



Labor Law and the Covid-19 pandemic: Lithuanian responses

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I. INTRODUCTION

This report will outline and explain Lithuania's labor-related Covid 19 legislation. It will also analyze the effectiveness of these measures and make suggestions for possible improvements. Once again, while it is the hope of the authors that the coronavirus pandemic is a one time event that will soon be behind us, unfortunately there is no guarantee that either of these propositions will be true. Consequently, it is important to examine Lithuania's response to the pandemic in the field of labor law to determine what is and is not effective, either to make corrections while the current crisis is ongoing or to present a better model for the next crisis.

II. LITHUANIA'S LEGISLATIVE RESPONSE TO THE CORONAVIRUS PANDEMIC IN THE FIELD OF LABOR LAW AND POLICY

A. Lithuanian Labor Legislation Enacted in Response to the Pandemic

1. Proposal to Reduce Labor Law Protections for Employees during the Pandemic

At first, there was some resistance on the part of Lithuanian employers to providing additional protection to employees during the Covid 19 crisis. Rather than provide such protection, in March, 2020, the employers argued that Lithuania should actually strip away existing worker rights under Lithuanian labor law. Specifically, they proposed that the government make the following amendments to the labor code as a means to assist employers to survive the pandemic: Reduce the notice period for terminating individual employment contracts to 14 days; eliminate the requirement of paying two month's severance benefits upon terminating an employment contract (or, alternatively, to retain the severance benefits but make them payable by the state); allow employers to unilaterally change the job functions of their employees, so they could assign employees different tasks during the crisis; permit the extension of the work day to up to 12 hours and the work week to 48 hours; eliminate existing restrictions on employers signing employees to fixed-term contracts; and enable employers to unilaterally require employees to take accrued vacation time; among other proposals.¹

As expected, the Lithuanian Trade Union Federation strongly opposed the employers' suggestions. Kristina Krupavičienė, the President of the Solidarumas union, noted that the proposed reforms

¹ "Lithuanian Employers Seek Suspension of Important Labour Rights". Lithuanian Trade Union Confederation, 30 Mar. 2020, Found at: <https://www.lpsk.lt/en/2020/03/30/25040/>

would immediately cause workers to leave Lithuania and seek work elsewhere. This would be especially harmful to Lithuania during the pandemic as it would create a shortage of essential employees in the country. Moreover, eliminating severance payments and making terminations easier would add to the social and economic ills facing Lithuanian workers during the Covid crisis. The Lithuanian unions urged the government to reject the employers' proposals and instead engage in a trilateral dialogue to mutually determine what reforms might be both helpful and necessary.² In the end, the unions prevailed and the employers' ideas were not adopted. Instead, more protective labor legislation was enacted.

2. Action Taken to Protect Employment and/or Incomes, Homeworking

As noted earlier, a number of sectors of the Lithuanian economy were directly impacted by the quarantine measures taken by the government. The closure or restrictions placed on certain services and industries (especially in the restaurant and entertainment sector) would ordinarily lead to impacted businesses laying off a large percentage of their work force. Under the special Covid 19 labor legislation, impacted employers initially determined if it was possible for their employees to work remotely.³ This was somewhat of a challenge, since Lithuania had one of the lowest rates of remote work in the European Union before the pandemic. For example, in 2017, only 13% of Lithuanian employees worked remotely. Nevertheless, necessity is the proverbial mother of invention, and a number of Lithuanian employers were able to transform their operations to include remote work. For employers who made this change, a survey found that the affected employees generally were pleased with the ability to work from home. However, there was some indication of some problems with remote work that were connected to traditional gender roles. Women were now simultaneously charged with both work for their employer and with traditional childcare and housekeeping chores, and men were disturbed when they had to share in these duties at home.⁴

Of course, many types of jobs could not be performed at home or online, and in these situations the employer had the right to layoff such workers. However, the employer was obligated to keep paying laid off employees an amount equal to the Lithuanian Minimum Monthly Wage (MMW). The MMW in 2020 was 607 euros per month (gross) or 427 euros per month (net). However, the MMS could also be paid in proportion to the employee's full-time or part-time status. Thus, if an employee worked 20 hours per week in a part-time job (50% of a regular workweek of 40 hours), the employer would only have to pay a minimum of 303.50 euros per month (gross). This was the *minimum* amount that the employer was required to pay, and he was free to pay higher amounts (up to the employee's full salary) if it so desired. In addition, during the period of the layoff, the employer cannot require the employee to report to work.⁵

The government does contribute a subsidy to offset the employer's salary payments noted above. Initially, through December 31, 2020, the amount of the subsidy depended on the option selected by the employer. If the employer chose the 90% subsidy, it had to pay 10% of the employee's salary, and the state pays the other 90% up to a maximum of one MMW (607/427 euros per month). If the

² Ibid.

³ Agota Giedrė Raišienė & Violeta Rapuano & Kristina Varkulevičiūtė & Katarína Stachová, 2020. "Working from Home—Who Is Happy? A Survey of Lithuania's Employees during the COVID-19 Quarantine Period," Sustainability, MDPI, Open Access Journal, vol. 12(13), pages 1-21, July, Found at: <https://ideas.repec.org/a/gam/jsusta/v12y2020i13p5332-d379033.html>

⁴ Ibid, p.16.

⁵ *State Labour Inspectorate*, Darbo santykiai ekstremaliosios situacijos ir karantino metu, parama darbuotojams ir darbdaviams (eng: Work Relations During the time of an Extreme Situation and Quarantine, Support for Employees and Employers), (Article 47 of the Lithuanian Labour Code) Found at: www.vdi.lt/Forms/Tekstas1.aspx?Tekstai_ID=2775#K2.

employer chose the 70% option, then it had to pay 30% of the employee's salary, and the government contributes 70% up to a maximum of 1.5 MMW (910.50 euros (gross)).⁶ As of January 1, 2021, the subsidy rules were simplified. Currently, the state pays 100% of a laid off employee's salary, up to a maximum of 1.5 MMW (in 2021, the MMW was increased to 642 euro (gross), so this figure would be 953 euro (gross)). This subsidy will be provided up until one month after the quarantine rules are discontinued.⁷ Where the laid off employee has unused vacation accrued from the previous year, the employer may request that the employee use this vacation time.⁸

3. Termination/Suspension of Employment

A special provision was enacted to allow employers to suspend employees for violation of the quarantine rules during the pandemic. If an employee is subject to a quarantine/isolation because of exposure to the coronavirus, and remote work is available but the employee refuses this option, he or she may be a danger to others and may be suspended without pay during the period of the quarantine. This situation may occur, for example, where an employee returns to Lithuania from a foreign country and is subject to mandatory isolation, but refuses to work remotely during the quarantine period.⁹

4. Sick Leave/Special Rules for Healthcare Workers/Child Care

Healthcare workers receive a special sick leave benefit of 100% of their salary if they become ill due to the pandemic.¹⁰ This is an increase from the normal sick leave benefit of 65.94% of their salary (which would apply for non-healthcare workers who contracted the coronavirus, for example).¹¹

Parents who must stay home and care for their young children because of government mandated school closures, or coronavirus outbreaks at school, are also entitled to receive a sick leave benefit of 65.94% of their salary. This benefit may continue as long as necessary (and not for only 14 days, as is the case with the normal sick leave benefit), or until one month after the state ordered quarantine is discontinued.¹²

⁶ *Ministry of Social Security and Labour*, "Priimti Galutiniai Sprendimai Dėl Subsidijų Darbdaviams Ir Savarankiškai Dirbančiųjų (Pagrindiniai Žingsniai) (eng: Final Steps on the Subsidies for Employers and Those Self-Employed Have Been Approved)", (*Article 47 of the Lithuanian Labour Code*) Found at: socmin.lrv.lt/lt/naujienos/priimti-galutiniai-sprendimai-del-subsidiju-darbdaviams-ir-savarankiskai-dirbanciuju-pagrindiniai-zingsniai.

⁷ Ibid.

⁸ *State Labour Inspectorate*, Darbo santykiai ekstremaliosios situacijos ir karantino metu, parama darbuotojams ir darbdaviams (eng: Work Relations During the time of an Extreme Situation and Quarantine, Support for Employees and Employers), (*Article 126-130 of the Lithuanian Labour Code*) Found at: www.vdi.lt/Forms/Tekstas1.aspx?Tekstai_ID=2775#K2.

⁹ Ibid.

¹⁰ *State Social Insurance Fund Board under the Ministry of Social Security and Labour*, "Ligos Išmokos Skyrimas, Kai Užsikrečiama COVID-19 Vykiant Profesinės Veiklos Funkcijas" (eng: Provision of Sickness Benefits in Case of Being Sick With COVID-19 When Performing Professional Occupation Functions), Found at: www.sodra.lt/lt/situacijos/svarbi-informacija-gyventojams-covid-19/ligos-ismokos-skyrimas-kai-uzsikreciama-covid-19-vykiant-profesines-veiklos-funkcijas.

¹¹ *State Labour Inspectorate*, Darbo santykiai ekstremaliosios situacijos ir karantino metu, parama darbuotojams ir darbdaviams (eng: Work Relations During the time of an Extreme Situation and Quarantine, Support for Employees and Employers), Found at: www.vdi.lt/Forms/Tekstas1.aspx?Tekstai_ID=2775#K2.

¹² Ibid.

B. Lithuanian Unemployment and Social Benefit Legislation Enacted in Response to the Pandemic

1. Unemployment Benefits

There are two types of unemployment benefits available to individuals during the Covid pandemic. First, they may apply for regular unemployment social insurance benefits. This benefit consists of two parts: a fixed benefit, and a variable benefit, and are paid for a period of 9 months. The fixed benefit is 23.27% of the MMW. The variable benefit is based on the individual's average monthly wage. For the first three months of benefits, it is 38.79% of their average monthly wage, but then the percentage (and amount) decreases for the remaining 6 months of benefits.¹³ Second, there is a special "job seeker's" unemployment benefit available to those individuals whose regular unemployment social insurance benefits have expired or who are not otherwise eligible to receive those benefits. The job seeker's benefit is 33% of the MMW, or 212 euros, as of January, 2021. These benefits continue until one month after the quarantine period has ended.¹⁴

2. Benefits for the Self-Employed

Individuals who are self-employed but cannot work during the pandemic, because of the quarantine and the nature of their work, may also be entitled to certain benefits. Specifically, they may receive 260 euros per month up until one month after the quarantine period has ended. There are rather strict eligibility requirements, however. To be entitled for this benefit, the self-employed person (apart from being unable to work because of the conditions of the pandemic) must: 1) be formally registered as being self-employed, 2) if he or she has an employment contract, he/she cannot receive more than the MMW, and 3) if the person has incorporated his or her business as a legal entity, that entity is not bankrupt or insolvent.¹⁵

3. Benefits for those in Extreme Poverty

Individuals with income of less than 140.80 euros per month receive special assistance from the state to help with housing and utility payments. This assistance will continue for 6 months after the quarantine period has ended.¹⁶

¹³ *State Labour Inspectorate*, Darbo santykiai ekstremaliosios situacijos ir karantino metu, parama darbuotojams ir darbdaviams (eng: Work Relations During the time of an Extreme Situation and Quarantine, Support for Employees and Employers), Found at: www.vdi.lt/Forms/Tekstas1.aspx?Tekstai_ID=2775#K2; *Changes to the Lithuanian Republic Unemployment Social Insurance Act Article No. IX-1904 6, in Effect from: June 4th, 2020.*

¹⁴ *Ministry of Social Security and Labour*, "Aktualu netekusiems darbo ir pajamų: kokia valstybės pagalba priklauso 2021 metais" (eng. Relevant to Those Who Lost Their Jobs and Income: What Kind of State Support is Accessible in the Year 2021), December 23rd, 2020, Found at: <https://socmin.lrv.lt/lt/naujienos/aktualu-netekusiems-darbo-ir-pajamu-kokia-valstybes-pagalba-priklauso-2021-metais>

¹⁵ *Ministry of Social Security and Labour* "Measures to Address the Consequences of the Extreme Situation and Quarantine Declared by the Government of the Republic of Lithuania Due to the Threat of the Spread of the Coronavirus (COVID-19).", Found at: socmin.lrv.lt/en/activities/labour-and-employment/employment-and-labour-market/measures-to-address-the-consequences-of-the-extreme-situation-and-quarantine-declared-by-the-government-of-the-republic-of-lithuania-due-to-the-threat-of-the-spread-of-the-coronavirus-covid-19. *Changes to the Lithuanian Republic Employment Law No. XII-2470, Supplement to the Article 5¹ and Articles 24, 25, 35, 37, 41, 42, 44, In effect from March 17th, 2020.*

¹⁶ *Ministry of Social Security and Labour*, "Aktualu netekusiems darbo ir pajamų: kokia valstybės pagalba priklauso 2021 metais" (eng. Relevant to Those Who Lost Their Jobs and Income: What Kind of State Support is Accessible in the Year 2021), December 23rd, 2020, Found at: <https://socmin.lrv.lt/lt/naujienos/aktualu-netekusiems-darbo-ir-pajamu-kokia-valstybes-pagalba-priklauso-2021-metais>, *Changes to the Lithuanian Republic Law on Social Support for Those in Extreme Poverty Law Nr. IX-1675, Articles 3, 6, 7, 9, 10, 11, 15, 17, 21 and 23, In effect from May 7th, 2020.*

III. EVALUATION OF LITHUANIA'S RESPONSE

In general, Lithuania's response to the coronavirus pandemic in the field of labor and social legislation was well thought out and effective. While Lithuania did not have a long tradition of homeworking or remote working, the necessary legislation was in place and the shift to remote work during the pandemic was (where possible) effective. The new legislation on layoffs and government subsidies to pay most of the wages of laid off workers had its intended effect of preserving jobs. Moreover, the existence of a modest self-employment benefit recognizes the new economic reality that more and more work is performed by people other than employees. The extended sick leave benefits for parents caring for children (whose schools have been closed due to the pandemic) and for healthcare workers also effectively addressed the special conditions that these workers faced.

There are some criticisms, however. The layoff wage subsidy, as originally enacted, was a little confusing and unwieldy. Employers had to make contributions to their employees' wages (10 to 30%) in order to receive the government subsidy, which varied from 1 to 1.5 of the MMW, which was sometimes difficult for the employer to do given the poor economic conditions. The revisions to the subsidy legislation, simplifying the rule by making the state responsible for 100% of the employee's salary to a maximum of 1.5 MMW, were a welcome improvement. More broadly, the other main criticism would be over the amount of the benefits. Even a wage subsidy of 1.5 of the MMW is under 1000 euros per month. For self-employed people, a benefit of 260 euros is especially small. Likewise, unemployment benefits are also quite low. The problem is amplified where employers give employees a labor contract with an artificially low salary, and pay the rest of their salary "under the table" in order to avoid taxes. As unemployment and other benefits are based on the employees' official salary, this can result in lower benefit payments during the pandemic. Similarly, many self-employed individuals may not officially register their businesses and therefore are not eligible even for the modest 260 euro per month benefit.

IV. CONCLUSIONS

Lithuania enacted effective labor and social legislation in response to the economic effects of the coronavirus pandemic. The government's decision to reject proposals to weaken Lithuanian labor law was the correct one. The laws on layoffs and wage subsidies helped preserve jobs and maintain basic living standards for many workers. On the other hand, the wage subsidy provisions were initially overly complex and somewhat of a burden on employers. Practices of underreporting actual wages also hurt employees and self-employed individuals, where benefits were provided based on their official, reported income.

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