
COVID-19 SUPPORT MEASURES – CZECH REPUBLIC

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1. CLAIMS FOR DAMAGES

1.1. ENTITLEMENT TO DAMAGES FOR MEASURES UNDER THE CRISIS ACT

On 12 March 2020, the Government of the Czech Republic declared a state of emergency due to the SARS-CoV-2 pandemic under the Constitutional Law on State Security and adopted emergency measures. As a result of this extraordinary situation, the business activity was reduced, and the damage occurred.

The crisis measures were initially adopted under the Crisis Act, according to which the state is obliged to compensate the damage caused to natural and legal persons in causal connection with the crisis measures, unless the injured person caused the damage himself or caused the occurrence of a loss event.

Damage means actual damage and lost profit according to the Civil Code.

In exercising the right to compensation, it will be necessary to claim and prove:

- the amount of damage and
- the causal link between the crisis measures and the damage and its amount.

Regarding proving a causal link, there is a need to get ready for certain problems in establishing the link between the crisis measures and the occurrence of damage and the amount of damage, preparing to argue that the damage would have occurred without the adoption of crisis measures as a result of the pandemic itself, which would still reduce or stop operations even without the crisis measures, as a result of a decline in demand. It is also necessary to get ready for some difficulties in proving the amount of lost profit, when we expect the argument that the decrease in profit would occur during the pandemic even without the impact of the crisis measures. For this reason, we recommend collecting from the very beginning the relevant documents proving the occurrence of damage and its amount, as well as the fulfilment of the preventive obligation, in particular any documents proving actual damage and lost profit.

It should be borne in mind that the damage must be claimed within 6 months from the time the injured person became aware of the damage (subjective period), but no later than 5 years after the occurrence of the damage (objective period). If the crisis management body does not comply with the claim for damages, it is necessary to file a civil action against the state for damages in civil proceedings.

1.2. ENTITLEMENT TO DAMAGES FOR MEASURES UNDER THE PUBLIC HEALTH PROTECTION ACT

The possibility of claiming damage according to the above rules in the Crisis Act is now called in the question on the grounds that the measures subsequently issued no longer have a basis in the Crisis Act, but in the Act No. 258/2000 Coll., On Public Health Protection. We reject the questioning of claims for damages and take the view that measures issued under another law are still crisis measures that are implemented under the crisis law and therefore the claim for damages should arise in such case as well.

2. FINANCIAL SUPPORT FOR ENTREPRENEURS

2.1. 25 THOUSAND PROJECT

This is a direct financial support program for self-employed persons. Within this project, a one-shot contribution of CZK 25,000 should be provided to sole traders affected by the coronavirus crisis. A self-employed person will be entitled to this amount, when applies for it and declares honestly the following requirements:

- He/she is a self-employed person under the pension insurance law (e.g. sole trader, self-employed farmer, author or artist, expert, interpreter, veterinarian, doctor, healthcare provider, architect, tax advisor, etc.)
- The activity performed is the main activity
- The activity performed may also be an ancillary activity if the self-employed person does not simultaneously work
- The self-employed were active as by March 12, 2020, or they may also be a self-employed whose activity was interrupted at any time after August 31, 2019 (seasonal business)
- A self-employed person declares that he/she was not able to perform this activity in whole or in part due to the health threats associated with the occurrence of coronavirus or the government emergency measures (in particular for any reason such as the need to close or restrict the establishment, the quarantine of the self-employed or his staff, the care of the child, the restriction of demand for products or services provided by the self-employed, or the restriction or termination of supplies or services necessary for the activity)

The amount of CZK 25,000 will not be subject to taxation or other levies.

2.2. NURSING FOR SELF-EMPLOYED

Self-employed persons who will not be able to work for a certain period due to measures against the spread of coronavirus infection and care for a child under 13 years of age or a disabled person at least in the 1st degree of dependence will be entitled to a benefit of CZK 424 for each day of nursing, but no more than CZK 13,144 per month. The financial contribution will be paid by the Ministry of Industry and Trade at the request of the self-employed. CZK 100 million is earmarked for support.

2.3. COVID II LOAN

This is a continuation of the COVID I Loan program. ČMZRB (the national development bank of the Czech Republic) will provide entrepreneurs (SMEs) with guarantees for commercial bank loans and contribute to the payment of interest. COVID II guaranteed loans are expected to support around 10,000 business projects worth approximately CZK 30 billion. The guarantee provided should probably cover up to 80% of the commercial loan and the applicant will also be able to draw up a financial contribution of up to CZK 1 million to pay interest. The expected duration of the guarantee will be three years. A guaranteed loan of up to CZK 15 million will be used exclusively to cover operating expenses such as wages, rent, energy, supplier-customer invoices, materials, supplies, etc.

2.4. POSTPONEMENT OF RENT FOR ENTREPRENEURS

Entrepreneurs having their business premises located in rented premises could, according to the bill, benefit from the 'postponement' of rent for the period from March 12, 2020 to June 30, 2020. If, at that time, they were in delay with the payment of the rent mainly as a result of a restriction resulting from an emergency measure in an epidemic that made it impossible or substantially hindered to carry on business, this could not be a reason for unilaterally terminating the lease. The rent due would then have to be paid by 31.12.2020.

2.5. POSTPONEMENT OF LOAN AND MORTGAGE PAYMENTS

It is proposed to suspend the repayment of loans and mortgages negotiated before 26 March 2020 for up to six months. Borrowers would have to notify the creditor that they were affected by the COVID-19 epidemic before deferring the instalments. Repayments would be postponed after the debtor has notified this intention to its creditor and declares that it is taking this action because of the negative economic impact of the coronavirus pandemic. However, he would not have to prove these reasons. The loan repayment period would be adequately extended by the period of interruption.

3. TAX MEASURES

A package of tax measures to help economic operators bridge the state of emergency. These are measures that forgive tax fixtures, administrative charges and allow tax administration a more responsive approach, namely:

- General waiver of late payment of personal and corporate income tax return and default interest until July 1, 2020 at the latest. In fact, all taxpayers are automatically allowed to file an income tax return and pay this tax without any penalty at the latest 3 months later, without having to prove the reasons related to coronavirus.
- Exemption of late payment of the penalty in all cases where the tax entity is individually excused late or delayed interest, repayment of the tax or a fine for failure to submit a coronavirus control report. Typically, this may be a disease or quarantine of accountants or other key employees whose absence made it impossible to fulfil tax liability. This measure will affect all taxes administered by bodies subordinate to the Ministry of Finance and all tax entities (individuals and entrepreneurs).
- General waiver of fines for the late submission of a control report in the amount of CZK 1,000 incurred between March 1 and July 31, 2020. Instruction was issued by the General Financial Directorate in order to be able to individually waive penalties for failure to submit a control report for the period from March 1 to July 31 if connection with coronavirus is established.
- General waiver of the administrative fee for filing an application for delay or repayment of tax, applications for remission of interest on late payment, respectively. of the amount squeezed, and the application for remission of a fine for failure to submit a control report for applications submitted by July 31, 2020.

- Forgiveness of the obligation to pay advances for health and pension insurance for self-employed persons. Sole traders and self-employed entrepreneurs who only have income from business will not have to pay monthly premiums for insurance premiums between March and August 2020. Subsequently, in the 2020 bill, their levy will be reduced by these six months, the amount of the minimum premiums.
- Exemption of the June advance on personal and corporate income tax. The June advance (i.e. the second advance for quarterly payers and the first advance for half-yearly payers) will not be paid at all.
- General waiver of a fine for late filing of a real estate property tax return or for a late payment of a real estate property tax or an advance on this tax. The waiver applies to all late tax returns with a deadline of March 31 to July 31, 2020. The real estate acquisition tax return can be filed at the latest until August 31, 2020 without penalty. At the same time, in such cases interest on late payment or interest on the retention of real estate acquisition tax will also be waived. In fact, all taxpayers will automatically be allowed to file a tax return on the acquisition of houses, flats, land, garages and the like and pay this tax up to five months later.
- Loss carry back for both natural and legal persons Income Taxes for 2020. If you report a tax loss in the 2020 tax period, you will be able to apply it in the form of an additional tax return for the 2018 and 2019 tax years. If you have reported a tax liability in these years, you will incur an overpayment, which will be returned to you by the tax administrator. However, the overpayment will be refunded only after the filing of the income tax return for the year 2020, i.e. the overpayment will be returned only in April, resp. July 2021.

4. LABOUR LAW CONTEXT

4.1. WHAT ABOUT EMPLOYEES?

- **Home office** – The employer can agree with the employee that he/she will work temporarily outside the employer's workplace, i.e. from home. It is an agreement; it is not possible to order work from home unilaterally. It is advisable to lay down detailed rules for the performance of work in the home office regime by means of an internal regulation (e.g. the period for which the employee must be available, special rules of OSH etc.).
- **Taking compensatory leave** – It is provided by the employer to the employee for the hours he/she should not work (overtime work). It shall be granted to the extent of overtime work and shall be provided no later than three months after overtime worked. Both parties must agree to the compensatory leave. Compensatory leave shall be granted if the parties have not agreed on an additional allowance instead the leave.
- **Taking unpaid leave** -- If the employee agrees, it is possible to agree on taking unpaid leave. However, unpaid leave cannot be ordered unilaterally.
- **Holiday** – The employer can unilaterally order the employee to take leave, but this must be done 14 days in advance.

- **Shifting to other work** -- If the employer cannot allocate the appropriate type of work (e.g. for downtime) while being able to allocate other type of work, it is possible to agree on such a solution. Unilateral transfer without the employee's consent is only possible if it is necessary to avert an emergency or to mitigate its immediate consequences for the necessary time, which must be interpreted rather restrictively.

If none of the above is an option, there are obstacles to work on the part of the employer with the following consequences:

- **Downtime** – A temporary defect that results in the employer not being able to assign work to the employee. In the current situation, e.g. if the employer does not receive supplies of raw materials or other materials necessary for production. Here it is possible to apply the shift to another type of work if the employee agrees. If the shift is not possible, the employee is entitled to a wage compensation of at least 80% of the average earnings.
- **Partial unemployment** – Occurs in a situation where there is a temporary reduction in the sales of the employer's products or services. This solution can be applied only if it is agreed upon in agreement with the trade union organization or regulated by an internal regulation in case of the trade union absence with the employer. Compensation of wages in case of partial unemployment is at least 60% of average earnings
- **Another obstacle to work on the part of the employer** – If neither of the above two options can be exercised, it is another obstacle in which the employee is entitled to 100% compensation.

4.2. BUSINESS SUPPORT

The Antivirus employment protection program is support for employees and employers who have been subject to government restrictions as a result of the COVID-19 epidemic. The state will, through the Labour Office of the Czech Republic, compensate employers for the funds they pay to their employees.

Antivirus includes two modes in which refunds will be paid.

4.2.1. **Mode A - Forced operation restriction and quarantine**

- For an employee who has been quarantined, (employer pays his wage compensation of 60% of the average reduced earnings for the first 14 days) the employer will receive a state contribution of 80% of the paid wage compensation, including taxes.
- Employees who cannot be assigned work due to closure of the establishment on the basis of a government order are entitled to a 100% wage compensation, while the employer will again receive a state contribution of 80% of the paid salary, including taxes.
- The contribution per employee in Mode A will not exceed CZK 39,000.

4.2.2. Mode B - Related economic difficulties (obstacles on the part of the employer due to the spread of coronavirus)

- If the employer is unable to allocate work to a larger number of employees due to quarantine or childcare, the wage compensation paid to employees will be 100%.
- If the employer is unable to allocate work due to unavailability of raw materials, products, or services necessary for its activity, it is obliged to pay compensation of min. 80% of wages.
- If the employer is unable to allocate work due to a reduction in demand for services, manufactured goods or other products, employees will still be entitled to a wage compensation of at least 60%.
- In these cases, the employer will be able to apply for a contribution of 60% of the paid wage compensation, including taxes, while the amount of the contribution per employee should again be limited to the amount of CZK 29,000.

Note: *The above information is based on information publicly available at the time of processing of this material, which may not be in many cases they are not final or binding (e.g. some of the above measures are only in the phase of government proposal or plan and have not yet been definitively approved by the competent authorities), in case of intention to use them it is necessary to verify their validity and legal obligation and their current content on the relevant date. The purpose of this text is purely informative and does not constitute legal advice or any other legal service.*