It may not be excluded that the above court practice may be further developed (taking into account the current COVID-2019 situation and depending on how it progresses) and it needs to be closely monitored going forward.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Instead of force majeure rules, and depending on the circumstances, a party can rely upon other provisions of Russian Civil Code, whereby, unless otherwise set out in a contract, an essential change of the circumstances, from which the parties have proceeded when concluding the contract, shall be the ground for its amendment or cancellation. The change of the circumstances shall be recognized as essential, if they have changed to such an extent that in case the parties could have wisely envisaged it, the contract would not have been concluded by them or would have been concluded on the essentially different terms. If the parties fail to agree to amend or cancel the agreement, the dispute shall be settled in court. In general, this will depend on the existing terms and conditions of the contract. Typically, Russian courts, given existing high standards of proof of essential change of circumstances, quite rarely acknowledge the relieve from contractual liability in these circumstances (e.g., an economic crisis was not treated as essential change of circumstances). However, there is a reason to believe that COVID-19 and measures taken to prevent virus spreading, may be seen as essential change of circumstances by courts.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. Rules have been introduced by the emergency COVID-19 Law dated 1 April 2020. The rules are applicable to lease contracts signed before the "high alert" regime was introduced. Under this law landlords shall: ● postpone rent payments; and ● decrease the rent. Eligibility of the rent postponement measures were further clarified in the Russian Government decree dated 3 April 2020. They apply to tenants of commercial real estate representing most negatively affected areas of business (tourism, hotels, restaurants, sports, culture, transportation, etc). In general, these companies are allowed to pay the sixth months' rent accrued in 2020 during 2021 – 2023 in equal instalments. No interest shall accrue. In the case where the premises are unusable due to the public authorities act, the COVID-19 Law provides for tenant's right to request the rent reduction in 2020. The rent reduction is still at the landlord's discretion, however, the tenant can challenge the landlord's decision in court. The question whether or not, and to what extent, COVID-19 and measures taken around it make premises unusable is under discussion.

Russia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	Directors are obliged either to: • file the company's bankruptcy claim with the court; or • to have and to follow a recovery plan of the company's financial situation.
What personal liabilities can directors be exposed to as a company nears insolvency?	Directors can be held to be personally liable for the company's debts (subsidiary liability, liability in form of the losses recovery). In addition, a director can be brought to the criminal liability.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There is a general safe harbour from liability which applies where the director is implementing the company's recovery plan (which is reasonably likely to lead to a better outcome for creditors than an immediate bankruptcy proceedings). To qualify for this safe harbour a director needs to meet a number of requirements (i.e. to be economically feasible, realistic, etc.). At a practical level it is important that directors continually monitor the course of action and assess at regular intervals whether it continues to meet the requirements of the safe harbour (that is, is it still reasonably likely to lead to a superior outcome than a formal bankruptcy procedure). This safe harbour follows from the Bankruptcy Law and the Supreme Court's Ruling.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Russian bankruptcy legislation has been recently changed: the Russian Government obtained the right to declare a moratorium on the bankruptcy for the certain list of companies. The Russian Government used this right and has recently implemented a moratorium for 6 months for defined list of the companies (companies with business activity in "crisis industries" (such as air transportation, tourism, etc.), major Russian companies and Russian subsidiaries of some major international companies). Moratorium means that: 1) creditors are not able to file a bankruptcy claims with respect of these companies, 2) directors of these companies have additional time for recovery of a company if they have a recovery plan (if not, they have right to file a bankruptcy claim)." with "Russian bankruptcy legislation has been recently changed: the Russian Government obtained the right to declare a moratorium on the bankruptcy for the certain list of companies. The Russian Government used this right and has recently implemented a moratorium for 6 months for defined list of the companies (companies with business activity in "crisis industries" (such as air transportation, tourism, etc.), major Russian companies and Russian subsidiaries of some major international companies). Moratorium means that: 1) creditors are not able to file a bankruptcy claims with respect of these companies, 2) directors of these companies have additional time for recovery of a company if they have a recovery plan (if not, they still have right to file a bankruptcy claim).
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	There are no other insolvency regimes at the moment.

Russia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Russian DPA issues COVID-19 related clarification. Unfortunately, it concerns only the ability of employers to require their employees to check temperature through manual or automated-scanning means before employees can enter a company office. According to DPA in this case consent is not required as employers need to identify whether employees are able to perform their job. It also implies that all of the rest of the requirements of the Russian Personal Data Protection Law still apply and are mandatory for companies even during the pandemic.

Companies should consider possible cyber risks, and design and implement appropriate measures to protect data. The Russian DPA has also suspended all face-to-face scheduled and unscheduled inspections due to the pandemic until 1 May 2020, but continues the systematic online monitoring of companies' activities.

Many companies in Russia are eager to implement tool tracking employee productivity, geolocation, etc for COVID-19 management purposes. The companies may implement such systems, however, a number of measures are required to be carefully undertaken before the system's implementation. Thus, companies are required to get employees' written consent (implicative actions are not enough), explicitly regulate the usage of such tracking tools in internal company's regulations and not infringe the right to privacy of employees (e.g. not to track location of privately owned mobile devices during non-working hours, etc).

Russia

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Most public registries are working, however attending in person is limited in most cases. Filings/registrations through notaries and online resources are available (subject to qualified electronic signature) in most cases.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Approach can vary between courts. From 12 May 2020, the courts will begin operating again, but with certain restrictions. Each Russian region has different restrictions. Online hearings are available at least in 39 courts, including the Supreme Court on the basis of the "My Arbitr" system. Online filings are also possible.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Generally, notary offices are open, subject to prior appointment. Specific restrictions may be introduced depending on the region. For apostilles, generally, documents sent via mail may be affixed with an apostille. However, particular requirements shall be clarified in each case.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	As a general rule, documents can be signed with qualified electronic signature, which may be obtained through accredited certification centers. Documents also can be signed by simple/ non-qualified electronic signature in cases prescribed by law or by agreement of the parties.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Telephonic board meetings are possible if such form of participation is provided for in the company's charter or company's by-laws. Chairman and secretary signatures are required. If signed minutes are feasible, the meeting itself can be arranged by telephone.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	If such form of participation is provided by the company's charter or company's by-laws, this is possible. Chairman and secretary signatures are required.

Russia content (Corporate) as at 18 May 2020

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Serbia

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	In all three situations, employees are to be treated as being prevented to work, and are entitled to salary compensation in the amount of 65% of the employee's average salary in the previous 12 months. However, if an employee is performing work from home in the cases of (ii) and (iii), the employer is obliged to pay a full salary to the employee.
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	Following the recent closure of schools during the state of emergency, the recommendation from authorities is for work to be organised in such a manner that at least one parent of a child younger than 12 years of age is to work from home. If work is organised in this manner, the employee is entitled to the full salary that he/she would have received had the employee been working from the office. Nevertheless, an employee has a right to take a paid leave in case of a child's illness. The duration of the paid leave is up to 15 days for children under 7 years of age, and up to 7 days for children over 7 years. In some circumstances, this period may be extended to up to 30 days for children under 7 years and up to 15 days for children over 7 years. In addition, employees can take up to 5 working days of paid leave annually, in cases where a close family member (spouse, children, siblings, parents) suffers from a serious illness.
Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	Under the current law, it is not possible for an employer to require full-time employees to work part-time, or to change indefinite employment into employment for a definite period of time, except if conditions for redundancy mass layoff are met. It is possible to decrease an employee's salary to the minimum prescribed by the law where there has been a disturbance in the employer's business activities. Companies in Serbia are generally using the option of sending employees on paid leave in the context of the pandemic or work stoppage.
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The Government of the Republic of Serbia has announced nine economic measures, organized in four sets, which it plans to adopt in order to protect jobs during the state of emergency, as well as to maintain liquidity and help businesses affected by the crisis. Namely, the Government has provided employers with the possibility of a tax deferral (i.e delay in payment of personal income taxes and social security contributions) and monetary aid in the amount of 50% of the net minimum wage for each employee that has been referred to absence due to a discontinuation of work and/or decreased scope of work. Further, the Development Fund of the Republic of Serbia will provide loans for entrepreneurs, micro, small and medium-sized companies, agricultural holdings and cooperatives from the relevant registry of the Fund. Finally, the Government will provide guarantee schemes to the commercial banks operating in Serbia for loans to entrepreneurs, micro, small and medium-sized companies and agricultural holdings. The Government should adopt relevant acts on the above measures by mid-April.

Serbia content (all topics except Corporate) as at 9 April 2020

Serbia

Labour Law (continued)

Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	No, a company is not obliged to pay contractors due to COVID-19, except if they are still providing services to the company regardless of the sickness or quarantine and/or self-isolation due to COVID-19. Therefore, the company is not obliged but can continue to pay contractors in the case of COVID-19.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	No amendments of the employment laws were made or announced in relation to the COVID-19 pandemic.

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. Law on Contracts and Torts establishes rebus sic stantibus institute - the affected party may seek amendments or termination of the contract where extraordinary circumstances (pandemic in this case) arise after concluding the contract. A necessary condition for a lawful request is that these consequences were impossible to anticipate at the time of entering into a contract but that now they are making the contract burdensome for the affected party or it will thus suffer an excessive loss, in the case that contract remains in force as it is.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes In accordance with rebus sic stantibus principle (i.e. changed circumstances) as elaborated in the answer above.
Are commercial property or other leasing arrangements subject to any special arrangements?	As mentioned Force Majeure (such as pandemics) could be used as a reason for alteration to and termination of the contract due to changed circumstances. In lease agreements the situation is the same. If the affected party leases some property but it cannot get expected benefits from it due to pandemics it could file a force majeure relief request towards its lessor and e.g. decrease the rent. However, it is very important to always check the Force Majeure clause in the agreement.

Serbia

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	In general, directors owe a duty of care and diligence to the company. Also, in accordance with the Companies Act a director of the company shall promptly notify each member of the company holding a share which represents at least 10% of the share capital, i.e. the supervisory board in case of a two-tier board system in the company, on occurrence of extraordinary circumstances that may be of importance for the status or business of the company. Should the director fails to do so he may be liable for damages occurred to the company.
What personal liabilities can directors be exposed to as a company nears insolvency?	Legal representatives can be personally liable towards the company, for damage they incur to the company by exceeding the limits of their authorizations. Also, legal representatives of the company shall perform their duties with due diligence, showing the care of a prudent businessman, within a reasonable belief that they act in the company's best interest. In addition, if due to the irregularities in the actions of the directors the company falls under bankruptcy, the directors may even bare criminal liability.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Legal representatives of the company may base their actions on information and opinions provided by persons who are experts in a particular field, for whom they reasonably believe that they acted with diligence in that case. If legal representative proves that he acted diligently, prudently and relying on opinions provided by experts in particular field, shall not be held liable for damages incurred to the company from such acting. On the other hand, there is no any specific safeharbour legislation.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Yes. On 17th of March 2020, the National Bank of Serbia (NBS) adopted two decisions effective as of the next day, imposing temporary measures of a minimum 90-day delay on a bank loan and leasing repayments. Following regulations are adopted: ● The decision on interim measures for maintaining the stability of the financial system; ● The decision on interim measures for leasing providers, for maintaining the stability of the financial system. The goal to be achieved by introducing new pieces of legislation is maintaining the stability of the financial system of the Republic of Serbia during the state of emergency enacted due to COVID-19 pandemic outbreak, as well as preventing difficulties in repayment of debtor's obligations in that regard. The delay is generally applicable on corporate and retail debtors, including individuals, farmers, entrepreneurs, as well as legal entities. In addition, number of tax and economic measures are introduced by the Government of Serbia in order to reduce negative effects caused by COVID-19 pandemic outbreak.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	A company in financial distress may avail on procedure of reorganisation within insolvency legal framework by submitting the pre-packed reorganisation plan to the relevant bankruptcy court. Reorganisation is to be implemented if it provides a more favourable settlement of creditors than the bankruptcy proceedings would, especially if there are economically justifiable reasons for the continuation of the debtor's business. Please note that bankruptcy court has right to dismiss the pre-packed reorganisation plan if it determines that the submitted plan is not prepared in accordance with the Bankruptcy Act. In addition, majority of creditors should agree with the pre-packed reorganisation plan in order to be adopted. The aim of filing of pre-packed reorganisation plan is to restructure or reduce obligations of the insolvent company.

Serbia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	There are no specific instructions regarding data protection issued by the Commissioner for Information of Public Importance and Personal Data Protection of the Republic of Serbia. In the current pandemic, companies will be in a position to process some personal or sensitive data that they do not normally process, such as specific health information. In this regard, companies should only process personal data necessary to identify potentially ill employees, with full respect for the principles of necessity, proportionality and responsibility. Therefore, if companies are required to disclose certain information about the health status of employees to government bodies, then it is necessary that there is a valid legal basis for such disclosure.

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes, Serbian Business Register Agency operates in prescribed deadlines. Filing is to be done either via post office or electronically (where possible - e.g. incorporation of the one shareholder LLC). However, the deadlines in administrative proceedings are paused and the parties which do not act within the prescribed deadline in the registration procedures will not endure any negative consequences.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are accepting filings but are not open (no hearings). The litigation and other court deadlines are paused and there are no consequences in case that cout action is not done in time.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notary public will agree to notarize the document only in urgent cases. The party must explain why the case is urgent. However, minimum one hour must lapse before next notarization in the same office so, taking into account that the working time is from 9am-3pm during pandemics, only limited number of files will be processed.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Documents can be signed with qualified electronic certificate.

Serbia content (Corporate) as at 8 May 2020

Serbia

Corporate (continued)

Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	LLD - General Meeting of LLD can be held using a conference connection or other audio and visual communication equipment, so that all participants in the session can communicate with each other at same time. It is considered that persons who participate in the session in above said way are personally present. Please note that General Meeting is composed of all members of the LLD. Unless otherwise is prescribed in the MoA, every member of the company shall have right to vote in General Meeting in proportion to their share of capital. General Meeting of the LLD is corporate body that renders decisions in the name of company, not board of directors, in accordance with Commercial Company Law of the Republic of Serbia. The minutes need to be signed by the President of General Meeting, the minutes keeper if such person is specified, as well as by all persons who participated, unless otherwise is prescribed by the MoA or the Rules of Procedure of General Meeting. Non – compliance with above rules related to minutes signing shall not affect the validity of decisions made by the General Meeting, if the result of vote and content of those decisions can be otherwise determined. Joint – stock company - Meetings of the Board of Directors may also be held electronically, by telephone, telegraph, facsimile or other means of audio – video communication, unless otherwise prescribed in the MoA or Rules of Procedure of the Board of Directors. The minutes are signed by the Chairman of the Board or by the director who chaired the meeting in his absence and is forwarded to each director. Non – compliance with the rules related to keeping, signing and submission of minutes of the meetings of the Board of Directors shall not affect the validity of decisions made by the Board.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	

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Slovakia

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally, no. In case an employer is unable to provide work to an employee, (i.e. obstacles at work on employer's side also called downtime) the employer must pay the employee a wage compensation corresponding to 100% of the employee's average earnings. In case there are employee representatives active at the employers', the employer can agree with employee representatives on serious organizational reasons for downtime, which allows to provide lower wage compensation but not lower than 60% of the employee's average earnings. The agreement with employee representatives cannot be substituted by unilateral decision of the employer. According to the temporary amendment to Slovak Labour Code valid during the COVID-19 situation, the employer may pay the wage compensation (even if there are no employee representatives) in lowered amount of 80% of the employee's average earnings. The government has recently approved a compensation scheme for employers to cover a part of wage compensation paid to employees up to 80% of wage compensation. For more details, please visit and see our web page or our tax & legal alerts: https://www.pwc.com/sk/en/tax-news/kurzarbeit-in-slovakia.html https://www.pwc.com/sk/en/tax-services/covid-19-tax-services.html
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes, subject to meeting some requirements. An employer may direct an employee to take paid leave by giving 14 days prior notice (this period may be shortened with employee's consent). According to the temporary amendment to Labour Code valid during the COVID-19 situation, the employer is entitled to order to take paid holiday to its employees within a shortened period of 7 days in advance (instead of the usual 14 days in advance). In addition, with respect to holidays that the employees have transferred from the previous year, it is enough to announce to take paid holiday to its employees only 2 days in advance.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. An employer that terminates an employment relationship (through notice of termination) because of redundancy must provide the employee with paid notice period (1 – 3 months depending on the length of employment relationship), and pay severance payment. The amount of severance payment is payable 1 to 4 multiples of the employee's average monthly earnings, depending on the length of employment relationship. In case the employment relationship is terminated (due to redundancy) by an agreement on termination, the severance payment also applies, in amount of 1 - 5 of the employee's average monthly earnings.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are priority unsecured creditors and their claims arising from the employment relationship are paid from the employer-debtor's assets continuously during insolvency proceedings to the extent as determined by the specific law.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. In case of insolvency of the employer, the employee is (under certain circumstances) eligible for the guarantee insurance benefit for last 3 months preceding the announcement of the insolvency of the employer of preceding the termination of his/her employment, up to EUR 3,039 in total (equal to 3 months payment).

Slovakia content as at 6 May 2020

Slovakia

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?

In general, according to the Slovak Commercial Code, if after the conclusion of a contract a contractual obligation becomes impossible to be performed, the contract becomes terminated by operation of law due to impossibility of performance. We believe that in some limited cases, effects of the current COVID-19 pandemic can cause a so called subsequent impossibility of performance. These cases when the obligation becomes impossible to be performed can occur e.g. in situation of government ordering closure of some businesses for indefinite period of time due to health reasons and as a result of this action the affected party cannot perform the service which was specifically required to be provided during the time of closure. The affected party must notify the other party, once it is objectively prevented from performing its contractual obligation. The debtor as the affected party is released from liability for damage if it has fulfilled this notification duty without undue delay and if the impossibility to perform the commercial obligation was caused by occurrence of circumstances precluding liability (which is a Slovak term for a vis maior situation). Any consideration provided under such contract before its termination must be returned according to rules as valid in case of withdrawal from the contract – generally, the parties are required to return to each other what they performed under the contract. On the other hand, the performance is not impossible if an obligation can be performed under more difficult conditions, at higher costs, with the help of another person or only after the agreed period of time.

According to the Slovak Lex Corona Act which was passed as a reaction to the COVID-19 pandemic, all limitation periods as well as statutory extinction periods of civil and commercial obligations between the parties have been suspended until 30th of April 2020.
Moreover, this Act has also introduced a temporary ban on exercising the pledges. This law says that no right of pledge may be exercised until 31st May 2020 and any actions in order to exercise a pledge performed until this date, will be considered as ineffective.

Under another legislative measure, which will be effective from May 12, 2020, an entrepreneur (an individual or a legal person) who carried out business activities before March 12, 2020, was not insolvent on 12th of March 2020 and fulfilled other conditions prescribed by the law, is eligible to apply for temporary protection from creditors. This protective measure will shield the entrepreneur mainly from declaration of bankruptcy and enforcement proceedings initiated by the creditors, but with regard to the contract law, during the temporary protection from creditors:

- a contracting party cannot terminate a commercial contract with the entrepreneur due to delay with performance which occurs between March 12, 2020 and May 12, 2020 if such delay is related to the COVID-19 pandemic (this does not apply if the contracting party would endanger its business by not terminating the contract),
- statutory limitation periods and statutory periods which result to termination of civil and commercial obligations related to the entrepreneur are suspended,
- the entrepreneur should preferably settle its debts which are directly related to preservation of its operations and have arisen after the temporary protection was granted, before other mature debts,
- pledges encumbering the property of the entrepreneur cannot be exercised,
- there are certain restrictions on set-off of mutual receivables with the entrepreneur.

Moreover, under the recently enacted Lex Corona legislature, during the pandemic period a debtor (being a SME or individual entrepreneur) can request in writing its creditor to defer the payment of loan instalments. The payment of loan instalments can be deferred to maximum 9 months in case of bank loans and up to 3 months in case of other commercial loans. The interest accrued during the deferral period will be included in the loan instalments payable after the expiry of the deferral period, unless otherwise agreed with the debtor.

Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?

In case of subsequent impossibility of performance (see above), the contract is terminated by operation of law. Because of that, no party to the contract is obliged to apply to the court to declare such impossibility of performance.

However, in case that the parties to the contract do not agree that impossibility of performance occurred, they can initiate a lawsuit and the court will have final say.

Slovakia

Contract Law (continued)

Are commercial property or other leasing arrangements subject to any special arrangements?	Yes, during the current COVID-19 pandemic the Slovak parliament has adopted a provision according to which until 31st of December 2020 the lessor may not unilaterally terminate the lease of the real estate property (including apartments and non-residential premises) due to the lessee's delay in paying the rent or payments for services usually associated with the rent which are due in the period from 1st April 2020 to 30th June 2020, if the lessee's delay arose as a result of circumstances originating in the spread of COVID-19. This reason for the delay must be sufficiently proven by the lessee. Other reasons for termination of the lease are not affected.

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	In general, directors are obliged to exercise their powers with professional care and in accordance with the interests of the company and all of its shareholders. Directors are obliged to file an insolvency petition to an insolvency court within 30 days since they learned of the fact that the company is over-indebted (i.e. if the amount of liabilities is higher than the amount of assets of the company and the company has more than 1 creditor). However, due to pandemic, the new act (so called Lex Corona Act) was adopted under which the period for filing the insolvency petition is prolonged to 60 days provided the over-indebtedness occurred between 12 March 2020 and 30 April 2020. Furthermore, with effect on 12th May 2020 was introduced an option for the company as debtor to ask the court to grant the company a so-called temporary protection. During the time when the company is under temporary protection, the company and its directors are not obliged to file the insolvency petition (for more information, please see column E).
What personal liabilities can directors be exposed to as a company nears insolvency?	With respect to insolvency, the liability of directors of the company is as follows: • In case of failure to file an insolvency petition, directors are obliged to pay a fine which currently equals to EUR 12,500. • Directors are also liable for the damage caused to the creditors of the company which occurred as a consequence of breach of the obligation to file an insolvency petition in time (if not otherwise proven, it is presumed that the amount of damage equals to the amount of the creditor's claim which was not satisfied during the insolvency proceedings). Final verdict of the court obliging the director to repay the damage caused to the creditors means that the director is banned from becoming a statutory representative/proxy of a company or director of a branch for 3 years and his current appointments are cancelled. • Failure to file an insolvency petition in time can be also qualified as a crime of disruption of insolvency proceedings under Slovak criminal law with the lowest limit of imprisonment of 6 months.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Directors can limit their personal exposure as stated below. Directors shall not be liable to pay the fine or the damage caused to the creditors of the company if: • they prove that they were proceeding with the professional care (especially if they could not fulfil the obligation due to lack of cooperation of those who are entitled to act jointly with them provided such director filed an announcement on the company being over-indebted with the Collection of Deeds), • the director was appointed during the insolvency for the purpose of its overcoming and such director filed an insolvency petition without undue delay after he/she found out that taken measures will not help to overcome the insolvency, • the director in time entrusted the administrator with preparation of the restructuring opinion, subsequently filed a restructuring petition and the court approved the restructuring. **(Continued on next page)**

Slovakia

Insolvency (continued)

There are also practical options such as the directors can dispute the fact that the company is really over-indebted according to its accounting as:

- the directors can prove that continuation of operation of the company will bring in near term revenues and profit to overcome the state of over-indebtedness or
- the directors can arrange for preparation of an expert opinion in order to revalue the assets and liabilities shown in the balance sheet.

There is also liability of the directors for the damage caused to the company in which they function as directors - in this case the directors shall not bear liability for damage if they can prove that they proceeded in exercising their powers with professional care and in good faith that they were acting in the company's interest. Another option for the directors to limit their personal exposure is to "cover" their actions through resolutions of the General Meeting of Shareholders: the directors are not liable for the damage caused to the company through their actions by which the directors were just executing resolutions of the General Meeting of Shareholders; however, this is not valid in case that this resolution is contradictory to the law / memorandum of association / bylaws or it relates to obligation of the directors to file the insolvency petition. After the company enters bankruptcy, the liability of directors for the damage caused to the company can be enforced by the bankruptcy trustee.

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

Yes, with effect from 12th May 2020 is enacted a moratorium called “temporary protection” which can be granted to entrepreneur (as a debtor) through a verdict of the court. The entrepreneurs which were conducting business before 12 March 2020 can apply for it provided they were not insolvent at that time. It must be filed with the respective court via special form in which the fulfilment of conditions is proven.

In terms of insolvency, the effects of temporary protection granted to the debtor are as follows:

- Even if the creditor filed the insolvency petition after 12 March 2020 or during the temporary protection, the proceedings with respect to declaration of bankruptcy of the debtor are suspended while the debtor is under temporary protection,
- Directors (and other persons obliged to file an insolvency petition on behalf of the debtor) are not obliged to file an insolvency petition during the temporary protection.
- All enforcement proceedings related to the property of debtor, which started after 12th March 2020, are suspended during the temporary protection.
- A secured creditor cannot start exercising the lien while the debtor is under temporary protection. Such temporary protection will cease to exist:

  (i) on 1 October 2020 (if not prolonged by the Government of the Slovak Republic, but such prolongation can last only until the end of December 2020),
  (ii) if the company requests so,
  (iii) if the court decides on cancellation of temporary protection over the company.

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

The debtor, which is not yet obliged to file for bankruptcy because of over-indebtedness, can try to solve his state of insolvency or threat of insolvency by entrusting an insolvency practitioner with preparation of an opinion whether he can recommend restructuring of the debtor. However, restructuring proceedings can be initiated only in case the insolvency practitioner issues a positive opinion - this is influenced mainly by analysis whether essential part of the business of the debtor can be maintained and that in restructuring the debts towards the creditors can be settled at a higher rate than in bankruptcy.

Preventive restructuring frameworks are not yet implemented into the Slovak legislation.

Moreover, until 31 May 2020, exercise of the lien by the creditors is not possible and auctions and other processes with respect to sale of assets of the debtor by a bankruptcy trustee or a judicial officer cannot be carried out.

Slovakia

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Privacy

With respect to processing processing of data concerning health in the context of the current pandemic, the Office for Personal Data Protection of the Slovak Republic (the Slovak Data Protection Office) has issued a statement on the measuring of body temperature of employees and visitors upon entry to the workplace.

Firstly, the Slovak Data Protection Office refers to EDPB's statement that the application of the principle of proportionality and data minimization is particularly relevant with respect to processing of health data and that the employers should only require health information to the extent that national law allows it. (This statement can be found in the Statement on the processing of personal data in the context of the COVID-19 outbreak adopted on 19 March 2020).

Secondly, the Slovak Data Protection Office recalls that data on body temperature constitutes special category of personal data (data concerning health). Consequently, in addition to the legal basis under Article 6 of the GDPR the employers, as data controllers, must also demonstrate that an exception under Article 9 (2) applies. The Slovak Data Protection Office considers that on the basis of relevant Slovak legal regulations the exception under Article 9 (2) (i) of the GDPR could be applicable. The statement mentions two national measures as relevant in this respect: Resolution of the Government of the Slovak Republic no. 174 of 27 March 2020 and the Guidance on how to proceed when measuring body temperature and detecting elevated body temperature at the entrance to hospitals and industrial plants/undertakings, which was issued by Public Health Authority of the Slovak Republic on the basis of the afore-mentioned government resolution. The guidance, as its name suggests, relates to entrance to hospitals and industrial undertakings/plants. The Slovak Data Protection Office emphasizes that employers must consider whether they fall within the scope of entities covered by these national measures.

Finally, the Slovak Data Protection Office accentuates that data controllers should consider using the least invasive measures possible and should protect the privacy of the persons concerned. Adopted measures should be terminated once the exceptional situation related to COVID-19 has ended.

Cybersecurity

The Slovak Data Protection Office has issued a warning regarding the security risks associated with working from home, in particular the increased risk of loss or leakage of personal data.

The Slovak Data Protection Office also refers to the recommendations published by the National Cyber Security Center SK-CERT. This institution has published advice on working from home addressed to both employees and employers. The recommendation for employers sets out the measures that the employers should take in order to ensure that the home office working mode does not endanger the operation of the company and the security of its infrastructure. These measures include:

- providing employees with secure devices for accessing internal networks,
- following specific steps (set forth in the recommendation) to ensure security of internal networks if the employer applies the BYOD concept,
- paying more attention to monitoring abnormal behavior on the employer‘s network and unexpected outages,
- preparing a guide for employees on how to behave during home office,
- minimizing access to critical systems for employees who work from home,
- creating a secure communication platform for employees working from home.

The recommendation for employees includes advice on how to behave safely when working from home (e.g. verifying senders of emails, not opening suspicious attachments, following the employer's security instructions) and how to secure their devices (e.g. using strong passwords, using updated antivirus software, backing up data only to employer-approved storage, restricting access of others to devices used for work).

Slovakia

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	The public registries are open and accept filings. Some delays in processing may be expected, however, these are not significant.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	The filing offices of the courts are working under restricted opening hours but electronic filings are still available. The oral court hearings were suspended in most cases except for urgent matters.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Most notaries are working under restricted opening hours. We have not noticed significant delays in documents being notarised and/or apostilled.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Under Slovak law documents can be signed electronically through qualified electronic signature or conversion of paper documents into electronic form. Such documents may be delivered to courts or governmental authorities via electronic mailbox of the respective person and respective online filing office.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	If there are specific rules in the relevant corporate documents of the company (articles of association, memorandum of association) for holding a board meeting via telephone, the meeting can be held in this way. The form of the board meeting minutes, including signature requirements, is governed primarily by the corporate documents of the company. Secondly, the provisions of the Slovak Commercial Code apply, in particular: • in a Slovak joint-stock company board meeting minutes are required and need to be signed by the chairman of the board and the secretary of the meeting; • in a Slovak limited liability company, board meeting minutes are not required. In addition, during an extraordinary situation or state of emergency, collective bodies of companies can adopt their decisions via correspondence voting or hold a meeting via electronic means, even if this possibility does not follow from their corporate documents. In practice, this applies to the decision-making at the general meeting of shareholders as well as other collective bodies such as the board of directors or the supervisory board. In such a case, the provisions of Sections 190a to 190d of the Slovak Commercial Code shall apply mutatis mutandis.

Slovakia

Corporate (continued)

Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?

If there are specific rules in the relevant corporate documents of the company (articles of association, memorandum of association) for holding a board meeting via telephone, the meeting can be held in this way. The form of the board meeting minutes, including signature requirements, is governed primarily by the corporate documents of the company. Secondly, the provisions of the Slovak Commercial Code apply, in particular:

- in a Slovak joint-stock company board meeting minutes are required and need to be signed by the chairman of the board and the secretary of the meeting;
- in a Slovak limited liability company, board meeting minutes are not required.

In addition, during an extraordinary situation or state of emergency, collective bodies of companies can adopt their decisions via correspondence voting or hold a meeting via electronic means, even if this possibility does not follow from their corporate documents. In practice, this applies to the decision-making at the general meeting of shareholders as well as other collective bodies such as the board of directors or the supervisory board. In such a case, the provisions of Sections 190a to 190d of the Slovak Commercial Code shall apply mutatis mutandis.

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Slovenia

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	In the case of an isolation ordered by a doctor, the insured person has the right to be temporarily absent from work and to receive compensation in the amount of 90% of the basis for compensation. The basis for compensation is the average monthly salary and benefits paid in the calendar year proceeding the year in which the temporary absence of work has occurred, or the average basis for payment of contributions in the calendar year before the year of temporary absence. All expenses are borne from the 1st day onward by the Health Insurance Institute of the RS. If the insured person is infected with the virus at the workplace or while performing work (e.g. medical staff, police, etc.), this is to be treated like an injury at work, for which the employee is to receive 100% of the basis for compensation as described above. The compensation for the first 30 days is borne by the Health Insurance Institute of the RS. Healthy employees who with the agreement of their employers work from home, should receive 100% of their salary. Healthy employees who due to an order of the Ministry of Health, are in quarantine and cannot perform their work from home, receive 80% of the basis for compensation. In such cases, the compensation is borne completely by the State. The basis is 80% of the average monthly full-time salaries from the last three months. Healthy employees who are at home because an employer is temporarily unable to provide an employee with work due to business reasons caused by COVID-19, should receive 80% of the average monthly full-time salaries from the last three months. The same applies to employees who cannot work due to force majeure (e.g. employees who are parents and are taking care of children because of schools and kindergarten closures, employees who due to closing of public transportation cannot come to work). The compensation in both these cases is borne by the State if the employer fulfills certain conditions under the newly adopted Emergency Measures Act, to limit the COVID-19 Epidemic and mitigate its consequences for citizens and the economy (ZIUZEOP). Link to the new Act: https://www.gov.si/assets/ministrstva/MDDSZ/Korona-zakon-sprejet-v-DZ.pdf
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	Due to newly adopted Emergency Measures Act to limit the COVID-19 Epidemic and mitigate its consequences for citizens and the economy (ZIUZEOP) healthy employees who cannot work due to caring for children or who cannot travel to work due to the closure of public transportation are entitled to the 80% of the average monthly full-time salaries from the last three months. This compensation is completely covered by the State if the employer fulfills certain conditions under the newly adopted Act. In line with this, an employer will receive reimbursement of wages from the state if the employer estimates that their revenues in the first half of 2020 will decrease by more than 20% over the same period in 2019 and will not reach more than 50% revenue growth over the second half of 2020 compared to the same period in 2019. NB: in the event that this condition is not fulfilled when submitting the annual report for 2020, the employer will have to repay the whole aid received from the State. If the abovementioned condition is not fulfilled, the provisions of the Slovene Employment Relationship Act apply. The employee who is taking care of a dependent receives 50% of the remuneration that the employee would receive if he/she would work, but not less than 70% of the minimum wage.

Slovenia content as at 15 October 2020

Slovenia

Labour Law (continued)

Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?

Employers are able to take one or some of the following measures:

- Require the employee to work from home, if applicable, based on the nature of work performed by the employee. This is the most common practice being applied by employers in Slovenia. Notification to the Employment Institute is required and the employer should send a written order to affected employees. The employee is also entitled to compensation for the use of resources at home
.
- Order the employee to work in another suitable job position for a maximum period of 3 months. The salary that the employee is to receive is whichever salary is greater of the two positions.
- Ordering the employee to work unevenly distributed working hours (i.e. the employee does not work full-time, but is compensated his/her full-time salary, and in some later period (within the reference period stipulated by law or collective agreement) makes up the the number of hours through longer attendance at work.
- Order the employee to use the old annual leave from the previous year.
- Order a wait for work because of a force majeure (e.g. parents who look after their children).
- Orderi waiting for work for business reasons.
- Reduce the employee's salaries , but only with the prior agreement of the employee.

Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?

Yes, on 2 April 2020, the Slovenian Parliament adopted Emergency Measures Act to limit the COVID-19 Epidemic and Mitigate its consequences for citizens and the economy (ZIUZEOP) in the fields of taxation, labor and social security contributions.

The temporary measures shall apply retroactively from 13 March 2020 to 31 May 2020, unless expressly provided otherwise in the act. If the epidemic is not cancelled by 15 May 2020, the time-limits for the temporary measures fixed at 31 May 2020 shall be extended by 30 days.

Measures in the area of taxes: The installment of the advance payment of personal income tax from private entrepreneurship and the installments of the advance payment of corporate income tax for 2020, which are due in the period after the entry into force of this intervention act and until 31 May 2020, shall not be paid. Unpaid installments are considered uncharged.

Reimbursement of wage compensation and exemption of SSC payment:

- Employers are eligible to receive these funds if their estimated revenues in the first half of 2020 will decline by more than 20% compared to the same period in 2019, and will not achieve in the second half of 2020 more than 50% increase in revenues compared to the same period in 2019. If this condition for 2020 will not be achieved when submitting the annual financial statements, the beneficiary will have to repay all the aid.
- Employers are exempt from paying all SSC from the salary compensation from 13 March to 31 May 2020, but up to maximum of the average salary for 2019 in the Republic Slovenia, calculated on a monthly basis.

Partial exemption from SSC for private sector employees and crisis allowance

- Employers are exempt from paying pension and disability contributions in April and May 2020 where certain conditions are met.
- Crisis allowance of EUR 200, which is exempt from all taxes and contributions, to each employee who is working and whose last paid monthly salary did not exceed three times the minimum wage.

(Continued on next page)

Slovenia

Labour Law (continued)

	Extraordinary aid in form of monthly basic income Beneficiaries are the following categories of individuals: ● a self-employed person ● religious employees of a registered church or other religious community; and ● farmers If the beneficiaries have been in business from at least 13 March 2020 until the entry into force of ZIUZEP, the amount of emergency aid for the month shall be: ● March 350 EUR; ● April and May EUR 700. Exemption of SSC payment for self-employed, religious employees, shareholders and farmers Self-employed persons, farmers, shareholders managers and religious employees insured under the regulations governing pension and disability insurance and who do not qualify for compulsory insurance on any other basis are eligible for exemption from contributions.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	Since the relationship between the company and the contractor is of a commercial nature, the obligations between the parties will be subject to the provisions of the contract. However, because COVID-19 is considered a force majeure, certain provisions of Code of Obligations in this respect apply and may have an effect on the rights and obligations of the parties of the contractual relationship. The key elements of force majeure are the external cause, unexpectedness and inevitability and irreversibility. These three key elements have to be assessed on a case-by-case analysis. If these key elements are fulfilled, the contracting party may be free from a liability. Generally, a party affected by force majeure must inform the opposing party of the occurrence, nature and possible duration of circumstances preventing the fulfillment of contractual obligations, otherwise it cannot rely on force majeure. In addition to the force majeure, the Slovene Code of Obligations provides three other institutes that contracting parties may use in such circumstances, under presumption that all conditions are fulfilled. These institutes enable to differently regulate the contractual relationship and avoid delays and liability for damages. These institutes are: (1) termination or modification of contract due to changed circumstances, (2) if one party's performance becomes uncertain (3) impossibility of fulfilment for which neither party is responsible
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	No other changes in the legislation were made except the ones described above according to the newly adopted Emergency Measures Act to limit the COVID-19 Epidemic and Mitigate its consequences for citizens and the economy (ZIUZEOP). However, new second Emergency measures act are likely to be adopted soon, with the main objective of ensuring the liquidity of companies.

Spain

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Yes. In Spain, the labour law foresees that under difficult temporary situations, a company (on a temporary basis) can reduce the working time of the employees either in full working days (furlough) or part-time (reduction of working time). The acronym of this measure procedure is "ERTE". During the temporary measure, the obligations to work and pay the salary are suspended either totally or partially (although the company must continue contributing to the Social Security) and the employees can enjoy the unemployment benefit. There are two alternative ERTE procedures: • One is extraordinary, foreseen for "force majeure" cases (unforeseeable circumstances that prevent a party from fulfilling its obligations); and • One is the common procedure and it involves the company demonstrating that it has a production, organizational or technical reason that makes the temporary measure necessary. NB: because of COVID-19, there are new laws since March 2020 that foresee specific rules, procedures and consequences for ERTEs related to COVID-19. In this sense, the procedures for implementing an ERTE are simplified and, in case of force majeure, certain Social Security exemptions are granted. As of 12 May, further regulations are in force regarding ERTEs for force majeure reasons related to COVID-19. Specifically, their validity has been extended to 30 June 2020, meaning their effects are no longer limited to the state of alarm. It has also been established that, as a general rule, it will not be possible for companies that apply force majeure ERTEs to distribute dividends during the fiscal year. Finally, please note that the company cannot terminate an employee affected by a force majeure ERTE during a six-month period after the employee returns to his/her job post.
Can an employer direct an employee to take paid annual, holiday or similar leave?	No. An employer cannot unilaterally impose these paid holidays or leaves on employees. An agreement must be reached with the employees. However, the Spanish Government has exceptionally published Royal Decree-Law 10/2020 of 29 March because of COVID-19, regulating recoverable paid leave for employees who work for companies that do not provide essential services, in order to reduce population mobility in the context of the fight against COVID-19. It regulated a recoverable paid leave for employed personnel, which is compulsory and limited in time between 30 March and 9 April (both included), for all employed personnel providing services in public or private sector companies or entities carrying out non-core activities. Even though this paid leave is no longer in force and may not be imposed on employees, those employees that did enjoy it must recover an equivalent number of working hours covered by said paid leave between the day after the state of alarm ends and 31 December 2020.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	The amount of the severance pay will depend on the outcome of the redundancy process: • **Individual redundancies (objective dismissal):** (i) Fair objective dismissal: 20 days per year worked, with a maximum of 12 monthly payments. (ii) Unfair dismissal: 33 days per year worked (seniority), with a maximum of 12 monthly payments (note that the rule is higher if the employee started working before February 12th 2012: 45 days of salary per year of service with a cap of 3.5 years of salary). **(Continued on next page)**

Spain

Labour Law (continued)

- **Collective dismissal:**

  The legal minimum is 20 days per year worked, with a maximum of 12 monthly payments. However, the company has to negotiate with the employees' representatives and agree a higher severance amount. Note that if the dismissal was declared unfair, the severance explained for individual unfair dismissal above would apply.

NB: besides severance compensation, the company may owe further payments (such as special agreements on behalf of affected employees over 55 or contributions to the Treasury Public). Thus, the severance payment is lower if the company can adequately justify the economic reasons behind the collective or objective dismissal (20 days instead of 33 days if the dismissal is considered unfair).

The employees are entitled to this severance payment independently of the financial difficulties of the company. In case the company cannot pay these quantities, it may seek help from the Social Security fund known as FOGASA, which will pay the employees' severance payments (with certain limits), becoming the company indebted to this public organism. Please refer to the last question.

On another note, and as previously stated in the first question, in case the company applies an ERTE for force majeure reasons related to Covid-19 under the terms established in article 22 of Royal Decree-Law, it will not be able to terminate the employment contracts of employees affected by this measure during a six-month period after the employee returns to his/her job post. If the Company does not comply with this obligation, it will have to return all the Social Security contributions that were exempted as a result of the ERTE, with interest.

This obligation will not apply in case the employee's relationship is terminated due to disciplinary reasons, voluntary leave, death, retirement, permanent incapacity, or in case a temporary contract's term expires.

Are employees treated as priority unsecured creditors in your jurisdiction?
If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?

Employees are treated as priority unsecured creditors, but only regarding:

- salary credits for the last 30 days of effective work prior to the declaration of insolvency, and in an amount not exceeding twice the minimum inter-professional salary; and
- all salaries and severance payments that arise/occur after the declaration of insolvency.

Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?

Yes.

If the company dismisses an employee based on economic causes and cannot pay its employee's severance payments due to financial difficulties, the Social Security fund known as FOGASA will pay the employees' severance payments, becoming the company indebted to this public organism.

The maximum amount granted is an annuity, even though the daily salary (base salary plus extraordinary payments), which is the basis of the calculation, may not exceed twice the Minimum Interprofessional Salary.

FOGASA will also cover employees' salaries in case the company cannot pay these, with a limit equal to the amount resulting from doubling the daily minimum wage (including extraordinary payments) by the number of working days outstanding.

Spain

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?

Yes.

Under Spanish Law there are two main figures:

- the supervening impossibility of performance (force majeure), which affects only the obligations to deliver a certain thing or to do, and not the pecuniary debts; and
- those cases in which the service is exorbitant or excessively onerous (rebus sic stantibus clause), applicable regardless of the content of the agreed service.

The application of both figures will be supplementary and complementary to what has been agreed in the contracts, i.e. preference must be given to the autonomy of the will of the parties.

The concept of force majeure does not refer to whether a contractual obligation has been fulfilled, but to whether the defaulting debtor will be liable for such failure and is subject to specific requirements. The occurrence of an unavoidable or unforeseeable event, such as the COVID-19 situation, does not entitle the debtor to breach his contractual obligations. In order to invoke force majeure, it must be impossible for the debtor to comply.

In case the company cannot rely on force majeure as the fulfilment of the contractual obligation has not become impossible, however the COVID-19 situation has led to a scenario of excessive cost and imbalance in the performance of many contracts may rely on the “rebus sic stantibus” figure. As in the case of force majeure, the potential invocation of the Rebus requires, from a jurisprudential point of view, that a series of additional requirements to the above-mentioned assumptions be met.

It would be very relevant to assess each case under the terms of the respective contract.

Please note that under COVID-19 regulations, there are specific provisions applying to consumer contracts that allows customers to terminate contracts and therefore claim reimbursement provided that no other arrangements such as the offer of substitute vouchers or bonds are made. The consumer termination right shall be exercised within 14 days following the impossibility of performance.

In the case of contracts for package tours, the consumer may choose to request a refund or to use the voucher provided by the organizer or retailer. If the voucher is not used within one year, the consumer can exercise the right of reimbursement.

In the case of successive contracts, the collection of fees is suspended until the service can be provided again. This regulation applies from April 2, 2020 and will remain in force for the duration of the alarm state.

Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?

Generally, this is not required.

Without prejudice to what is established in each case in the contractual agreements, in general terms the invocation of force majeure does not require an appeal to court unless there is a conflict or response from the other party. The application of the figure of "rebus sic stantibus" to the extent that it pursues a rebalancing of the contractual benefits cannot be applied unilaterally. If the negotiations aimed at such a contractual rebalancing are not satisfactory for both parties, a party may go to the competent court in order to invoke its application and/or to terminate the contract, being obliged to fulfil the contract in the meantime there is no firm resolution

Are commercial property or other leasing arrangements subject to any special arrangements?

No. As of the present date, no formal rent relief measures for commercial leases have been adopted by the Spanish Government.

With respect to residential leases, urgent complementary measures to deal with COVID-19 in the social and economic field have been adopted by Decree 11/2020, of 31 March, which includes a new package of measures aimed at preserving the available income of households of the most vulnerable families and groups. These measures are the following:

(Continued on next page)

Contract Law (continued)

- Extraordinary suspension, for a period of up to six months, of eviction procedures and launches affecting housing leases of people in vulnerable situations without a housing alternative. In the event that the affected lessor is also subject to vulnerability, the judge will determine the period of suspension or the measures to be established, considering the report issued by the competent social services.

- Extraordinary extension of up to six months of the house-leasing contracts of which its validity or extension period ends between the implementation of the mentioned decree and up to two months from the suspension of the state of emergency. This extension will be mandatory for the landlord if requested by the tenant, under the same conditions established in the current contract, unless an agreement is reached between the landlord and tenant.

- In situations of vulnerability, when the lessor is a public entity or a large holder, in the absence of an agreement between the tenant and the owner, it is established that during the period in which such vulnerability persists, the owner may grant, for a maximum of four months, a 50% reduction in the rent or a moratorium on the payment to be returned in a period of up to three years. This moratorium would be suspended in the event that the tenant were to access financial assistance.

- A new line of State-guaranteed credit for any tenant who is in a situation of vulnerability as a result of COVID-19, through the Official Credit Institute (ICO), which will cover the payment of up to six months' rent without any type of expense or interest for the applicant and which can be returned within a period of up to six years.

- A new financial assistance program that will allow direct rental aids to be granted to tenants of permanent housing who, as a result of the economic and social impact of the COVID-19, have serious problems paying part or all of their rent. The amount of this aid will be up to 900 euros per month and up to 100% of the rental income or, if applicable, up to 100% of the principal and interest of the loan taken out to pay the rent for the main residence. The competent bodies in each Autonomous Community and in the cities of Ceuta and Melilla will determine the exact amount of this aid, within the limits established for this program.

- The regulation incorporates a specific program for gender violence victims, the homeless and others who are particularly vulnerable, in order to provide them with an immediate housing solution.

The decree expands the conditions necessary to be able to take advantage of the assumption of vulnerability. It establishes that the applicant, for the purpose of obtaining moratoriums or assistance in relation to the rental income of the habitual residence, must meet certain conditions:

- those who are unemployed, those who have suffered a lay-offs of staff (ERTE) and those who have reduced their working hours due to dependent care. In the case of being an employer, it will be necessary to accredit the "substantial loss of income", with the total number of household members not reaching the limit of three times the monthly Public Multiple Effects Income Indicator (Iprem). This limit will be increased by 0.1 times the Iprem for each dependent child and for each person over 65, or by 0.15 in the case of a single parent family. Family units that have a member with a disability exceeding 33% will also be taken into account; and furthermore

- that the rent, plus the basic expenses and supplies (gas, water, electricity...), must account for 35% or more of the net family income. The decree leaves out of the vulnerability assumptions, and therefore out of the aid to face the crisis of the Covid-19, any of the people who compose the family unit that "is owner or usufructuary of some house in Spain", with certain exceptions.

In short, it is a question of minimizing the impact of this situation and protecting the tenants who remain vulnerable, but also to articulate those actions necessary so that the owners, which may also experience difficult circumstances, can equally overcome the impact of this crisis.

Spain

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

According to both the Act 22/2003, dated on July 9th, on Insolvency, and the new Consolidated Insolvency Act, approved by Royal Legislative Decree 1/2020, dated on May 5th, which will take effect next September 1st, 2020, the administrators of the Company, shall request the insolvency declaration within two months from the date in which the personally responsible had known or should have known the insolvency status.

Notwithstanding the above, following the declaration of the Alarm State, the Government has ruled the Royal Decree-Law 16/2020, dated on April 28 th, on procedural and organizational measures to address COVID-19 within the Justice Administration. This Royal Decree-Law establishes in its section 11 that:

- The insolvency company will not have the duty to request the insolvency declaration until December 31st, 2020, regardless of the insolvency company communicating the initiated negotiations with the creditors.
- Up until December 31st, 2020, Courts will not process compulsory insolvency requests filed during the Alarm State period but will process voluntarily insolvency requests even though being posterior to the compulsory insolvency request.
- During this period, the possibility of communicating to Court the initiation of negotiations with the creditors are maintained.
- In any case, if the company is nearing insolvency, the most prudent will be to make a pre-insolvency communication to the Court.

What personal liabilities can directors be exposed to as a company nears insolvency?

In the event that a company becomes insolvent as a result of COVID-19, and this situation is caused or aggravated by the administrator or general manager's failure on proper management of the company over the last two year prior Declaration of insolvency, either the administrator or the general manager could be exposed, in case of a guilty plea of bankruptcy, to personal liabilities as follows:

- Disqualification from managing the assets of others and/or representing any person for a period of 2 to 15 years.
- The loss of any right they may have as a creditor of the company in insolvency proceedings and the sentence to return the goods or rights they may have improperly obtained from the company's assets.
- The payment of compensation for damages caused to the company, by not having complied with the duty of care.
- The payment of the total or partial coverage of the deficit, to the extent that the conduct that determined the guilty classification of the insolvency proceedings has generated or aggravated the insolvency.

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

As a result of the declared state of alarm, the aforementioned Royal Decree-Law 16/2020 suspends the obligation of the administrators of insolvent companies from the obligation to request the declaration of insolvency until December 31st, 2020.

For practical purposes and to limit liability, the company's administrators must:

- Document decision-making to alleviate the insolvency situation.
- In the event that there is a board of directors holding ad hoc meetings to deal with the insolvency situation.
- Document the commencement of negotiations, as well as the agreements reached with your creditors to overcome the insolvency situation.
- Eventually, and in accordance with Article 5 bis of the Insolvency Act (Article 586 of the new Consolidated Insolvency Act), submit a written document informing the court that negotiations have been initiated to reach a refinancing agreement or to obtain adherence to an anticipated proposal for an agreement. All of this is done in order to avoid the creditors to apply for bankruptcy and/or to carry out individual executions.

Spain content (Insolvency) as at 4 June 2020

Spain

Insolvency (continued)

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	Royal Decree-Law 16/2020 dated April 28th on procedural and organizational measures to address Covid-19 within the Justice Administration established new measures to guarantee the companies viability. Sections 8 to 12 establish that: Composition agreement flexibilization. Enables the possibility to modify the existing composition agreements before COVID during a one-year period since the Alarm State declaration, in order to avoid the company liquidation. Court will have to preferentially process such modification petitions before taking into consideration the failure to comply creditors' claims. There is a one-year postponement regarding the debtor obligation to file for liquidation even if the company fails on complying with the composition agreement. Flexibilization of refinancing agreements with creditors or banks. Enables the possibility to modify refinancing bank agreements existing before COVID during a one-year period since the Alarm State declaration. There is a six-month stall from the Alarm State declaration on all creditors' claims regarding the breach of such agreements. Incentives regarding fresh money. Loans and any other treasury income provided from third parties – including shareholders, administrators and other companies from the same Corporate group – will be qualified as post-petition claims, in case of breach of the composition agreement passed or modified during the subsequent two years since the Alarm state declaration. Therefore, the likelihood of being repaid is higher than for other creditors. Moreover loans given to the company from shareholders, administrators and other companies from the same group will be qualified such as ordinary and not subordinate, in the insolvency proceedings filed up to two years after the Alarm State declaration. Same rank will receive the subrogated credits.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	The pre-insolvency and insolvency status of companies in Spain is regulated by a single law, Act 22/2003, dated on July 9th, on Insolvency. This law is the one used in the Spanish legal system to designate the set of substantive and procedural rules that regulate the insolvency proceedings of all kinds of debtors. There are no additional or supplementary regimes of application in Spain. As stated above, this law requires insolvent companies to report their insolvency within two months of becoming aware of it. However, in view of the current state of alert, this obligation is currently suspended. Recently, the new Consolidated Insolvency Act, which will take effect next September 1st, 2020, has been passed. As reformulates a great number of aspects that will be applicable to all new insolvencies will be necessary to evaluate all updates in areas such as the purchase of insolvency companies' on-going business. Royal Decree-Law 16/2020 dated April 28th on procedural and organizational measures to address COVID-19 within the Justice Administration, establishes new measures to speed up the insolvency proceedings. Issues related with labor claims, on-going business purchase, and the passing or modification of composition or refinancing agreements will be preferentially processed. Also, the liquidation of assets will be accelerated as all auctions will be out-of-court except for the on-going business purchase, that will continue to be processed within the Court.

Spain

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Cybersecurity

When carrying out their professional duties, employees or collaborators should only and exclusively use the corporate means provided by the company, whether they are computers, tablets, mobile phones, etc.

When carrying out their professional activities, the regulations on data protection and information security must still be complied with.

Personal use of the aforementioned devices by employees or collaborators shall be forbidden, as well as any type of use by third parties outside the company, except for those that have been expressly authorised.

The importance of not accessing public or unsecured wifi networks when using corporate digital devices should also be stressed. In the same line, the importance of not communicating or sharing with others the user's ID and password to access the system should also be emphasised.

The printing or extraction of documents on paper, pen drives or similar outside the offices, which contain confidential information or personal data, should be avoided. If it were strictly necessary to do so, the head of the corresponding department or the company's Data Protection Officer should be informed in advance so that they can assess the situation and, if required, approve the necessary measures. In any case, the applicable regulations on this matter must be observed, with maximum confidentiality of the data and the application of the appropriate security measures.

In the event that any employee has any incident affecting the corporate digital devices provided, this should be reported to the company's security manager as soon as possible.

Employees should be warned that the company may establish control systems for compliance with the Rules of Use, as well as for the working day during the home working period, and they should be made aware of the importance of complying with the company's confidentiality rules.

Employees should be reminded of the need to have the corresponding licence or authorisation from the company to download and install software or computer applications.

Likewise, employees should be informed that the corporate digital devices must be returned to the company with all server connections and web pages duly closed.

The employer should report its employees as regards the increasing criminal via email (phishing, etc.).

Privacy

The Spanish Data Protection Agency (AEPD) issued specific guidance analyzing the processing of personal data in relation to the situation resulting from the spread of the COVID-19 virus. The General Data Protection Regulation (GDPR) contains the necessary rules to legitimately allow the processing of personal data in situations where there is a health emergency of general scope. Consequently, as stated in the report, data protection should not be used to obstruct or limit the effectiveness of the measures adopted by the authorities, especially health authorities, in the fight against the pandemic. https://www.aepd.es/es/documento/2020-0017-en.pdf

(Continued on next page)

Spain content (Cyber & Privacy) as at 15 October 2020

Spain

Cyber & Privacy (continued)

How can employers reduce privacy impact when sharing personal health data internally or externally?

- AEPD has a specific section on employee screening for COVID-19, although it is not provided in English. It sets forth that: - Employers may process the personnel data necessary to guarantee their health and adopt the necessary measures by the competent authorities. - The company will be able to know if the worker is infected or not and this can be achieved through questions asked to employees. The company will also verify the health of the employee in case of the danger. The later should be conducted by a health personnel and the data collected (i.e. temperature measurement) should not be kept for longer than necessary.

- The questions should be limited exclusively to the existence of symptoms, or if the working person has been diagnosed as infected, or subject to quarantine. Extensive and detailed questions would be against the principle of data minimization.

Can employers track employee geolocation for COVID management?

- The health information on COVID-19 should be provided without identifying the affected person in order to maintain their privacy, although it could be transmitted at the request of the competent authorities.

- The information must be provided respecting the principles of purpose and proportionality and always within the provisions of the recommendations or instructions issued by the competent authorities.

Temperature Measurement

The Spanish Data Protection Agency ("AEPD") has issued a statement regarding the temperature measurement by shops, workplaces and other establishments.

The temperature measurement involves a particularly intense interference in the rights of those affected. On the one hand, because it affects people' health data, not only because body temperature is a health data in itself but also because, based on it, it is assumed that a person suffers or not from a specific disease.

On the other hand, temperature controls will often be carried out in public spaces. It implies that a possible denial of access to an educational, work or commercial centre would be revealing to third parties - who have no justification for knowing - that the affected person may have been infected by the virus.

As with all data processing, the collection of temperature data must be governed by the principles established in the GDPR and, among them, the principle of lawfulness. Such processing must be based on a legitimate basis in accordance with the provisions of data protection legislation for special categories of data (Articles 6.1 and 9.2 of the GPR).

In the case of body temperature measurement as a preventive means for the expansion of COVID-19, such legitimate basis may not generally be the consent of the data subjects.

In the labour environment, and provided that the other issues addressed in the AEPD communication have been taken into consideration, the possible legitimate basis could be found in the obligation of employers to ensure the safety and health of their employees.

The Spanish Data Protection Agency ("AEPD") has issued a statement regarding the processing of data in public places as a preventive means for the expansion of COVID-19. The legitimate basis for this processing could be the public interest, and this data could be processed as long as there is no other less moderate measure. However, in any case, in order to comply with the principle of data minimisation it would be sufficient to obtain the telephone number as well as the data of the day and time of attendance. Therefore, it would not be necessary to request the name and surname, nor the ID card.

On September 22nd, a Royal Decree on remote working came into force, in which, with regard to data protection, it was established that companies (i) may not demand the installation of programmes or applications on devices owned by the worker and (ii) must establish criteria for the use of digital devices, at all times respecting the minimum standards for the protection of their privacy in accordance with social customs and legally and constitutionally recognised rights.

Spain

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Public registries are open. Certain restrictions are still being applied in order to comply with health recommendations.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts are open but working under a contingency plan (including electronic submission and limited staff). The suspension of procedural deadlines and administrative expiry periods will be lifted on 4 June, and the calculation of administrative deadlines will be from 1 June. Essential services will continue to be prioritised when judicial activity resumes. Normal operations are to resume on 1 September.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries must continue operating (with certain limitations) and there is no longer a need to justify the urgency.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Electronic signature is permitted for private documents. However, not for documents that must be notarised, which need to be signed in wet ink.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. In the current circumstances, although the Articles of Association do not expressly state it, the meetings of the governing and administrative bodies of corporate companies may be held by video-conference provided that the authenticity of those attending remotely is ensured. Signatures are required.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Apart from video-conference meetings, resolutions of the governing and administrative bodies may be adopted by written vote without a meeting, provided that the Chairman permits this, and must be adopted at the request of at least two of the members of the body. Signatures are required.

Spain content (Corporate) as at 3 July 2020

Contact for Sweden

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Sweden

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	**Period of Sickness** An employee that cannot work due to sickness can receive normal sickness benefits (i.e. 80% of the employee's income) from his/ her employer in the first 14 days. Generally, no compensation is paid on an employee's first day of sick leave, which is a "qualifying day". After 5 working days, the employee needs to present the employer with a medical certificate. Due to COVID-19, the Government has decided to temporarily abandon the qualifying day, meaning an employee can receive compensation from Day 1. Furthermore, due to COVID-19, the government has extended the days of sickness benefits without a medical certificate from 5 days up to 14 days. The Government has also taken over the payment of sick leave, meaning the employer does not currently bear the cost of compensating a sick employee. **Period of Quarantine** An employer can decide that an employee is to work from home, which entitles the employee to their usual pay. When the employer decides that an employee should be at home, but an employee is unable to work from home, an employee should, in general, be paid his or her normal compensation. If an employee contracts, or may have contracted COVID-19, and are quarantining as a result, the rules above in (i) apply. **Self-Isolation** An employee is not entitled to stay home out of fear of infection on his/her own initiative. An employee may stay at home if they exhibit symptoms of sickness, and where that is the case, the employee is entitled to regular sickness benefits. The Government recommends people to work from home, where they are able to do so. As a result, many office workers across Sweden are currently working remotely.
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	If an employee is fit to work but absent due to their dependants (e.g. a sick child) he or she will receive compensation from the government when they are required to be home to care for a child. At present, employees cannot receive compensation if the preschool or school is closed due to the virus and the employee's child is not sick. However, currently, it is only Sweden's upper secondary schools, colleges and universities that are closed, but other schools remain open.
Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	Due to COVID-19 the Government has introduced an opportunity to enforce layoffs. During such layoffs, the government covers approximately half the cost of employees, and the employer covers the remaining half. (See below)
Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?	The Swedish Government has introduced support measures, aiming to reduce the damage of COVID-19 for businesses. The support measures include paying a portion of the employee's salary during a short-term lay off. This means that the employer's salary costs can be reduced by 50 percent while the employee reduces his or her working hours but still retains 90 percent of his/her salary. The government has also taken over the entire sickness benefits system, the result of which is that the employer does not pay a sick employee (the government bears that cost instead). Furthermore, due to the pandemic, companies are allowed to postpone their tax payment.

Sweden content as at 9 April 2020

Sweden

Labour Law (continued)

Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	In Sweden self-employed individuals pay their own monthly tax and social insurance. Due to that, self-employed individuals have the same rights in Sweden as any other employee that gets sick. However, the new support measure from the Government due to COVID-19 is not applicable to self-employees. The Government is currently working on a solution to support self-employees as well.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	See above.

Sweden

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. Public registries are still open. Governmental services are still operating. Long processing times at the Swedish Companies Registrations which are likely to increase further. Certain filings can be made directly through the Swedish Companies Registration Office by officials of the company.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Yes the courts are open, however, delays can be expected.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. The notaries remain operational. There are no delays currently, in arranging for documents to be notarised and/or apostilled.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are permitted. under the Swedish Companies Act but the Swedish Companies Registration Office requires the digital signature to be printed and verified for filing purposes. Notices etc must be signed by hand.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings by phone are permitted if accepted by all board members. Should be signed by Chairman and one more board member.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meeting by phone are permitted if accepted by all board members. Should be signed by Chairman and one more board member

Contact for Switzerland

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Switzerland

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No. A unilateral instruction by the employer to take unpaid leave is not possible. However, the employer and the employee can agree on this by mutual consent. For the avoidance of doubt, the mutual agreement of the employer and employee is a pre-condition to stand-down or furlough.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Yes, subject to meeting certain requirements. The employer is entitled to instruct the employee to take (paid) leave. However, the employer is obliged to take into account the employee's wishes in respect of the time and duration of the vacation. Usually, the employer has to give instructions to take vacation about three months in advance. Thus, legally, reluctant employees may basically not be forced to take vacation. However, in the present circumstances, exceptions may be permissible.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Generally, an employer must pay a severance compensation only if an employee is aged 50 or older and leaves employment after 20 or more years of service. The amount of the severance compensation is between 2 and 8 months' salary. Such severance pay, however, is not very common in Switzerland, because the employer can deduct the contributions made to the mandatory pension plan from the severance pay.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. According to article 219 of the Federal law on debt collection and bankruptcy, claims that the worker may claim under the contract of employment and which are born or become payable six months prior to the opening of bankruptcy or later in total up to the maximum annual amount of the gain provided in compulsory accident insurance (CHF 148,200), fall within the first class of the bankruptcy estate. Any claims of employees based on the employment relationship will be subject to priority creditor status.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	Yes. In the event of an employer becoming insolvent, insolvency compensation covers open salary claims for a maximum of four months at a rate of 100% for the same employment relationship. Any 13th month salaries or bonuses, vacation or public holiday compensation are considered on a pro rata basis. However, a maximum salary of CHF 12,350 (since 1 January 2016) per month can be compensated. In principle, insolvency compensation may only be claimed for work that has been carried out. There is no entitlement to insolvency compensation for people who, in their capacity as a shareholder, as a stakeholder with a financial interest in the company or as a member of the most senior executive decision-making committee, can make or have a significant impact on the employer's decisions, as well as their spouses working at the company.

Switzerland content as at 9 April 2020

Switzerland

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. Swiss law does not contain a definition of force majeure, but the concept is recognized in case law and in the Swiss legal doctrine. In general, the following events are recognized as force majeure: War, revolution, terrorism and natural disasters. If the force majeure clause in question mentions a pandemic explicitly and causality can be established, such clause should apply to the current situation. However, force majeure clauses often contain only exemplary and non-exhaustive enumerations, leaving considerable room for interpretation. In case a force majeure clause is applicable, the parties are relieved from their contractual obligations (attention: certain force majeure clauses contain a notification period for such force majeure event).
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	Yes. If the performance of one party becomes permanently impossible due to circumstances for which the party is not responsible, the obligation is deemed extinguished. Unless the contract contains a fixed date for the performance, the consequence of the COVID-19 will merely delay the performance without rendering it impossible. If one party is in default, the other party has three options: ● insist on the performance and claim for damages; ● waive the performance and claim for damages; or ● terminate the agreement. With regard to sales contracts the transfer of risk has to be considered. Unless special contract clauses justify an exception, the benefit and risk of the object are transferred to the purchaser upon conclusion of the contract according to Swiss law. In practice, the transfer of risk is often determined by the relevant Incoterms. If the goods are stuck somewhere in the logistics chain, the risk could already be with the purchaser. For the international transactions also the CISG may apply.
Are commercial property or other leasing arrangements subject to any special arrangements?	No. The fact that businesses are currently unable to operate their business due to the emergency operating restrictions imposed by the Federal Council can constitute a defect in the leased property. In principle, the lessee may request a rent reduction from the landlord. A reduction of rent to zero however is only possible if any use of the lease object is excluded. As the commercial properties may still be used (e.g., as warehouses) only partial rent reductions seem to be realistic. For the time being, no specific rules have been enacted to deal with rent reductions on grounds of the covid-19 in Switzerland.

Switzerland

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	If there is a reasonable concern that the company has more debts than assets (= over-indebtedness), the management board/board of directors must prepare an interim balance sheet and have it audited by an auditing company approved for this purpose. If the interim balance sheet shows that the creditors' claims are covered neither at the going concern value or at the sale value, the management / the board of directors must notify the competent court, unless company creditors subordinate their claims to those of all other company creditors to the extent of the capital deficit.
What personal liabilities can directors be exposed to as a company nears insolvency?	If a director fails to comply with his/her obligations (in particular, obligation to file for bankruptcy), he/she may become subject to directors' liability. He/she also risks criminal prosecution if the company is declared bankrupt or a certificate of loss is issued against it.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	There are no strict safe-harbor rules in case of insolvency in Switzerland. In any case, a board member of a distressed company is well advised in carefully document each action taken and obtain professional legal and financial advice for any potential restructuring measures.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	For companies in financial distress, the instrument of a provisional and then definitive debt-restructuring moratorium may be available. If the competent probate court approves such a deferral, debt collection proceedings against the company can no longer be initiated or at least continued for the time being.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	A guarantee scheme has been set up in Switzerland for bridge bank loans to SMEs whose business is affected by the covid-19 pandemic. Such companies can apply for bridge loans from their respective banks up to a maximum of CHF 20 million. Such bridge loans are then secured by the Swiss Confederation. For such bridge loans certain minimum criteria must be met: In particular, the relevant company must confirm that it suffered a significant decline in revenues as a result of the covid-19 pandemic. Loans of up to CHF 500,000 will be paid out within a short period of time. Bridge loans that exceed the amount of CHF 500,000 require a more comprehensive credit assessment by the banks. It is important to note that the loans are only granted to companies that are significantly affected by the COVID 19 pandemic and are not in bankruptcy or probate proceedings. The loans must be repaid within five years; if necessary, this period can be extended by additional two years.

Switzerland

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Privacy - Screening Health Status

The processing of personal data by private parties, especially employers, must be carried out in compliance with Article 4 of the Federal Data Protection Act

Health data, being particularly worthy of protection, may not be obtained by private parties against the will of the persons concerned.

The processing of health data by private parties must be purpose-related and proportionate.

Therefore, it must be necessary and suitable with a view to preventing further infections and must not go beyond what is necessary to achieve this goal.

Privacy - Sharing Personal Health Data Internally or Externally

Wherever possible, appropriate data on flu symptoms such as fever should be collected and passed on by those affected themselves. The further processing of health data by private third parties must be disclosed to the data subjects so that the latter understand the purpose and scope of the processing as well as its content and time frame.

Can Employers Track Geo-Location for COVID Management?

The use of digital methods for the collection and analysis of mobility and proximity data must prove to be proportionate to the purpose of preventing infection. They are only so if they are epidemiologically justified and suitable to have an effect justifying the intervention in the personal rights of the persons affected in order to contain the pandemic in its current stage.

Other Guidance

Insofar as private individuals collect medical data such as body temperature before entering buildings or workplaces for the purpose of preventing infection, the processing of this data is to be limited to the minimum necessary to achieve the purpose in terms of its content and time. The information and self-determination of the persons concerned must be respected when collecting data. In this context, answering extensive questions about the state of health to non-medical persons proves to be inappropriate and disproportionate.

The same applies to personal data processed by private individuals in connection with operational and organizational measures to prevent infection. At the latest when the pandemic threat has ceased to exist, these data must be deleted as a whole

Switzerland

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes. Registers are open for the time being, whereas the counters are closed (all exchange needs to happen by mail/phone). Slight delays have to be expected.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Some courts remain open whilst others have closed. Not particularly relevant for intra-group reorganisation projects.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	The notary we regularly work with is still operating. Apostilles may take longer due to mailing logistics.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are permitted but the signature must be qualified. It is very uncommon to have this qualified signature in place. However, there are exceptions for documents that are not required to be filed, and they usually can be electronically signed.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings by phone are legally allowed (unless prohibited by the Articles of Association, however this is rare). If meetings are held physically (also over the phone or via videoconferencing), then meeting minutes have to be produced that need to be signed in wet ink by the Chairman and the minute keeper (can be the same person)
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Written resolutions are generally allowed (unless the Articles of Association prohibit written resolutions)

Turkey

Labour Law

Contact for Turkey

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Only where certain requirements are met. As per Labor Law No. 4857, unpaid leave is only permitted in cases and for periods specified in the law upon employee's request; however, apart from cases prescribed in the law, it is possible to suspend the employment contract through unpaid leave, provided that the parties of such employment contract reach a mutual understanding in writing. The important point to be taken into consideration with regards to unpaid leave is that the employer cannot apply unpaid leave based on its own decision. The employer's giving unpaid leave to an employee contrary to his will is qualified as actual termination of the employment contract under the practice of High Court of Appeal. Unless the approval of the employee is obtained, it is probable to encounter a reemployment claim and a risk of eventually paying a compensation corresponding to salary of eight to twelve months. To eliminate such risk, the employer should offer unpaid leave to the employee and obtain written approval of such employee within six (6) business days for the application of unpaid leave. Where the employee does not consent to unpaid leave; then options of paid annual leave, collective leave or remote working may be considered. Law on Reducing the Effects of the Novel Covid-19 Pandemic on Economic and Social Life and the Law on the Amendment of Certain Laws No. 7244 is published in the Official Gazette on April 17, 2020; and pursuant to this law employers are not allowed to terminate employment agreements for three months.Furthermore, the underlying law allows employers to take decision on sending employees on unpaid leave for three months(maximum). On September 4, 2020 with a Presidency Decree No. 2930 published on the Official Gazette No. 31234, this prohibition of employers agreements termination was extended for another two months and therefore until November 17, 2020. In general, Law No. 7252 on the Establishment of Digital Platforms Commission and Amendment of Certain Laws was published in the Official Gazette No. 31199 on 28 July 2020 and according to this law, The President of Turkey has been authorized to extend the periods of the prohibition of termination and unpaid leave until 30 June 2021.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Generally, no. Paid annual, holiday or similar leave can be provided to an employee upon his/her prior written consent. If an employee takes an unpaid leave specifically during the quarantine regime period, the term of such leave will not coincide with the statutory maximum duration of the unpaid leave upon initiative of an employee set forth by the law (15 calendar days per year). However, according to Law on Reducing the Effects of the Novel Covid-19 Pandemic on Economic and Social Life and the Law on the Amendment of Certain Laws, employers can direct an employee to take unpaid leave for three months(maximum). On September 4 2020 with a Presidency Decree No. 2930 published on the Official Gazette No. 31234, the employer's right to direct an employee to take unpaid leave was extended for another two months and therefore until November 17, 2020. In general, Law No. 7252 on the Establishment of Digital Platforms Commission and Amendment of Certain Laws was published in the Official Gazette No. 31199 on 28 July 2020 and according to this law, The President of Turkey has been authorized to extend the periods of the prohibition of termination and unpaid leave until 30 June 2021.

Turkey content as at 1 October 2020

Turkey

Labour Law

Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Generally, yes. Termination due to COVID-19 might be considered a force majeure event. In such cases, where the employment contract of an employee is terminated after at least one year by the employer, the employer shall pay the employee a severance payment at the rate of 30 days' wages for each full year since the date of employment. Payment shall be made pro rata for a portion of a year. Calculation of severance pay shall be made based on the latest salary drawn. However, the ceiling limit for severance pay is TRY 7.117,17 for the second half of 2020.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. Employees are treated as priority unsecured creditors in Turkey and therefore payment of all employment entitlements including salary, benefits, leave packages take priority among other debts.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	No. There is no government funding arrangements in the Turkish jurisdiction for unpaid employment benefits in an insolvency scenario.

Turkey

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?

Yes.

Force Majeure

The concept of force majeure is not defined under Turkish Law, and whether or not any situation can be considered a force majeure is evaluated within the framework of the case-law on a case by case basis depending on the facts surrounding each case as well as the specifications under the agreement parties entered into. Although natural disasters, legal strikes, epidemics or curfews are all previously accepted force majeure incidents as ruled by the courts, it is not possible to say that there is a generic rule. Each concrete case and each contract will have to be evaluated on a case by case basis in order to draw a conclusion. There are some other related concepts defined and accepted by the Turkish Code of Obligations that we believe might be of relevance:

Impossibility of performance

Impossibility of performance indicates that, if the performance of an obligation is completely impossible, the undertaker may be released from performing such obligations. If the performance only becomes partially impossible, the undertaker is then released from performing the part of his obligations that become impossible. However, it should be noted that the sole presence of a COVID-19 pandemic will not always result in the impossibility of performance for all contracts. In each concrete case, it should be determined if the performance of the contract becomes objectively impossible and whether there is sufficient causal link between the force majeure and the impossibility of the performance.

Hardship

Hardship indicates that in certain cases, although the performance of the obligation does not become impossible, it might become too difficult to be reasonably expected in accordance with good faith. In such a case, the undertaker – provided that he meets certain conditions laid out by the law- may request from the court to adapt the contract to the new conditions.

As a result, for all three of these terms -namely force majeure, impossibility of performance and hardship- consideration should be made on a case by case basis depending on the type of the contract and how the performance is or may be effected by the COVID-19 outbreak and the containment measures.

Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?

Yes.

The authority to decide on the concepts of impossibility of performance or hardship as explained above is the court.

Are commercial property or other leasing arrangements subject to any special arrangements?

Yes.

Within the scope of a package introduced to help mitigate the adverse effects businesses are facing due to COVID-19, it was regulated in Turkey that a tenant's inability to pay the rent for a workplace between the dates of March 1, 2020 and June 30, 2020 does not constitute reason for lease termination or eviction.

The new regulation, which is applicable only to workplace lease agreements, did not release the tenants from their obligation to pay rent. However, it offered them protection that the lease agreement will not be terminated and they will not be evicted due to their inability to pay rent between the above mentioned dates.

Currently this regulation is not in force and the general provisions of Turkish Code of Obligations regarding the lease apply.

Turkey

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	As per Article 376 of the Turkish Commercial Code, upon the event a company's debts exceed the total amount of assets, the board of directors must prepare an interim balance sheet indicating the value of the assets. This interim balance sheet must indicate both the value of the assets if the commercial enterprise were to continue operation and the value if the assets were to be sold within a short duration. Upon the event both interim sheets indicate that the debts exceed the total amount of assets, the board of directors must call for the general assembly to convene immediately to discuss a capital increase or full payment of the capital. The board of directors must also recommend other financial solutions it deems necessary to the general assembly which would amend the current indebtedness of the company. If the general assembly fails to procure any amendment decisions, it is the nonattributable obligation of the board of directors to apply to the courts to demand insolvency.
What personal liabilities can directors be exposed to as a company nears insolvency?	As per Article 553 of the Turkish Commercial Code, the board of directors are liable to compensate the damage given to the company, shareholders and collectors upon the event they violate their obligations arising under the law and articles of association towards the company. In this regard, the Turkish Commercial Code stipulates that the board of directors are obliged to perform routine checks on the financial status of the company, prepare the balance sheets, inform the general assembly in regard to technical insolvency and apply to court for insolvency as a last resort. If directors violate the abovementioned duties by fault, they shall be subject to the legal liabilities arising under Article 553. As for the criminal liability of directors, Article 179 of the Turkish Enforcement and Bankruptcy Law stipulates that directors who do not fulfill their obligation to inform the court of insolvency shall be sentenced to penalty of imprisonment for a term of 10 days to 3 months upon the complaint of a collector.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	Article 553 of the Turkish Commercial Code stipulates the personal exposure of liability as a fault liability. In this regard, directors who have regularly examined the financials of the company, called the general assembly to convene as soon as the technical insolvency was defected and proposed adequate and reasonable financial advice to the general assembly shall be difficult to be considered to have acted in faulty behavior. If the general assembly fails to take any decisions to amend the financial status of the company, despite the recommendations and proper notification of the directors, the directors shall be considered to have completed their legal obligations towards the company.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	There has not been a any decision adopted by the governmental authorities to cease any trading or suspend any of the companies commercial activities. As per Article 77 of the Turkish Labor Law, employers are obliged to take all necessary precautions pertaining to workplace health and safety of the employees. In this regard, companies which provide an adequate level of precaution in the most applicable manner as per the current level of science, technic and experience may continue their business activities. On the other hand, as per a recently enforced regulation due to the pandemic, companies may only distribute 25% of their profit incurred in the year 2019 and are restricted from distributing any profit in regard to the previous years prior 2019.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	As per Article 285 of the Turkish Enforcement and Bankruptcy Law, companies which are not able or may not be able to pay their debts in due time may apply to court for an arrangement of bankruptcy decision. If the court deems the company may be salvaged and the financial status may be improved, the court shall appoint a temporary trustee to either monitor the company or directly participate in the commercial decisions and administration of the company for a period of 3 months. Monitory trustees appointed by a court to a stock corporation because of any legal reason have to work together with the board of directors. During the period of 3 months all enforcement proceedings filed against the company shall cease and even if new lawsuits were filed against the company, the collection of any debt arising under a verdict of the lawsuit shall not be possible. The 3-month interim period may be prolonged for a definite period of 1 year if the company indicates an improvement over its financial status. At the end of the 1 year period, if the arrangement of bankruptcy plan is approved by either half of the creditors which constitute more than 50% of the debt or a quarter of the creditors which constitute 2/3 of the debt, the court may decide to approve and announce the arrangement of bankruptcy decision.

Turkey

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

The Turkish Data Protection Board has made announcements regarding the COVID-19 outbreak. Various measures are being taken both by public institutions and data controllers during the COVID-19 outbreak. It has become necessary for the Board to make further explanations regarding the time periods to be taken into consideration for data subjects requests, privacy notices and data breach notifications to be submitted before the Board. Within the scope of the Law and related regulations, various time periods were determined for the said requirements and it is important for data controllers to comply with these time periods. However, bearing in mind the measures taken by the data controllers due to the outbreak (e.g. home office, rotation), the Board, in the evaluation of the said requests, will take into consideration the extraordinary circumstances that are currently being faced.

In addition, the Board have announced that Turkish data protection law is still in force. Therefore:

- Data controllers are obliged to fulfill their obligations. In this regard, privacy notices regarding COVID-19 outbreak should be provided to data subjects if their personal data is being processed and principles such as data minimization should always be considered.
- Under data protection law in Turkey, data controllers who does not fall within the scope of Article 6 should obtain explicit consent for processing health data. Such data controllers are defined as by the persons subject to secrecy obligation or competent public institutions and organizations, for the purposes of protection of public health, operation of preventive medicine, medical diagnosis, treatment and nursing services, planning and management of health-care services as well as their financing.
- Real persons who are affected by COVID-19 should not be disclosed to any other third party.
- Data controllers may transfer personal data regarding COVID-19 outbreak to public institutions.
- Data controllers should not send notifications to its employees by naming or defining the real person who has COVID-19 by name or by using any other personal data if it makes the real person identifiable.
- Data controller may process data on traveller details in line with other articles of data protection law such as data minimization.
- Personal data being processed due to COVID-19 outbreak should be deleted, destructed or anatomized when the effects of outbreak have ceased.
- Technical and administrative measures should be adopted to new business structures such as working from home.

In summary, data controllers should proceed without processing sensitive personal data such as health data if it is not necessary to take measures to prevent COVID-19. If health data is strictly necessary, explicit consent is required for data controllers who does not fall within the scope of Article 6. Other provisions in data protection law should also still be considered at all times during the processing activities.

Furthermore, the Board issued an announcement on the processing of location data and mobility tracking considering COVID-19 outbreak. The Board stated in the underlying announcement that processing of location data by public institutions and organizations within the scope of public health measures is not against the Law on Personal Data Protection. The Board also stated that it is allowed to process data subjects' health, location and contact information via mobile applications and other tools/mediums in order to prevent the spread of COVID-19 and detect infected citizens.

Turkey

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Governmental services are up and running.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Yes. Before there was a suspension regarding the legal periods and court hearings but now the courts are working in full session.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes. Notaries are operating. No delays are known.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are permitted to the extent that it is a qualified electronic signature meeting certain requirements. Standard electronic signatures are not accepted as qualified electronic signature.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings can be held telephonically. A signature is required. Therefore, each board member has to print the meeting minutes, it and send it to the company's headquarters to be affixed to the Company's Board Meeting Book.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Teleconference board meetings can be held. Minutes have to be signed. Each member can sign the document separately which can be merged and affixed to the Company's Book.

Contact for Ukraine

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Ukraine

Labour Law

Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	Generally, no. Stand down as such is not allowed according to the Ukrainian legislation. Leave without pay are generally taken by the employees upon their initiative, which is formalised by a written request submitted to the employer. In case of a shutdown of business operations/idle time, employers are obliged to pay at least 2/3 (two-thirds) of the employee's salary.
Can an employer direct an employee to take paid annual, holiday or similar leave?	Generally, no. An annual leave, a leave without pay or other types of leave are generally taken by the employees upon their initiative, which is formalised by a written request submitted to the employer. If an employee takes an unpaid leave during the quarantine regime period, the term of such leave will not be included in the total term of the unpaid leave set forth by the law (the latter being 15 calendar days per year).
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	In case of redundancy, the employer must pay out to an employee (1) salary for the actual time worked; (2) compensation for unused annual vacation, and (3) severance payment which is applicable in case of redundancy (at least 1 monthly salary). Ukrainian legislation does not foresee relief from liability to pay severance to the redundant employee.
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. According to the para.1 of the art. 64 of the Bankruptcy Code of Ukraine, employees treated as priority unsecured creditors in case of bankruptcy procedure of their employer. The following benefits are subject to priority creditor status: salary and wages, compensation for all unused days of annual leave and additional leave for employees who have children, other remunerations due to employees in connection with paid absence from work, severance pay.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	There are no special governmental funding arrangements (or special funds) in Ukraine for unpaid employment benefits in an insolvency scenario.

Ukraine content as at 30 October 2020

Ukraine

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	No, the party may not be relieved from the fulfilment of the contractual obligations due to irresistible force (force-majeure). However, the party may be relieved from the sanctions imposed for the breach of contractual obligations caused by the force-majeure event. Pandemic, actions aimed at its reduction (i.e. quarantine) are defined as force-majeure. In addition, force majeure clause usually indicated in the contract may specify a specific procedure of breaching the contractual obligations and is subject to case-by-case analysis.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	No, a party may not be relieved from its contractual obligations due to the decision of the court or the similar body (with regard to current pandemic). Nevertheless, the party to the contract may apply to the Ukrainian Chamber of Commerce and Industry for obtaining a force-majeure certificate. Such certificate serves as a legitimate confirmation of the party's inability (fully or in-part) to fulfil its obligations under the contract for the certain period of time due to irresistible force, and is used in a court as a primary argument/evidence to relief a party from sanctions for breaching (fully or in-part) the contractual obligations. Thus, a party to the contract can apply to court to be relieved from the sanctions imposed for breaching of the contractual obligations which might be relevant to the current pandemic and accompany the application with the respective certificate.
Are commercial property or other leasing arrangements subject to any special arrangements?	The Ukrainian parliament has adopted a special law according to which a tenant may be exempted from payment for the use of a premises due to the establishment of a quarantine by the Cabinet of Ministers of Ukraine. However, in order to obtain such a right, the tenant is obliged to prove that he is not able to use the property due to circumstances for which he is not responsible. This rule has an imperfect construction, since it does not clearly regulate the concept of the use of a property (full, partial, targeted, etc.), which, again, will cause disputes and different interpretations in practice. In particular, this fails to take into account the different types of premises and the purpose of their use. Today Ukraine has an adaptable quarantine, which means that restrictions of conducting of separate businesses (e.g. activities of shopping, entertainment and fitness centers, restaurants, etc.) may be different from town to town and from week to week. Thus, the rental issue should be resolved in each case on a case-by-case basis (including such criteria as availability of tenants, technical premises and server premises, periodic visits of employees to the office, etc.). There is argumentation to renegotiate and the possibility of a partial reduction of rent due to circumstances when the possibility of using the rented property has significantly decreased (in the order of part 4 of the same Article 762 of the Civil Code of Ukraine). A partial reduction or release of tenants from rent, in accordance with the Law, does not exempt tenants from both office and commercial premises from paying for the maintenance of such premises (security, electricity, etc.). Each landlord and tenant should prepare a clear legal position on this issue, as a significant percentage of both tenants and landlords can be expected to use the legal ambiguity of these rules and different interpretations to their advantage. Also, some local municipal authorities introduced specific measures on certain territories, such as rent payment reduction for use of communal property in Kyiv city etc.

Ukraine

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?

As a general rule, directors shall act in the best interests of a company, performing their duties prudently and in good faith, and refrain from acting ultra vires (Clause 3 of Article 92 of the Civil Code of Ukraine).

As regards the insolvency perspective, directors have some sort of "precautionary" obligation – i.e., they shall inform participants or shareholders of the company on the upcoming risk of bankruptcy by sending them the available information on indications of bankruptcy (Clause 2 of Article 4 of Code of Ukraine On Bankruptcy Proceedings ("**Bankruptcy Code**")). In LLCs, one of the early indicators of the potential bankruptcy may be the decrease of value of net assets in more than 50% (comparing to the numbers from the end of the last year), upon the occurrence of which the executive body of the LLC (director acting individually, or as one of the officials of Board of Directors ("**BoD**")) shall convene the General Participants' Meeting ("**GPM**") to decide on the measures for the improvement of financial condition (Clause 3 of Article 31 of Law of Ukraine "On Limited Liability and Additional Liability Companies" ("**LLC Law**").

In addition, in case of the threat of insolvency (when the satisfaction of claims of one or a number of creditors will preclude the company from making repayment to other creditors), directors shall file a claim to the commercial court in a month term for opening the proceedings in the bankruptcy case (Clause 6 of Article 34 of the Bankruptcy Code).

What personal liabilities can directors be exposed to as a company nears insolvency?

Civil liability

When directors fail to manage the company's affairs in good faith, they may face subsidiary liability for obligations of the insolvent company before the creditors. In particular, directors entitled to give obligatory instructions to the company or to determine company's actions in the other way, shall bear subsidiary liability for the outstanding obligations of the bankrupt company if the bankruptcy occurred due to their fault (para 2 of Clause 2 of Article 61 of the Bankruptcy Code). This means that in case the debtor's assets are insufficient for satisfaction of creditors' claims, the liquidator is entitled to file a claim against the director, whose actions facilitated the company's bankruptcy. No criminal sentence on fraudulent bankruptcy is required to prove the director's fault for the company's bankruptcy and impose subsidiary liability on the director.

Directors, who failed to convene the GPM of the LLC in case of 50% decrease of value of net assets, take a risk of bearing subsidiary liability for outstanding obligations of LLC, if the latter was declared bankrupt in less than a 3-year term upon the decrease of net assets' value. Directors of the BoD bear such subsidiary liability jointly (Clause 4 of Article 31 of the LLC Law).

For the breach of obligation to file a claim for the opening of bankruptcy proceedings in case of the threat of insolvency, directors may be bound by joint liability with the company for outstanding claims of the creditors (para 2 of Clause 4 of Article 34 of the LLC Law).

Administrative liability

The managers, including directors, who conducted illegitimate actions (e.g., alienation of property, deliberate concealment of property etc.), which caused the substantive material damage, during the open bankruptcy proceedings, may bear administrative liability (fines amounting up to the sum, equivalent to around EUR 570) (Article 166-16 of Code of Ukraine on Administrative Offences).

Administrative liability of directors is also envisaged for the bankruptcy fraud (fraudulent filing for bankruptcy) if certain material threshold of damage is met. Company's officials liable for the bankruptcy fraud shall pay a fine amounting up to EUR 1,140 (Article 166-17 of Code of Ukraine on Administrative Offences).

Criminal liability

Directors may also be subject to criminal liability in the form of a fine and imposition of limitations regarding occupational engagement on management positions for bringing their company to bankruptcy (fraudulent bankruptcy) (Article 219 of the Criminal Code of Ukraine).

Ukraine

Insolvency (continued)

What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?

There is no separate safe harbour legislation; however, the construction of legal norms, imposing a personal liability on directors may be used by directors to prove the absence of one or several elements of violation, necessary for the authorised body to determine the violation and impose the penalty.

Civil liability

To refute the allegations of subsidiary liability for bringing the company to bankruptcy (in commercial proceedings), directors may always prove the absence of their fault in the bankruptcy.

When directors are facing the risk of bearing subsidiary liability for outstanding obligations of LLC for their failure to convene the GPM of the LLC in case of 50% decrease of value of net assets, they may secure themselves with proving they acted in good faith – e.g., they did convene the GPM, and/or they voted for the insolvency proceedings.

Directors shall not be liable for the failure to file a claim for the opening of bankruptcy proceedings in case of the threat of insolvency, if the highest governing body of the company (it's the GPM in LLC) did not pass a resolution, approving the filing of such court claim, although the director convened such body in good faith. Directors may also appeal to the concepts of the threat of insolvency (proper proof thereof) or the 1-month term (i.e. from which event this term shall be counted down).

Administrative liability

Directors shall not bear the administrative liability for the wrongdoings related to the company's bankruptcy if the statutory threshold of caused material damage is not met.

Criminal liability

Directors are not liable for bringing the company to bankruptcy in criminal proceedings, if any of the following elements will not be proved:

- actions of managers that led to insolvency;
- substantial material damage to creditors/the State (in the amount of at least EUR 17,730);
- causality between the actions of managers and the inflicted damage.

Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?

No general moratorium-like regime has been adopted.

At the same time, by adopting several anti-crisis laws, the state has implemented some measures to support the business, affected by the quarantine restrictions. First, some tax changes were introduced, mainly in the form of postponement of tax audits and possibility to delay some tax payments (including, land, real estate and social tax payments) with no penalty imposed or interest accrued. Those entities, who import and supply the goods, necessary for the prevention of pandemic (such as medicine, equipment, substances for disinfectors, etc.) receive more targeted tax and regulatory support (e.g. zero excise rate for some goods; waiver of state registration requirements for disinfectors manufactured and used in Ukraine, if they do not contain active hazardous substances, etc.).

Another supporting measure is related to the adopted prohibition to increase the interest rates under the loan agreements, which is effective during the period of implementation of preventive measures regarding COVID-19 in Ukraine.

What are the other insolvency regimes that might be relevant to a company in the current pandemic?

By adopting the Resolution No. 39 dated 26 March 2020, the National Bank of Ukraine recommended to restructure loans of those debtors, who faced financial difficulties because of pandemic restrictive measures.

In particular, banks are entitled to restructure certain loans and not to apply to them the criteria used for declaring an event of default, if the said loans meet certain criteria. The debtor's necessity to opt for debt restructuring, caused by the financial difficulties due to the quarantine restrictions, remains to be the main criterion. Among others are, for instance, the time frame for anticipated restructuring (12 March 2020-30 September 2020); the feasibility of carrying out long-term debt restructuring, estimated on the ability to ensure the repayment, etc.

(Continued on next page)

Ukraine

Insolvency (continued)

It is important that the NBU directly encouraged the banks to restructure mainly consumer loans, while the decision on restructuring of loans of medium and large businesses shall be granted on the individual basis, upon estimating the latest financial statements, the current financial situation, the vulnerability of particular sectors and entities to the current economic crisis and the perspective for their recovery afterwards.

Separately, the amendment to the Insolvency Code of Ukraine allows holding of a creditors' meeting remotely, extends the terms of bankruptcy proceedings, and also suspends the accrual of penalties till the end of the quarantine.

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

In Ukraine, there is currently no specific guidance from the Ukrainian Parliament Commissioner for Human Rights ("Ombudsman") as to the compliance with the Ukrainian Data Protection Law in effect ("Data Protection Law") while implementing measures aimed at protecting employees and preventing the spread of COVID-19 (except for the limited information published on its official website where the Ombudsman stressed that the Ukrainian Data Protection Law shall be respected while processing personal data in connection with COVID-19).

Considering that no specific guidance has been issued by the Ombudsman, the following should be taken into consideration:

- Generally, the processing of personal data related to health is prohibited, unless otherwise permitted by law or if such personal data is processed based on explicit consent by the data subject.
- The scope of personal data processed by a company shall be strictly limited by necessity and proportionate to the purposes pursued (i.e. prevention of the spread of COVID-19), and such personal data shall not be retained longer than necessary to contain and prevent the spread of the disease.
- Companies shall ensure the transparency of the personal data processing and, therefore, notify the data subject about the scope and purposes of personal data processing, rights of the employee and third parties to which the employee's personal data will be transferred (if any).
- Companies acting as data controllers shall notify the Ombudsman about the processing of personal data which is of particular risk to the rights and freedoms of data subjects (e.g. processing of health data). Such notification shall be made within 30 working days from the commencement of the above personal data processing. The exception shall be made to the employment relations where such obligation does not apply provided that such processing is strictly necessary for employment purposes.
- Companies shall also take appropriate technical and organisational measures while processing personal data (especially health data) in order to ensure the protection of personal data against personal data breaches (including loss or destruction of personal data or unauthorised access thereto).

Ukraine

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes, the Unified Register of Legal Entities, Individuals – Private Entrepreneurs and Public Organizations is still open and continues to receive filings. However, working hours of the respective state bodies commonly accepting documents for the state registration in some districts may be changed based on local decisions. Alternatively, the registration services may be provided by the notaries. In addition, some registration services can be provided electronically. In particular, the state registration of 1) the LLC, operating on the basis of the model Charter (only), and of 2) the Individual Entrepreneur may be conducted electronically through the state e-portals, and with the use of applicant's electronic signature. No delay in processing of documents due to quarantine restrictions is officially announced, but as a matter of fact, some delays have been reported.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Courts still do operate and accept filings; however, their working mode (as well as of the court registries) has been changed due to the quarantine restrictions. Upon the Recommendations of the High Council of Justice, courts in Ukraine are recommended to notify the parties on the option to adjourn the hearings; to organize online court hearings if possible; to organise the flexible working schedule for judges and court staff with working shifts to decide on urgent procedural matters or in urgent cases only. In practice, since the above recommendations are not binding, courts decide on their working mode individually. There are cases of temporary closure of particular courts due to infection of judges and support staff. Also parties have the option to file the court documents either via the postal service or electronically – via the Electronic Court e-portal, accessible with the electronic signature only. No unusual delays in processing the filings are expected, save for the courts, which established very limited working hours. The majority of courts use their websites to recommend the parties to submit to the court the request to adjourn the hearings in their cases or to refrain from the presence in person in the court hearings. In the meanwhile, one of the recently adopted anti-crisis laws, aimed at providing additional social and economic guarantees due to the spread of COVID-19, stipulates that all the procedural time limits are extended for the term of quarantine. In addition, the videoconferencing mode of participation in the court hearings is provided by the said law as the other alternative solution.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Now public and private notaries work in normal regime. However, particular notaries may temporary stop their activity in case of infection of the notary or support staff in the office. If there is a necessity to certify documents by the particular notary (e.g. in case of some amendments needs) the Ministry of Justice may set legal rotation of a non-operating notary. It is generally advised by the Ministry of Justice to limit the admission of citizens in all public and private and notary offices and to carry out only urgent notarial actions.

Ukraine

Corporate (continued)

Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	As per the Law of Ukraine "On Electronic Trust Services," documents can be signed using a qualified electronic signature, and the documents signed thereby cannot be denied legal effect solely because they are in electronic form. Other means of electronic signature are not acknowledged as legitimate by the laws of Ukraine. What is important, the Government allowed the provision of electronic trust services during the quarantine, provided that both staff and visitors use individual protective means and all sanitary regulations are complied with. This gives citizens the chance to receive a qualified electronic signature and further use it to sign documents, submit reporting to tax and controlling bodies, and to be provided with some state services in a remote mode. It should be noted, however, that Ukraine has a very limited use of electronic signature and most business regardless of the size still have paper workflow.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Procedure of holding of board meetings depends on the company's Charter and/or internal Regulation on the board. As a general rule, board meetings shall be held in person and there is no remote procedure available. The minutes of the board meeting shall be signed either by the Chairman or by those directors who were present at the meeting. However, some Charters may provide for voting by poll (exchange of materials) or videoconference. For compliance reasons, it is normally expected that all decisions of the board taken remotely (by poll or videoconference) will be later documented in written minutes signed by the Chairman. Legal effect of the Board decisions made remotely should be analysed separately. At the same time, the answer as regards General Shareholders' Meetings (in JSCs) and General Participants' Meetings (in LLCs), or GSM and GPM respectively, may provide more relevant information, especially given the statutory norms regarding the mandatory time frames for holding the annual GSM and GPM and some recent amendments in view of quarantine. As a rule, the GSM/GPM shall be held either in person, or by means of polling (the voting shall be unanimous, and not all matters can be resolved with such means). Company's Charter may require polling voting ballots to be notarised. In LLCs, Participants may also participate in the GPM by means of absentee voting, which, however, shall be proved with the written document that expresses the will of the absent Participant, being also notarised. What is more, LLCs can use a videoconference to hold their GPM, unless it is specifically forbidden by the Charter. The LLCs law does not provide any guidance for the videoconference procedure, so this matter shall be specified in the company's Charter or internal regulations. In response to the outbreak of COVID-19 and related quarantine restrictions, one of the adopted anti-crisis laws provides the extension of term for holding the annual GSM/GPM for 3 months upon the end of the quarantine. In addition, the anti-crisis law provides that the GSM and GPM (of the LLCs, which issue securities) may also be held remotely according to the newly adopted Temporary Regulation of the National Securities and Stock Market Commission. The Regulation provides the procedure of conducting GSM/GPM through custodians' electronic document exchange. To take advantage of this new procedure, companies and shareholders will have to conclude an additional agreement with their custodian. Shareholders will then receive access to the system enabling them to upload voting bulletins certified by qualified electronic signatures or in the office of the notary or custodian. The National Depository of Ukraine, responsible for overall management and content solution of this procedure, have already announced successfully holding of the GSM using the new system.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Telephonic board meetings can be held if allowed by the Charter and/or internal Regulation on the board. However, the decisions of such meetings still need to be documented in line with the procedures established by the company's Charter/internal Regulation. Legal effect of the board decisions made remotely should be analysed separately. Please see our comments to the previous question for more details.

Contact for United Kingdom

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United Kingdom

Labour Law

Is an employer obliged to pay its employees during: (i) periods of sickness; (ii) periods of quarantine and/or; (iii) self-isolation due to COVID-19 (when unwell versus well enough to work)?	**Periods of Sickness** When an employee is off sick with COVID-19, they will be entitled to their usual sick pay entitlements under their contract of employment, including statutory sick pay ("SSP") (note this will not always mean that employees are entitled to normal pay during the full period of absence). **Periods of Quarantine** Where the employee is fit to work but is absent because the employer has instructed them to remain away from the workplace, they will be entitled to receive their normal pay for the duration of the self-isolation, as their absence from work is a form of suspension. **Self-Isolation** Where an employee self-isolates on medical advice or to prevent infection or contamination with COVID-19 in accordance with guidance published by Public Health England, the Government has recently brought in emergency legislation to provide them with statutory sick pay from day one. It is also good practice for the employer to provide sick pay in accordance with their sick pay policy. Where an employee is fit to work and is not in one of the groups PHE has recommended should self-isolate, but voluntarily self-isolates and remains away from work, they do not have a statutory right to sick pay. However, employers should listen to their concerns and may wish to consider paying sick pay. Where the anxiety caused by the outbreak of COVID-19 itself renders the employee unfit to work, they are entitled to sick pay. If the employee is able to work remotely and the employer agrees, they will be entitled to their usual pay.
Are employees entitled to pay and/or leave where they take time off work to care for dependants?	If an employee is fit to work but absent due to their dependant(s) (e.g. where a child's school has closed due to the virus), it may be possible to make arrangements in those circumstances for the employee to work from home or they may wish to take it as paid holiday. There may also be a contractual right to paid leave through custom and practice. Where staff have always been able to take paid time off in these circumstances they may then have a reasonable expectation of being paid. Staff may also have a statutory (limited) right to unpaid time off to look after dependants in unexpected events, but this is only a right to "reasonable" time off to deal with emergencies and staff would normally be expected to make longer term arrangements for the care of dependants. They may also be entitled to statutory unpaid parental leave subject to conditions.
Can employers enforce layoffs, short term working and/or reduce pay or hours in respect of employees? Are you seeing companies in your country introduce such measures in practice?	Laying off employees means that the employer will provide employees with no work (and no pay) for a period while retaining them as employees whereas short-time working means the employer will provide employees with less work (and less pay) for a period while retaining them as employees. Employers must however check whether the express contractual right to do so exists within the employee's contracts, otherwise risking a breach of contract and entitling the employee to resign and claim constructive dismissal. Claims could also be brought for unlawful deduction from wages. See below for more details of potential claims if there is no express contractual power. Such a term may also be implied into the contract where: • There must be a custom or practice within that particular business. • The custom must be both "reasonable, certain and notorious" and such that "no workman could be supposed to have entered into service without looking to it as part of the contract". **(Continued on next page)**

United Kingdom content (Labour Law) as at 9 April 2020

United Kingdom

Labour Law (continued)

This is a strict test and an employer should be confident they can satisfy it before they rely on an implied term to lay off employees.

Potential Consequences

Where the employer lays employees off or puts them on short-time working, without a contractual right to do so, an employee may:

- Choose to accept the breach of contract and treat the contract as continuing, while claiming a statutory guarantee payment.
- Sue for damages for breach of contract.
- Claim before an employment tribunal that there has been an unlawful deduction of wages.
- Claim that the employer's action amounted to a dismissal (constructive or otherwise), giving rise to potential claims for unfair dismissal and/or redundancy pay.

If the employee decides to resign and claim constructive dismissal and the reason for dismissal is redundancy (which is probable in the situation), the employee may also claim a statutory redundancy payment. This is subject to the employee meeting the usual criteria for such claims, including two years continuous service.

An employee placed on lay off or short-time working may be able to claim a statutory redundancy payment if a certain amount of time since being laid off or placed on short time working has passed. There are detailed rules on this, which should be considered carefully.

Employees may also be able to claim a statutory guarantee payment. There are detailed rules on this, which should be considered carefully.

A number of companies within the UK have announced that such measures will be implemented.

Is the local government providing any support measures for businesses who are impacted by the COVID-19, especially in relation to employee costs / employment laws (e.g. financial compensation, tax cuts to help small employers)?

The introduction of a Coronavirus Job Retention Scheme under which the Government will cover up to 80% of the current wage level (up to £2,500 a month) of an employee who is designated as a “furloughed” worker, due to the COVID-19 pandemic, provided they are kept on the employer’s payroll. Employers may top up salaries above this level if they choose to. The scheme will apply to all employers, will be backdated for those who have been unable to work since 1 March 2020 and is expected to last for at least 3 months (subject to further extension). The practicalities of the scheme are in development with HMRC, with clarification likely by the end of April.

The Government is bringing forward legislation so that businesses with fewer than 250 employees (at 28 February 2020), can reclaim the cost of providing 2 weeks of statutory sick pay (“SSP”) per employee due to COVID-19 from the UK government in full.

A temporary increase in the business rates retail discount in England to 100% for 2020-21 for properties below £51,000 rateable value. This will be expanded to the leisure and hospitality sectors, and the planned rates discount for pubs increased to £5,000.

The Small Business Grant Scheme will provide small businesses a one-off grant of £10,000 that pay little or no business rates due to small business rate relief (SBBR), rural rate relief (RRR) and tapered relief.

(Continued on next page)

United Kingdom

Labour Law (continued)

	A new Coronavirus Business Interruption Loan Scheme, delivered by the British Business Bank, will enable businesses with a turnover of no more than £45 million to apply for a loan of up to £5 million, with the UK government providing lenders with a guarantee of up to 80% on each loan (subject to a per-lender cap). The first 12 months of interest payments will be covered by the UK government. Under the Covid-19 Corporate Financing Facility, the Bank of England will buy short term debt from larger companies (although all businesses are eligible). VAT payments for the next quarter (from 20 March 2020 until 30 June 2020) will be delayed for all businesses until the end of the financial year.
Is a company obliged to pay its contractors during periods of sickness or quarantine and/or self-isolation due to COVID-19? If the company wished to do this, would it be possible for it to do so?	Genuinely self-employed contractors will not be entitled to sick pay or SSP during such periods unless otherwise stated contractually. The Government has proposed to allow those who are not eligible for sick pay, particularly the self-employed, to be able to claim Employment and Support Allowance (ESA) from day one of ""illness"" rather than day eight due to COVID-19. Should a company wish to provide contractors with sick pay due to COVID-19, this may be agreed contractually with consent of the employer and contractor.
Have any other changes been made to your local employment laws (or are any proposed) in light of the current COVID-19 situation (for example, enhanced sick pay entitlements, relaxation of redundancy laws)?	Statutory sick pay (SSP) will be available for eligible individuals diagnosed with COVID-19 or those who are unable to work due to self-isolation in line with Government advice and will be payable from day 1 of sick leave instead of day 4 (as is the standard position for sickness absence on other grounds). Those not eligible for SSP (e.g. the self-employed or individuals earning below £118 per week) can now more easily make a claim for Universal Credit or Contributory Employment and Support Allowance: ● for the duration of the outbreak, Universal Credit Minimum Income Floor requirements will be temporarily relaxed for those who have COVID-19 or are self-isolating according to government advice. ● Individuals will be able to claim Universal Credit and access advance payments upfront without the current requirement to attend a jobcentre if they are advised to self-isolate ● contributory Employment and Support Allowance will be payable, at a rate of £73.10 a week if over 25, for eligible people affected by COVID-19 or self-isolating in line with advice from day 1 of sickness, rather than day 8. From 6 April, the UK is increasing the standard allowance in Universal Credit and the basic element in Working Tax Credit for 1 year. Both will increase by £20 per week on top of planned annual uprating. This will apply to all new and existing Universal Credit claimants and to existing Working Tax Credit claimants.

United Kingdom

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. Provisions may be built into contracts. Most likely, this will be by way of a force majeure clause, which is standard in most contracts. Typically, this will list events which prevent a party from performing its obligations under a contract, and which are outside that party's control. In the event of such an event, that party (and not the other party) can invoke the clause, usually allowing it to suspend performance of its obligations without compensation or other penalty. Depending on how the contract is constructed, a long suspension may also give rise to termination rights. However, it is not a given that a pandemic is a force majeure event unless it is been specifically included in the list (which is rare). Government-imposed restrictions may be more likely to be a force majeure event, but again it depends on how the clause is worded. Other contractual provisions may also be relevant. For example, some contracts (particularly banking and financing agreements) will include a material adverse change/material adverse effect clause. This typically allows the contract to be terminated in the event of significant change which renders it impossible to perform. Typically, the regulators in the FS industry have taken a dim view of lenders enforcing these provisions and have recently asked lenders to think carefully about how they respond to the pandemic. Other relevant provisions include frustration, step-in rights, hardship clauses, change control provisions, and of course termination provisions. It is also open to the parties to pursue a claim for breach of contract. To date, neither the government nor the courts have issued any guidance on whether this pandemic will be sufficient grounds for suspension or termination of a contract.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	This will depend on numerous factors such as the wording of the contract, the factual scenario and whether one of the parties is a consumer. If there is 'force majeure' wording in the contract, then relief may be available under the terms of the contract and enforceable by a court. The courts may also be able to ask the court to apply the doctrine of frustration which could relieve a party of its contractual obligations if performance is impossible, but the threshold is very high and very few cases have been successful. If damages are not an adequate remedy, interim equitable relief, such as an injunction or specific performance, may be available under certain circumstances.
Are commercial property or other leasing arrangements subject to any special arrangements?	Yes. **COMMERCIAL TENANCIES** The UK Government introduced various pieces of emergency legislation to assist commercial tenants with the impacts of COVID-19. These include: *The Coronavirus Act 2020 (the "**Act**").* This Act was effective from 26 March 2020. The Act provides temporary relief measures from forfeiture to commercial tenants as a result of non-payment of rent for a temporary period currently ending on 31 December 2020, subject to the government's right to extend this period. "Rent" is defined as any sum a tenant is liable to pay under a business tenancy. Most commercial tenancies should qualify for these protections provided they fall within the definition of 'business tenancy', as defined under the Landlord and Tenant Act 1954. Types of 'businesses' that will be covered are those that are a trade, profession or employment and includes any activity carried on by a body of persons, whether corporate or unincorporated. **(Continued on next page)**

At present the legislation doesn't appear to extend to licences to occupy (which is the type of tenancy agreement typically used for most flexible working space agreements), but the government has confirmed it extends to tenancies "...where the original tenant has sublet premises and is no longer in occupation", which suggests that head leases are covered as well. Each commercial lease will however need to be reviewed carefully on a case-by-case basis to determine whether it will qualify for the forfeiture moratorium.

The government also stated that this is not a rental holiday and that landlords are still owed the rent that would have been due. Once the forfeiture moratorium period ends, landlords will be able to claim forfeiture for the rent that was due. Landlords and tenants are therefore encouraged to continue having conversations to reach alternative voluntary solutions.

It was also confirmed by the government that non-collection of rent during the forfeiture moratorium period will not be treated as a waiver by landlords and that other forfeiture breaches remain unaffected during this period (e.g. if a tenant wilfully damages the property for example).

Other Legislation:

On 23 April 2020 the government announced the introduction of two additional legislation measures:

*Commercial Rent Arrears Recovery ("**CRAR**")*

The Taking Control of Goods and Certification of Enforcement Agents (Amendment) Coronavirus Regulations 2020:

This Act temporarily suspends the CRAR process, so that landlords who serve a notice of enforcement, or where goods are taken control of on or before 24 December 2020, must demonstrate 276 days of unpaid rent. However, this rises to 366 days of unpaid rent for notices served from 25 December 2020.

The amendment is in place until 31 December 2020, unless extended further by government.

The Corporate Insolvency and Governance Act 2020

The Act contains measures to extend the commercial tenant relief to also prevent landlords from taking other actions in order to claim unpaid rent, such as using statutory demands or issuing orders to begin winding up proceedings.

The relevant periods covered are as follows (unless extended):

- Statutory demands that are served between 1 March - 31 December 2020; and
- Winding-up petitions that are issued between 27 April - 31 December 2020.

RESIDENTIAL TENANCIES

The Government has also introduced the following temporary reliefs in relation to residential tenancies:

All eviction notices that are served on residential tenants between 26 March 2020 and 28 August 2020 must include a minimum three month notice period, however any eviction notice that is served on tenants from the 29 August 2020 until 31 March 2021 must contain a notice period of 6 months, unless a particular exemption applies e.g. anti-social behaviour.

All eviction proceedings were stayed by the Courts up until 20 September 2020, however as of 21 September 2020 Courts have started to deal with eviction proceedings again (these are only for the most serious cases, and ones which have complied with the minimum extended notice provisions above).

United Kingdom

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	If a company is insolvent or is nearing insolvency, the director's duty of promoting the success of the company for the benefit of its shareholders, switches so that directors must put the interests of creditors as a whole before those of shareholders.
What personal liabilities can directors be exposed to as a company nears insolvency?	Personal liability can be imposed on directors if the company of which they are director, goes into insolvent liquidation. As a result directors can be asked to contribute to the assets of the company. This can be for: • **Wrongful trading:** which is where the directors allowed the company to keep trading at a time when they knew (or should have known) that there was no reasonable prospect of the company avoiding an insolvent liquidation and they failed to take every step a reasonably diligent person could be expected to take to mitigate the loss to creditors. However, it must be noted that in the current climate, the rules on wrongful trading have been temporarily suspended; • **Fraudulent trading:** which is where any business of the company has been continued, with intention of defrauding creditors. This is also a criminal offence.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	In order to limit exposure, practical measures could include: • Having regular board meetings, at which full board minutes should be taken and circulated following the meeting. This will evidence that the board have properly considered the situation, steps taken to mitigate the situation, and will be useful as a defence if, for example, wrongful trading or fraudulent trading are alleged. • Keeping up-to-date accounts and regularly looking at the company's cash flow. • Seeking professional advice if there are concerns. As regards safehabour legislation, please note the relaxation of the insolvency legislation as included in the answer following.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	The UK Government has announced its intention to change the UK insolvency legislation, including: • a temporary suspension of wrongful trading provisions for company directors, that will take effect retrospectively from 1 March 2020; • a moratorium of up to 90 days from creditors, that will provide companies with liquidity issues time while they seek a rescue or restructure; and • the creation of a new restructuring plan that will be binding on creditors. This is to facilitate company trading, which gives the companies time to consider their options, and to provide payment safeguards to creditors and suppliers.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	N/A

United Kingdom content (Insolvency) as at 17 April 2020

United Kingdom

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?

Requirements under the GDPR and UK Data Protection Act, 2018 continue to apply.

The Health Protection (Coronavirus) Regulations 2020 place specific obligations on employers in relation to health and safety and workplace closures.

Employers should undertake continuous risk assessments for employee health, and additional data gathering (including personal data) may be necessary for this.

Organisations should keep staff informed about cases in the organisation. In most cases they don't need to name individuals and shouldn't provide more information than necessary. Employers have an obligation to ensure the health and safety of your employees, as well as a duty of care.

Personal data that employers have about where an employee has been or their health must also be processed in line with the applicable privacy requirements.

Data protection is not a barrier to increased and different types of homeworking. During the pandemic, staff may work from home more frequently than usual and they can use their own device or communications equipment. Data protection law doesn't prevent that, but organisations need to consider the same kinds of security measures for homeworking that you'd use in normal circumstances.

Recital 46 GDPR specifically refers to the lawfulness of some types of processing "including for monitoring epidemics and their spread". There are provisions in both Article 6 and 9 GDPR that allow for collection, use and necessary sharing of personal data related to health in the context of an epidemic.

"Reasons of public interest in the area of public health, such as protecting against serious cross-border threats to health" are specifically mentioned as a permissible use of sensitive data, including data related to health, under Article 9(2)(i) GDPR, if provided by Union or Member State law. At the same time, Recital 52 specifically refers to derogations from the prohibition on processing sensitive data justified for "monitoring and alert purposes" and "the prevention or control of communicable diseases and other serious threats to health".

United Kingdom

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	One office of the UK Registrar of Companies remains open, but all same day services (online and in person) have been suspended until further notice and so there may be a delay with filings/registrations. It is expected that it may be possible to file all capital reductions electronically in the next few weeks. Some capital reductions have already been filed electronically and have been registered within 1-2 weeks. A platform has been created to file certain documents online, and Companies House are looking to expand the number of documents that can be uploaded using this method over the next few weeks. More information can be found here. All documents can be submitted to Companies House with electronic signatures. The contact centre is now closed and enquiries have to be sent to Companies House via email only. All companies can apply to have an additional 3 months to file accounts.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	No. Whilst court buildings, currently remain open, the objective is to undertake as many hearings as possible remotely. Protocol on how to conduct remote hearings has been published. The Tax Tribunal announced a 28 day general stay on all proceedings until Tuesday 21 April 2020. On 2 April 2020, a tracker list of open, staffed and suspended courts was launched. There is now a practice direction relating to the extension of time limits during the COVID-19 pandemic and to the audio and video hearing requirements.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Notaries are able to offer e-notarisation, however the success of this is dependent on what the receiving jurisdiction will accept. The Foreign and Commonwealth Office has reopened its apostille service at limited capacity.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	Yes. Electronic signatures are largely permitted with the exception of some documents.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Provided the Articles of Association do not restrict this, board meetings can be held within the UK without physical presence. Minutes are typically signed by Chairman but there is no specific strict legal requirement.

United Kingdom content (Corporate) as at 17 June 2020

United Kingdom

Corporate (continued)

Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Yes. Board meetings can be held telephonically in lieu of written consents, as long as the company Articles of Association permit this and it is acceptable to the authority/party requiring the written consent. For onshore public joint stock companies, minutes are strictly required to be signed by the present members and the secretary. For other types of entities, there is no strict requirement, but general practice is that they are signed by at least the chairperson.

Uzbekistan

Labour Law

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Is there capacity to stand down or furlough (leave without pay) employees without pay in your jurisdiction? If yes, what pre-conditions to stand-down or furlough	No, unless employee consent is obtained. During stand down, an employer is still expected to pay an employee. Leave without pay is possible only with the consent of the employee.
Can an employer direct an employee to take paid annual, holiday or similar leave?	In some circumstances. This will only be possible with the consent of the employee, or according to the employment schedule.
Where employees are terminated due to job elimination or redundancy, is there minimum statutory redundancy or severance pay in your jurisdiction? Is there any capacity for relief from liability for termination benefits due to financial difficulty?	Yes. If there is job elimination/redundancy, an employer is required to inform the employee about this 2 months in advance. On the last employment day, the employer shall pay out the outstanding benefits (such as holiday pay, vacation leave) and an extra salary set by law. However, if both the employer and the employee agree, the notice period can be substituted by compensation (2 months of the employee's salary).
Are employees treated as priority unsecured creditors in your jurisdiction? If yes, what benefits are subject to priority creditor status (eg, salary and wages only, or other benefits eg leave entitlements, variable bonus pay, etc)?	Yes. The requirements arising from labor relations are satisfied in the first place. All benefits under the employment relationship apply.
Are there any government funding arrangements in your jurisdiction for unpaid employment benefits in an insolvency scenario?	No.

Uzbekistan content as at 14 October 2020

Uzbekistan

Contract Law

Is there capacity in your jurisdiction to rely upon legislative provisions or general law for relief from contractual obligations in the event of pandemic or similar?	Yes. The Civil code provides that if one of the parties to the contract fails to perform due to force majeure, they shall not be liable for lack of or improper performance.
Can a party apply to court or similar body to be relieved from contractual obligations which might be relevant to the current pandemic?	The party may apply to the Ministry of Investment and Foreign Trade to receive a force majeure certificate. The parties can go to the court, to challenge the applicability of the certificate.
Are commercial property or other leasing arrangements subject to any special arrangements?	The government has introduced a number of measures aimed at assisting business entities. One of the measures states that enterprises who rent the state-owned facilities and whose activities were suspended due to quarantine, are relieved from the payments for the unused period from March 24 until the end of quarantine. Another measure was introduced in July 2020 by the Presidential Decree 6029 and concerns the recommendation to the landlords to reconsider the set amounts of the lease payments with the purpose of lowering them due to tax release and incentives granted to the landlords by the government.

Insolvency

What legal duties do directors owe in respect of companies that are insolvent or are nearing insolvency?	A director needs to apply for insolvency, when he or she understands that the comapny is unable to satisfy creditors' claims for monetary obligations and (or) to fulfill obligations to pay mandatory payments if the corresponding obligations and (or) obligations were not fulfilled by the them within six months from the day they occurred.
What personal liabilities can directors be exposed to as a company nears insolvency?	In the case of insolvency procedures, Directors may be held liable if, knowing of the insolvency, they did not file the corresponding procedure or in those cases where the insolvency was caused by intent or negligence of Directors.
What practical measures can directors take to limit their personal exposure as a company nears insolvency? Is there any safe harbour legislation?	No specific provisions in the law.
Is there a moratorium or similar regime that could allow a company to trade through the current pandemic, or case activity for a period of time?	No, since the moratorium on initiating bankruptcy procedures and declaring enterprises bankrupt introduced by the Presidential Decree No. 5978 remained in force until October 1, 2020. To the present date there is no existing moratorium or similar procedure on bankruptcy procedures.
What are the other insolvency regimes that might be relevant to a company in the current pandemic?	Pre-trial rehabilitation and court appointed external management

Uzbekistan

Cyber & Privacy

Are there any data security and privacy issues that businesses need to be particularly aware of in the current pandemic?	No particular data security and privacy issues that businesses need to be particularly aware of in the current pandemic.

Corporate

Are public registries still open and accepting filings/ registrations? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings /registrations?	Yes, the public registries are opened for filings. At the same time some types of filings and applications can be submitted online via official government portals. No delays in processing times are observed.
Are courts still open and accepting filings? If so, are there delays in processing times? If not, is there a contingency plan in place for completing filings (e.g. online filings)?	Yes, the courts are opened and hear the cases. At the same time, submissions can be made via post and via online filing, provided that the submission is related to the civil case. No delays in processing times are observed.
Are notaries still operating? If so, are there delays in documents being notarised and/or apostilled? If not, are there any contingency plans for arranging for documents to be notarised and/or apostilled online?	Yes, the notaries are operating in their ordinary manner. No delays in documents are observed. A range type of documents and transactions can be notarised online.
Can documents be signed electronically? --- (e.g., DocuSign, Adobe Pro, and Apple PDF Reader)	The document can be signed electronically with the Electronic Digital Signature (EDS) issued by the State Tax Committee.
Can board meetings be held telephonically? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	The LLC Law stipulates that the participants of an LLC can hold a general meeting on certain matters telephonically. However, there is a requirement for the meetings minutes to be signed by the Chairman and Secretary of the meeting. The shareholders of the JSC cannot hold a general meeting telephonically. The decisions of the JSC supervisory board of the company may be adopted unanimously by absentee voting (by circulation) by all members of the supervisory board.
Can telephonic board meetings be held in lieu of written consents? --- If so, are any signatures for the meeting minutes (e.g., Chairman's signature) strictly required?	Telephonic general meetings be held in lieu of written consents by participants of an LLC provided subsequent fulfillment of the requirement for the meeting minutes to be signed by the Chairman or Secretary of the general meeting.