

Labor law questions and answers concerning the coronavirus



The coronavirus continues to spread in Switzerland and Liechtenstein and is increasingly causing uncertainty among employees and employers. In the following, we provide a brief overview of the most important labor law implications the virus may have.

1. Are employees allowed not to appear to work for fear of being infected?

As long as the authorities do not issue an order in this respect, employees have no right to stay at home. Failure to appear to work constitutes a so-called refusal to work, which may result in a warning or even dismissal. In addition, an employee who does not show up for work is not entitled to receive the salary. Under certain circumstances, the employer is even entitled to compensation.

2. May an employee work from home on his own initiative?

There is no general right of the employee to stay away from the workplace and work from home if there is a higher risk of infection. As long as there is no official order from the authorities, every employee must appear to work. The right to work from home only exists if the employment contract contains a corresponding provision or the employer explicitly agrees.

3. Can the employer instruct the employees to work from home?

Without a corresponding clause in the employment contract, the employer, in general, cannot demand that the employee works at a different location. In certain circumstances, however, it may be permissible to instruct employees to work from home if this is necessary to maintain the business, the employees are able to carry out their work at home and it is reasonable for them to do so.

4. The company closes temporarily. Does the employer still have to pay the salaries?

If a company closes down in whole or in part, the employer must continue to pay the salaries. If the company is closed down on official measures, employees may, exceptionally, be obliged to make up for lost working hours without additional compensation. If possible and reasonable, the employer may oblige employees to work from home. Under certain circumstances, the employer may also claim compensation for short-time work in such a case.

5. May an employer force his employees to travel to a risk area for professional reasons?

As long as the authorities do not impose travel restrictions, employees must comply with their employer's instructions. If an employee refuses to travel on business, this can be considered as an unjustified absence from work.

6. The employee wishes to travel privately to a risk area. Can the employer forbid the trip?

No. What employees do in their free time is their private matter. If the employee returns sick from vacation, the employer is generally obliged to continue to pay the salary. However, if an employee does not return to work on time from vacation, for example because flights or train connections have been cancelled or the hotel has been quarantined, he is in principle not entitled to receive his salary during this time. Moreover, any additional days of holiday taken can be deducted from the annual balance.

7. What measures must an employer take?

In accordance with its duty of care, the employer must do everything in its power to minimize the possibility of an infection, including promoting teleworking, reducing meetings to a

minimum or replacing them with teleconferencing, replacing travel abroad with video or teleconferencing, banning handshaking, etc. The measures must, of course, be adequate and must not interfere with the personal rights of employees.

Employers are currently under special pressure to take the relevant decisions and measures in connection with the coronavirus crisis. We will be happy to support you in all questions of employment law.

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