

IMPLICATIONS OF THE COVID-19 AT THE WORKPLACE

Gabon

CORONAVIRUS AND COVID-19

Coronaviruses are a large family of viruses which may cause illness in animals or humans. In humans, several coronaviruses are known to cause respiratory infections ranging from the common cold to more severe diseases such as Middle East Respiratory Syndrome (MERS) and Severe Acute Respiratory Syndrome (SARS).

COVID-19 is the infectious disease caused by the most recently discovered coronavirus. This new virus and disease were unknown before the outbreak began in Wuhan, China, in December 2019. This disease was recently declared as a pandemic by the World Health Organization.

Pursuant to the most recent information, the number of infected people worldwide amounts to 354,677, with cases reported in 170 countries. From the total infected population, more than 100,000 persons have been declared fully recovered.

Five (5) COVID-19 cases were reported in Gabon and the government has been gradually taken precautionary measures to prevent the disease from spreading: (i) Cancellation of all national and international flights; (ii) closing of all schools, universities and day care centers; (iii) closing of bars and night clubs; (iv) Prohibition to hold meetings of more than 30 people; (v) cancellation of all events; (vi) Non-essential displacements not allowed; (v) restricted use of public transport only for essential displacements; (vi) curfew from 19:30 to 06:00.

With respect to court proceedings, through Circular Note no. 002/MJGS/SG of 16 March 2020, the Minister of Justice has suspended all court hearings until 30 March 2020, with the exception of urgent civil proceedings. He has also suspended the handing down of all decisions until said date.

MESURES TAKEN BY THE MINISTRY OF EMPLOYMENT

On 20 March 2020, the Ministry of Employment, Public Administration, Labor and Professional Training, in charge of Labor Relations issued a press release calling upon all employers and workers to scrupulous comply with the measures edicted by the Government to prevent and combat the spread of the COVID-19 pandemic. The Minister has recommended:

- Raising awareness among staff representatives and union delegates about the rules for preventing the spread of the COVID pandemic and requiring them to inform employees of these rules;
- Requiring employers and employees to call the free hotline (1410) to report anyone with flu-like symptoms (fever, cough, sneezing, shortness of breath);
- Limiting operations to activities necessary for the proper functioning of companies and the country's economy;
- Cancelling to the extent possible all meetings, symposia and workshops of more than 10 people;
- Setting up part-time work and work-from-home shifts, adapted to the specificity of each sector;
- Reducing and regulating employee flows within companies;
- Supervising and regulating the working hours of vulnerable, handicapped or sick employees' pathology;
- Supervising and regulating the work of pregnant women;
- Limiting technical redundancy measures to strongly-impacted companies subject to the authorization of the Labor Inspector in accordance with the rules of the Labor Code.

RIGHT TO A SAFE WORK ENVIRONMENT

In addition to the Ministry of Employment's recommendations, the Labor Code (Law no. 3/94, of 21 November 1994 as amended by Law no. 12/2000, of 12 October 2000, Ordinance no. 18/2010, of 25 February 2010 and Law no. 21/2010, of 27 July 2010) mandates that all employers must adopt and strictly enforce measures on safety, health and hygiene at work.

The HSE measures entail that employers must be particularly alerted to risk assessments and any factor related to infection and contamination of the work environment. In the context of the COVID-19 outbreak, companies should thus consider:

- circulating information on COVID-19 symptoms, the actions aimed at preventing the spread of the disease, especially related to good hygiene practices and provide any necessary equipment to facilitate this, such as hand sanitizers and masks;
- increase routine cleanings, particularly in high-traffic or common areas, spacing workstations, increase remote-work capabilities and modify visitor policies;
- the existence of isolation rooms in the facilities to the extent possible;
- the definition of procedures to inform the health authorities and employee's families should be implemented, so as to allow for the application of all public health actions and provide for the best care possible; and,
- request employees to provide company with information if they have traveled to infected areas/countries and in that case should remain at home for a 14-day period.

MAIN IMPLICATIONS OF THE COVID-19 OUTBREAK IN THE EMPLOYMENT RELATIONSHIPS

The labor laws do not have a particular provision on the implications of public health measures on the workplace. However, this topic is indirectly regulated in multiple Labor Code's provisions that entail a large set of implications of the COVID-19 outbreak in the employment relationships:

- **Sick Leaves** – The immediate implication of the infectious disease caused by COVID-19 is the need for the infected employees to go on sick leave. The Labor Code here provides for different rules for the temporary suspension of the employment contract. The implications are at the level of potential loss of salary and employer's duty to continue to remunerate the sick employee, duration of the leave and possibility to terminate the employment relationship. This will depend on whether the infection by the COVID-19 occurs due to or during work, or after working hours.
- **Family Leave** – COVID-19 may entail the need for an employee to render assistance to infected close family members or under age children. The implications here are also at the level of period the leave and the potential loss of salary.
- **Remote work or Teleworking** – Despite the total silence of the Labor Code on remote working, the implementation of this work scheme is possible either as a result of employer's unilateral decision or through company's internal policies. The use of work tools, attendance and compliance with working time limits and overtime legislation needs to be regulated in order to accommodate the Labor Code's provision on each topic and the general silence on telework.
- **Suspension of the Employment Relationships** – The Labor Code sets out that employment contracts may be suspended by the employers due to technical reasons or an economic crisis. In addition, the Labor Code also states that work may not be performed in case of force majeure defined as wars, floods, famines, epidemics, epizootics, invasions of animals, insects or parasites harmful and, in general, all circumstances endangered or likely to endanger life or normal conditions of existence of all or part of population. The implementation of the suspension requires compliance with a statutory procedure before the Labor Inspector and the relevant employees.
- **Redundancies** – The last resort mechanism under the Labor Code is the formal redundancy of the employees should it is concluded that the hindrance of company's operations and/or the performance of work by employees entails the loss of work positions. Employers are authorized to make all or part of their employees redundant pursuant to a specific procedure before the Labor Inspector for either individual redundancies or collective dismissals (more than 1 employee) and payment of a severance compensation.

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