



EY Law - Return to Office tracker

COVID-19: Labor and employment
law requirements and considerations

08 March 2022



Building a better
working world

Important notes

- ▶ This document provides a snapshot of the legal requirements around the world for employers formulating policies.
- ▶ This document is updated on an ongoing basis but should not be relied upon as legal advice. It is designed to support conversations about policies that have been proposed or implemented in key jurisdictions.
- ▶ In addition, not all jurisdictions are reflected in this document.
- ▶ You should consult with your local EY Law team to check for the latest developments.

The latest update to our Return to Office Tracker finds the world still grappling with the effects of the COVID-19 pandemic. With jurisdictions now varying in responses unlike ever before, key reputational, strategic and human resources questions must be answered about whether the organization can ask all, some or certain employees to resume working from the office or on official business premises.

Collected and consolidated by our labor law professionals from more than 50 jurisdictions, the *COVID-19: return to office – legal requirements and considerations* tracker captures answers to questions regarding the existing legal framework for returning to the office, protocols regarding mandatory vaccination, how employers must prepare the workplace and other relevant considerations. It is designed to help organizations in their decision-making at this critical time.

Given the dynamic nature of this topic, our local labor and employment law [professionals in your jurisdiction](#) are available to discuss your specific queries. We will continue to update this document as further information comes to light.

With best wishes,



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EY teams have developed related trackers on this topic, including:

- ▶ [Immigration](#)
- ▶ [Mobility](#)
- ▶ [Labor and employment](#)

58 Jurisdictions

<u>Albania</u>	<u>Brazil</u>	<u>El Salvador</u>	<u>Honduras</u>
<u>Argentina</u>	<u>Bulgaria</u>	<u>Estonia</u>	<u>Hong Kong</u>
<u>Australia</u>	<u>Colombia</u>	<u>Finland</u>	<u>Hungary</u>
<u>Austria</u>	<u>Costa Rica</u>	<u>France</u>	<u>India</u>
<u>Azerbaijan</u>	<u>Cyprus</u>	<u>Georgia</u>	<u>Indonesia</u>
<u>Belarus</u>	<u>Czech Republic</u>	<u>Germany</u>	<u>Ireland</u>
<u>Belgium</u>	<u>Denmark</u>	<u>Greece</u>	<u>Italy</u>
<u>Bosnia and Herzegovina</u>	<u>Dominican Republic</u>	<u>Guatemala</u>	<u>Japan</u>

58 Jurisdictions

<u>Kazakhstan</u>	<u>Paraguay</u>	<u>Slovenia</u>	<u>Ukraine</u>
<u>Latvia</u>	<u>Peru</u>	<u>Spain</u>	<u>Vietnam</u>
<u>Luxembourg</u>	<u>Poland</u>	<u>Sweden</u>	
<u>Mexico</u>	<u>Portugal</u>	<u>Switzerland</u>	
<u>The Netherlands</u>	<u>Romania</u>	<u>Taiwan</u>	
<u>Nicaragua</u>	<u>Serbia</u>	<u>Turkey</u>	
<u>North Macedonia</u>	<u>Singapore</u>	<u>United Arab Emirates</u>	
<u>Norway</u>	<u>Slovakia</u>	<u>United Kingdom</u>	

Question



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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>As per the Legislation, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. In this respect, the Ministry of Health has adopted a guideline that classifies businesses into three categories:</p> <ul style="list-style-type: none">► Low risk► Medium risk► High-risk <p>According to the risk that each business presents, it is subject to the requirements included in the respective protocol that the Albanian Government has adopted (green protocol for low-risk businesses, yellow protocol for medium-risk businesses and red protocol for high-risk businesses). The employer has an obligation, among others, to ensure ventilation and disinfection three to five times a day (the frequency depends on the level of the risk), perform temperature checks, inform the competent state authorities if an employee shows clinical signs, and ensure access to soap, water, alcohol-based sanitizer with at least 60% alcohol, and disposable paper towels or towels.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace contractually is set to the office location of the employer, can be contractually required to work from this location. As such, in a case when an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No.</p> <p>There are no other legal limitations for private spaces, except for the obligation of employees to maintain a distance of two meters from other employees. The number of people allowed to participate in public gatherings, however, has temporarily been limited due to the COVID-19 pandemic.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>In order to ensure the health and safety of employees, the employer must request that such measures are put in place.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>For the health and safety of the employees, the employer can request that such measures are put in place. It is important, however, that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>The employer is responsible for providing a safe and healthy working environment by law; adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected or are at risk of being infected. This applies according to the duty of good faith, which forms part of the employment relationship.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? Contd.	<p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, e.g., contact tracing, then this can be communicated to such larger group of people.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>It depends on the sector in which the organization operates.</p> <p>According to Order 413/2021 of the Ministry of Health and Social Protection "On adoption of measures to prevent COVID-19 infection, for the staff of the educational institutions and students", commencing on 27 September 2021, employees of educational institutions are required to submit a COVID-19 vaccination certificate. Alternatively, employees have the option to submit weekly negative PCR test results.</p> <p>As per the Order of the Ministry of Health and Social Protection 561/2022 "On adoption of measures to prevent COVID-19 Infection, for public administration employees, employees of supermarkets and shopping centers", commencing on 4 January 2022, employees working in the public administration sector, in supermarkets and shopping centers are required to submit a COVID-19 vaccination certificate. Alternatively, employees have the option to submit weekly negative PCR test results.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>Mandatory vaccination only applies to the following sectors:</p> <p>Public sector: Public administration and educational institutions</p> <p>Private sector: Supermarkets and shopping centers</p>

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>It depends on the sector in which the organization operates.</p> <p>If the employer operates in one of the sectors covered by Order 431/2021 or Order 561/2022, the employer is entitled to request a COVID-19 vaccination certificate or a recovery certificate from the candidate.</p> <p>However, the candidate may undertake to submit a regular negative PCR test result as per the frequency mandated by the current legislation.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Please refer to comments provided in Q6(b).</p>
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. Rather, the return should be phased in, where each employee is, e.g., allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective Bargaining Agreements (CBAs). This means implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p>

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

An employer has the obligation to continuously evaluate the work environment and act on the potential risks. The COVID-19 pandemic is an obvious risk for many businesses. Accordingly, appropriate occupational health and safety measures must be taken, such as providing disinfectants as well as technical alternatives to physical meetings (e.g., video conferencing).

On 11 August 2020, the “Recommendations guide for a responsible gradual return to work” was published in the Official Bulletin Ruling No. 16/2020 from the Argentine Workers’ Compensation Insurance Regulatory Agency (Superintendencia de Riesgos del Trabajo or SRT). This bulletin was not aimed at higher risk sectors, such as healthcare.

It establishes that the environmental health and safety measures of each employer should not be limited to adoption of the recommendations detailed in the bulletin, which may be supplemented with measures deemed pertinent to the particularities of the processes involved in the tasks carried out in each establishment.

On 21 May 2021, via Official Bulletin Ruling No. 30/2021, the SRT updated the recommendations and preventive measures for workplaces.

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

For employees located in provinces and cities which have implemented a “COVID-19 health pass”, if they work in customer service roles, they will be obliged to obtain such a pass.

The Joint Resolution 460/2021 of the Province of Buenos Aires states the following:

- ▶ The effective date for introduction of the pass is 21 December 2021 (In the Province of Buenos Aires).
- ▶ The pass will be required in a number of situations, including for employees who perform customer service tasks.
- ▶ The pass may be evidenced via the mobile applications VacunatePBA or MiArgentina, or a vaccination certificate.

The Chief of the Cabinet of Ministers and the Ministry of Health of the Province of Buenos Aires issued Joint Resolution 1/2022 that established the following guidelines regarding employees who perform customer service tasks in public or private entities:

- ▶ Employees who perform customer service tasks in closed places must have at least two doses of the COVID-19 vaccine.
- ▶ Employees may be exempted when for medical reasons they cannot be vaccinated, verified by presenting the corresponding medical certificate.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?(contd.)	<ul style="list-style-type: none">▶ In the event that the employees express their refusal to receive the vaccination against COVID-19, or when for medical reasons they cannot be vaccinated, the employers could modify the form or modality of their tasks in order to reduce the possible risks of disease, contagion and spread by employees and the general public.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Employees can be required to return to the office if the employer's activity has been authorized by the authorities. However, workers considered to be at "high-risk" are exempt from the duty to attend the workplace. These include:</p> <ul style="list-style-type: none">▶ People over 60 years of age▶ Pregnant women▶ Others defined as such by the Health Ministry <p>Workers whose presence at home is essential for care of children or adolescents are also exempt. (Resolution of the Ministry of Labor, Employment and Social Security of the Nation 207/2020, extended by Resolution 296/2020, and Resolution 60/2021)</p> <p>However, via Resolution 4/2021, published in the Official Bulletin on 9 April 2021, employers may call for the return to the workplace, including:</p> <ul style="list-style-type: none">▶ Workers who were exempt from providing services as mentioned above▶ Workers who have obtained a vaccination, except for patients with oncological issues, immune deficiencies and who are post-transplant

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2	Are there any statutory limitations with respect to returning to office (e.g., statutory limits of number of people allowed in the same location at the same time)?	<p>No.</p> <p>However, employers must guarantee safe distances between people (at least two meters) and must avoid overcrowding at the workplace.</p> <p>Customer service workers are obliged to maintain a distance from each other at the workplace of at least two meters.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>The employer should introduce measures to safeguard the health and safety of employees and such measures may be enacted by introducing new policies.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>According to the SRT bulletin, it is recommended to carry out thermal screening prior to entering the workplace.</p>

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5	Upon returning to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>According to the SRT bulletin, prior to returning to the office, workers must complete a one-time COVID-19 security questionnaire as an affidavit. It is necessary for the employer to establish the questions to be asked in advance and make the questionnaire available to workers.</p> <p>The employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer, and the employee must reveal this information in accordance with the underlying duty of good faith, which forms part of the employment.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. Article 19 of the National Constitution says that no one is obliged to do what the law does not mandate. However, Joint Resolution 4 / 2021 established that workers who have the possibility of accessing vaccination and choose not to be vaccinated must act in “good faith” and carry out everything in their power to “alleviate the damages that their decision may give rise to the employers”.</p> <p>For customer service workers: Please refer to comments provided in Q1(a).</p> <ul style="list-style-type: none">▶ Those employees who express a refusal to receive the COVID-19 vaccine, and who cannot not be assigned tasks other than customer service, must carry out a weekly PCR test, with a negative result, in order to continue working. <p>In the event, and for the purpose of avoid possible responsibilities, the employers will send a communication to the Ministry of Health detailing the reasons expressed by the employee and the circumstances that make it impossible to assign tasks other than customer service.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses? (Contd.)	Likewise, it has been established as a transitory measure until 28 February 2022, that employees who provide customer service tasks, in public or private entities in closed places, obtained a vaccine with one dose, and who did not manage to reach the minimum interval of time that must exist between doses to complete the vaccination schedules, will be able to access the activities as long as six weeks have not passed since the date of the first dose.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Private sector : Joint Resolution 4 / 2021– established that workers who have the possibility of accessing vaccination and choose not to be vaccinated must act in “good faith” and carry out everything in their power to “alleviate the damages that their decision may give rise to the employers ”.

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, as currently getting vaccinated is not mandatory.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. Private sector: there is currently a "grey" zone regarding people who do not want to get vaccinated and, therefore, cannot be obligated to assist to a working space. This would not apply for those jobs which can be performed remotely.

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

According to the SRT bulletin, some of the measures which may be introduced include:

- ▶ The reinstatement of personnel must be gradual, with a minimum number of people defined for each area in the workplace
- ▶ For the selection of workers who are going to restart activities, prioritization may be given to those who can commute by their own means
- ▶ Establish staggered entry and exit timings to avoid overcrowding at the workplace
- ▶ Arrange a specific place (at the entrance to the establishment) for people to clean their hands, footwear and personal items (e.g., wallets, backpacks and bags) before entering the workplace and repeating the operation upon leaving the establishment
- ▶ Sanitize and disinfect the entire workplace before, during and at the end of the work day
- ▶ Stagger meal shifts as much as possible, maintaining the minimum established distance, or create or adapt other spaces to function as a dining room to maintain distance between employees
- ▶ Discourage the use of shared appliances (e.g., microwave, kettle, refrigerator and water dispenser)
- ▶ Limit entry to changing rooms and dining rooms in batches, in order to avoid overcrowding of personnel while maintaining the minimum recommended distance

Employers and unions will be responsible for the dissemination of the guidance provided in the SRT bulletin through regular training and communication. However, this bulletin constitutes the minimum standard which may be complemented by additional and specific measures that are pertinent, taking into the account the particularities of each workplace and specificity of the processes undertaken. Labor unions and employers must work together to establish particular protocols, policies and procedures.

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

Some of the key issues are:

- ▶ Premises may be required to create and comply with COVID-19 safety plans (e.g., New South Wales and Victoria). For examples, please refer to the link: <https://www.nsw.gov.au/COVID-19/COVID-safe-businesses#industries>
- ▶ Employers must be flexible to respond when “snap lockdowns” or stricter measures that impact the workplace are introduced by the authorities. Public health orders can be changed daily in response to new outbreaks, and may require employers to allow employees who are capable of working remotely to do so (e.g., employees in Victoria and New South Wales are currently encouraged to work remotely if they can, but offices remain open. Workers in certain industries who cannot work remotely and it is necessary for continuity of operations are able to return to work, but they must be fully vaccinated.
- ▶ Face mask requirements differ between Australian states and territories. For example, in Victoria, the current requirement is that face masks are required to be worn in all indoor settings and at all times when in workplaces and it is encouraged to be worn when outside where employees cannot maintain one-and-a-half meter distance from one another. Face masks must always be carried when leaving home, except with a lawful excuse. Face masks are mandatory on public transport.

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1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work. However, before an employer takes any such disciplinary action, employers should consider whether this may constitute discrimination or adverse action under Australia's discrimination and general protections laws. Any such action should be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.

As per comments provided in Q1(a), public health orders may require employers to allow employees who are capable of working remotely to do so (e.g., New South Wales and Victoria). Employers are also required to make reasonable adjustments up to the point of unjustifiable hardship to accommodate an employee with a disability (including a disease or illness that may exist in the future).

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2

Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

There are some statutory limitations regarding the number of people allowed on premises, which impacts employees returning to the office. For example, under the public health orders, depending on jurisdiction, occupiers of premises must generally follow a four square meter rule (i.e., one person per four square meters), which helps to determine the maximum number of people who can be on a premises at one time.

In some types of businesses and organizations, it is mandatory to have a comprehensive COVID-19 safety plan in place and be registered as “COVID Safe.” In New South Wales, COVID-19 safety plans include comprehensive checklists designed by the New South Wales health ministry and approved by the Chief Health Officer. Physical distancing is also recommended to reduce the spread of COVID-19. Some workers (e.g., in Victoria) are required to check-in using a government application to support timely and efficient contact tracing, should it be required.

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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes.

Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. This may also be required under public health orders (e.g., in Victoria) as per the comments referred to in Q1(a).

4

Can employees be required to take a temperature test when entering the office?

Yes.

Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.

The employer is responsible for providing a safe and healthy working environment and to adequately monitor the work environment for employees, which may involve requiring an employee to take a temperature test in order to enter the workplace. Adequate actions need to be taken to safeguard individuals from infection at the workplace.

It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Despite the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question may be raised by the employer, and the employee must reveal this information in accordance with the underlying duty of good faith, which forms part of the employment. Employees also have duties to co-workers under workplace health and safety legislation. As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation of employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Individual information regarding illness must always be handled carefully and in accordance with privacy laws.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>It depends on the state and the sector in which the organization operates.</p> <p>If an employee refuses to obtain a vaccine, and the vaccination is a requirement of their work, it may impact on their employment and may be legally regarded as a refusal to work. However, before an employer takes any such disciplinary action, it should consider whether this may constitute discrimination or adverse action under Australia's discrimination and general protections laws. Any such action should be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>An employer is responsible by law for providing a safe and healthy working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. This may include mandating vaccination requirements for employees to be fully vaccinated in order to enter the workplace where it is lawful and reasonable to do so. Adequate actions need to be taken to safeguard individuals from infection at the workplace.</p>

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6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses? (contd.)

An employer has a duty under the work health and safety (WHS) law to ensure, so far as reasonably practicable, the health and safety of workers and others (e.g., clients) at the workplace. The WHS laws may slightly vary in the different jurisdictions in Australia, however, should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.

In the state of Victoria, for example, employees in all industries are required to provide evidence to their employer that they have obtained a vaccine or show proof of a valid medical exemption. If an employee cannot provide their employer with such evidence, then their employer cannot permit the employee to enter the workplace. A “workplace” is anywhere a person is required to work outside of their home. If they are unable to attend work, or it impacts on the employee being able to adequately carry out their job, it may affect their employment and their requirements under their employment contract.

For example, it is mandatory in certain industries for employees to have obtained all appropriate doses of the COVID-19 vaccine in order to continue working at the workplace:

- ▶ Healthcare
- ▶ Construction
- ▶ Emergency services
- ▶ Aged care
- ▶ Disability services
- ▶ Custodial services
- ▶ Meat and seafood processing
- ▶ Quarantine accommodation
- ▶ Food distribution

Question

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6(b) Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference

No, the position on mandatory vaccination does not significantly differ between public and private sector organizations but it may differ between certain industries and states.

Please refer to comments provided in Q6(a).

- ▶ South Australia - workers in similar industries (e.g., healthcare) must follow public health directions for all local workers to have obtained one dose or two doses of the COVID-19 vaccine, or provide proof that a booking has been made to receive a second dose, and within four weeks of a second dose, can provide evidence of a booking for a third dose (booster).
- ▶ Queensland - workers in some industries in 'high risk settings' must have obtained all appropriate doses of the vaccine prior to entering the workplace

Although jurisdictions may vary, if employees work remotely, they only need to show proof of vaccination/ medical exemption when visiting their workplace. If employees continue to work remotely, they are not required to obtain a vaccination.

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Yes. Employers have the ultimate responsibility to provide a safe and healthy working environment, including the health and safety of employees, and all persons who enter their workplace, which may include that having had a vaccine is a condition of employment for all persons - the same will apply to new recruits.</p> <p>It is, however, important that these requirements are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.</p> <p>Please refer to comments provided in Q6(a).</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Please refer to comments provided in Q6(a) and Q7(b).</p> <p>It does not necessarily differ between public and private sector organizations, but it will differ between industries and states.</p>

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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

In addition to matters set out in the preceding responses, it may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

In some jurisdictions that previously implement remote working public safety orders, employees have been able to return to the office with physical distancing conditions in force. Employers must manage employee well-being in compliance with laws, regulations and applicable health orders. This has meant implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people gathering in small spaces. Prior to employees returning to the office, employers have had to assess the possibilities of the return to work and prepare the workplace for such a return.

In other jurisdictions, such as Victoria, the current direction regarding a return to the workplace is, if an industry can work remotely, they should do so.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>Arising from the duty of care, an employer is responsible for the working environment, including the health and safety of employees. An employer must therefore regularly follow up and assess employees' working environment to mitigate risk factors. Since COVID-19 is an obvious risk factor, appropriate occupational health and safety measures must be taken (e.g., providing disinfectants and technical alternatives to physical meetings).</p> <p>According to the 6. COVID-19 Protective Measures Regulation (6. COVID-19 <i>Schutzmaßnahmenverordnung</i>, "COVID-19 Regulation") employees and employers may only enter the workplace (where physical contact with other persons cannot be avoided) if they can provide the "3G certificate", which shows that they have either obtained a vaccine, recovered from COVID-19, or demonstrated a negative PCR test result. If employees cannot provide a 3G certificate, they may be released from work and may lose their entitlement to remuneration.</p> <p>In addition, with respect to the COVID-19 Regulation, employers with more than 51 employees must nominate a COVID-19 officer and a COVID-19 prevention plan must be established and implemented.</p>	
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace is contractually set to the office location of the employer is contractually required to work from this location if it is requested by the employer. If the employee opposes coming to the workplace (and no remote working agreement has been concluded), an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. Please note that special rules apply for pregnant employees and employees in other high-risk groups.</p> <p>However, in light of the fluctuations in COVID-19 diagnoses in the community, the government strongly recommends employers enter into remote working agreements to reduce the risk of COVID-19 spread at the workplace.</p>	

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	Question	Response
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>In addition to the obligation to provide a 3G certificate, a face mask must be worn in closed rooms, unless the risk of infection can be minimized by suitable protective measures (e.g., formation of fixed teams, installation of plexiglass walls, only single offices per room). A distance of at least two meters must be maintained between employees at the workplace. If the distance of at least two meters between persons cannot be maintained due to the nature of the professional activity, the risk of infection must be minimized by other suitable protective measures. It is, however, generally recommended that work is carried out remotely. Please refer to comments provided in Q(1b).</p> <p>Further special rules exist, for example, for employees with direct customer contact e.g., in customer areas, and for certain industries such as hospitality.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>According to the COVID-19 Regulation, a face mask must be worn in closed rooms in general, unless the risk of infection can be minimized by suitable protective measures. In certain cases, face masks are mandatory (e.g., in customer areas of business premises).</p>
4	Can employees be required to take a temperature test when entering the office?	<p>From a data protection point of view, compulsory temperature measurement is inadmissible if there are less severe measures available to assess the state of health of the employee (e.g., by interviewing the person). If the employee agrees, temperature measurement is possible. Data protection obligations must be considered if medical data is processed.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Due to the duty of loyalty, the employee is obliged to report a COVID-19 infection to the employer immediately. It can be argued that the same applies if a person in the employee's household is diagnosed with COVID-19.</p>

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6(a)	Can an employer mandate employees vaccine and dismiss an employee who refuses?	<p>No. The employer cannot mandate vaccination for their employees. If the employee provides a 3G certificate, they may enter the work place.</p> <p>If an employee faces termination due to a refusal to obtain a vaccine, there is a risk that the employee may successfully challenge the termination.</p> <p>According to the COVID-19 Mandatory Vaccination Act (<i>COVID-19 Impfpflichtgesetz</i>), mandatory vaccination shall be effective as of the beginning of February 2022. The upcoming Act shall not apply to:</p> <ul style="list-style-type: none">► Children and adolescents under 18 years of age► Pregnant women, for the duration of the pregnancy► Persons who cannot be vaccinated without risk to life or health, or who cannot be successfully immunized for medical reasons► Individuals who have recovered from COVID-19, provided that at least 180 days have elapsed from the date of the initial positive test result <p>Regarding employment law aspects, the COVID-19 Mandatory Vaccination Act does not contain any explicit provisions on potential termination of employment.</p>	
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.	

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes, in general under local labor law, employers retain a broad discretion when it comes to recruitment.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>Once back in the office, the employer needs to continuously evaluate the work environment and act on potential risks, which includes observing possible changes of laws and regulations. This could mean implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. It may further not be suitable for all employees to return to work at the same time.</p> <p>The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace. Assessing the possibilities to return to work and preparing the organization for such a return might also involve the appointment of safety representatives.</p>

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>An employer is responsible by law, for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.</p> <p>In terms of COVID-19, an employer should consider mandatory hygiene measures such as social distancing and availability of hand sanitizer.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>An employee may ask for, or require from, the employer the establishment of a bio-secure workplace, including the mandatory hygiene measures.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No. However, the social distancing rules and mandatory hygiene measures should be followed.</p>

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	Question	Response
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. Where the General Data Protection Regulation (GDPR) applies for Azerbaijani entities, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? Contd.	<p>To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.</p> <p>Individual information regarding sickness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>	
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. However, the Government introduced the requirement to obtain, by 1 February 2022, a certificate of:</p> <ul style="list-style-type: none">► At least double dose of vaccination against COVID-19► Immunity against COVID-19► Proof of a reaction to the COVID-19 vaccine <p>The certificate is required by all the employees of :</p> <ul style="list-style-type: none">► State bodies and organizations► Medical and pharmaceutical enterprises, scientific and educational institutions (regardless of the form of ownership)► Enterprises operating in the areas like utilities, transport, logistics, communication, trade and catering, financial services and other <p>Furthermore, the booster dose becomes mandatory after six months from second dose.</p>	

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6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No. However, exemption from the vaccine is subject to strict medical conditions and an employee should have a certificate of:</p> <ul style="list-style-type: none">► At least double dose of vaccination against COVID-19► Immunity against COVID-19► Proof of a reaction to the COVID-19 vaccine
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee wellbeing in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p>

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	Question	Response
1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	In Belarus there are methodological guidelines for the prevention of COVID-19 at the workplace, developed by the Ministry of Health, which contain steps for measuring body temperature, cleaning the premises, providing workers with protective equipment in offices and more. But these guidelines serve only as advice. Therefore, employers can decide on their own whether they will comply with such measures.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	If an employee opposes coming to the office, it can legally be regarded as absence from work, which may lead to dismissal.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no such legal limitations.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	No. There is no legal regulation in regard to this situation.
4	Can employees be required to take a temperature test when entering the office?	No. There is no legal regulation in regard to this situation.

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>If an employee is diagnosed with COVID-19, a doctor must issue a sick leave certificate. The employee is then obliged to remain self-isolated for the duration of the illness and to inform the employer.</p> <p>Employees are not obliged to inform their employer about being in close contact with someone who has been diagnosed with COVID-19.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, there is no legislative obligation for mandatory vaccination.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, there is no legislative obligation for mandatory vaccination.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	There are no other aspects that should be considered from a legal and regulatory perspective when planning for a return to office.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>By law, employers have a duty of care for their employees. This implies that an employer must apply the necessary preventative measures to mitigate the risk of spread of COVID-19. The Committee for Prevention and Protection at Work (in the absence thereof, the trade union delegate or employees directly) should be consulted on risk assessments of the work environment.</p> <p>From 20 November 2021, remote working is again mandatory for all businesses as it was previously from 2 November 2020 to 26 June 2021. If remote working is not possible because of the employee's role, the continuity of the business, the activities or the delivery of services by the business, then a certificate from the employer or other evidence confirming the need for presence at the workplace is required to permit employees to travel to the workplace.</p> <p>The <i>Contrôle des Lois Sociales/Toezicht Sociale Wetten</i> is responsible for monitoring compliance with these measures.</p> <p>The compliance control measures includes an obligation for the employer to register monthly with the National Office of Social Security the total number of employees and the number for whom remote working is not possible due to their work activities.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>In principle, there is no legal right for the employee to remain off-site.</p>

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Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

Yes. From 20 November 2021, remote working is again mandatory.

Employers are permitted to schedule limited returns to the workplace in the following circumstances:

- ▶ An employee can only return to the workplace once a week and only on the designated day
- ▶ Only 20% of employees for whom remote working is mandatory are permitted to attend the workplace
- ▶ The employee has to agree to return to the workplace
- ▶ An employer's obligations for ensuring a safe return to the workplace include the following measures:
 - ▶ The employer must provide the employee with the necessary instructions in advance to ensure a safe return to the workplace
 - ▶ The aim of the return must be to improve both the psychosocial wellbeing of the employees and their team spirit (but no team building activities are permitted)
 - ▶ The employer cannot impose any consequences of return or non-return on employees
 - ▶ Commuting by public transport during rush hour, as well as carpooling, should be avoided to the extent possible
 - ▶ The decision to organize a return to the workplace must be taken in accordance with the applicable rules

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes.
4	Can employees be required to take a temperature test when entering the office?	<p>In principle, an employer is not allowed to measure the temperature of its employees as this is considered a medical act. Moreover, measuring the temperature constitutes processing of personal data and is considered as an invasion of the employee's privacy.</p> <p>However, in the fight against the spread of the COVID-19 pandemic, the Federal Public Service (FPS) guidelines permit temperature tests to be introduced, on condition that the employer's policies have been amended to cover all possible consequences. The introduction of temperature tests may also require a review of the company's compliance with the applicable data protection rules as to how the test results are processed, stored and accessed.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>No.</p> <p>However, while an employer may not require the employee to provide proof of a negative COVID-19 test or prohibit them from attending the workplace when illness is suspected, the employer may request the intervention of the work physician. The work physician should be empowered to trace high-risk contacts at workplaces and employees are obliged to collaborate with the work physician for such requests.</p>

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6(a)	Can an employer mandate employees vaccine and dismiss an employee who refuses?	<p>No.</p> <p>The decision to vaccinate remains a decision of free choice in Belgium.</p> <p>Under the current rules, an employer cannot mandate employees obtain any vaccinations except certain vaccinations (e.g., Hepatitis B) in certain limited sectors and for employees specified by law (e.g., caregivers). Dismissal of an employee based on their vaccination status would be considered in violation of the law.</p> <p>Employers should note the Belgian Government has announced its intention to make COVID-19 vaccinations mandatory for all caregivers in the healthcare sector. Following discussions, a draft bill has been tabled but the legislative process is not yet complete.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No. Please refer to comments provided in Q6(a)</p> <p>Vaccination status cannot be a condition of employment.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public or private sector organizations? If so, please specify the difference.	Not applicable.

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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

The employment authorities' guidelines advise the application of appropriate measures such as social distancing, wearing a face mask where contamination risks exist or using physical barriers to demarcate areas or places within the workplace.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees and to continuously evaluate the work environment. An employer must regularly assess employees' working environment to mitigate risk factors. Accordingly, appropriate occupational health and safety measures must be taken, such as providing disinfectants as well as technical alternatives to physical meetings (e.g., video conferencing).
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. Employees are allowed to refuse performing their work duties if appropriate occupational measures are not undertaken.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic. However, certain activities may have their own regulations prescribed for maintaining the business during the pandemic.

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures may be put in place by means of policies.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>Given the spread of COVID-19, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>It is, however, important that these tests are handled adequately. Keeping in mind that health data is considered sensitive personal data, it is important to note that the collection and processing of such data is allowed when these actions are necessary for the protection of lives and is considered to be in the best public interest. Accordingly, an employer would be allowed to collect and process such data related to COVID-19.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. For example, in Bosnia and Herzegovina, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No, an employer is not permitted to mandate employee vaccination. The competent authorities in Bosnia and Herzegovina did not adopt any decision or law obliging citizens to vaccinate.</p> <p>Despite the fact that the employer is obliged to ensure a safe and healthy work environment, current legislation does not foresee an option for employer to force the employees to vaccinate nor dismiss them due to the fact that they are not vaccinated. Furthermore, discrimination on the basis of an employee's health status is strictly forbidden.</p>

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6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No.</p> <p>By law, an employer may not discriminate against candidates seeking employment on the basis of their physical or mental health status that is not directly related to the nature of the employment relationship. If an employer requires information that is not directly related to the nature of the employment relationship, applicable legislation a misdemeanor penalty and monetary fines in the range of:</p> <ul style="list-style-type: none">▶ 1.000 BAM to 3.000 BAM in the Federation of Bosnia and Herzegovina▶ 2.000 BAM to 12.000 BAM in Republika Srpska▶ 1.000 BAM to 3.000 BAM in Brcko District
7(b)	Does the position on recruiting vaccinated workers differ between public or private sector organizations? If so, please specify the difference.	No, applicable legislation strictly prohibits any kind of discrimination during the recruitment process in either the public or private sector.

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	Sector and location requirements must be observed, since there are both local and federal rules that may apply since last year. Specific regulations determine measures including those related to social distancing, transportation and hygiene.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>There are some regulations that recommend companies should allow employees in high-risk groups to work remotely. According to a recent law, pregnant women must be designated as remote workers. In general, besides pregnancy, there is no other specific prohibition by law for an employee to return to workplace. However, those who present any COVID-19 symptoms or who had contact with a diagnosed person should isolate at home.</p> <p>On 25 January 2022, the Government published a new regulation stipulating that in cases where individuals are suspected of being COVID-19 positive, or where they have been diagnosed with COVID-19, anyone in contact with them must self-isolate for 10 days. Employers may reduce this period to seven days if there are no symptoms, including fever, in the preceding 24 hours. Employees who have been in contact with an individual diagnosed with COVID-19 may be permitted to return to work after seven days if they can show a negative COVID-19 test result.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	According to the regulations published by the federal government as well as by local governments (states and cities), depending on the sector, employers need to ensure minimum physical distance among workstations and between employees. Therefore, depending on the mandatory distance, employers are obliged to reduce the number of employees in the workplace at the same time and observe the protocols and safety measures recommended by the health authorities.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>According to the recommendations of the health and labor authorities, employees, third parties and visitors should wear face masks while in the office.</p>

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>According to the recommendations of the health and labor authorities, employers should establish procedures to identify COVID-19 suspected cases, which may include temperature checks before employees and third parties enter the workplace.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer if they are or have been infected, or are at risk of being infected. Additionally, Ordinance 20/2022, which brings general recommendations regarding the prevention of COVID-19 in the workplace, determines the obligation to request and control this type of information to prevent an infected employee from going to the office and spreading the disease to other employees.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.</p>

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6(a)	Can an employer mandate employees vaccine and dismiss an employee who refuses?	<p>Yes.</p> <p>In November 2021, the government published a rule forbidding companies from requesting vaccination certificates from candidates during the hiring process or dismissing employees who have not obtained a vaccine. However, a few days later, the Supreme Federal Court determined such rules were to be annulled.</p> <p>Therefore there is no current express prohibition to request vaccination certificates from employees.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>Public sector: Employers in this sector should note any specific regulations set out by the various state authorities governing public sector employee obligations regarding mandatory vaccination or showing evidence of the same.</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Yes.</p> <p>Please refer to the comments provided in Q6(a).</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Please refer to comments provided in Q6(b).</p>

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Return to office planning must be carefully evaluated and certain criteria must be followed.

It may not be suitable for all employees to return to the workplace at the same time, factoring in both public transport issues and social distancing. Employees from high-risk groups should also work remotely as much as possible. Pregnant women must be designated as remote workers. Therefore, employers may evaluate the feasibility of adopting remote work policies either for all employees if possible, or for specific groups, evaluating the activities performed, technology aspects, benefits package and other elements that will allow both employer and employees to succeed in this new working model.

For those who may need to return to the office, it is important to plan the procedures in advance and structure return to office policies, ensuring that all health and safety measures are followed. It is also important to implement a methodology to control and manage work at the office in relation to COVID-19 risks, for example, using digital tools and apps. The office itself may also need to be adapted before employees return (e.g., different layouts for workstations, more ventilation, adapting shared meal areas).

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. In addition, the employer must be informed about all orders issued by the Ministry of Health. These orders include obligations of the employer regarding the workplace environment for the prevention and limitation of COVID-19.</p> <p>From a privacy rights perspective, according to the recent practice of the Bulgarian Data Protection Authority, an employer could encourage their employees to provide data about their COVID-19 vaccination status to the employer's occupational medicine team but solely in order for the employer to comply with the anti-epidemic measures issued by the Minister of Health. Such data shall be kept in an aggregated format and not further used.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to be the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, such refusal can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>In addition, there were several orders issued by the competent Minister of Health addressing the COVID-19 pandemic mandating that remote working should be established in entities where it is possible. Several orders also set out the criteria and maximum percentage of staff permitted in the workplace at any given time. Employees are entitled to refuse to come to work if the employer has failed to ensure a healthy and safe working environment. An assessment in this regard may be made on a case-by-case basis.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Based on the current orders of the Ministry of Health, which have been issued and amended on a regular basis during the COVID-19 pandemic, employers should organize the work arrangements to limit the number of employees at the workplace.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>However, the employer is obliged to provide all the necessary protective equipment, such as face masks and gloves, at the workplace depending on the specific activities undertaken and based on a risk assessment of the workplace.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>The Bulgarian Commission for Personal Data Protection issued a statement in May 2020, declaring that employers may check the temperature of employees arriving at the workplace and, if symptoms are detected, deny that employee entry to the workplace.</p> <p>The employer is obliged to introduce an access regime to ensure the control and prevention of employees and visitors to the business premises who are displaying symptoms. If a diagnosed employee is found on the premises, the employer may notify the health authorities.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>The Bulgarian Commission for Personal Data Protection issued a statement in May 2020 which includes a note that the measures outlined by the Ministry of Health for maintaining public health are not applicable to remote working conditions, based on the fact that the employer cannot control the home and family of its employees.</p> <p>There is no legal basis for the employer to require the provision of such health information by employees. It is possible, due to the peculiarities of the COVID-19 infection, the employees may not know that they have the infection, therefore the information provided would not be accurate.</p> <p>In general, the provision of such health information depends on the working environment and the specifics in each case, such as the mode of work and potential meetings between employees. The necessity of such information should be assessed on a case-by-case basis.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, due to rights guaranteed in the constitution and protections of human rights guaranteed in the European Convention on Human Rights (ECHR).
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, due to rights guaranteed in the constitution and protections of human rights guaranteed in the European Convention on Human Rights (ECHR).
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>The employer must be familiar with the orders of the Ministry of Health. These orders include employer obligations regarding the work environment to minimize the risk of COVID-19. All government policies in relation to control of the COVID-19 pandemic must be observed by the employer, as per the latest regulations.</p> <p>The Ministry of Labor and Social Policy may also issue orders or instructions for employers in relation to the COVID-19 pandemic, which must also be observed by employees.</p>

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>Under local law, all companies should comply with general requirements to avoid or minimize COVID-19 transmission. This rule should be applicable to public and private sectors as well as independent contractors. Employers should apply for a special permit from City Hall which will set out the specific biosafety protocols depending on the relevant sector. Employers are not allowed to operate without this permit.</p> <p>In January 2021, the government imposed additional restrictions for certain cities and regions, like general or limited lockdowns, curfews and restrictions on commerce. Even though restrictions have been decreasing, all biosafety protocols and local regulations must continue to be followed. Therefore, employers should consider the extent of local restrictions in order to adopt plans for a return to the workplace.</p> <p>The Ministry of Labor urges companies to include in their safety protocols the importance of vaccination, considering the need to preserve the health and well being of all employees. Therefore, employers are also obliged to establish adequate facilities and carry out appropriate medical tests, including a PCR test if an employee's duties have potentially exposed them to COVID-19 (i.e., attending a meeting with a third party).</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Congress issued Law 2088 of 2021 regarding remote work considerations, which formalized the option for employers to direct employees to work remotely whenever there are exceptional conditions that do not allow them to render services from the workplace. However, if certain activities require the physical return of employees, they may be asked to return to the workplace.</p> <p>Employers should ensure that vulnerable employees (i.e., with medical conditions such as diabetes, heart diseases, hypertension, obesity, cancer, respiratory diseases) and employees older than 60 years of age undertake temporary remote working, considering they are at the highest risk of contracting COVID-19. However, it is not mandatory for them to work remotely and they may work from the workplace, as long as the employer complies with all biosecurity obligations.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>Yes.</p> <p>Each City Hall will determine how many people can be working at the same location at the same time. This will vary depending on each industry.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Based on biosafety protocols and regulations, employees must constantly wear a face mask, from when they leave their residence until they return. Some industries have special requirements and equipment to be used (such as healthcare, manufacturing and construction).</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>Upon the employees' arrival and departure, it is mandatory to create a registration form in which employers keep a daily report of employees' temperatures. This measure is also extended to employees working remotely.</p> <p>According to local data protection regulations, this information is classified as confidential, therefore employers cannot use this information for purposes other than for medical reasons.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Yes.</p> <p>If employees are diagnosed with, or show symptoms of, COVID-19 they must inform their employer. They must disclose the names of people with whom they have been in contact - for a minimum of 15 minutes, within two meters' distance - so that the employer may institute the appropriate protocols. Both employees and their employers must inform the Ministry of Health and the health and labor risk bodies to initiate the protocols.</p> <p>According to local data protection regulations, this information is classified as confidential.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>It depends on the sector in which the organization operates.</p> <p>As a general rule, employers may not mandate vaccination for their employees or dismiss them for refusal to obtain a vaccine. Employees are free to decide for themselves regarding vaccination.</p> <p>Notwithstanding, under Circular 003 of 12 January 2022, the Ministry of Labor determined that for employees who work in establishments with customer contacts such as bars, restaurants, cinemas, concerts and large event venues, vaccination is now mandatory. Employees of these establishments must obtain a medical certificate showing they have obtained all the appropriate doses of the vaccine.</p> <p>The latest regulation does not modify the current labor legislation, thus, employers cannot dismiss employees if they are not vaccinated. However, when recruiting for jobs in the specific establishments covered by the Circular, employers may request vaccination as a condition of employment.</p>

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6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>No.</p> <p>The government has decreed (1615 of 2021) that public sector employees who have obtained the vaccine by December 2021 will be entitled to one additional days' annual leave, to be taken within the first six months of 2022. Private sector employers may choose to adopt this incentive, but it is not mandatory.</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Yes.</p> <p>As per the latest declarations by the Ministry of Labor, vaccinated candidates receive priority over non-vaccinated candidates in both the private and public sectors.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>No. Employers in either sector are permitted to prioritize vaccinated candidates over non-vaccinated candidates.</p>

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time. Employers must create a staggered return plan, first analyzing:

- ▶ Employees who live close to the office and do not need public transportation
- ▶ Employees who use their own transportation, such as a bicycle or car
- ▶ Employees who can continue performing activities at home at least three days per week

Employers also should create a plan for the use of facilities to avoid employees congregating in common places, such as bathrooms, elevators and break rooms. Employers' occupational committees should be in charge of creating internal protocols regarding the above-mentioned measures.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>According to Article 282 of the Labor Code, an employer is under the obligation to adopt measures to ensure the health of employees in the workplace and protect them against potential occupational hazards, including COVID-19. Please also note that the National Insurance Institute has allowed COVID-19 to be considered as a work-related illness, where infection occurred at the workplace. In addition, according to recent guidelines issued by the Ministry of Health, some of the employer obligations include:</p> <ul style="list-style-type: none">▶ Provide workplace protocols and equipment for adequate hygiene▶ Be attentive to notifications about the sanitary status of the workplace▶ Promote and ensure that established guidelines issued by the authorities are complied with. The employer should provide proper protection equipment, which may vary in relation to the tasks performed by employees
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>If the activities assigned to employees require their presence in the office and if working on site is documented in the labor contract, the employees must comply with the requirements. Otherwise, failure to comply with the assigned responsibilities may result in dismissal. The authorities have called on the private sector to urge employees to apply for remote work, but it has never been mandatory. Remote work is voluntary for both parties, so its application should be agreed on by both parties as well. The only way in which an employee can refuse to work physically is when the company does not comply with the required regulations to protect their health. Also, the scenario in which employees are hired as remote workers should be analyzed independently, given that asking them to physically work in the office may have certain contingencies.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>Yes.</p> <p>The Government and the Ministry of Health have been very demanding and reiterative in relation to the implementation of plans and actions that allow the prevention of contagion in workplaces. Suggested measures are as follows:</p> <ul style="list-style-type: none">▶ The minimum office capacity has to be defined depending on the square meters of the office. It has to guarantee 1.8 meter for each employee, meaning a physical distance of 3.24 square meter per employee▶ Cafeterias at workplaces can only operate at a 50% capacity▶ Strict cleaning protocols and the obligation to wear face masks▶ Some sectors have to work under 50% capacity.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>According to the provisions of the Labor Code and guidelines established by the national authorities, all people who are in an enclosed establishment are required to wear face masks. The employer must establish the use of face masks in the company's facilities to prevent illness and take care of the health and integrity of its workers. The company also should provide equipment for employees' protection.</p>

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>In accordance with the Ministry of Health's Guidance on Prevention, Mitigation and Business Continuity for the COVID-19 Pandemic, temperature testing is an example of measures that can be used in the workplace as a method of detecting suspicious cases. However, it is important to obtain the employee's consent since this is sensitive information, and the company should not keep a record of the results.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>The employer has the capacity to provide internal guidelines or recommendations within the organization that are mandatory for employees to follow to prevent the spread of COVID-19. This can include reporting an employee who has had contact with someone who has COVID-19. Therefore, if such requirement exists, employees are obliged to comply with it. In spite of what the employer demands, the authorities prohibit a person who is diagnosed or has been in close contact with someone who has COVID-19 to leave the household. In those cases, a sanitary order is issued, and the person has to remain isolated for a 15-day period. Given that the authorities have a significant backlog, it is key that companies also have clear internal procedures to follow.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>Yes. On 15 October 2021 , Executive Decree No. 43249-S came into force in which the vaccination against COVID-19 became mandatory for all employees. The Decree also establishes the possibility of dismissal, without liability for the employer, for employees who do not comply with this order.</p> <p>However, this doesn't apply to those employees who, due to a duly declared medical condition, cannot receive the vaccine.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>Public sector: It should also be noted that each entity must follow due process and the possibility of dismissing a public official may vary depending on the institution and the internal procedures that may be in place.</p> <p>Private sector: Employers must regulate mandatory vaccination via a policy that establishes the procedure, justifications (e.g., medical conditions) and the disciplinary regime in instance of non-compliance. This is because the Decree does not specify how this requirement should be introduced. Employers should be mindful to remain in strict compliance with labor regulations.</p>

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes. The only exception would be a candidate who can demonstrate a duly declared exemption from vaccination and therefore cannot be excluded from the recruitment process on this basis.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Public sector; As vaccination is now mandatory, entities are obliged to only recruit candidates who are vaccinated, subject to the exception for candidates who are exempt.</p> <p>Private sector: An employer may specify that it will only recruit vaccinated workers if it has an internal policy on mandatory vaccination for its employees.</p>

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Important aspects should be considered for employees' return to the workplace, including a precise and clear plan to be followed by all employees as well as the protocol to be followed if a COVID-19 case is confirmed. Protocols could include establishing minimum distances between workstations and a limit to the number of employees in the office at one time. It could also include an established entry protocol, such as temperature testing, hand washing and disinfection of shoe soles, among other actions.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>The employer has an obligation to follow health and safety regulations. Depending on the nature of the workplace or the industry (offices, restaurants, retail, etc.), different rules and instructions apply. The employer has a continuous obligation to assess and mitigate any risks to the health of its employees.</p> <p>The relevant Ministerial Decree provides that employees who:</p> <ul style="list-style-type: none"> ► Completed their vaccination scheme against COVID-19 (i.e., obtained both doses of the double dose vaccine or one dose of the single dose vaccine) or ► Hold a certificate of recovery (duration of 180 days) <p>Must present a negative rapid test result valid for seven days. Those employees who obtained a 'Booster dose' (i.e., third dose for the double dose vaccine or second dose for the single dose vaccine) are exempt from the requirement to present a negative rapid test.</p> <p>Employees who have not obtained a vaccination are required to present a negative 72-hour Polymerase Chain Reaction (PCR) test or a 48-hour Rapid test.</p> <p>Verification of the negative test result is carried out by displaying a text message or presenting the result in printed form.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>In accordance with the directives and statutory decrees published by the Ministry of Health, people with any symptoms of illness must not enter the workplace at any time and should visit their doctor and self-isolate if required.</p>

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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site? (contd.)	When no restrictions apply and there is a contractual obligation to return to the office and the employee refuses, it might be considered as a refusal to execute their duties as described in the employment agreement; thus, the employer will be entitled to proceed with legal actions, such as termination. However, decisions to terminate an employee must be carefully assessed, and employers should take into consideration the facts of each case. If any decision to terminate is deemed unlawful, the employer will be obliged to pay damages to the employee.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>There are no longer any statutory limitations regarding physical presence in the office (i.e., no maximum number of people physically present). However, all employees must hold a “Safe Pass”, which consists of any one of the following:</p> <ul style="list-style-type: none">▶ A negative rapid/PCR test within the preceding 72 hours▶ A vaccination certificate showing at least one vaccine dose has been administered and that three weeks have passed from the date of such vaccination▶ A certificate that the employee had been diagnosed with COVID-19 in the preceding six months
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	According to the decrees of the Minister of Health, it is mandatory to wear a face mask both indoors and outdoors.

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	Question	Response
4	Can employees be required to take a temperature test when entering the office?	<p>No.</p> <p>There is no obligation to take a temperature test when entering the office.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>The right to privacy is constitutionally guaranteed, but it is not absolute. In the cases where a public health issue arises, the interference with the right to privacy is justified. Therefore, since the employer must maintain a healthy and safe working environment, such questions may be asked by the employer to the employee, and the latter must answer. The employee's responses will be processed under the umbrella of GDPR legislation.</p> <p>In addition, confirmation whether or not the employee has been diagnosed with COVID-19 is information which may be required for the "Safe Pass".</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No.</p> <p>Although the relevant Ministerial Decree permits employers to allow access to their premises only to people who have been vaccinated or diagnosed with COVID-19 within the last six months, such clause does not specifically include or exclude employees.</p> <p>Therefore, if an employer dismisses an employee based on the fact they are not vaccinated, the employer will need to prove that such reason for termination was justified. If found unjustified, the employer will be liable for damages.</p>

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6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Public sector: An employee cannot be dismissed because they have not obtained a vaccination. They may provide one of the alternative certificates to enter the workplace.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	It depends on whether the organization operates in the public or private sector.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference?	Public sector: Hiring requirements are regulated by law. Including a requirement for candidates to have obtained a vaccination is likely to be deemed to interfere with their constitutional rights. Private sector: An employer may decide to only recruit individuals who confirm that they have obtained the vaccination.

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It is generally required that employees must apply social-distancing protocols in accordance with the aforementioned guidelines. Social distancing between employees at the workplace is encouraged, and employees coming into contact with external clients for the purpose of providing important services must, by some means, minimize that contact, including engaging in conversation. Further to that, avoidance of touching others to prevent contracting or transmitting COVID-19 must be constantly practiced, as well as avoidance of talking over food. Besides regular hand washing of hands, it is mandatory that employers should provide hand sanitizers that contain more than 60% alcohol content in every entrance of the workplace. An example of a soft opening may be to allow employees to return to offices in phases and by assessing whether the physical presence of some employees is essential or not. As mentioned above, the employer has an obligation to comply with health and safety regulations, which were already in force prior to the COVID-19 pandemic.

Please refer to comments provided in Q2.

Question



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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>According to the provisions of the Czech Labor Code, the employer is obliged to ensure health and safety of employees at work with respect to the risks of possible threats to their lives and health.</p> <p>The employer is also obliged to create a safe working environment and conditions for employees that enable them to perform their work safely (Section 224 (1) of the Labor Code).</p> <p>With respect to the current situation, the employer is also obliged to adapt measures to the changing environment, check their effectiveness and compliance, and ensure the improvement of work conditions (Sec. 102 (7) of the Labor Code).</p> <p>In connection with the COVID-19 pandemic, the Czech Ministry of Health issued nonbinding guidelines (based on the document <i>COVID-19: Guidance for the workplace</i>, issued by the European Agency for Safety and Health at Work) with respect to returning to the workplace, which is recommended for employers to follow. These guidelines contain recommendations on workplace disinfection, distancing measures, business trips and protocols in the case of an employee testing positive.</p> <p>Under current governmental measures, employers are obliged to provide their employees with personal protective equipment for each shift.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Yes.</p> <p>Employees can be required to return to office. There is no legal right to remain off-site.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g. statutory limits of the number of people allowed in the same location at the same time)?	<p>No statutory limitations with respect to returning to the office are in place. There is no limitation on the number of employees working at offices.</p>

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Under current measures, employees are required to wear respirators, face masks or equivalent protective equipment at a shared workplace.</p> <p>Face masks or respirators are not mandatory when working in one place without another person present or when employees maintain a social distance of at least one-and-a-half meters.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of internal policies of the employer.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>No. There is no such disclosure obligation under Czech law. Diagnosed employees are legally obliged to stay in isolation. Employees who were in contact with a diagnosed person are obliged to stay in quarantine upon orders of the health authorities. For both illness or quarantine, a medical confirmation is issued by a doctor (or hygiene station personnel) and sent in electronic form to the employer, without any additional information on the diagnosis.</p> <p>In the case of a COVID-19-positive employee at a workplace, the hygiene station cooperates with the employer and may disclose information on employee contacts and potential infection in the course of addressing the case.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. Currently, there is no statutory provision permitting employers to make it compulsory for employees to obtain a vaccination.</p> <p>In addition, employers may not impose any sanctions or handicap on non-vaccinated employees. Employees may not be dismissed due to a refusal to obtain a vaccination.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, such general decision could be deemed unjustifiable and has no legal basis.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q7(a).

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g. in a soft opening?

These aspects include limiting the number of people gathering in small spaces (e.g., everyone must maintain a distance of one-and-a-half meters), providing disinfection supplies to employees and visitors and regularly disinfecting workplaces, social distancing, wearing a respirator or face mask where necessary, taking temperature tests, and developing a contingency and business continuity plan for an outbreak in the communities where the business operates.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	An employee whose workplace, as per the contract, is set to be the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	The number of people allowed in a private space has temporarily been limited due to the COVID-19 pandemic. The regulation on this area changes often, however, this regulation does not currently apply to workplaces. Employers should follow all relevant rules and recommendations issued by the government and public health organizations.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. The employer will have to provide employees with face masks and other protective gear. There should be a dialogue among the employer, employees and the safety representative before such measures are introduced.

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4	Can employees be required to take a temperature test when entering the office?	Temperature testing of employees will be a control measure under Danish employment law. Control measures must have an objective basis and must be proportional. Therefore, the answer to the question will depend on the current situation in regards to COVID-19.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer when they are infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to the COVID-19 pandemic should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the pandemic. For example, in Denmark, where the GDPR applies, COVID-19 pandemic data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Under normal circumstances an employee is not obliged to inform the employer of the reason for an illness notification. However, in the current situation, the employee must inform the employer of the illness reason if the employer asks about it.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared with a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No. Employers cannot make obtaining a vaccine a condition of continuous employment. Dismissal due to an employee refusing to obtain a vaccination will be considered an unfair dismissal. However, employers may take disciplinary actions if employees refuse to undergo testing for COVID-19. This includes warnings, terminations and instant dismissals depending on the individual case.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No. Employers cannot make having obtained a vaccine a condition of employment in the case of new recruitment.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q7(a).

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be advisable for all employees to return to work at the same time, as it will lead to both public transport and social distancing issues. The return should be phased and take into consideration factors such as number of employees, the size of the office or workplace and working routines. Employers are encouraged to adopt measures such as allocating one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This could mean implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities for return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>The employer must comply with recommendations made by the Ministry of Public Health, such as:</p> <ul style="list-style-type: none">▶ Using thermometers to take body temperature▶ Antibacterial gel dispensers▶ Mandatory use of face masks▶ Mandatory use of gloves (depending on the type of work and contact with users outside of the work environment)▶ Mandatory social distancing in work spaces (no less than two meters), although the distance will depend on the work environment▶ Regular disinfection of work spaces to reduce contagion and encouragement to use hand sanitizer and wash hands frequently
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Ministry of Labor Resolution No. 007/2020 reinforces the application of preventive measures to safeguard the health of workers and employers in the face of the impact of the COVID-19 in the Dominican Republic, such as flexible work schedules, granting vacations to employees, and isolation measures for employees belonging to vulnerable groups (individuals over 60, diabetics, etc.), among others.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>It will depend on the space or area of the workplace.</p>

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>The employer is responsible for providing a safe and healthy working environment; adequate actions (such as suspension of the work contract) could be taken in order to safeguard other individuals from infection at the workplace.</p> <p>Art. 44.3 of the Dominican Labor Code reads as follows regarding workers' obligations:</p> <p>"3. Strictly observe the preventive or hygienic measures required by law, those ordered by the authorities and those indicated by the employer, for safety and personal protection of themselves or their co-workers or the places where they work."</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes. The employer is responsible for providing a safe and healthy working environment; adequate actions (such as suspension of the work contract) could be taken in order to safeguard other individuals from infection at the workplace.</p> <p>Art. 44.3 of the Dominican Labor Code reads as follows regarding workers' obligations:</p> <p>"3. Strictly observe the preventive or hygienic measures required by law, those ordered by the authorities and those indicated by the employer, for safety and personal protection of themselves or their co-workers or the places where they work."</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Yes. The Dominican Labor Code (Art. 88) establishes that an employee can be discharged under the following circumstance: refusal of the worker to take preventive measures or to follow procedures prescribed by law, competent authorities or employers to prevent accidents or diseases.</p>

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>Yes, as a result of Resolution No. 000048, public agencies have stipulated that both employees and customers must carry an identity card together with their vaccination card/certificate at entry to the workplace.</p> <p>Alternatively, they must submit a negative PCR test result every Monday or with a validity of no more than seven days.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes, an employer may make the decision to not recruit an individual if they do not have a vaccination card/certificate because they would not be able to access the workplace.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q7(a).

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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Comply with the safety measures and recommendations made by the Ministry of Labor and the Ministry of Public Health, mentioned in the previous questions.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve the appointed employee safety representatives, if any. Additionally, all employers must expand health protocols for a safe return to the office, implementing measures that allow each employee to feel safe, such as temperature testing, mandatory use of face masks, frequent hand washing and regularly sanitizing work spaces.</p> <p>In addition, by law employers must ensure that if one of their workers presents symptoms of COVID-19, they must leave the workplace and contact a physician, and at the same time identify all the people that have been in contact with the person presenting the symptoms.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. There is no explicit legal obligation to return to work at an employer's request. In fact, if the employee's contract states that work will be carried out in the workplace necessarily, but it was temporarily agreed on to perform the work remotely, then the employer is free to revoke the remote working mode and request the employee's return to the office. If the worker refuses to return to the workplace, it must be analyzed on a case-by-case basis whether it is possible to maintain the home-working mode or, in extreme situations, consider other alternatives.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Legally there is no obligation of limiting the number of people inside the office, yet all companies and entities have adopted a voluntary protocol in which they operate at 50% of their staff capacity, or even less. They do this for the purpose of continuing security measures and preventing any spread of COVID-19. There is no legal obligation but in many cases, if the workplace is held in a building with multiple office spaces that are shared with other companies or entities, the building may determine the number of people allowed in every office.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. The use of a face mask is mandatory everywhere, including restaurants, offices, government entities, and private companies. The use of a face mask is required in all types of workplaces. For safety equipment, the law requires the use of face masks, gloves or glasses in certain industries, but not in all types of businesses. It is understood that this type of safety equipment will be used when the type of work to be carried out so requires, such as work as a physician or in a medical laboratory.
4	Can employees be required to take a temperature test when entering the office?	Yes. All protocols have been voluntarily applied to all types of businesses, entities or companies, and include taking the temperature of all employees, users or visitors. The employer can also take into consideration that employee access can be denied if the employee does not accept the temperature test. The law does not state anything that allows the employer to deny entry of an employee into the workplace.

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	Employees have an obligation to report any symptoms on the condition that personal data rights and confidentiality are respected and followed.
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No. An employer cannot mandate employee vaccination and dismiss an employee who refuses, since vaccination is not mandatory. The law does not permit an employer to dismiss an employee who refuses to obtain vaccination without it being considered an unjustified dismissal.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. The position on mandatory vaccination does not differ between public or private sector organizations.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes, the law permits each employer to establish its own hiring requirements. In this regard, there is currently no express prohibition against requiring proof of vaccination as a requirement for employment. Nevertheless, in certain situations it may be considered discriminatory.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. The position on recruiting vaccinated workers does not differ between public or private sector organizations.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	Aspects include written protocols, webinars to educate employees about new protocols in the office, the use of face masks at all times, taking employee temperatures regularly, monitoring employees' symptoms, implementing work groups, separating employees' work spaces, implementing the use of hand sanitizer all around the office, and encouraging the use of stairs instead of elevators.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' working environment to mitigate risk factors. Risk assessments of the work environment at an organizational level must also involve appointed employee safety representatives, if any.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>Remote work is done by agreement of both parties. For instance, an employer and an employee may agree that working time is divided between working in the office and working from home.</p>

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2

Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

The Government has not imposed special limitations regarding returning to the office, but there are general recommendations on what to consider (please refer to comments in Q6).

The following requirements currently apply to all people, institutions and enterprises, in order to slow the spread of the COVID-19 and decrease the effect:

- ▶ Social distancing and sanitizing hands: In public indoor places, it is obligatory to sanitize hands and non-family members must be kept at a reasonable distance, if possible, at least two meters
- ▶ Mask obligation in public spaces: A mask must be worn by all persons 12 years of age and older in all indoor spaces meant for public use, including in rooms where the COVID-19 certificate is checked. This requirement does not apply to children under 12 years of age and when wearing a face mask is not possible for health reasons, due to the nature of work or other activities
- ▶ Presenting a COVID-19 certificate: Presenting and verifying a COVID-19 certificate is mandatory in public spaces (restaurants, theaters, museums etc.). In employment relationships, the obligation to present a certificate is based on the employer's risk analysis
- ▶ Quarantine: Individuals diagnosed with COVID-19 are not permitted to leave their place of residence from the moment they have been diagnosed until they are declared healthy
- ▶ Close contacts to self-isolate: Self-isolation is not obligatory for those who have been fully vaccinated against COVID-19 and no more than a year has passed since they received their last dose of the vaccine, or have recovered from COVID-19 within the past six months and been declared healthy by a physician

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>The employer may require the use of personal protective equipment if, according to the risk assessment of the work environment, the risk of illness cannot be prevented or reduced by the use of collective protective equipment or work organization measures (keeping distance, availability of disinfectants).</p>
4	Can employees be required to take a temperature test when entering the office?	<p>The employer has the right to measure an employee's body temperature only if the employee agrees and if it is justified in an emergency to prevent COVID-19 infection should the employee come into contact with other employees or customers.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As a rule, the employer does not have the right to know an employee's health data, including the diagnosis of COVID-19, when an employee was diagnosed and other information related to the acquisition of the infection. The employer has the right to ask the employee if they have been in contact with people diagnosed with COVID-19. The employer also has the right to ask the employee for confirmation that the employee's state of health does not hinder the performance of work duties and is not a danger to other employees or customers. Information on the diagnosis of COVID-19 is provided on the basis of an agreement between the employee and the employer.</p>

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No. In general, an employer cannot force an employee to obtain a vaccination. However, the Labor Inspectorate is of the opinion that in a situation where an employer has assessed the risks, taken all other measures to mitigate the risks and found that only a vaccinated employee can perform the job, the extraordinary cancellation of the employment contract with an employee who has not obtained a vaccine may be lawful. To ensure validity around of such a decision, the termination of employment must be preceded by a warning.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes, vaccination may be one of the conditions for new employment if the employer, after assessing all the risks, considers that this requirement is proportionate and necessary for that position. Hiring only employees who have obtained a vaccine may be justified, for example, in positions where they will be in regular contact with large numbers of people or vulnerable individuals.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	Government recommendations on returning to work include: preference for remote work, allowing people to return to work gradually, reducing the physical exposure of employees, airing and proper cleaning of rooms, and that employees must stay at home when sick.

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for the working environment, including the health and safety of employees. Employers are required to take measures to limit the risk of exposure, e.g., by prioritizing remote work, enhancing cleaning, utilizing protective screens and drawing up internal policies.

Employers must regularly follow up and assess employees' work environments to mitigate risk factors. Risk assessments of the work environment at an organizational level must also involve appointed employee safety representatives, if any. Employers are also obligated to keep a record of people who have been exposed to COVID-19 in the workplace. This is to help the employers remain updated and to react in a timely manner with further safety measures.

In addition, employers are required to update their hazard analysis and risk assessments in the light of COVID-19 pandemic and draw up new instructions and internal policies at the workplace to stay updated with changing circumstances. For example, employers are recommended to take into account the effect of employee vaccination status during risk assessments, including allowances for unvaccinated employees. The return to the workplace may require adopting new safety measures and thus employers may need to regularly update their hazard analysis and risk assessments as well as the safety measures and practices used.

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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>However, the Occupational Safety and Health Act allows an employee to temporarily refuse to work if the work is causing severe risk or hazard to the health and safety of the employee or other employees. Thus, if the employer is not able to ensure an adequate level of safety and protection, employees may have the right to abstain from work or from performing certain duties until sufficient safety measures have been implemented. The abstinence from work must, however, be considered as a last resort, and the employee is required to minimize the detriments of their actions. Employees are entitled to their normal salary during the period of abstinence from work under the Employment Contracts Act.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No.</p> <p>The COVID-19 pandemic has applicable restrictions and recommendations, which are currently issued by the Regional State Administrative Agencies depending on the local fluctuations of COVID-19.</p> <p>The restrictions regarding public gatherings and public events do not concern workplaces but must be taken into account when organizing public events. Furthermore, the government still recommends remote working in public and private sectors, depending on the relevant regional guidelines. This recommendation will be re-assessed on 15 February 2022 (at the latest).</p>

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>The employer has a duty to assess whether employees must wear personal protective equipment, such as face masks, while at work. However, technical measures and working arrangements (such as maintaining adequate distance by the placement of workstations or remote working) should be used in the first instance to ensure the safety of employees.</p> <p>The employer may obligate employees to use protective equipment in accordance to the employer's risk assessment. If face masks are required, the employer must obtain protective equipment and monitor that it is used correctly. The employee must use the protective equipment provided by the employer.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>In general, health examinations, such as taking a thermal check or COVID-19 test at the workplace, are voluntary by their nature. However, to maintain safety at the workplace, the employer may have the right to temporarily prohibit an employee from entering the workplace if there are reasonable grounds to suspect that the employee has been diagnosed with COVID-19 and is not willing to undergo health examinations. In this situation, the employer must pay the employee's normal salary, even though the employee cannot work remotely.</p> <p>Further, according to the Finnish Communicable Diseases Act, the Regional State Administrative Agency may order a health examination to be performed for persons in a specific workplace, if such an examination is necessary to prevent the spread of a generally hazardous communicable disease. Participating in the health examination is voluntary unless determined otherwise by the Regional State Administrative Agency.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>A person who has been diagnosed by a generally hazardous communicable disease does not have an obligation to inform others about the infection. However, according to the Finnish Communicable Diseases Act, a person diagnosed with COVID-19 is obliged to inform healthcare professionals and provide the names of persons who may have been the source of the infection or who were in contact with the individual.</p> <p>Should employees disclose information related to their own health or a related person's health voluntarily, the disclosed health data must be processed carefully. In general, an employee's health data may only be processed by people designated for such processing in advance. The employer must always maintain confidentiality on the health data of employees.</p> <p>However, in the healthcare sector and social welfare organizations, employers are entitled, in certain situations, to process health data concerning employees' COVID-19 vaccination status or whether they have previously been diagnosed with the disease.</p> <p>Please refer to comments provided in Q6(a).</p>
6(a)	Can an employer mandate employees vaccine and dismiss an employee who refuses?	<p>Generally "no". Vaccination is voluntary, based on the constitutional right to life, personal liberty, integrity and security.</p> <p>However, according to the Communicable Diseases Act, healthcare and social welfare service providers may not deploy personnel in medical facilities, care homes and related units who have not obtained a vaccine if they are in close contact with clients or patients who are susceptible to severe consequences from communicable diseases.</p>

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6(a)	Can an employer mandate employees vaccine and dismiss an employee who refuses? contd.	<p>The employer should firstly offer such employees other work under the same employment contract. If suitable work is unavailable or the employee refuses to accept it, the employer is not obligated to pay salary during the remaining period for which they employee cannot be redeployed. The employer can deploy unvaccinated employees only for specific reasons.</p> <p>In any case, an employee's refusal to obtain a vaccine does not, however, constitute grounds for dismissal or lay-off.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Generally "no", vaccination is voluntary based on the constitutional right to life, personal liberty, integrity and security.</p> <p>A candidate's vaccination status is medical data, which falls under the special categories of personal data defined in the GDPR and its processing must be directly necessary with regard to the employment relationship. If vaccination status not necessary for the employment relationship, the job applicant is not obligated to disclose it. Providing an incomplete or blank answer to questions about vaccination status may not lead to negative consequences for the candidate.</p> <p>Should the advertised job require close contact with clients or patients who are susceptible to severe consequences from communicable diseases, vaccination status would be required information and may influence the employer's decision whether or not to employ the candidate. In such circumstances, the job advertisement must state that vaccination status will be a condition of employment.</p>

Question	Response
<p>7(b) Does the position on recruiting vaccinated workers differ between public or private sector organizations? If so, please specify the difference.</p>	<p>No. Please refer to comments provided in Q7(a).</p>
<p>8 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?</p>	<p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee wellbeing in compliance with laws, regulations and applicable CBAs. This could mean implementing social distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> <p>Additionally, employers should follow the development of the regional situation with COVID-19 and take appropriate measures if the number of infections within the area is increasing. The measures must take into account the conditions at the workplace as well as, for example, employees' need to use public transportation to get there. Should the regional situation demand so, employers are recommended to switch to remote work if possible and to promote work arrangements that reduce close contacts and other risk factors at the workplace.</p>

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>The updated version of the Health Protocol published on 30 December 2021 focuses on the ventilation of the workplace as an essential measure. It is necessary to ventilate the workplace, preferably by natural ventilation (open doors and windows), for as long as the conditions allow, and at least 10 minutes every hour. Failing this, ventilation must be provided by means of a mechanical ventilation system that complies with the regulations, is in good working order and verified.</p> <p>The Ministry of Labor explicitly recommends using carbon dioxide (CO²) sensors to measure CO² in the air, at places where individuals regularly gather and at during period of high attendance.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Employers' obligations change regularly as the pandemic evolves.</p> <p>According to the Health Protocol released on 30 December 2021, remote working became mandatory to safeguard against the COVID-19 pandemic, especially for vulnerable individuals (e.g., pregnant women and those suffering from a chronic illness). On 20 January 2022, the French Prime Minister announced that remote working will again become recommended from 2 February 2022.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<ul style="list-style-type: none">▶ When employees are working together in a enclosed workplace (e.g., collective office or vehicle), they must wear face masks▶ Companies must follow the government guidelines mentioned in the Health Protocol, particularly regarding the maximum number of employees per room and the flow of employees▶ Employees must comply with social distancing. In particular, the one meter distance between employees when wearing a mask and two meters when the mask cannot be worn, in common areas, e.g., cafeteria, as well as in outdoor spaces▶ Employees must avoid sharing common office equipment (e.g., mouse, laptop screen or keyboard). Where employees share this equipment, the cleaning of these objects must be regular, using appropriate cleaning solutions. Systematic hand washing (soap and water or hydro-alcoholic gel) must be carried out before and after their use▶ High-risk employees who request remote working must be allowed to do so to the extent possible by their employer
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes and they must respect the one meter social distance between employees

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4	Can employees be required to take a temperature test when entering the office?	<ul style="list-style-type: none"> ▶ According to government guidelines, temperature tests are not recommended, however, employees should test themselves before attending the workplace ▶ If temperature tests are implemented by employers, they must comply with the following requirements: <ul style="list-style-type: none"> ▶ Personal medical data (e.g., temperature test results) must not be recorded ▶ Automatic capture of employees' temperature, such as by using thermal cameras, is forbidden ▶ If employees choose not to comply with the employer's protocols for temperature testing, the employer must not prevent their employees attending the workplace and must continue to pay their salary
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. However:</p> <ul style="list-style-type: none"> ▶ According to French law, companies are not entitled to request information from their employees regarding their health conditions, but the employer can send them to the work physician to verify their health situation ▶ Any request for justification of a health condition could give rise to data privacy and data storage issues (GDPR regulations)

Question	Response
<p>6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses?</p>	<p>Generally, no. in most professions, employers cannot force employees to obtain a vaccine.</p> <p>Some professions, mainly the medical and social professions, have introduced mandatory vaccination obligations. Article 12 of Law No. 2021-1040 of 5 August 2021 on the management of the health crisis sets out the list of employee categories who must be vaccinated to be able to continue working (with limited medical exemptions recognized and listed by Decree No. 2021-1059 of 7 August 2021).</p> <p>These employees must have a completed vaccination record since 15 October 2021, failing which they are at risk of having their employment contract suspended. Suspension results in interruption of remuneration. However, the law provides for adjustments to allow employees time to regularize their situation (e.g., leave, temporary assignment to another position, remote working).</p> <p>After three working days, the employer invites the employee to a meeting to discuss regularizing their situation. This covers, in general:</p> <ul style="list-style-type: none"> ▶ Temporary transfer to another role within the organization that is not subject to mandatory vaccination obligation ▶ Obligation to work remotely, if its appropriate for the employee's position
<p>6(b) Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.</p>	<p>No. The rules apply to employees who work in establishments subject to the mandatory vaccination or whose profession is subject to the mandatory vaccination obligation regardless of whether they are in the public or private sector. For example, mandatory vaccination applies to both healthcare and administrative/technical staff working in healthcare establishments, whether or not they are directly employed by these establishments.</p>

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Yes, individuals who are subject to the vaccination obligation or the health pass must present the required supporting documents at the time of taking up their duties.</p> <p>The employer must inform the selected candidate of the obligation to present supporting documents at the time of recruitment and draw attention to the consequences for the continuation of the contractual relationship for any employee who signs an employment contract knowing that they will not be able to fulfill the obligation on the day of starting the position.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>Organizations must take into account specificities of the activities and working conditions of their employees, including contact with colleagues, clients and groups in meetings.</p> <p>Protective measures must be adapted depending on the nature of the organization.</p>

Question



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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>According to the general recommendations regarding the COVID-19 pandemic issued by the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, upon return to the workplace, a disinfection barrier must be placed at the entrance, indicating mandatory use. It is also mandatory to conduct thermo screenings with a special video device or a remote thermometer to monitor the health of administration and staff in workplaces with having high or very high risks*. If a fever is detected, the respective Government hotline must be promptly informed. Information on virus-related prevention must be provided to staff. No staff should be allowed on the property without protective equipment, with a face mask at the very least. A hand sanitizer containing at least 70% alcohol must be placed at the entrance of the property to disinfect hands. The rules on hand hygiene must be placed on the wall in bathrooms. Staff must be provided with individual hygiene equipment, such as face masks, facial protective gear and gloves. Employees must also be provided with information about the use of personal protective items and their subsequent disposal. Moreover, the employer is also obliged to create an emergency plan on developing a safe working environment if the spread of COVID-19 increases.</p> <ul style="list-style-type: none">► The risk is high if there is a high potential for infection from probable sources. Generally, doctors, nurses and other medical support staff, who have to enter patients' wards are considered to perform high risk jobs.► The law also determines very high-risk jobs, such as dentists, laboratory staff collecting or processing samples, those hospital and emergency personnel, who work with infected patients, etc.
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	Question	Response
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	According to the general recommendations regarding the COVID-19 pandemic issued by the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, the employer is obliged to develop a plan so that employees have the possibility of remaining at home and working remotely, to the maximum extent possible. If the nature of activities allows the possibility of remote work, the employee should not be obliged to return to the office, which would minimize the risks of spreading COVID-19 pandemic.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Currently, the law does not include a direct restriction on the number of persons gathering in an office. Moreover, employers and employees must ensure that they comply with the General Recommendations regarding the COVID-19 pandemic issued by the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia. Among other things, these recommendations provide rules related to wearing face masks at the office, keeping two meters' distance, and ensuring hand washing and sanitizing.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Wearing face masks is mandatory at closed establishments and public spaces. The law outlines that, for the purpose of this obligation, a public space is any indoor or outdoor area, unless it is a space used by individuals for residential purposes.
4	Can employees be required to take a temperature test when entering the office?	According to the general recommendations regarding the COVID-19 pandemic issued by the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, conducting temperature screenings with a special video device or a remote thermometer to monitor employees is mandatory in workplaces with high or very high risks. If an employee has a fever, the respective Government hotline must be immediately informed.

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	Currently the law does not impose a direct obligation for employees to disclose such information. However, due to the strict rules applicable toward testing and isolation because of COVID-19, employees are expected to disclose such information.
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, currently the law does not directly permit mandatory vaccination. However, following common practice and the Public Ombudsman's recommendation, employers may oblige employees to provide a complete vaccination certificate or a negative PCR test result (on a regular basis) and such practice should not be considered as infringement of rights or discrimination.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, existing laws do not provide for a possibility to make vaccination status a condition of employment for new recruitment.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.

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8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>According to the general recommendations regarding the COVID-19 pandemic issued by the Ministry of Internally Displaced Persons from the Occupied Territories, Labor, Health and Social Affairs of Georgia, the employer must carry out workplace protocols systematically to eliminate the spread of COVID-19 and, if not possible, to minimize it.</p> <p>To ensure safety, measures to be carried out by the employer include (but are not limited to):</p> <ul style="list-style-type: none">► Engineering controlling measures, such as protective barriers► Enacting administrative controls, such as educational training, providing disinfectants and developing an action plan in emergency situations► Use of personal protective equipment, including face masks, goggles and gloves
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1(a)	<p>Which legal requirements must be observed by an employer when planning for a return to the workplace?</p>	<p>When planning for a return to the workplace, employers have to ensure the safety and health of their employees in accordance with the provisions of the German Occupational Safety Act as well as further detailed occupational safety regulations. To do so, the employer is obliged to constantly assess and monitor the risks of employees' working environments, taking into consideration individual circumstances. In this context, employers are strongly advised to set up an occupational health and safety protocol based on the SARS-CoV-2 occupational safety standard (please refer to the comments in Q2). The above-mentioned risk assessments of the work environment must be conducted by the appointed occupational safety representatives, if any. Last, employers are also obliged to instruct their employees on mandatory hygiene and safety measures.</p> <p>In addition, new regulations for occupational infection control have been added to Section 28b of the Infection Control Act, which will apply for a limited period up to and including 19 March 2022.</p> <p>Employees must carry proof of vaccination and/or recovery or a current certificate of a negative test for COVID-19 with them when they enter the workplace. Employers must monitor whether employees are complying with this obligation and document these checks.</p>
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1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

The question whether employees can be required to return to the workplace or may continue working from home depends on the (contractual) agreement between an employer and employee (or the employer and the works council).

There is currently a so-called "home office obligation". In the case of office work or comparable activities, the employer must offer the employees the opportunity to carry out these activities at their home if there are no compelling operational reasons to the contrary. Employees must accept this offer if there are no reasons to the contrary.

If there is an agreement permitting remote work, the employer must comply with the rules, notice periods and conditions that have been laid down in the agreement. If there is no agreement, employers are generally allowed to determine the work location of their employees on the basis of the employer's right.

Due to the urgency of the COVID-19 pandemic, many employees in Germany were permitted to work remotely without any formal contractual agreement/amendment. There are the above-mentioned official regulations permitting employers to offer employees remote working where possible, subject to operational considerations.

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Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

There are no particular statutory limitations.

However, actual limits (e.g., in terms of social distancing between employees) may result from the application of the SARS-CoV-2 occupational safety standard, which was announced by the German Federal Ministry of Labour and Social Affairs in April 2020 and further updated during the COVID-19 pandemic. This occupational safety standard provided recommendations for occupational safety during the COVID-19 pandemic (e.g., wearing face masks, keeping one-and-a-half meters distance) and can be downloaded from the [Ministry's website](#).

Since the employer is obliged to take appropriate occupational health and safety measures based on their duty of care toward employees, failure to comply with the SARS-CoV-2 occupational safety standard may result in liability risks or even administrative fines. To this extent, employers are obliged to, for example:

- ▶ Provide test kits, face masks and disinfectants
- ▶ Establish social distancing rules
- ▶ Redesign workplaces
- ▶ Create technical alternatives to physical meetings (e.g., video conferencing)

It may be also advisable to reorganize work and break times to avoid overcrowding.

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Face masks must be worn, especially if the intended safety distance of one-and-a-half meters cannot be maintained. In particularly hazardous working areas, the employer furthermore has to provide the employees with personal protective equipment and instruct them how to use it. The employee may be exempted from the face mask requirement by a medical certificate. However, according to an initial court decision, this only applies if the certificate comprehensibly documents which specific health impairments are to be expected as a result of the obligation to wear the face mask.</p> <p>With regard to the mask obligation, there are regional differences between the federal states. In some cases, it is mandatory to wear a Filtering Face Piece 2 (FFP2) standard face mask.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Given that temperature testing and demanding a negative COVID-19 test are infringements of an employee's right to privacy and data protection, it has to be determined in each individual case whether such measures are appropriate and necessary. It must be taken into account whether the measure is reasonable on the basis of the given circumstances, such as the number of COVID-19 infections being particularly high in the area where the office is located, if an employee has travelled to a "risk area" or if the employee had contact with a diagnosed person.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>If employees had close contact with a diagnosed person, they are obliged to report it to their employer. Such an obligation arises from the employee's duty of loyalty, as part of the employment agreement. The duty to report an infection or the risk of an infection exists regardless of whether the responsible health authority has taken action.</p> <p>It should be noted that questions from the employer regarding the health status of an employee or a relative of the employee generally requires special justification. However, if an employee or a relative of the employee is diagnosed with COVID-19, the employer may demand information about the situation so that they can fulfil their duty of care and protection towards other employees. In such cases, the employer may also release the (potentially diagnosed) employee from work until the situation has been clarified.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information regarding one diagnosed individual shall not be spread to a larger group than necessary. However, if there is a valid reason, i.e., the extent of the infection's spread needs to be identified, this can be communicated to such larger group of people.</p> <p>Health data can be processed in accordance with the GDPR and supplementary domestic legislation. However, it should be noted that such data triggers extra precautions, which means that sufficient security measures need to be taken, including control of access to data and further the data needs to be deleted when its no longer required.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>It depends on the sector in which the organization operates.</p> <p>There is a so-called facility-based vaccination obligation in the healthcare sector. Mandatory vaccination applies to employees who work, in facilities such as:</p> <ul style="list-style-type: none">▶ Hospitals

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6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses? Contd.

- ▶ Nursing homes
- ▶ Disabled care centers
- ▶ Doctors' offices
- ▶ Emergency medical services
- ▶ Maternity facilities

In all other sectors, whether public or private, vaccinations are not mandatory and employers may not oblige employees to obtain a vaccination or dismiss employees if they are not vaccinated.

Employees of such facilities must provide their employer with proof of vaccination or recovery by 15 March 2022 at the latest. Alternatively, they can submit a medical certificate stating that they cannot obtain a vaccination due to medical reasons.

However, the situation is different with regard to the obligation to provide evidence or vaccination status (please refer to comments provided in Q1 (a)). Employees who cannot, or do not wish to, provide proof or vaccination status and, as a result, do not perform their work, may be subject to consequences. If the employee does not intend to disclose his status or is unable to prove it and is therefore unable to perform the work, they should generally not be entitled to remuneration.

With regard to the right of dismissal, the principle of proportionality suggests employers should provide an initial warning. If the employee persistently refuses to provide proof, termination may be considered as a final step.

In this case, the time limit of this regulation must also be taken into account as part of the negative prognosis. This is intended to enable employers to check the vaccination or recovery status of their employees and also to present the evidence to the health authority if requested.

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses? (Contd.)	Failure to comply will be treated as an administrative offense punishable by fines. Whether an employee in this sector may be dismissed if they refuse to comply has not yet been clarified, but it could be a consequence.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q6(a). There is a distinction between the healthcare sector and all other sectors.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>A distinction is made here between the healthcare sector and all other sectors.</p> <p>The employer's right to ask job applicants about their vaccination status is the logical prerequisite for making this recruitment decision. According to the current legislation in force (which may change at short notice), employers in the healthcare sector are permitted to ask employees and job applicants about their vaccination status.</p> <p>Against this background, employers in those sectors may decide to only recruit vaccinated individuals if the job position absolutely requires a vaccinated employee. However, this must be decided in an individual case.</p> <p>In other industries, as there is currently no mandatory vaccination obligation, the employer is not permitted to enquire about this during the job interview. However, it should be noted that the employee/applicant is required to provide proof of their vaccination status once they enter the workplace.</p> <p>Please refer to comments provided in Q1(a) and Q6(a).</p>

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7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q7(a) regarding the obligation in certain industry sectors e.g., healthcare.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>To be able to comply with the SARS-CoV-2 occupational safety standard, it may be a practical approach for employers to do a “soft opening” (e.g., let employees work part-time from their home office and part-time in the office), blocking certain workspaces where a safe distance cannot be maintained or splitting employees in groups to reduce the risk of infections (with two groups working alternately from their home office and in the office).</p> <p>Against the background of the COVID-19 pandemic, many employers in Germany are currently considering granting employees a permanent option for working (partly) from their home office, even beyond the pandemic. In this context, it is highly advisable to set up a comprehensive legal basis (if not already done so) to regulate this new way of working, such as by policy, individual agreements or an agreement with the works council. When doing so, employers should always consider potential codetermination rights of employee representative bodies, particularly works councils, if any.</p> <p>Please also refer to comments provided in Q1(a) and Q6(a).</p>

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	Question	Response
1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	When employers plan the return to office, they should consider applicable restrictions related to COVID-19. Throughout the country, for example, an obligatory threshold of 50% of employees to be placed under obligatory remote working has been set (if they are able to work in this way). In addition, under the same provisions the employer is obliged to plan gradual working schedules and attendance to working premises to avoid crowding.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	When employee are categorized by a physician as belonging to a high-risk group in relation to COVID-19, they have the right to be placed under remote working conditions. If this is not feasible, then the employee should be placed under working conditions that must prevent them from being in contact with the public. If this also is not feasible, as a last resort the employer may place the employee under suspension, and the latter must receive a respective subsidy (€534 per month by the State).
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Currently there are statutory limitations available depending on the industry and type of activities.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes.

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4	Can employees be required to take a temperature test when entering the office?	Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. For example, in Greece, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, as a general rule. However, in the healthcare sector, an employer has the right to suspend the employment agreement.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, employers cannot make having obtained a vaccine a condition of employment for new recruitment.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q7(a).

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should rather be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This could mean implementing social-distancing guidelines at the workplace, such as blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such return should also involve appointed safety representatives, if any.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>By law, an employer is responsible for:</p> <ul style="list-style-type: none">► Screening employees on the basis of symptoms of COVID-19 and measuring employees' body temperature before entering the workplace► Maintaining a distance of at least one-and-a-half meters between co-workers, clients and vendors, and ensuring all workplace attendees wear face masks at all times► Providing spaces for workers to frequently wash their hands► Providing face masks to their employees and mandating the wearing of face masks► Properly cleaning and disinfecting workspaces and work tools► Informing the Ministry of Labor regarding suspected cases of COVID-19 at the workplace► Informing the Ministry of Health regarding diagnosed COVID-19 cases at the workplace/among employees► Closing workplaces for 24 hours where there is a potential exposure to COVID-19► Providing employees transportation from their homes to the workplace and vice versa when public transport is not available► Providing personal protective equipment to employees► Implementing occupational safety and health plan measures and precautions to prevent COVID-19 at the workplace
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>According to the regulations issued by the Government, which are in force, companies are encouraged to offer remote working options, especially for high-risk employees to avoid putting them at greater risk of severe illness from COVID-19.</p>

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	Question	Response
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no such legal limitations for private spaces, but the employer must ensure safe distances of at least one-and-a-half meters between co-workers, clients and vendors, and must require employees to wear face masks at all times. In addition, the employer needs to make changes to the physical design of the workplace to ensure social distancing.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes, it is mandatory by law.
4	Can employees be required to take a temperature test when entering the office?	Yes, it is mandatory by law.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	By law, employees must inform the employer if they suspect they have contracted COVID-19 or have been diagnosed with the same. They must also provide their employer a medical certificate to comply with quarantine rules.

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, in Guatemala the vaccination remains voluntary for the general population and so it will likely be an unfair dismissal if an employment contract is terminated due to the employee not having obtained a vaccine
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No. This may be considered discriminatory for candidates who can show that their vaccination status was critical to the decision not to hire them. Employers are advised not to make vaccination status the critical determinant in the hiring process.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No, the position does not differ but private sector employers are more likely to be vulnerable to claims of discrimination where the candidate shows vaccination status was a determining factor in a decision not to offer them employment.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	Please refer to the comments in question 1(a).

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	Question	Response
1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	Employers are legally required to follow the safety protocols laid down under the COVID-19 pandemic, and they must provide their employees with the biosecurity implements necessary for their work, such as face masks and hand sanitizers. Honduras has a special biosecurity protocol that companies must follow.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	Employees may be legally required to return to the office under social distancing and biosecurity rules.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. However, government officials are conducting regular inspections to verify if companies are in compliance with biosecurity protocols.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Employees are required by law to wear face masks at all times in the workplace except in designated eating areas, based on the Biosecurity Act.

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4	Can employees be required to take a temperature test when entering the office?	Based on Art. 11 of the Biosecurity Act, employers are obligated to use any mechanism to stop the spreading of COVID-19. Employees may be required to submit to a temperature test.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	Employees are not obliged under law to disclose this information, but the employer can make employees sign an agreement for disclosing the information if they or any of their family members are diagnosed with COVID-19.

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, as there is no legal obligation for employees to obtain a vaccination.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No, even though most public sector employees are regulated by a different law than the Labor Code (<i>Ley de Servicio Civil</i>).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes, employers are free to hire whomever they wish. However, if the candidate feels they are being discriminated against because they have not obtained a vaccination, they may file a complaint with the Labor Ministry or the National Human Rights Commission.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No, even though most public sector employees are regulated by a different law than the Labor Code (<i>Ley de Servicio Civil</i>).
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	All companies must follow the biosecurity protocol.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	Under common law and the Occupational Safety and Health Ordinance, employers must ensure the safety and health of their employees. Employers are required to provide a working environment that is, so far as is practicable, safe and without risks to health. Employers may also have reporting obligations under the Employees' Compensation Ordinance.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	Employees are required to comply with their employer's reasonable instructions. Unless there is a valid basis for refusing to attend the workplace, a refusal to comply with instructions from their employer can amount to a breach of contract. If the contract of employment provides for the place of work as being at the workplace, the employee has a contractual obligation to work in that location and the employer may request the employee to do so. However, under the Occupational Safety and Health Ordinance, an employer has an obligation, as far as is reasonably practicable, to ensure the health and safety of its employees. Provided that an employer has taken reasonable measures to protect the health and safety of its employees, and in the absence of any specific grounds for refusing to return to work other than general concerns about the presence of the COVID-19 in Hong Kong, an employer can legally require an employee to attend the workplace.

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No.</p> <p>There are no such legal limitations for private places. The number of people allowed to participate in group gatherings in public places has, however, temporarily been limited due to COVID-19 pandemic.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Employers have a common law duty to provide and maintain a reasonably safe place of work for employees. In addition, under the Occupational Safety and Health Ordinance, employers must ensure the safety and health at work for all of its employees as is reasonably practicable. It is therefore prudent for employers to implement various measures, such as requiring the use of face masks or other protective gear when visiting the office, to avoid or minimize the spread of COVID-19 among the workforce.</p>

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4	Can employees be required to take a temperature test when entering the office?	<p>Employers have legal and corporate responsibilities to protect the health of their employees and visitors. During the COVID-19 pandemic, it is generally justifiable for employers to collect temperature measurements or limited medical symptoms of COVID-19 of employees and visitors solely for the purposes of protecting the health of those individuals.</p> <p>However, employers must follow the general rule that data collection should be necessary, appropriate and proportionate. They should seek to process the relevant data in an anonymized or de-identified way. Least-intrusive privacy measures should be preferred.</p> <p>Generally speaking, a self-reporting system is preferred to an across-the-board mandatory system where health data is collected indiscriminately. Employers should spell out to their employees how the data collected will be handled. If the collection of such data is not covered by the existing privacy notices, a fresh Personal Information Collection Statement (PICS) must be provided when or before the data collection to inform employees of the data collected and the purposes (e.g., protection of public health) and the classes of persons (e.g., public health authorities) to whom their data may be transferred. It is also a good and ethical practice to inform employees in the PICS how long the data will be retained by the employer.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Similarly, it would be reasonable for employers to require employees to disclose to the employer if they are a risk (i.e., if they have symptoms of COVID-19, have been in contact with a person who has a confirmed COVID-19 case, or have recently visited a high-risk area) to provide and maintain a reasonably safe place of work for employees.</p> <p>Employers should, however, be mindful of their obligations as a “data user” under the Personal Data (Privacy) Ordinance and handle the personal data collected from their employees with care.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>It depends on the sector in which the organization operates.</p> <p>The Government has implemented a "vaccine bubble" in which employees will be required to have obtained at least one dose of the COVID-19 vaccine.</p> <p>The vaccine bubble will primarily cover business in the life style, entertainment and hospitality sector including bars, clubs, cruise ships, restaurants, fitness centers, swimming pools and hotels. Furthermore, the vaccine bubble will cover schools and certain government cultural and leisure facilities such as public libraries.</p> <p>From 24 February 2022, all teaching and non-teaching employees and school visitors will be required to present vaccination records showing at least one COVID-19 vaccine dose prior to their entry into school premises. The Government clarified that an unvaccinated teaching or non-teaching staff member directly employed by the school, or those who are not exempt from vaccination, will be treated no different from an employee who is absent from their place of work without reasonable excuse, and such periods of absence will be deemed as unauthorized. The school management has the responsibility to take action in respect of staff disciplinary matters in accordance with the Employment Ordinance.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, the condition for mandatory vaccination regardless of public or private sector will depend on the measures and requirements of the vaccine bubble. Please refer to comments provided in Q6(b).
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	The Hong Kong Department of Health has published Guidelines on the Prevention of Coronavirus Disease 2019 (COVID-19) for the General Public. These provide useful guidance for individuals, and employers should ensure any measures they put in place are consistent with that guidance. The guidelines encourage reducing social activities, such as meal gatherings, and to maintain social distancing and good hygiene measures, such as creating good indoor ventilation and ensuring the office is cleaned thoroughly and that employees use good personal hygiene. Also, employers should not host seminars or social functions pending a reduction in infections.

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

The Hungarian Work Safety Act declares that all persons working within the territory of Hungary must have the right to safe and healthy working conditions, and the implementation of occupational safety and health requirements must be the duty and obligation of the employer. Accordingly, while considering returning to the office, employers may update their occupational safety and health standards (should be defined in a way to provide adequate protection to employees, as well as to other persons in the proximity of the area where the work is performed, and to persons using the services), and it is highly recommended to perform a risk assessment. During the risk assessment a work-safety specialist must participate. Moreover, the employer must provide proper, suitable work equipment for workers with due consideration of the related hazards, and they also must guarantee proper applicability, protection capacity, a satisfactory hygienic condition, necessary cleaning, maintenance (repair) and replacement of protective equipment.

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	Question	Response
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>The place of work is subject to the provisions of the employment contract. In general, employees working in offices have employment contracts specifying that their place of work is the office. Therefore, employees must appear and perform work in the office. If the parties concluded an employment contract regarding the employee's obligation to perform work from home (a remote work employment contract), the employment contract must be amended to require the employee to come back to office. If the employment contract specifies partial home-office work, the terms and conditions of the employment contract are to be examined.</p> <p>Until 23 May 2021, the employee and the employer could have concluded an agreement if they wanted to differ from the rules of remote working set out in Sec. 196 of the Labor Code. This separate agreement was not considered an amendment to the employment contract.</p> <p>Currently, remote working must be agreed in the employment contract. Unless specifically adapted for a particular circumstance, the standard rules of remote working are as follows:</p> <ul style="list-style-type: none">▶ The employer's right of instruction extends to the determination of the tasks to be performed by the employee▶ The employer exercises its right of control remotely using a computer device▶ The employee must attend the workplace for a maximum of one third of annual working days▶ The employer ensures appropriate access to the workplace and contact with other employees
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. Currently there are no statutory limitations regarding office buildings or other workplaces.

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>As the employer must provide safe and healthy working conditions, the employer may order employees to wear a face mask if required.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>As the employer must provide safe and healthy working conditions, the employer may order employees to participate in a temperature test. However, the execution of the test must be compliant with the requirements of the GDPR.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>No.</p> <p>Employees are not specifically required to disclose information to the employer as to whether they have, have had or live in a household with someone who has COVID-19.</p> <p>However, as a principle of the Hungarian Labor Law, the employee is obliged to cooperate with the employer and, subject to the circumstances, an employer may require such information to provide safe and healthy working conditions. In general, an employee's failure to comply with the obligation to cooperate may trigger employment law consequences such as termination with notice.</p>

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<p>6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses?</p>	<p>Yes. As per Government Decree No. 598/2021 (X. 28.) on the protection of workplaces against COVID-19, the employer may mandate employee vaccination, taking into account the specificities of the workplace and the role. This Decree is only applicable during the current state of emergency.</p> <p>If an employee refuses to obtain a vaccine within the deadline specified by the employer, the employer may unilaterally order unpaid leave for the employee. After one year of unpaid leave, the employer may terminate the employment with immediate effect. However, an employee who is medically exempt from vaccination, after showing evidence to their employer of the same, may not be subject to the mandatory obligation for vaccination.</p>	
<p>6(b) Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.</p>	<p>Yes, although not a significant difference.</p> <p>Public sector: Employees of state and local organizations must obtain a vaccine by 31 January 2022.</p>	
<p>7(a) In the case of new recruitment, can employers make vaccination a condition of employment ?</p>	<p>No, the Decree mentioned above in Q6(a) does not cover the recruitment process i.e., it does not entitle the employer in this respect.</p>	
<p>7(b) Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.</p>	<p>Not applicable.</p>	
<p>8 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?</p>	<p>It is recommended to accept new policies regarding social distancing or possibilities of working from home. These not only help employees to adapt to new situations, but the possible employment law consequences are also easier to be defended.</p>	

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

An employer has the obligation to continuously evaluate the work environment and act on potential risks. Appropriate occupational health and safety measures must be taken by an employer. Pursuant to the Containment Framework issued by the Ministry of Home Affairs, Government of India, on 29 April 2021, employers must ensure that their workplace functions with a maximum attendance of 50%. However, this is only indicative as states/union territories are authorized to implement necessary containment measures based on an assessment of their particular circumstances.

As per the Containment Framework, employers are responsible for ensuring a number of measures are taken, including:

- ▶ All employees must wear face masks
- ▶ All employees must practice social distancing (i.e., with a minimum distance of six feet)
- ▶ Remote working is preferred, to the extent possible
- ▶ Staggering of work hours at workplaces
- ▶ Implementing screening and hygiene practices (e.g., thermal screening, regular sanitization, hand-washing station at entry and exit points and in common areas)

In addition to the above, other current regulatory guidance includes:

- ▶ Guidelines for surveillance, containment and caution issued by the Ministry of Home Affairs on 27 January 2021
- ▶ Standard operating procedures (SOP) on preventive measures to contain the spread of the COVID-19 pandemic in offices issued by Ministry of Health & Family Welfare on 13 February 2021

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1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. The Containment Framework requires that an employer should implement remote working, to the extent possible. As such, if an employee opposes coming to the workplace where the nature of work requires it, this can legally be regarded as refusal to work, upon which an employer may take appropriate legal action.

As per the SOP, any employees residing in a containment zone should inform their supervisory officers and not attend the workplace until the containment zone is removed. These employees should be permitted to work remotely and this should not be counted as leave. Further, any legal action should, however, be carefully assessed in advance, factoring the employee's personal situation and the work environment, including necessary precautions taken by the employer.

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>The Containment Framework provides that employers must ensure that their workplace functions with a maximum attendance of 50%. Given this is an indicative percentage, state governments have been exercising their discretion to establish local guidelines. For example, The Government of Maharashtra has permitted operation of private offices with 100% attendance in Level 1 restricted districts outside containment zones (i.e., less than 5% COVID-19 positivity rate and less than 25% oxygen bed occupancy).</p> <p>In addition to this, employers should also comply with the directives under the SOP, such as seating arrangements with adequate social distancing, staggered work hours and options to work remotely wherever feasible.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>As per Annexure II of the Containment Framework, wearing a face mask is compulsory at workplaces. Accordingly, employees would be required to wear a face mask or other protective gear when visiting the office.</p>

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4	Can employees be required to take a temperature test when entering the office?	<p>As per Annexure II of the Containment Framework, the employer must provide thermal scanning, hand washing or sanitizer at all entry points at the workplace. Accordingly, to ensure a safe working environment, employees must be required to take a temperature test when entering the office.</p> <p>As per the SOP, employees residing in a containment zone should inform their supervisory officers and not go into the office until the containment zone issue is removed. These employees should be permitted to work remotely, and it will not be counted as leave.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer bears the ultimate responsibility for a healthy and safe working environment, disclosure by an employee in respect to COVID-19 (including possible interaction with a COVID-19-positive person) can be requested by the employer, and the employee must provide the requested information in accordance with the underlying duty of loyalty, which forms part of employment.</p> <p>Employees' privacy in respect to COVID-19 infections should be maintained to the extent appropriate and without risking the harm of other employees in the organization. Employers are required to comply with the relevant provisions of the Information Technology Act, 2000, read with the Information Technology (Reasonable Security Practices and Procedures and Sensitive Personal Data or Information) Rules, 2011, while obtaining, storing, processing and transferring any such employee information.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. The obligation of ensuring that employees are fully vaccinated has been imposed on the owners/management of the institutions. While an employer cannot force an employee to obtain a vaccination, or dismiss an employee on the grounds of refusal to obtain vaccination, the employer may mandate that only those employee(s) who are duly vaccinated shall be permitted to enter the workplace.</p> <p>In case an employee refuses to obtain a vaccination and consequently is unable to attend the workplace, the employer may take appropriate disciplinary action, including termination of their employment on grounds of voluntary absenteeism.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>It depends on the state regulations.</p> <p>While there is no legal requirement on compulsory vaccination prior to recruiting any individual, an employer may, if operating in a state wherein the government has issued circulars/orders on employers being required to ensure that its staff is vaccinated, require a candidate to provide their vaccination status prior to hiring such candidate.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No.

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It must be noted that any violation of the Containment Framework would constitute an offense under the Disaster Management Act, 2005, and the Indian Penal Code, 1860. As per Containment Framework, employers are required to stagger work hours and maintain adequate social distancing measures. Accordingly, at present all employees should ideally not be permitted to return to work at the same time. The return should be phased, where each employee is, for example, allocated one or a few days at the workplace each week on a rotational basis.

However, this is only indicative as states/union territories are authorized to implement necessary containment measures based on an assessment of their particular circumstances.

While COVID-19 vaccinations continue to remain voluntary, many states in India have mandated that only vaccinated persons be allowed to enter public places e.g., markets, public transport (Bus stand and railway stations), parks, religious places, bars, restaurants, hotels, all Government/ Board /Corporation offices and private & government sector banks.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>Generally speaking, all employers must make sure that workplace is safe, as mandated by Law No. 1 of 1970. Not only that the workplace must be safe from physical accidents, but it must also be safe from infectious diseases.</p> <p>Given the above, employers must keep observing the applicable community restrictions based on instructions that are issued by the government from time to time, which apply also to the capacity in workplace. Such community restrictions are issued by way of Ministry of Domestic Affairs Instruction, which implements three different levels of restrictions, depending on the number of positive COVID-19 cases in a region. Currently, the Instruction is updated on a weekly basis.</p> <p>Based on such Instruction, employers must observe the applicable community/workplace capacity restrictions which vary from region to region depending on where the place of business is located.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Yes, employers can do so contractually but they must still maintain safe workplace and capacity restrictions.</p> <p>Generally speaking, while the government encourages employers to implement a remote working approach for all of their employees, there is no special right for employees to remain off-site. An employer may still require employees to work at the workplace as long as the employer can maintain a safe workplace and observe the applicable restrictions issued by the government from time to time.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Yes. Please refer to comments provided in Q1(a).
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. Employers may establish health protocols to that effect, which may form part of the employer's effort in maintaining a safe workplace.
4	Can employees be required to take a temperature test when entering the office?	Yes. Employers may establish health protocols to that effect, which may form part of the employer's effort in maintaining a safe workplace.

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	No such requirement under the laws, but employers may establish this obligation under health protocols to that effect, which may form part of the employer's effort in maintaining a safe workplace.
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, unless such a mandate has been properly stated in the company rules, collective labor agreement or employment contract. NB: Under the Quarantine Law (issued in 2018), vaccination in the midst of a pandemic is an obligation for everyone. Anyone who refuses may be subject to criminal sanction.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes, employers retain a broad discretion when it comes to new employees. However, noting that vaccination is obligatory for the general population, this may not be perceived as discriminatory behavior.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Not applicable.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>Employers have a legal duty to ensure the safety, health and welfare at work of their employees. This duty extends to the provision and maintenance of a safe place of work for all employees.</p> <p>Under the Safety, Health and Welfare Act 2005, employers are required to carry out a Risk Assessment of the workplace, to identify any hazards present. A Safety Statement must also be prepared.</p> <p>Prior to a return to the office, employers will be required to carry out an updated Risk Assessment to reflect any risk to the workplace in light of COVID-19. The results of the Risk Assessment must be reflected in the updated Safety Statement.</p> <p>Employers will also need to consider the guidance in the Work Safety Protocol (Protocol). The Protocol is a government publication and sets out the best practice standards for workplaces in Ireland. This includes the completion of a Pre-Return to Work form for every employee. The Protocol also sets out the minimum standard for public health infection prevention and control measures required in every workplace to prevent and reduce the spread of COVID-19 and to facilitate the ongoing safe operation of workplaces.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Yes. If the employer's workplace/premises is specified as the place of work in the employment contract, then an employee can be required to return to that location.</p> <p>NB: Legislation is expected later in 2022 to provide employees with the right to request remote working. Consultation regarding returning to the office and flexibility will be key for employers to retain talent rather than seeking to compel a return.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No.</p> <p>As of 24 January 2022, the government permitted the commencement of the return to physical attendance in workplaces on a phased basis appropriate to each sector. It did not provide further guidance on what is to be regarded as appropriate phasing for the various sectors of employment.</p> <p>Employers should continue to follow guidance in the Protocol which provides for the restructuring and changing of work patterns to implement COVID-19 prevention measures.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>No.</p> <p>Face masks are only legally required to be worn in the following settings:</p> <ul style="list-style-type: none">► Public transport, taxis and at stations/airports/ports► Retail premises (including shopping centers, libraries, cinemas, theatres, museums, post offices and banks), public offices and at premises providing specified services and businesses (including salons, hairdressers, travel agents, laundries, dry cleaners and bookmakers), and► Customer-facing roles in premises where food and beverages are sold for consumption on the premises <p>It is possible that following advice from a health and safety specialist, having carried out a risk assessment, that the wearing of masks would be identified as a necessary requirement. However, there are a number of other preventive and control measures provided in the Protocol, making it unlikely that mask wearing would be deemed necessary. Exemptions would be required for those with medical conditions preventing them for wearing masks.</p>

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4.	Can employees be required to take a temperature test when entering the office?	<p>Generally, no, there is no general legislative basis to require employees to take a temperature test when entering the office, except for certain sectors (e.g., healthcare).</p> <p>The Protocol makes it clear that the implementation of temperature testing must be done in line with public health advice. There is currently no public health advice for its implementation save for certain sectors.</p> <p>NB: Additional legal obligations arise under GDPR for circumstances in which temperature testing is carried out on employees and a record of the testing is stored (governing medical data).</p>	
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>No.</p> <p>Employees are not obliged by law to disclose to their employer that they have or have had COVID-19, or that they live with someone who has been diagnosed with COVID-19. The collection of such information by an employer would constitute the processing of medical data.</p>	
6(a)	Can an employer mandate employees vaccine and dismiss an employee who refuses?	<p>No. Employers cannot currently compel employees to obtain a vaccine, save in very limited circumstances in the healthcare sector.</p> <p>An employer who mandates vaccination as a condition of, for example, permitting access to the workplace may be subject to the risk of the following claims being brought:</p> <ul style="list-style-type: none">► Discrimination (e.g., disability, religious beliefs, pregnancy)► Unfair dismissal	

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6 (b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7a	In the case of new recruitment, can employers make vaccination a condition of employment ?	No. There is no general legal basis to require vaccination as a condition of employment, save in very limited circumstances in the healthcare sector.
7b	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	Employer should adhere to the guidance in the Protocol and be mindful of expected legislation on Remote Working, Right to Disconnect and the implementation of the EU Directive on Work/Life balance (flexible working), which must be implemented in Ireland by August 2022.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the work environment, including the health and safety of employees and workers. An employer must regularly follow up and assess employees' working environment to mitigate risk factors and, in particular, to comply with measures provided in the Shared Protocol to counter and control the spread of COVID-19 in working environments. This was adopted jointly by the Government and workers' representatives on 14 March 2020 and last updated on 6 April 2021. Risk assessments of the work environment on an organizational level must also involve the Prevention and Protection Service, the relevant doctor and appointed employee safety representatives, if any.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>If the employer is compliant with the health and safety provisions, employees whose workplace contractually is set to the office location of the employer may be contractually required to work from this location.</p> <p>On 5 January 2022, a Circular has been released, for both public and private sector employers, to implement the utilization of smart working for all activities that can be carried out at home or remotely. This will be in force until 31 March 2022, the expected end of the state of emergency, which may be extended.</p> <p>In particular, with reference to the private sector, it will be possible to use smart working with simplified methods, without an individual agreement between the company and the employee, by notifying the Ministry of Labor and Social Policy electronically.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no such legal limitations for private spaces or workplaces.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. As per the latest update to the Shared Protocol, it is necessary for employees to use face masks or other protective devices (e.g., gloves, goggles, overalls, caps, gowns) at the workplace. Additional measures can be required by the Memorandum of Understanding, union agreements and company policies.
4	Can employees be required to take a temperature test when entering the office?	Yes. In particular, the Shared Protocol provides for the body-temperature measurement of employees to access the premises and company offices, among other measures to combat the spread of COVID-19. This also applies to users, visitors and customers as well as suppliers, when a separate access method has not been set up for the latter.

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Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.

Employees' privacy in respect to the COVID-19 pandemic should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with the pandemic. In Italy, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.

Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. In any case, only the necessary, adequate and relevant data will have to be collected in relation to the prevention of COVID-19 spread, without requesting additional information from the COVID-19-positive person, including specific places visited or other details relating to that person's private life.

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<p>6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses?</p>	<p>It depends on the industry sector in which the organization operates.</p> <p>For employees working in hotels, restaurants, museums, gyms, community centers and similar workplaces, they are currently required to obtain a “base green certification”. Employees who have not obtained a vaccination may obtain such certification by completing a PCR test within 48 hours before entering the workplace.</p> <p>As of 15 February 2022, in both the public and private sectors, all employees over 50 years of age and who are yet to obtain a vaccination (and who are not exempt) will be required to obtain a vaccination in order to enter the workplace. These older employees will be required to have, and present, a “super green pass” (i.e., the COVID-19 green certificate issued following vaccination, specifying either the second or third dose of vaccine) or proof of recovery from COVID-19.</p> <p>If older employees, subject to compulsory vaccination, do not present the certificate or are unable to locate it when entering the workplace, they will not be permitted entry. They will be considered unjustified absentees, without disciplinary consequences, and with the right to keep their job until they present their “super green pass”. The employer may not dismiss employees in such situations.</p> <p>Any compensation due must be paid to such employees for all the days of their unjustified absence. Until 15 June 2022, after five days of unjustified absence of certain employees and irrespective of the overall number of personnel, an employer may suspend and replace them by signing a replacement contract with other employees. The duration of the suspension must not exceed 10 working days.</p>
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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?(contd.)	<p>Permitting access for older employees in violation of the above obligation is punishable by an administrative sanction between €600 to €1,500.</p> <p>Employees who prove that they are not subject to the vaccination obligation or are exempt must be assigned to different tasks, without loss of pay, in order to avoid the risk of infection.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>No.</p> <p>In addition, with regard to university and school staff, the mandatory vaccination obligation takes effect from 1 February 2022 without any age limit.</p> <p>Please refer to comments provided in Q6(a).</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>In general terms, there is no express legislative provision related to this aspect.</p> <p>However, in the light of the obligation for older employees and certain other groups to obtain a mandatory vaccination, presenting proof of vaccination is certainly an element that employers will be obliged to take into account.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>No. Please refer to comments provided in Q7(a).</p>

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

In the recovery phase following lockdown, the importance of a smart approach to restarting professional activities clearly emerged. It may not be suitable for all employees to return to work at the same time. Instead, the return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This means sanitizing the workplace according to a specific protocol and implementing social-distancing guidelines, such as blocking certain work spaces and limiting the number of people that gather in small spaces. In this regard, clear and precise information on the safety measures adopted must be made available in the workplace. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

Question

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	Question	Response
1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	Under the Labor Contract Act, an employer is required to give appropriate consideration of the life and health of employees so that employees will be able to work safely. According to judicial precedents, specific details of such an obligation would be determined on a case-by-case basis, considering various factors such as the employee's job and place of work. When planning for a return to the workplace, an employer should examine whether it satisfies the obligation by using guidelines issued by the Government and relevant industry associations.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	Employees can be required to return to the office as a part of the employment contract. However, an abuse of rights by the employer is not allowed. Whether an instruction by an employer to return to the office constitutes an abuse of rights is determined by various factors. An instruction by an employer that does not give appropriate consideration of the health of employees would be viewed as an abuse of rights.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Not specifically. According to judicial precedents, specific details of employers' obligation to give appropriate consideration of the health and safety of employees would be determined on a case-by-case basis, considering various factors. However, when planning for a return to the workplace, employers should examine whether they satisfy the obligation by using guidelines issued by the Government and relevant industry associations.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Under the current situation, yes. An employer may give work instructions to employees as part of the employment contract. Due to the spread of COVID-19, where an employer needs to protect employees from getting infected at the workplace, a request to wear a face mask when visiting the office would be allowed as a lawful work instruction. If an employee refuses to wear a face mask due to a lack of supply (which was the case in Japan until June 2020 and could occur again), an employer should refrain from taking a disciplinary action against the employee.

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4	Can employees be required to take a temperature test when entering the office?	Under the current situation, yes. An employer may give work instructions to employees as part of the employment contract. Due to the spread of COVID-19, where an employer needs to protect employees from getting infected at the workplace, an instruction to take a temperature test when entering the office would be allowed as a lawful work instruction. To protect employees' privacy, employers should carefully handle the collected information in accordance with the Personal Information Protection Act and the Industrial Safety and Health Act.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Such information (i.e., that a specific person has been diagnosed with COVID-19) would fall under the definition of sensitive personal information under the Personal Information Protection Act, and therefore can be obtained only after consent from the specific person who had been diagnosed. Thus, an employer needs to obtain consent from family members (through the employee) to collect such information.</p> <p>However, the requirement of prior consent does not apply when the sensitive personal information is needed for protection of a person's life, body and property, and it is difficult to obtain consent. An employer would need to consider using this exception as necessary. To protect employees' and their family members' privacy, employers should carefully handle the collected information in accordance with the Personal Information Protection Act and the Industrial Safety and Health Act.</p>

Question

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	Generally no, because vaccination cannot be forced.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Generally no, due to the need for a “just cause” for dismissal.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Yes, although the legislative position is not clear.</p> <p>The government guidance for employers regarding COVID-19 indicates that although there is no specific law that prohibits making vaccination a hiring condition, an employer should carefully study if it the obligation is based on reasonable grounds and notify candidates in advance.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Please refer to comments provided in Q7(a).
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	It would be important to collect the latest information concerning the COVID-19 pandemic mainly from relevant Government websites, including information on subsidies.

Question

Response

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment at an organizational level must also involve appointed employee safety representatives, if any.</p> <p>Currently the quarantine regime has been withdrawn due to the low number of COVID-19 cases. In addition to labor legislation, an employer should follow provisions set out in the Decrees of the Chief Medical Officer of the country and those of particular cities.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>The Labor Code has been amended to introduce a combined work regime. Upon mutual consent between the employee and employer, a hybrid regime, including attendance at the workplace and remote working, may be introduced and corresponding amendments made to the employment agreements.</p>

Question



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2

Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

According to the Decrees of the Chief Medical Officer, there are certain limitations in relation to returning to workplaces, such as limiting the amount of people at the workplace at the same time, including offices and any other facilities to serve clients.

Decree of the Chief Medical Officer on Further Strengthening of the Measures to Prevent Coronavirus Infection Among the Population of the Republic of Kazakhstan, states that:

- ▶ A business center should be occupied with the minimum number of people to comply with the social distancing requirements (at least four square meters per person)
- ▶ Employees and visitors must use face masks at all times during the work day, subject to their timely replacement
- ▶ Antiseptics and a minimum stock of disinfectants must be available at all times at the workplace, with the premises regularly cleaned using the disinfectants

Other restrictions vary depending on the city or region. Depending on whether the COVID-19 situation in the relevant city/region is indicated with “red”, “yellow” or “green” status, employers should transfer a certain percentage of employees to remote work. For example, Almaty, where most banks and other financial institutions are located, is currently designated as a “red” zone, and thus these organizations have to transfer 70% of their staff to remote working.

From 1 February 2021, COVID-19 vaccinations began in Kazakhstan. By the Decree of the Chief Medical Officer of the country No. 68, dated 25 December 2020, there is no restriction regarding the percentage of employees working on a full-time and remote basis if these employees have been vaccinated against COVID-19. Full-time work is allowed if employees have obtained both vaccination doses or have been diagnosed with COVID-19 within the last six months.

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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes.

According to the Decrees of the Chief Medical Officer, entrance to any facility without face masks is prohibited. Visitors are obliged to wear face masks when visiting the building.

The employer must inform the employees and make sure that employees duly read the sanitary and epidemiological requirements, including the requirement to wear face masks. If there are any violations of such requirements, the employer is required to commence disciplinary proceedings for as per the employer's internal rules.

Violation of the requirements of the legislation regarding sanitary and epidemiological welfare of the population, as well as hygienic standards, may lead to imposition of an administrative fine of:

- ▶ 30 monthly calculation indicators (MCI*) (approximately USD 215), for an individual
- ▶ 230 MCI (approximately USD 1,640), for small business entities or non-profit organizations
- ▶ 310 MCI (approximately USD 2,210), for medium-scale business entities
- ▶ 1,600 MCI (approximately USD 11,400), for large-scale business entities

*MCI is subject to annual increase. For 2021, 1 MCI = KZT 2,917; For 2022, 1 MCI = KZT 3,063.

Question



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4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>Due to the spread of COVID-19, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>According to the Decree of the Chief Medical Officer, at the entrance to the workplace it is obligatory to organize contactless temperature checking for employees and visitors. They can enter the workplace only if they have no symptoms of acute respiratory diseases (e.g., fever, cough), and if their body temperature is not higher than 37⁰ C.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. However, please note that there is no legal obligation to disclose information to the employer as to whether an employee has, or has had COVID-19, or lives in a household with someone who has been diagnosed with COVID-19.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the health of other employees in the organization.</p>

Question

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No. The Labor Code provides an exhaustive list of the grounds for termination of the employment relations at the initiative of employer. Refusal to obtain a vaccination is not in this list.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No. Local legislation does not restrict hiring of non-vaccinated individuals. An employer's refusal to hire non-vaccinated individuals may be regarded as discriminatory.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No. Please refer to comments provided in Q7(a).

Question



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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be advisable for all employees to return to the workplace at the same time, factoring in both public transport and social distancing issues. The return should be phased, where each employee is, for example, allocated one or a few days in the office or at the workplace on a rotational basis.

Once back at the workplace, the employer will also need to manage the employees' wellbeing in compliance with laws, regulations and applicable CBAs. This could mean implementing social distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in shared spaces. Assessing the possibilities for returning to the workplace and preparing the organization for such a return should also involve appointed safety representatives, if any.

For further information on hybrid working, please refer to comments provided in Q1(b).

Question

Response

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	Question	Response
1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>According to the general provisions of the employment law, an employer is responsible for the working environment, including the health and safety of employees. Additionally, epidemiological precautionary measures laid down in COVID-19 specific regulations should be considered by the employer to ensure fair and safe working conditions that are not harmful to health.</p> <p>For the containment of the spread of COVID-19 at workplaces, an employer shall provide possibilities for remote working to employees if the nature of work allows it. If work is performed at the workplace, the employer has an obligation to:</p> <ul style="list-style-type: none"> ▶ Determine measures for the containment of the spread of COVID-19 at the workplace ▶ Assign a person who shall be responsible for the introduction of such measures ▶ Inform employees of the measures introduced at the workplace ▶ Provide employees with the necessary personal protective equipment
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	It depends on the type of work. If employees cannot work off-site and perform their duties, this can be requested. In the private sector, negotiation is in place between employers and employees.

Question

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>It depends on the employer and company policies. From a legal perspective, there are no such limitations, but employers must comply with special COVID-19 law restrictions and national health authority guidelines.</p> <p>To handle the fluctuating COVID-19 infection rates, conditions and requirements are regularly revised. For example, the Cabinet of the Republic of Latvia Regulation states that up to 20 persons may gather in a shared working area at the workplace without using face masks and without maintaining a two meter distance, provided that all such persons have:</p> <ul style="list-style-type: none"> ▶ Obtained a vaccination against COVID-19 in accordance with applicable regulation ▶ Alternatively, previously been diagnosed with COVID-19 and have been certified as recovered by a physician <p>However, if the above information about an employee is unavailable, the two meter distance shall be maintained and face masks shall be used in all shared working areas.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. Due to fluctuating COVID-19 infection rates, conditions and requirements are regularly revised. The Cabinet of the Republic of Latvia Regulation states that for public indoor premises (including workplaces), if more than one person is present on the premises, medical or non-medical (hygienic or fabric) face masks must be used (if none of the exceptions provided in the Cabinet regulation apply).</p> <p>Please refer to comments provided in Q2.</p>

Question

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. Employers should comply with the GDPR as well.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As per the special COVID-19 law, employees may be requested to disclose this information.</p> <p>In addition, employers may request:</p> <ul style="list-style-type: none"> ► A certificate of recovery, stating that the person has recovered from a COVID-19 infection ► A certificate of vaccination, certifying that the person has obtained a vaccination and 14 days have passed since the completion of the full vaccination course <p>The employee should take care to obtain a vaccine authorized by the European Medicines Agency (or by an equivalent regulator) or recognised by the World Health Organization. They should have been administered the vaccination in accordance with the instructions for use of the vaccine.</p> <p>For employees who have obtained a vaccination, a certificate will be issued following a period of 22 to 90 days since receipt of the first dose or immediately after receipt of the second dose of the vaccine.</p>

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	Yes.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>Yes.</p> <p>Public sector: All employees must obtain a vaccination.</p> <p>Private sector: If the employee does not come into contact with any other person, and unvaccinated may fulfill that role.</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Yes.</p> <p>Public sector: All employees must obtain a vaccination.</p> <p>Private sector: If the employee does not come into contact with any other person, and unvaccinated may fulfill that role.</p>

Question



Response



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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Currently the government has requested that public and private sectors work remotely as much as possible. As the situation of the COVID-19 pandemic changes from day to day, the conditions and requirements are regularly revised. There are special requirements for providing services in certain sectors e.g., restaurants, cultural activities, entertainment, sports or other recreational sites.

Question



Response

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>As per the Luxembourg Labor Code, “The employer is obliged to ensure the safety and health of employees in all work-related aspects,” and “Within the framework of their responsibilities, the employer must take the necessary measures for the protection of the safety and health of employees, including activities that prevent occupational risks, information and training, as well as the establishment of the necessary organization and means.”</p> <p>A draft bill is in progress to, impose a mandatory vaccination within the healthcare sector (private and public).</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to the office location of the employer, may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. In addition, employees have a legal right to withdraw from going to the workplace where they face a serious, immediate and unavoidable danger. In the specific context of the spread of COVID-19, employees are obliged to inform the employer of any such risk or diagnosis.</p>

Question



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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>New regulations are applicable from 13 June 2021. Employers dealing with customers in restaurants or shops may choose to apply the “COVID-19 Check” regime, which permits only customers and employees who have:</p> <ul style="list-style-type: none">► Tested negative for COVID-19 (with supporting documentation or who performs a test on-site)► Obtained a vaccination (with supporting documentation) <p>The option to apply the COVID-19 Check regime must be notified by the employer to the Health authority (<i>Direction de la Santé</i>) and customers must be informed via a visible notice. Vulnerable employees (e.g., pregnant women, or those suffering from diabetes, cancer, heart or respiratory issues) may work but the employers must pay specific attention to their protection and are encouraged to contact the occupational health service to define a specific protocol.</p> <p>If the establishment applies for this regime, protection measures like face masks or a two meter physical distance are not necessary. If the establishment does not apply for the COVID-19 Check regime, all protection measures remain applicable, including two meter physical distance and/or face masks and glass screens dividing workstations.</p> <p>The Luxembourg authority for the banking and financial sector markets issued guidelines mentioning that remote work must be preferred, if possible. When employees are back to work on the company's premises, the employer must issue policies and determine the maximum number of employees present at the same time.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Wearing face masks in areas where the minimal distance of two meters cannot be respected is mandatory, including in offices. Workstations and other areas where employees might be sitting should be arranged to minimize risk, and protective equipment must be provided to ensure the protection of employees. For restaurants and shops, the COVID-19 check regime may be applicable. Please refer to comments provided in Q2.</p>

Question



Response



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4	Can employees be required to take a temperature test when entering the office?	There is no particular regulation on this matter. However, to discharge their obligation to ensure the health and safety of employees, should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies. However, rules deriving from the GDPR must be followed, and the Luxembourg Protection Authority issued guidelines stating clearly that this measure must be cautiously implemented. In addition, employers cannot keep and record temperature results and cannot link this information to the identity of employees.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>No.</p> <p>While, there is no general legal obligation on the part of employees to disclose information to the employer of a possible exposure to COVID-19, on the basis of the obligation of loyalty and good faith that must govern all employment relationships, employers can expect to receive such information, which will enable them to take the preventive measures they consider necessary to ensure the health and safety of employees.</p> <p>However, if an employee is diagnosed with COVID-19, they will receive an official isolation or quarantine notification from the Health Public Authorities and must send it to the employer as this notification will be regarded as the medical certificate required to cover the absence.</p> <p>Employers must communicate with their employees and stress the importance of transparent information.</p>

Question

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. Over the period from 15 January to 28 February 2022, only those employees who have been vaccinated, recovered or tested will be allowed to enter the workplace.</p> <p>In order to enter the workplace, employees must present one of the following:</p> <ul style="list-style-type: none">► A COVID-19 vaccination certificate► Proof of recovery from COVID-19► A negative COVID-19 test result (either a PCR test no more than 48 hours old or a certified rapid antigen test no more than 24 hours old)► Proof of medical exemption and a negative COVID-19 test result (either a PCR test no more than 48 hours old, a certified rapid antigen test no more than 24 hours old, or a test taken on site) <p>However, an employee who does not show the certificate or (the appropriate alternative) may not be dismissed.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, however the attendance at the workplace is subject to the conditions mentioned in Q6(a).

Question



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7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Yes.</p> <p>For example, the candidates for a role in the Luxembourg Army must display, from 1 January 2022, that their vaccination process is complete (three doses).</p>
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport and social distancing issues. The return should be phased, where each employee is, for example, allocated one or a few days at the workplace on a rotational basis.</p> <p>Once back in the office, the employer will also need to manage the well-being of employees in compliance with laws, regulations and applicable CBAs. This could mean implementing social distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities for return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p> <p>Currently partial remote working is recommended by several institutions, including the Luxembourg Chamber of Commerce and CSSF (<i>Commission De Surveillance Du Secteur Financier</i>, the Banking Regulator). The government launched a significant campaign to promote self-testing, in addition to the vaccination campaign. It provided employers with self-test kits in order to facilitate large scale self-testing by employees.</p>

Question



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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

Companies must first identify which special health and safety measures need to be adopted. Post identification, companies must execute the official form of self-evaluation and secure authorization from the labor authority to return to the workplace.

The most relevant requirements by the authorities are:

- ▶ The employer must provide sanitary filters at the entrances and exits at the workplace. At least 60% alcohol-based hand sanitizer must be provided
- ▶ The employee's temperature reading, taken prior to entry, must not exceed 37.5°C, otherwise the employee will not be permitted to enter the premises
- ▶ It is mandatory for employees to use a face mask inside the workplace
- ▶ Given the pandemic risk rating system (traffic lights) issued by the federal government, continue to encourage remote working as much as possible
- ▶ Remote working is a priority for workers belonging to a vulnerable group (people over 60 years old, pregnant and breastfeeding women, or those with special health conditions)
- ▶ In order to avoid overcrowding of workers, the workplace must have staggered hours, shifts or flexible working hours
- ▶ Distance of at least one-and-a-half meters must be maintained between employees
- ▶ Social gatherings are limited

Question



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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace? (*continued*)

Prioritize video conferencing for in-person meetings but, where this is not possible:

- ▶ Maintain at least one-and-a-half meters between attendees
- ▶ Ensure respiratory hygiene
- ▶ Clean and sanitize tables, chairs and other objects at the workplace before and after the meeting

Employers are also obliged to provide:

- ▶ Signage on the floor to establish a one-way circuit where the employee can walk around the workplace
- ▶ Regular deep cleaning and sanitization of the workplace
- ▶ Guidelines on not sharing cellphones, office supplies, kitchen utensils, etc.
- ▶ Ongoing communications promoting regular handwashing, respiratory hygiene and social distancing

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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Yes.</p> <p>The worker can be requested to return to the office, as long as the employer guarantees the right to health of the workers and has all the requirements requested by the federal government and the Secretary of Labor and Social Welfare fulfilled.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>Yes.</p> <p>This will depend on the type of activity, structural conditions of the workplace, and risk rating system.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>It is mandatory to use face masks at all times. It is a requirement established at the national level by the Secretary of Health and the Secretary of Labor and Social Welfare, in order to try to reduce the spread of the COVID-19 pandemic.</p>

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>It is mandatory prior to starting the work shift and when the company so indicates. This is a requirement established by the labor and health ministries.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Yes.</p> <p>It is the worker's obligation to inform their workplace if they have been exposed to, or have had contact with, persons diagnosed with COVID-19 or if they have symptoms. However, it is advisable for employers to implement a specific protocol to collect and manage this information since, in some cases, such information must be shared with the relevant authority.</p>

Question

Response

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, the obligation to obtain a vaccine has not been made mandatory. Various state governments in Mexico have recently introduced restrictions on entry, without vaccination or proof of negative PCR test result, into businesses, entertainment venues and sporting events.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, local labor law does not permit enquiries regarding candidates' medical status.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.

Question



Response

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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

The set of obligations will depend on the state and city in which the companies have locations. It is important to constantly monitor local regulations. Once back in the office, employers will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This includes implementing social-distancing guidelines at the and limiting the number of people that gather in small spaces.

Assessing the possibilities to return to work and preparing the organization for such a return should also involve the Joint Commission for Health and Safety and appointed safety representatives. The reinstatement of personnel must be gradual, with a minimum number of people defined for each area to resume face-to-face activity. For the selection of workers who are going to restart activities, prioritization may be given to those who are able to commute by their own means.

The employer should establish staggered entry and exit times to avoid crowds of people, arrange a specific place (at the entrance to the establishment) for cleaning hands, footwear and personal items (wallets, backpacks, bags, etc.) before entering and exiting the workplace.

Question



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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

From March 2020, the government requested all employers and employees to work remotely as far as possible. This became an official government order when the COVID-19 pandemic became further aggravated in October 2020. From 26 June 2021, the government relaxed restrictions on returning to the workplace. Employees who are currently working remotely may, in consultation with their employer, work up to half of their hours at the office.

Due to fluctuating rates of COVID-19, from 26 November 2021 the government requested employees to work remotely, unless it is critical to work from the workplace. This is, however, not a binding direction but only a recommendation and therefore has no strict legal basis.

According to Dutch law, the employer has an extensive duty of care with respect to the health and safety of its employees. The employer is responsible for ensuring that the workplace is safe and in compliance with all health and safety legislation. Failure to do so could give rise to sanctions. In addition, the instructions of the Institute of Health Protection must be followed.

Employers are still required to maintain the social distance of one-and-a-half meters at the workplace, including shared working areas such as elevators and cafeterias. Therefore, only a certain amount of desks may be used. In addition, employers may request their employees to wear a face mask during movements. It is recommended to place hand sanitizers in several places throughout the workplace.

For certain types of contact-based work, specific regulations may apply and employers are advised to regularly check government websites and sector-specific information sources. Finally, there is a legislative proposal to allow employers to request a certificate from their employees before they enter the workplace. The certificate would likely show that the individual has recovered from COVID-19, has obtained the necessary vaccine or can evidence a recent negative test result.

Question



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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>In principle, employees must cooperate with the employer's request to return to the office unless, for example, the employment contract states that the employee may work partially from home. However, this general principle may change depending on specific circumstances and in the event of further fluctuations of the COVID-19 pandemic. There are a number of exceptions to the general principle, including:</p> <ul style="list-style-type: none">▶ Based on the Flexible Work Act, an employee has the right to request an amendment to the contractual workplace, including a request to work partially from home. The Act provides for "a right to ask" and the employer has a "duty to consider" such requests▶ Further, a recent legislative proposal called the "Work Where You Want Act" (<i>wet werken waar je wilt</i>) provides for an extension of the right of an employee to work remotely. Should the employee request an amendment of the workplace, the employer may only refuse such requests where there are compelling business reasons, which should be provided in writing, such as economical, organizational and scheduling reasons▶ If an employee has compelling reasons not to return to the workplace, such as a health condition▶ Where the employee can show that the employer is not in compliance with the instructions of health authorities
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>Please refer to comments provided in Q1(a).</p> <p>However, these measures do not apply to crucial and vital professions. The government is also calling on people to travel to the workplace outside peak hours as much as possible. In addition, the proposed new Work Where You Want Act also provides for employees to request an amendment to their working hours and shift patterns.</p>

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>From 26 June 2021, the government relaxed the obligation to wear face masks in general, except for places where a social distance of one-and-a-half meter is not possible (e.g., public transport and the profession where physical contact cannot be avoided).</p> <p>As of 26 November 2021, due to fluctuating rates of COVID-19 diagnoses, the rules regarding wearing a face mask have been tightened again.</p> <p>Wearing a face mask is mandatory in the following areas:</p> <ul style="list-style-type: none">► Public transportation► Passenger transport► In aircraft and at airports <p>In addition, wearing a face mask is advised at the workplace when moving around, or where you cannot keep one-and-a-half meters distance.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes. Employers may implement this measure in exceptional circumstances, however, the data from this test may not be registered because it qualifies as sensitive health-related data, for which far-reaching restrictions apply according to the GDPR.</p> <p>It should also be noted the Government has stated that a policy involving temperature testing of employees or customers has not yet proven to be effective and is therefore not yet recommended.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>No, in principle, employees cannot be required to disclose such information to the employer. However, in practice it is common to request employees to sign a protocol that declares they comply with health and safety regulations, such as (but not limited to) staying at home in the event of any health symptoms that may be caused by COVID-19 and self-isolating in the event of a COVID-19 infection.</p> <p>In any event, both the employer and employee have a duty of loyalty, which forms part of the employment relationship. This includes making sure that colleagues are not at risk. Therefore, it can still be requested that employees inform the employer when they are or have been at risk of being infected. From a strict legal point of view, however, it cannot be enforced as there is currently no legal basis. There are ongoing discussions about this topic in the Netherlands.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. As per the law, an obligation to obtain a vaccine cannot be forced on employees.</p> <p>However, in view of the health and safety obligations, specified in Article 3 and Article 10 of the Working Conditions Act, the employer is obliged to take reasonable measures to ensure the safety not only of employees, but also that of third parties who are or may be involved in the activities. The employer must therefore take timely measures such as, introducing working, following social distancing at the workplace or wearing protective clothing to prevent contamination at workplace.</p> <p>Since there is no mandatory vaccination requirement, an employee who refuses to be vaccinated cannot be terminated. There is a legislative proposal to allow employers to request a certificate from their employees before prior to permitting them to enter the workplace. The certificate would likely show that the individual has recovered from COVID-19, has obtained the necessary vaccine or can evidence a recent negative test result.</p>

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	Question	Response
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>No. It depends on the sector in which the organization operates.</p> <p>For example, for employees in the healthcare sector, it can be argued that mandatory vaccination measures could be taken sooner, considering the situation of the healthcare employee who works with extremely vulnerable patients and if the employee categorically refuses every measure, such as protective clothing, regular testing, vaccination or social distancing.</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No, it is also not possible to make obtaining a vaccine a condition of employment.</p> <p>Please refer to comments provided in Q6(a).</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Not applicable.</p>
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>As per legislation, the employer has an extensive duty of care with respect to the health and safety of its employees. The employer is responsible to ensure that the workplace is safe and that all legislation regarding health and safety has been taken into account. In the event employees would claim that they have suffered damages while carrying out their work, there is only a limited burden of proof for the employee regarding the connectivity of the damages and the work. As a response, the burden of proof shifts to the employer, forcing the employer to prove that the workplace is safe. This leads to a general liability assumption of employers unless they can prove that they have complied with their duty of care. Employers should also check whether employees act in compliance with instructions, as it is their duty to confront employees whether there are cases of any negligence.</p>

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>Due to the spread of COVID-19, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. In Nicaragua, employees' COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	Yes. While there is no specific legislative provision, considering that under Article 18 of the Nicaraguan Law No. 618 the employer is responsible for providing a safe and healthy working environment, a private sector employer could include mandatory vaccination in its policies. Any employer considering the same must ensure that it consults with the Labour Authority (MITRAB) prior to applying such a policy.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Private sector: May be introduced via internal policies of the organization.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes. Please refer to comments provided in Q6(a).
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Please refer to comments provided in Q6(b).
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days at the workplace. Once back in the workplace, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>The Government has adopted protocols on preventive measures for all workplaces.</p> <p>In brief, employers are obliged to:</p> <ul style="list-style-type: none">► Set up hand hygiene stations, such as disinfection dispensers in prominent places in the office (including promotional material on hand hygiene), which will be available to all employees and third parties who visit the office► Provide face masks (and include promotional material on the usage of them) and tissues for employees, as well as trash cans with lids for the hygienic disposal of waste► Adopt measures for maintaining distance between persons in the office of at least one meter, including employee workstations and communal spaces, and maintain strict control over external access to the workplace by third parties► Reduce in-person meetings to the extent possible, introduce flexible working hours and provide tools to foster remote work as much as the work process allows► Reduce and re-organize business travel► Organize regular cleaning and disinfection of the office► Provide promotional materials for raising employee awareness about COVID-19 and promote individual safe practices► Inform the regional public health center in a timely manner where there are cases of COVID-19 exposure or a risk of the same► Require face masks for employees and visitors of indoor work spaces, per a separate ordinance by the Government
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	Question	Response
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	An employee whose workplace contractually is set to the office location of the employer may be asked to work from this location if all measures are fulfilled. Employers under no circumstances should discriminate on which employees will return but they are advised to use objective criteria and be transparent with employees. Returning employees should be carefully assessed in advance to take into account the employee's personal situation and the work environment, including necessary precautions taken by the employer, as explained in the first question. However, pregnant women, according to a government decision, are in any case released until the end of the COVID-19 pandemic from work and work responsibilities requiring a physical presence at the workplace.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>The protocol does not stipulate any limits to the number of people allowed to be in the same location. However, as explained in the first question, employers are obliged to organize work in the office by maintaining distance of at least one meter between persons present in the office. Thus, depending on the size of the office, employers should decide whether they can organize work in the office by successfully maintaining distance between employees or if they should limit the number of people in the office, organizing work in shifts or setting up remote operations.</p> <p>Business meetings, training courses and seminars organized by the employer, in accordance with the Protocol for organization of working meetings, trainings, courses and seminars must additionally limit the number of participants in order to maintain physical distance of 1.5 - 2 meters or up to 50% of the capacity in the office, as well as to limit the duration to a maximum of 6 hours, with a mandatory break every 2 hours.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Based on the protocol, the employer should secure face masks and hygienic tissues, and everyone in the work environment should wear face mask. There is an additional ordinance that mandates wearing face masks in indoor premises.

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4	Can employees be required to take a temperature test when entering the office?	At this point, the protocol only provides the measurement of temperature as an option that should be considered by the employer as an additional measure to the rest of the preventive measures that should be undertaken.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	An employee need to inform the employer of any potential health risks at work. If, however, a diagnosed person is within the workplace, employees are directly obliged to report. Employers are also advised to secure separated isolation rooms for such cases. In all cases, the general practitioner and state epidemiologist needs to be involved.

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No. Since vaccination for COVID-19 is not mandatory in North Macedonia, according to the Macedonian legislation, the employer cannot impose such obligation on employees, thus it cannot dismiss an employee due to his/her refusal.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No. As explained above, since vaccination for COVID-19 is not mandatory in North Macedonia, the employers cannot make having obtained a vaccine a condition of employment in the case of new recruitment.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	The above are the general measures and ordinances applicable to all services and industries. Specific industries may be obliged to apply separate protocols depending on the services and the industry to which they belong.

Question	Response
<p>1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?</p>	<p>The employer is responsible for ensuring that the working environment is fully satisfactory. The employer has the obligation to continuously evaluate the work environment and act on potential risks. The COVID-19 pandemic is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken. Examples of this include providing disinfectants and technical possibilities as an alternative to physical meetings (e.g., video conferencing). The risk assessment regarding health and safety for employees must be carried out in collaboration with the safety representative and the employees' elected representatives. If the company has more than 50 employees, the work-environment committees must also be involved.</p>
<p>1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?</p>	<p>Yes, employees must attend the workplace and perform their duties in accordance with the employment contract, in particular at a specified location.</p> <p>Employees do not have the right to assess whether they should stay away from the workplace. Therefore, the employer can direct the employee attend the workplace as normal. It is also the employer who decides whether, and to what extent, the employee may work remotely. While there is no longer any legal requirement for employers to make it possible for employees to work remotely, employers should consider the possibility based on the workplace in question. An employer may evaluate based on, among other things, the likelihood of a large scale, simultaneous absence due to illness.</p> <p>An employee may, in some cases, have the right to work remotely if:</p> <ul style="list-style-type: none"> ► A physician has concluded that the employee's health dictates that they must not leave their residence ► The employer and employee have entered into a remote working agreement <p>It is still recommended that the employer does not force employees to work at the workplace unless there is a strong need for it and this is in accordance with the applicable rules and regulations. Due to the spread of COVID-19, both employees and employers are in an uncertain time. In addition, the situation may change rapidly due to local fluctuations. Employers should be conscious of the reputational risk from disgruntled employees making public statements.</p>

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2

Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?

The government has passed regulations, guidelines and recommendations related to the restart of activities. The Norwegian Regulation relating to Infection Control Measures in Connection with the Coronavirus Outbreak (Regulation) (FOR-2020-03-27-470) has been amended on a regular basis in order to respond to the COVID-19 pandemic. Some examples of recommended measures are:

- ▶ Limitations related to the number of people at the workplace: Employees must keep a distance of one meter from other colleagues. If this is not possible, employees must use face masks unless there are physical barriers such as partitions. Some businesses, such as gyms, shopping centers and hotels, must comply with specific public health measures. Further information is available from the Public Health Directorate [here](#), which provides a comprehensive list of affected sectors and businesses.
- ▶ Isolation, quarantine and potential illness: Employees diagnosed with COVID-19 are required to self-isolate. The isolation period concludes when four days have passed from the time the symptoms commenced and the employee's temperature is normal for the preceding 24 hours. All close contacts, such as household members or equivalent, should carry out daily testing for five days. Other close contacts should also monitor their symptoms, remain at home and take regular COVID-19 tests.
- ▶ Entry into Norway: There are currently no entry restrictions specific to the COVID-19 pandemic, however there are strict requirements for registration and testing. Persons arriving in Norway must complete a registration form prior to departure from the third country. Travellers must confirm that they are fully vaccinated or have previously been diagnosed with COVID-19. Alternatively, travellers must provide a COVID-19 negative test result. The test may be either PCR or rapid antigen based and must be taken less than 24 hours prior to arrival in Norway. The test result should be in one of the following languages: Norwegian, Swedish, Danish, English, French or German. Certain exceptions apply.

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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes, if the measure promotes the health and safety of the employees. However, whether such a measure is appropriate will depend on the type of workplace in question. In general, it is more appropriate to introduce such a measure in the healthcare sector rather than in an office environment. If the infection rate in society fluctuates such that employees in the workplace are exposed to infection risk, it is probably more appropriate to order employees to work remotely rather than forcing them to wear face masks at the workplace. If other sufficient infection control measures have not been implemented, employees are obliged to wear a face mask if it is not possible to keep at least one meter distance from visitors.

In addition to measures ordering the wearing of face masks at all times, there are workplaces which have partially implemented such measures (e.g., only when walking into the office or taking the stairs or elevator, but not when seated at a desk).

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4

Can employees be required to take a temperature test when entering the office?

The employer cannot on a general basis require employee tests for COVID-19 when they attend the workplace. The rules for requiring medical testing of employees are stringent. An employer may only require medical examinations to be conducted 1) when provided by statutes or regulations, 2) in connection with posts involving particularly high-risks or 3) when the employer finds it necessary in order to protect life and health.

With respect to voluntary testing: from an employment law perspective, it appears as an alternative that employees can voluntarily be tested before entering the office. From a privacy law perspective, this alternative also appears to be potentially unlawful. The GDPR requires a legal basis for processing personal data. Consent is one of the alternative legal bases for processing personal data. For a consent to be valid, it must, among other things, be given voluntarily. A consent is not valid if there is pressure to consent or if negative consequences arise if you do not consent. When assessing whether consent is voluntary, one must also look at the balance of power between the employer and the employee.

In addition, it is important to note that testing of employees' health is a control measure. Strict requirements are set for implementing control measures, which must also be met. For the employer to be able to implement a control measure, the measure must have a factual basis in the company's circumstances, and it must not entail a disproportionate burden for the employee. Employers must go through a process where the employer discusses the need, design and implementation of the control measure with the elected representatives in the company.

As regards to COVID-19 measures, orders for working remotely, social distancing, sanitizing and other requests are all part of the social solidarity effort to beat COVID-19.

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4	Can employees be required to take a temperature test when entering the office? (Contd.)	Employers will normally not be able to use consent as a basis for the processing of employee's personal data because of the dependent relationship the employee has on the employer. If the company nevertheless decides to obtain consent from employees to process their health data, it is important to note that these types of information are defined in the GDPR as "special categories of personal data" (Please refer to GDPR Art. 9).
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. For example, in Norway, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people. A consent is not valid if there is pressure to consent or if negative consequences arise if you do not consent. When assessing whether consent is voluntary, one must also look at the balance of power between the employer and the employee. Employers will normally not be able to use consent as a basis for the processing of employee's personal data because of the dependent relationship the employee has on the employer.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19? (Contd.)	If the company nevertheless decides to obtain consent from employees to process their health data, it is important to note that these types of information are defined in the GDPR as “special categories of personal data” (Please refer to GDPR Art. 9).
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No.</p> <p>Under Norwegian law, vaccination is completely voluntary and this applies to the COVID-19 as well. There is no legal basis or special exceptions that provide employers with an authority to order employees to obtain the COVID-19 vaccine. Dismissals require objectively justified reasons and must follow the procedure laid out in the applicable rules.</p> <p>However in extreme or special cases, such as in cases involving great danger to life and health or socially critical functions, there is a possibility in the law to demand that certain employees must be vaccinated in order to be able to perform work. This may be, for example, where the clinical need of patients demand that caregivers are vaccinated. The threshold for obliging mandatory vaccination on this basis is very high. This would also require sufficient objectively justified reasons that less comprehensive measures are deemed insufficient and that the process is carried out in accordance with the applicable legislation.</p>

Question	Response
<p>6(b) Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.</p>	<p>On a general basis, the position on mandatory vaccination does not differ between public and private sector. According to the Norwegian Act Relating to the Control of Communicable Diseases, the Norwegian Ministry and the Norwegian Board of Health may by regulation prescribe that the population or parts of it, shall have a duty to be vaccinated. This legal basis has not been used and the threshold for using it is high.</p>
<p>7(a) Can employers make having obtained a vaccine a condition of employment in the case of new recruitment?</p>	<p>No. Please refer to comments at Q6(a).</p>
<p>7(b) Does the position on recruiting vaccinated workers differ between public or private sector organizations? If so, please specify the difference.</p>	<p>Not applicable.</p>
<p>8 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?</p>	<p>It may not be suitable for all employees to return to work at the same time due to, for example, personal matters, public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspace and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives.</p>

Question

Response

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' work environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. The main recommendation is that all work that can be done without being on-site should be done remotely. This recommendation was also established by the Ministry of Labor as a resolution on 16 March 2020.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Yes. There are such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to the COVID-19 pandemic.

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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes. The use of face masks is mandatory before entering offices or other public spaces. The use of additional protective gear in offices is not mandatory but highly recommended. The Ministry of Health has established safety protocols that are mandatory for certain industries, such as construction, civil works and hospitals. There are also sanitary instructions for work environments in general. Specifically, the work environment protocol has mandatory measures, such as:

- ▶ Hygiene protocols at office entrances (hand washing, shoe disinfection, temperature checks, use of alcohol-based sanitizer)
- ▶ Provision of personal data and information (in order to facilitate traceability should there be an infection)
- ▶ Designation of a team responsible for COVID-19 measures at the office
- ▶ Obligation of the employer to inform and recommend safety protocols (social distancing, hand washing, etc.) and provide sanitation products in the office premises
- ▶ Promote social distancing and encourage remote working (when possible)

The most recent legal act about the mandatory use of face masks is Law 6699, enacted 22 December 2020, by which the government established that in all closed and open places, both public and private and in public and private transport (land, air and marine) wearing a face mask is mandatory. The law provides for monetary fines, community work orders and temporary or permanent closure of the establishment for any contravention, or definitive suspension of activities when there are repeated infringements of the law.

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes. Temperature control is mandatory before entering offices and public spaces.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>

Question

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, there is no legislative obligation for mandatory vaccination.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, due to the fact that vaccination is not yet widespread. In any case, refusal to hire due to vaccination status generally does not form part of any legal discrimination ground.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	No.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased, where each employee is allocated one or a few days at the workplace on a rotational basis. Once they return to the workplace, the employer needs to ensure employee's well-being in compliance with laws, regulations and applicable CBAs (e.g., implementing social distancing guidelines at the workplace and limiting the number of people that work in shared spaces). Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointing a safety representative.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>By law, every employer must comply with the drafting and registration of the COVID-19 Monitoring, Control and Prevention Plan, which must contain health regulations determined by the Government in a general and sectoral manner (where applicable). Having complied with this requirement, the company may resume its activities in the workplace.</p> <p>It is important to note that the implementation of this plan by the company implies making some modifications to the workplace and in the way regular activities are done.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Yes.</p> <p>The employer that already has a COVID-19 Monitoring, Control and Prevention Plan registered to the health authority may require workers to return to activities at the workplace, except where workers are considered to be at risk to COVID-19 due to their medical condition or age. These workers may return to the workplace only if they request it and provided that the employer authorized their return after serious evaluation.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No.</p> <p>There are no statutory limitations for the number of people in offices. However, social distancing must be guaranteed in the workplace, so the work environment must be reorganized.</p> <p>In the construction sector, the maximum number of employees on construction sites has been reduced, as per the statutory limit, to 50%. In the mining sector, measures for employees in camps and mining facilities must include implementing social distancing, among others.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>The use of face masks is permanent and mandatory. However, the type of face mask and the additional use of a face shield will depend on the level of risk to which workers are exposed.</p>

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4	Can employees be required to take a temperature test when entering the office?	No.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Yes.</p> <p>Before returning to the office, workers are required, by law, to fill out a symptom sheet and give it to the employer. On this form, workers must state whether they have had symptoms of COVID-19, have been in contact with a confirmed case of COVID-19 and are taking any medications. This information is confidential, so the employer must ensure the proper processing of the worker's sensitive personal data.</p>

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, due to the protection of civil liberties guaranteed under the constitutional rights.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No, due to the need for an objective reason for termination established under the Labor Law.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, due to the protection of civil liberties guaranteed under the constitutional rights.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>In addition to the implementation of the COVID-19 Monitoring, Control and Prevention Plan in the company, the employer, by law, must comply with the following:</p> <ul style="list-style-type: none"> ► Have an occupational doctor or healthcare professional on-site (depending on the number of workers in the workplace) ► Train workers on ways to prevent the spread of COVID-19 ► Avoid any type of discrimination against workers who have been diagnosed with COVID-19

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	The employer is obliged to ensure safe and hygienic working conditions, as well as to carry out and update the risk assessment. Within those duties, the employer is obliged to ensure safe conditions, enabling employees to rotationally return to work and providing proper ventilation of rooms, disinfectants and other protective tools.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>In general, employees are obliged to work at the place indicated in their employment contracts. However, currently there are solutions implemented to allow an employee to work remotely under the Act of 2 March 2020 on special arrangements for the prevention and combating of COVID-19, other infectious diseases and the resulting emergencies.</p> <p>According to the above-mentioned Act, the employer may commission an employee to work remotely for a fixed period of time during an emergency or epidemic state, announced due to COVID-19, and within three months after it subsides. The employer may also withdraw the remote working order at any time, therefore the employer may require employees to return to the office at their discretion.</p> <p>A draft amendment to the Polish Labor Code has been published, which is aimed at permanently introducing remote working into the Polish legal system, providing three modes of remote working:</p> <ul style="list-style-type: none">▶ Work performed remotely completely or partially▶ Ad hoc remote work performed at the employer's request▶ Remote work performed occasionally (maximum 12 days a year) <p>According to the draft amendment, the principles of remote work should be regulated in agreement with trade unions, in the internal regulations, in an agreement concluded with an employee or in an order to perform remote work.</p>

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	Question	Response
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. Currently there are no such legal limitations for private spaces. However, safety measures must be provided, appropriate to the capabilities of the employer, to ensure health and safety at work.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. Employees are obliged to wear a face mask in the office when more than one person is present, unless the employer releases them from such obligation. This regulation is valid until 31 January 2022.
4	Can employees be required to take a temperature test when entering the office?	Based on the recent statement of the President of the Office for Personal Data Protection, temperature testing is permissible under certain circumstances. The President's statement confirmed that specific categories of health-related data may be processed when necessary for reasons of public interest in the field of public health, such as protection against serious cross-border health threats, if this is provided for by law. This provision is therefore in line with national regulations in the field of combating the spread of COVID-19. It is permitted, in principle, for the employer to process data concerning the temperature of employees. It is, however, important that these tests are appropriately handled. Employees' privacy in respect to COVID-19 pandemic should be maintained to the extent appropriate and without risking the harm of other employees in the organization.

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. However, providing such information as a rule should be voluntary, upon the consent of the employee, and it should not interfere in the private life of the employee.</p> <p>The employer is permitted to advise employees that in scenarios of high temperature, recent travel or feeling unwell, they should attend workplace and may work remotely. The processing of such data received from employees must also be in compliance with the GDPR. COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p> <p>According to the draft amendment, an employer will be able to require that employees provide evidence of a negative test result prior to entering the workplace. Employees who are able to show:</p> <p>Evidence of a previous COVID-19 infection, or</p> <p>That they have obtained a vaccination against COVID-19</p> <p>will be exempt from this obligation.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No, due to the lack of legal grounds for employers to require mandatory vaccination. According to the draft amendment, the employer will only be able to require the employee to provide evidence of a negative test result.</p> <p>Employees who are able to show the following are exempt from this obligation:</p> <ul style="list-style-type: none">► Evidence of a previous COVID-19 infection

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses? (contd.)	<ul style="list-style-type: none"> ► Obtained a vaccination against COVID-19 <p>In the case of refusal to provide the above information, the employer will be able to:</p> <ul style="list-style-type: none"> ► Direct the employee to perform work outside the agreed workplace ► Assign another type of work, although remuneration must not be lower than the usual role <p>Moreover, medical professionals, pharmacists, medical students and employees of medical entities must be fully vaccinated against COVID-19 by 1 March 2022.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, due to the lack of legal grounds for processing of personal data of the employees/candidates in this regard.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Please refer to comments provided in Q7(a).

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

Currently, there are no additional formal requirements as to what other aspects should be considered by employers from the private sector. However, as a part of good practice, it may not be suitable for all employees to return to work at the same time, keeping in mind social-distancing concerns. The return should be phased in and rotational by dividing up work from the office and remote work, if possible.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces.

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must both plan in advance, and regularly follow up, and assess the employees' work environment to mitigate risk factors.

A company regulation regarding remote work, if approved, will require prior consultation of works council, interunion committees or union representatives, as applicable.

Although Portugal is currently under a state of emergency until 20 March 2022, remote working is presently not mandatory, only recommended, whenever the functions in question permit it.

Organizations should adopt technical and organizational measures in order to ensure the necessary physical distance and protection of their employees, notably:

- ▶ Hybrid work options should be applied (for example, a daily/weekly rotating schedule)
- ▶ A contingency plan (to be reviewed or prepared)
- ▶ Providing individual advice or counselling for employees falling into a high risk group
- ▶ Providing disinfectant

Furthermore, when remote working is not compatible with the functions of the employees, the employer must change work schedules to allow different teams to start and leave work at different times.

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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>Employees may remain off-site, in the following circumstances:</p> <ul style="list-style-type: none">▶ Having a duly attested medical condition that justifies their absence▶ Having an immunosuppressive medical condition upon medical certification▶ Handicapped/being disabled with a degree of disability equal to/greater than 60%▶ Being the victims of domestic violence▶ Employees with children until three years old, under certain conditions <p>In any case, Portuguese labor laws already foresee the possibility of remote working by means of a written agreement between employee and employer.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>Limitations exist for restaurants and public gatherings. In reference to workplaces, official guidelines from the National Health Authority must be followed:</p> <p>(e.g. one meter social distancing, two meters in enclosed spaces,</p> <ul style="list-style-type: none">▶ Reduce the contact between employees,▶ Ventilate enclosed spaces,▶ Regular disinfection of common surfaces,▶ Alternative measures to biometric registration used for worktime control,▶ Use of glass screens between workers

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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	The use of face masks or shields remains mandatory in indoor spaces.
4	Can employees be required to take a temperature test when entering the office?	<p>Yes, but there are certain rules to follow:</p> <ul style="list-style-type: none">▶ Tests must be executed by occupational health professionals;▶ Employee consent is required;▶ No records of measurements must be kept. <p>Due to the ongoing COVID-19 pandemic, any employee may execute the test, being subject to professional secrecy. Refusal to take the test permits the employer to refuse access to the workplace.</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. For example, in Portugal, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. Employers are not legally permitted to impose mandatory vaccination on employees, nor to dismiss an employee who refuses to be vaccinated.</p> <p>Enquiries about an employee's vaccination status are only permitted when access to public indoor spaces is required. Employees must provide evidence of having obtained a COVID-19 vaccine or show a negative test result obtained up to 24 hours prior to seeking access.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	No.

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	Question	Response
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No. Portuguese law precludes the employers from including in their candidate selection process the assessment of COVID-19 vaccination status; other than for access to public spaces, this is considered reserved information, accessible only to occupational health services.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	There is no difference between public and private organizations in this regard.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>Employers are required to adopt adequate measures to prevent contagion, specifically the use of an appropriate mask. For example, they are allowed to change work schedules to allow different teams to start and leave work at different times. However, employees may oppose this change, which may cause subsequent issues.</p> <p>Please refer to comments provided in Q2.</p>

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess employees' work environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>During the state of emergency, which is currently ongoing in Romania, remote working must be implemented by the employer through an unilateral decision, for those categories of employees that can work remotely, for at least 50% of employees.</p> <p>Once this legal obligation ends, employees should return to the workplace, as organized by the employer.</p> <p>There could be situations when the employee must be present at the workplace (e.g., for induction), in which case the employee could be required to work at the workplace. However, each circumstance must be carefully analyzed and justified in writing by the employer, to diminish the risk of being sanctioned by the labor authorities.</p>

Question	Response
<p>2 Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?</p>	<p>No.</p> <p>There are no such legal limitations for private spaces, but when reorganizing the workplace, the employer must ensure that there is a minimum distance of one-and-a-half meters between employees. Given this, the number of persons permitted in the workplace could be limited by the necessity to ensure safe physical distance.</p> <p>In addition, companies with more than 50 employees must organize the working schedule in such a manner that the employees are divided in groups, or have a staggered work schedule, so that some employees start work at 7.30 and others at 10:00.</p> <p>The number of people permitted to participate in private or public gatherings has, however, been temporarily limited due to the spread of COVID-19, for both indoor and outdoor gatherings. This situation is regularly changing and the authorities continue to update the applicable rules.</p>
<p>3 Can employees be required to wear a face mask or other protective gear when visiting the office?</p>	<p>Yes.</p> <p>Employees are required to wear a face mask that covers both mouth and nose when they are at the workplace. Commencing 1 August 2022, it is mandatory to wear only medical grade or FFP2 (N95) protective masks.</p> <p>However, it is not mandatory to wear a mask at the workplace if the employees are alone in the office. From the same above date, wearing a face mask becomes mandatory in all enclosed and open public places.</p>

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes. During the state of emergency that has been established in Romania, employees must allow the employer to take a temperature test when entering the office.</p> <p>The employer must continuously evaluate the work environment and act on potential risks, and COVID-19 is an obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken, and by law, the employer must provide the epidemiological triage and hand sanitizer for each employee before entering the employer's offices.</p> <p>Epidemiological triage consists of a temperature test at the beginning of the work program (a person's temperature should not exceed 37.3°C) and whenever needed during working hours. The temperature must be checked each time a person re-enters the office.</p> <p>The employer must prohibit access to its premises by any employee or visitor who is suspected to have or is diagnosed with COVID-19.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Despite the right to privacy, the employer bears the ultimate responsibility for a healthy and safe working environment. Thus, this type of question must be raised by the employer, and the employee must reveal this information in accordance with the underlying duty of loyalty, which forms part of the employment.</p> <p>Employee's privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. For example, in Romania, where GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be spread to a larger group than necessary.</p>

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	Question	Response
6(a)	Can an employer mandate employees vaccine and dismiss an employee who refuses?	No. Employers may not order mandatory vaccination of employees as it is not permitted under law. However, there are two draft laws which, if passed, indicate that employees from public and private sector organizations would be required to provide an EU digital certificate confirming COVID-19 status in order to work at a workplace. These draft laws remain under discussion on and, given they have led to controversial discussions in Romanian Parliament, we suggest that its likely not to be adopted.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, it may be deemed an example of discrimination and employers should not enquire remaining the same. seen as an example of discrimination and is, therefore, forbidden by law.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.

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Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

If the employee cannot carry out their work remotely during the state of emergency, employers with more than 50 employees must organize the working schedule in such a manner that the employees are divided in groups or have a staggered work schedule so that some employees start work at 7:30 am and others at 10:00 am.

An employer should continuously evaluate the work environment and act on potential risks, and COVID-19 is an obvious risk in many businesses. Appropriate occupational health and safety measures must be taken, such as:

- ▶ The employer must ensure epidemiological triage and hand sanitizer for each employee before entering the workplace
- ▶ The employer must organize work spaces so that a minimum distance of one-and-a-half meters is ensured between employees
- ▶ For shared work spaces, the employer will ensure employees' separation with partitions that must be disinfected daily with alcohol-based solutions
- ▶ Employers must stagger the employees' lunch break times, ensuring a distance of at least one-and-a-half meters between workers when they take them
- ▶ Employers must carry out training in matters of health and safety at work, and review the awareness of such policies

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>For all jobs in the workplace, employers are obliged to adopt a plan of measures to prevent the occurrence and spread of an epidemic of infectious diseases, which is an integral part of the Risk Assessment Act. Employers also need to harmonize the plan to implement measures during the epidemic with the decisions of the competent authority.</p> <p>The plan to implement measures must contain:</p> <ul style="list-style-type: none">► Preventive measures and activities to prevent the outbreak of an infectious disease► Responsibility for the implementation and enforcing preventive measures and activities► Emergency action in the case of an infectious disease outbreak <p>Preventive measures must all be implemented before employees return to their workplace. It is necessary that all employees and all visitors to the premises be informed in writing about measures and procedures to prevent the occurrence of infectious diseases.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>In normal circumstances, employees whose workplace contractually is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a breach of a work duty or breach of the work discipline, upon which an employer may terminate the employment relationship.</p> <p>However, due to Government decree, any such action should be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer. Before any return to work, employers are obliged to ensure the safety and health of their employees and a safe environment.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>The physical distance indoors must be at least two meters, which in practice means one person per four square meters of office space.</p> <p>The number of people allowed to participate in public gatherings has also been limited.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes. Employees are obliged to purposefully use the means and equipment for personal protection at work, and if the physical distance of two meters cannot be achieved in any situation, face masks are mandatory.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>However, employees' privacy in these situations should be maintained to the extent appropriate and in accordance with the Serbian Law on Personal Data Protection (modelled after the GDPR). Therefore, it is not recommended that such temperatures are recorded anywhere, so as not to breach the rights of persons regarding their personal data (in this case, it is a special type of personal data, which is health-related).</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Although this is a widespread practice currently (as the employer is responsible for providing a safe and healthy working environment by law and adequate actions need to be taken to safeguard that other individuals are not infected at the workplace), special care must be taken regarding employees' privacy and their rights regarding personal data protection. As data regarding employees and COVID-19 is considered to be a special type of personal data (data concerning health conditions) under Serbian Law on Personal Data Protection, such data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>
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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No. As the COVID-19 vaccination is not mandatory in Serbia, any attempt by an employer to mandate vaccination would be treated as discriminatory.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No. Vaccination status cannot be a condition of employment. Serbian Labor Law strictly prescribes that the employer may not request from the candidate submission of documents and other evidence or personal information that are not of direct importance for the performance of the work for which they are to be employed. Any action to the contrary would represent an act of discrimination.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>All legal and regulatory obligations of the employer are covered with the above-mentioned actions. However, if possible, it would be beneficial if the employer could implement the following:</p> <ul style="list-style-type: none"> ► To organize work in shifts, so that fewer employees and all other engaged personnel perform their work at the same time in one room ► To allow all business meetings to be held electronically or via other appropriate means (e.g., video conferencing)

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>From 1 January 2022, up to 50% of employees who are able to work from home may return to the workplace. From 15 January 2022, workers who are not fully vaccinated are restricted from entering the workplace, even those with a negative COVID-19 test result.</p> <p>Employers should implement safety management measures, including:</p> <ul style="list-style-type: none">► Ensuring employees wear masks at all times, except during activities that require masks to be removed► Ensuring there are no social gatherings at the workplace - employees should have their meal breaks alone at the workplace► Staggering start times and allowing flexible workplace hours to spread out staff across timings and locations, and reduce possible congregation of employees at common spaces at or near the workplace, such as entrances, exits, lobbies, canteens and pantries► Ensuring no cross-deployment across worksites - no employee should work at more than one worksite. If cross-deployment cannot be avoided (e.g. due to the nature of the job), additional safeguards must be taken to minimize the risk of infection► Ensuring work-related events with up to 50 participants meet the following requirements:<ul style="list-style-type: none">▸ Attendees must maintain at least one meter social distance between one another▸ Meals should not be the main feature of the event, i.e. they should only be served if incidental to the workplace event. The food must be served individually, with the participants seated while consuming it. Participants should minimize the time that they are unmasked while eating.▸ Work-related events held at third-party venues will also be subject to any additional rules set out by the venue's safety management policies.
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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<ul style="list-style-type: none">▶ Where there are work-related events with 51 - 1000 participants:<ul style="list-style-type: none">▶ The event organizer must notify the authorities at least 5 days before the event.▶ Attendees must maintain at least one meter safe distance between one another. Attendees must be in zones of up to 100 persons per zone, with two meters between zones▶ There must be no mask-free activities during the event, such as the consumption of food and beverages▶ The event must be static, with participants predominantly seated or standing in a fixed position (e.g., meetings, conferences, award ceremonies)▶ All attendees must be subject to Vaccination-Differentiated Safe Management Measures (VDS), i.e. every attendee must be fully vaccinated, recovered from COVID-19 within the past 180 days, or medically exempt for vaccines under the National Vaccination Program.▶ Supporting their employees' mental well-being during work, and making plans to implement flexible work arrangements such as hybrid working, to strengthen business resilience against the risk of new disease variants or future pandemics.▶ Using TraceTogether-only SafeEntry to record the entry of all personnel (including employees and visitors) entering the workplace to help the Ministry of Health in establishing potential transmission chains▶ Demarcating safe distances (at least one meter apart) using visual indicators in work areas, meeting rooms, pantries, canteens, etc.▶ Minimizing the need for physical touchpoints: Employers should reduce the occurrences of, or need for, common physical touchpoints in the workplace where possible (e.g., contactless access controls). Employers should adopt contactless delivery modes for suppliers or customers where possible.
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Question



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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<ul style="list-style-type: none">▶ Cleaning common spaces regularly and provide disinfecting agents.▶ Increasing ventilation where possible, in accordance with advisories by the National Environmental Agency or the Building and Construction Authority.▶ When workers have been diagnosed with COVID-19 and inform their employers, employers are encouraged to take the following steps to reduce risk of workplace transmission:<ul style="list-style-type: none">▶ Establish if the colleagues had interacted with the infected worker recently (e.g., meals together with colleagues)▶ Conduct a PCR Test on colleagues who had interacted with the infected worker and follow Health Protocols. There is no need to send them home if their test results are negative▶ Clean the area where the infected worker was working, in accordance with the National Environmental Agency's advisory. There is no longer a need to conduct deep cleaning of the premises▶ Review the implementation of Safe Management Measures (SMMs)▶ Employers should establish a system to implement SMMs in a sustainable manner, including the following:<ul style="list-style-type: none">▶ A detailed monitoring plan to ensure compliance with SMMs and timely resolution of outstanding issues.▶ Communicate and explain measures to employees, so as to reduce misunderstanding especially in measures related to remote working▶ Signs should also be put up to remind employees and visitors to observe all measures in place▶ Unionized companies should engage their unions on such arrangements
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Question

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	Question	Response
1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<ul style="list-style-type: none">▶ Employers should appoint a Safe Management Officer to assist in the implementation, coordination and monitoring of the system at the workplace. The roles of the officer includes:<ul style="list-style-type: none">▶ Coordinating the implementation of SMMs, including identifying relevant risks, recommending and assisting in implementing measures to mitigate the risks, and communicating the measures to all personnel working in the workplace▶ Conducting inspections and checks to ensure compliance. Any non-compliance found during the inspections should be reported and documented▶ Assisting the employer to rectify the non-compliance found during the inspections and checks via immediate action▶ Keeping records of inspections, checks and correction actions, to be made available upon request by a Government Inspector
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	Employers may require employees to return to the office, subject to the requirements mentioned in 1(a) above.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Yes. Please refer to comments in question 1(a).

Question



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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. Employers must ensure that employees wear masks at all times, except during activities that require masks to be removed.
4	Can employees be required to take a temperature test when entering the office?	No. The requirement for temperature screening has been lifted with effect from 19 August 2021.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Pursuant to the Requirements for Safe Management Measures at the Workplace advisory issued by the Ministry of Manpower, workers should inform their employers if they are unwell, have tested positive for COVID-19, or been identified by the Ministry of Health (MOH) as a close contact of a person diagnosed with COVID-19. Persons diagnosed with COVID-19 should not report to the workplace in any circumstances.</p> <p>Employees who are household members or close workplace contacts of individuals diagnosed with COVID-19 who are physically unwell are to minimize contact with the affected individual, monitor their health and obtain a negative PCR test result daily for the next seven days prior to leaving their residence. Employees who are household members or close workplace contacts of individuals diagnosed with COVID-19 who have mild symptoms will be issued a Health Risk Warning and should follow MOH's protocol.</p>

Question



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6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses?

No, there is no specific power for employers to order mandatory vaccination.

For unvaccinated employees, an employer may permit them to work remotely if the employer assesses that such working arrangements sufficiently meet their operational or business needs. However, as the vast majority of vaccinated employees eventually return to the workplace more frequently, the prolonged absence of the unvaccinated employees from the workplace may affect their individual performance as well as negatively impact team or organisational performance.

From 15 January 2022, for employees whose jobs require on-site working as determined by the employer and have not yet obtained the vaccine, the employer may:

- ▶ Redeploy them to suitable jobs which may be carried out remotely, if such jobs are available, with remuneration commensurate with the responsibilities of the alternative jobs
- ▶ Place them on unpaid leave based on mutually agreeable terms. By not attending the workplace, unvaccinated employees are protected from being exposed to the threat of the virus
- ▶ As a last resort, after exploring options above, terminate their employment (with notice) in accordance with the employment contract. If termination of employment is due to the employee's inability to attend the workplace to perform their contracted work, such termination of employment would not be considered as wrongful dismissal.

Question



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6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	Yes, employers may impose vaccination as a requirement for new hires for the purpose of planning deployment at the workplace.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	The Ministry of Manpower has not drawn such a distinction.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>The requirements described in the responses to question 1(a) are meant for general workplace settings – specific workplaces like construction worksites and shipyards may have to fulfil additional requirements and should refer to sector-specific requirements.</p> <p>As workplaces remain one of the common places where the highly transmissible variants have been found to spread between workers, employers need to take care of their workers and workplace. They should also be prepared to respond when workers are infected, based on MOH's Health Protocols.</p>

Question



Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

The Binding Regulations which set an employer's obligations are contained in the Slovak Labor Code and the Act on Safety and Health Protection at Work. Employers are obliged to consistently ensure health and safety at work and introduce necessary measures, including prevention, equipment and an appropriate safety system.

Any employer, regardless of the number of employees, should take appropriate measures against COVID-19 infection at the workplace and evaluate the situation as it develops. Recommended measures include:

- ▶ In particular, the provision of relevant information on COVID-19, which is regularly updated by the Slovak Public Health Authority as well as the World Health Organization
- ▶ Placement of additional protective equipment, such as hand sanitizer, face masks and respirators at the workplace

Other recommendations include:

- ▶ Increased disinfection of work areas
- ▶ Ordering employees to remote work
- ▶ Temperature tests at the entrance to the employer's premises
- ▶ Evaluation of travel history and employees' vulnerability to the disease
- ▶ Lower concentration of employees at the workplace and restrictions on third-party visits

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1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

Before the spread of COVID-19, remote work was subject to the agreement between the employer and employee. To minimize the consequences of the spread of COVID-19, an amendment to the Labor Code was adopted, based on which the employer can order remote working and the employee might unilaterally require remote work in the case of a declared state of emergency, provided that stipulated conditions are met (such as the agreed type of work allowed from home).

Currently, a state of emergency remains in force in the Slovak Republic. Employees may be required to attend the workplace if either one of the following applies:

- ▶ They cannot work remotely because of the agreed nature of work
- ▶ The employer has stipulated serious operational reasons requiring attendance at the workplace

However, the health and safety must be safeguarded in any case. Employees in certain regions shall be prohibited from entering the workplace provided that they do not display positive test results for COVID-19 (with certain exceptions).

After COVID-19 pandemic restrictions are lifted, and for the two following months, remote working may no longer be unilaterally ordered. It should be noted that a special amendment to the Labor Code was adopted based on which remote working may be undertaken at the direction of the employer or on the provision of a mutual agreement between the employer and the employee.

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>Generally, employers must minimize the number of employees in the same workplace, and, where possible, ensure that there is at least two meters of distance between employees and customers.</p> <p>Currently, Slovakia is divided into several “emergency zones” on a regional basis according to the “COVID Automat”. Different measures apply to the regions in different emergency zones. Division into the emergency zones is updated on a weekly basis. Depending on the region, various limitations as to the number of people who may be present in indoor premises per square meter may apply. Employers are also advised to allow employees to work remotely when possible.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Employees are required to wear face masks in indoor and outdoor spaces, however, exceptions apply to outdoor places.</p>

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4	Can employees be required to take a temperature test when entering the office?	Employers can require employees to take a temperature test when entering the office. However, except for institutions such as hospitals, there is no general obligation for employers to require temperature tests for employees.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	An employee has a general notification duty toward the employer and an obligation not to act contrary to the employer's legitimate interests. Furthermore, an employee is obliged to ensure their health and safety as well as the health and safety of others. An employee also has a duty to follow instructions from the employer (issued in accordance with law). It is possible employees may have to answer relevant questions regarding their travels to high-risk or restricted areas.

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, termination requires an 'objective reason' and local law does not treat refusal to obtain a vaccination as one such reason.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, a potential employer is not entitled to enquire about the medical information about a candidate.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	Personal data concerning the health of an individual can be processed in accordance with the GDPR and supplemental domestic legislation. Principles of data minimization and proportionality must be maintained. Health personal data triggers extra precautions. Sufficient security measures need to be taken, including control of the access to data. The data must be deleted when no longer needed. In some cases, the employer might be obliged to perform a Data Protection Impact Assessment.

Question

Response

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	Question	Response
1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>Standard labor law requirements as well as safety and health measures for the workplace apply. Employers must ensure a proper level of safety and health standards for employees.</p> <p>Employers must also ensure that all employees in the workplace comply with the so-called 'recovered-tested-vaccinated' rule. According to the rule, an employee must be either show evidence of a negative test result, that they have obtained a vaccine or have recovered from COVID-19. If none of the requirements are fulfilled, an employee must self-test at the workplace every 48 hours.</p> <p>In addition, employers must display notification that complying with this mandatory rule is a condition for entering the workplace. Such notification must be visible at all entry points of the workplace.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose workplace, as per the contract, is set to the workplace location of the employer may be contractually required to work from this location. If an employee opposes coming to the office, it can therefore legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No such restrictions apply, only conditions for entry and obligations while in the workplace e.g., wear face masks, disinfect hands etc.</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes. Employees must also wear protective face masks at all times when in closed spaces and disinfect their hands when entering the workplace.</p>

Question

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4	Can employees be required to take a temperature test when entering the office?	No, such mandatory requirements have been laid down yet. However, employers can implement this measure, but they also need to observe data protection rules set out in the GDPR regarding sensitive medical data.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	Yes, a statement may be required.
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	No, there is no permission under local law for the employer mandate obtaining a vaccine or dismissing an employee who refuses to obtain the same.
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, local labor law rules do not permit vaccination status as a condition for employment.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	Not applicable.

Question



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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	<p>The employer, under the Prevention of Occupational Labor Risks Law is obliged to:</p> <ul style="list-style-type: none">▶ Ensure the safety and health at work of its employees▶ Evaluate the risks in workplaces and adopt the appropriate measures to avoid them <p>These duties are the basis for the comments provided in the questions below. It is important to highlight that the lack of compliance with these obligations in the field of prevention of occupational risks would mean incurring not only administrative or civil liability (derived from damages caused by the infringement) but also criminal liability. Although the incidence of COVID-19 has decreased in Spain, the employer must put great emphasis on ensuring a safe working environment and the relevant occupational measures are still mandatory.</p>
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>According to the management power of the employer set out in Art. 20 of the Spanish Worker's Statute, the general rule is that employees must work at the office location if the company orders them to do so. In the event employees do not go to the workplace without justification, the company could take disciplinary measures and impose sanctions. In the meantime, please note that if the company forces an employee to provide services at the workplace, the company must comply with the above-mentioned obligation to guarantee the safety and health of employees.</p> <p>There is, however, an exceptional case in which employees can stop their work activity and leave the workplace if there is a "serious and imminent risk," according to the Prevention and Occupational Risks Law, and as long as the employer has not adopted measures to avoid such risk. However, the courts give a very restrictive interpretation of "serious and imminent risk." In this sense, each individual case must be analyzed to determine whether there is effectively a serious and imminent risk of transmission of COVID-19, taking into account the measures adopted by the workplace.</p>

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>In principle, no limit has been set regarding the number of employees who can go to the workplace. However, the Spanish Government has made the following recommendations for those companies who have returned to offices:</p> <ul style="list-style-type: none">▶ Tasks and processes must be organized so that employees can maintain a social distance between them of approximately two meters▶ If it is necessary, the company must set up different shifts for employees to go to the workplace to avoid a crowded situation▶ The entry and exit of employees should be organized through staggered schedules to avoid crowding during the peak hours
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>According to the Ministry of Labor's good practice guide, it is not essential to wear a face mask during the work day if the type of work does not require it, but employers must ensure social distancing is maintained. The employer must evaluate whether there is a risk of infection of COVID-19 in the workplace, and, if so, the company will be obliged to adopt the appropriate measures to prevent transmission of any infection.</p> <p>In this sense, it is understood that requiring employees to wear a face mask or any other protective equipment is integrated into an employer's obligation of prevention. Thus, the company can in fact force employees to wear a face mask.</p>

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4

Can employees be required to take a temperature test when entering the office?

From a labor law perspective:

This is a controversial issue, as testing employees' temperature concerns individual health. However, it is possible that it could be carried out on the basis of two obligations for the employer:

- ▶ The employer's obligation to ensure health and safety at work
- ▶ The obligation to periodically supervise the health of employees (which is not always compulsory, but in the frame of COVID-19, it could be considered compulsory)

In any case, the data obtained from these temperature tests must respect data-protection regulations and must comply with the specific purpose of containing the spread of COVID-19, being limited to this purpose and not extended to other purposes.

From a data protection perspective:

Taking temperature tests entails the processing of personal data and, therefore, is subject to the provisions laid down in multiple regulations and directives in the European Union. Therefore, all data-protection principles are fully applicable, and the data must be processed in accordance with the above-mentioned data protection regulations.

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4	Can employees be required to take a temperature test when entering the office? (<i>continued</i>)	<p>The Spanish Data Protection Agency has stated that this entails a particularly intense interference with the data subjects' rights and has provided some guidance in this regard, as follows:</p> <ul style="list-style-type: none">▶ This type of measure must be applied only with the criteria defined by health authorities in terms of usefulness and proportionality.▶ The collection of temperature data must be governed by the principles laid down in the GDPR, especially the following:<ul style="list-style-type: none">▶ Lawfulness (identification of valid grounds under the GDPR) of collecting and using the data is required▶ The agency provides specific guidance regarding the lawful basis of data-processing in the employment context▶ Purpose limitation (the data can only be collected and used for the specific purpose of detecting potential diagnosed persons and it cannot be used for any other purpose)▶ Accuracy from the test equipment must be ensured to register the data in a reliable manner, so certified equipment should be used <p>In addition, the staff using such equipment must meet the relevant legal requirements and be trained in the use of such.</p> <p>The agency's guidance is available (in Spanish only) here: https://www.aepd.es/es/prensa-y-comunicacion/notas-de-prensa/comunicado-aepd-temperatura-establecimientos</p>
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Question



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5

Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

From a labor law perspective:

In ordinary circumstances, the company cannot force employees who are on leave to say what illness they are suffering from, but given the spread of COVID-19 and in accordance with the employer's duty of ensuring the health and safety of employees, the employer will be permitted to enquire whether or not employees are infected to design the necessary contingency plans through the prevention service. However, this information should be limited to verify the existence of symptoms or if an employee has been diagnosed with COVID-19 or has been in quarantine, and health data not related to the infection must not be recorded.

Information regarding illness must always be handled carefully, as well as employees' privacy regarding a COVID-19 diagnosis. Accordingly, information about one diagnosed employee must not be spread to a larger group than necessary. However, if there is a valid reason, such as the need to verify if more individuals who have been in contact with the diagnosed employee, it can be communicated to the strict number of people who are suspected of being infected.

Question

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. According to Spanish law, employers cannot request mandatory vaccination of their employees unless any regulation imposes such an obligation. Obtaining a vaccine shall be voluntary and currently remains so for the general population in Spain.</p> <p>Therefore, an employee cannot be dismissed if they refuse to obtain a vaccination. In such a case, the dismissal may be considered non-justified or discriminatory and declared unfair or even null and void, with the appropriate consequences for the employer.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>No.</p> <p>Please refer to the comments in Q6(a), which apply to both public and private sector employers.</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No. According to Personal Data Protection regulations, the employer shall not enquire of its employees or candidates about their vaccination status as long as this information remains linked only to an individual's personal health (and not required for wider purposes). However, such information could be provided by the employees or candidates only on a voluntary basis.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Not applicable.</p>

Question



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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It is important to highlight that companies may take the following actions to avoid future risks related to transmission:

- ▶ Adopt ventilation, cleaning and disinfection measures in the workplaces
- ▶ Provide soap and water to employees or hydroalcoholic gels or similar disinfectants
- ▶ Adapt working conditions to guarantee a distance of approximately two meters between employees
- ▶ Adopt measures to avoid large gatherings of people
- ▶ Consider remote working as a preventive measure and implement it, considering the type of work performed

Question



Response

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors. Risk assessments of the work environment on an organizational level must also involve appointed employee safety representatives, if any.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the workplace, it can legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no such legal limitations for private spaces. The number of people allowed to participate in public gatherings has, however, temporarily been limited due to COVID-19 pandemic.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.

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4	Can employees be required to take a temperature test when entering the office?	<p>Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p> <p>Given the ongoing pandemic, where COVID-19 is considered to fall under the Communicable Diseases Act (as it has been deemed a disease dangerous to the public), the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.</p> <p>It is, however, important that these tests are handled adequately. Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. For example, in Sweden, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19. For example, in Sweden, where the GDPR applies, COVID-19 data should be processed, stored, secured, accessed and destroyed in accordance with that legislation.</p> <p>Individual information regarding illness must always be handled carefully. Accordingly, information about one diagnosed individual must not be shared to a larger group than necessary. However, if there is a valid reason, for example, contact tracing, then this can be communicated to such larger group of people.</p>

Question

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>It depends on the sector in which the organization operates.</p> <p>A vaccination requirement is an intrusive measure, and the employer's interest in mandatory vaccination must be weighed against the employee's right to control over their own body compared to the sector in which the organization operates (e.g., healthcare workers compared to office workers). The employer will also need to consider various legal requirements applicable to the business, such as patient safety and work environment regulations.</p> <p>It would, however, be difficult to dismiss an employee solely on the basis that they have not obtained a vaccination. Prior to that, the employer should investigate whether it is possible to relocate or adjust the work tasks of the employee.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>Yes.</p> <p>Public sector: Employees cannot be forced to obtain any type of vaccination, since they are protected from bodily intrusions by way of the Swedish constitution.</p> <p>Private sector: Please refer to comments provided in Q6(a).</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Generally, yes. The starting point is that employers have a free right of employment and can decide themselves on what requirements need to be fulfilled for the recruitment process.</p> <p>However, employers will need to consider applicable legal regulations (e.g., anti-discrimination laws) before implementing such procedures as part of their recruitment process.</p>

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7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>No.</p> <p>Public sector: The prohibition on mandating vaccination does not apply to new recruitment.</p>
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.</p> <p>Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable collective bargaining agreements. This could mean implementing social-distancing guidelines by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.</p>

Question



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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

Irrespective of the COVID-19 pandemic, the employer must have due regard for, and protect, employees' health according to statutory law (e.g., Swiss Code of Obligations and the Swiss Labor Act). Further applicable measures are listed in the applicable COVID-19 Ordinances, including:

- ▶ Ensuring social distancing and hygiene at the workplace
- ▶ Ensuring high-risk employees remain protected

The most recent obligation to work remotely applies as of 20 December 2021 and is in place until 28 February 2022; i.e., the employer is obliged to instruct employees to work remotely, provided that this is possible due to the activities performed and feasibility of the organization, with a proportionate effort to facilitate the same.

Currently, returning to the workplace is, in principle, not possible until 1 March 2022.

However, it is not clear yet if the Federal Council will extend the remote working obligation (and other related measures that are currently applicable).

Even if returning to the workplace will be possible again as of 1 March 2022, it is not known yet whether less intrusive measures (such as the obligation to conduct regular testing among employees or limiting the number of employees at the workplace) will apply.

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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>In general and irrespective of the COVID-19 pandemic, an employee whose workplace contractually is set to the office location of the employer may in principle be required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as a refusal to work, upon which an employer may take legal action.</p> <p>Employers must also comply with the special measures, such as the order/recommendation for employees to work remotely, (if applicable), implemented as a consequence of the COVID-19 pandemic. Please refer to comments provided in Q1(a).</p> <p>Even if such remote working order/recommendation did not exist, the employer would have to give special consideration to the employee's situation in the context of the COVID-19 pandemic, factoring in the employee's personal situation and the work environment as well as considering people at high-risk, such as pregnant women or adults with relevant underlying medical conditions.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	Please refer to comments provided in Q1(a).

Question



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3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>Where remote working is not possible, hygiene protection measures must be complied with and wearing masks is mandatory in offices where more than one person is present in a room (a large distance between workstations/work areas in the same room is no longer sufficient).</p> <p>In addition, the employer's usual duties of care under the Swiss Labor Act apply to employees. Please refer to comments provided in Q1(a).</p>
4	Can employees be required to take a temperature test when entering the office?	<p>On the one hand, employers have a duty of care toward employees; on the other hand, employees have a duty of loyalty toward the employer, which is accompanied by a duty to cooperate. This suggests that employees may be asked to take a temperature test when entering the office. However, this affects the personal integrity of an employee. The employer's interest in ensuring employee health and safety generally outweighs an employee's right to privacy in this respect. As a result of the spread of COVID-19, it is in principle possible to request employees to take a temperature test.</p> <p>The employer can provide appropriate clinical thermometers (taking into account all hygiene regulations and recommendations) or even install a special camera at the entrance area of the workplace. All relevant data protection regulations must be complied with during the period of implementing such measures.</p>

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5	<p>Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?</p>	<p>As a result of the spread of COVID-19 and the employer's obligation to provide a safe and healthy working environment, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an employee obligation to inform the employer whether they are infected or are at risk of being infected. This applies according to the employees' duty of loyalty, which forms part of the employment relationship.</p> <p>Employees' privacy in respect to COVID-19 should nevertheless be maintained to the extent possible or appropriate. Therefore, it is important to comply with all relevant data-protection regulations as well in this regard.</p> <p>It remains to be seen whether the return to the workplace as of 1 March 2022 (expected) will be subject to conditions. In the past, the Federal Council decided that employees may return to the workplace if the company conducts regular testing as part of the federal government's testing strategy and are included in a cantonal testing program. The employer is, in principle, not permitted to mandate participation by their employees in such testing (since testing is considered a medical activity) but may encourage them to test.</p> <p>However, testing may be required for specific groups of employees, e.g., as part of a testing strategy ordered by the canton or the federal government or in the event of a diagnosed COVID-19 infection at the workplace. In these cases, the interests of the parties concerned must be evaluated along with the proportionality of any proposed measure.</p> <p>If an employee participates in the test and returns a positive result, they are obliged to inform the employer of the positive result, since one employee's infection may affect all other employees in the same workplace/company.</p>
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Question



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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>Generally, no - compulsory vaccination for the entire workforce of a company is not currently permitted.</p> <p>According to the current legal position, mandating employee vaccination is only possible should a specific high risk arise in the event of a non-vaccination despite other protective measures taken by employees themselves or third parties (e.g., patients, clients, work colleagues). A corresponding weighing of interests must take place for each individual case.</p> <p>Since a weighing of interests must take place in each individual (extraordinary) case, it must be assessed in each individual case whether a dismissal based on a refusal is considered an unfair dismissal according to the respective applicable federal or cantonal legislation.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.

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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No, in general such a condition is not permitted, subject to any specific regulations in federal or cantonal legislation.</p> <p>Depending on the sector (e.g., healthcare) and the above-mentioned specific high risk, it may be permitted to hire subject to the vaccination status without this being considered discrimination.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Please refer to comments provided in Q7(a). Its important to note that, in Switzerland, healthcare facilities may be either in the public or private sector.</p>
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>Based on its duty of protection, the employer is responsible for protecting employees' health. Therefore, the employer must comply with all regulations and recommendations by the Federal Office of Public Health as well as further measures by the canton (if any) at all times, as far as reasonably possible.</p> <p>The federal government monitors the situation regarding the COVID-19 pandemic closely and implements or regularly adapts appropriate measures. Therefore, it is currently unclear for how long the aforementioned measures will apply.</p> <p>Further, the employer may request a COVID-19 Certificate (which is obtained when one is fully vaccinated, recovered or tested), if necessary, to determine and implement an appropriate protection plan. Employees showing a Certificate permits the employer to differentiate with regard to the measures to be taken at the workplace (e.g. capacity restrictions, the wearing of masks, etc.).</p>

Question



Response



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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' work environment to mitigate risk factors.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can legally be regarded as refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no such legal limitations for the offices.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	Yes. Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.

Question



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4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>Should the employer assess that this is necessary to ensure the health and safety of employees, such measures can be put in place by means of policies.</p>
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected. This applies according to the duty of loyalty, which forms part of the employment relationship.</p>

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	Question	Response
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>Yes, from 1 January 2022, unless exceptions apply, for designated business locations, all employees should be vaccinated with both doses of the COVID-19 vaccines.</p> <p>Exceptions are made for employees who provide a medical certificate stating that they are exempt from vaccination or for employees who cannot obtain a vaccination due to other personal factors.</p> <p>If such exception applies, the employee shall provide evidence of a negative PCR test once per week during the period of employment.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Please refer to comments provided in Q6(a).
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	No, the position on only hiring employees who have obtained a vaccination is unclear in Taiwan. However, considering the vaccination rate in the general population, an employer may cause a dispute by insisting on this condition.
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Please refer to comments provided in Q7(a).
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>None.</p> <p>Currently, companies in Taiwan are not obliged to implement a remote working policy.</p>

Question



Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

Employers are obliged to ensure occupational health and safety in the workplace according to the existing legislation. The main obligation of employers under Turkish law is to protect employees. The protection has a general meaning and covers both physical and moral protection. Following the spread of COVID-19, the main extension of the obligation to protect includes making sure employees remain healthy.

As per the Guide on Pandemic Management regulated by Scientific Advisory Committee and COVID-19 Precautions, recommended by Ministry of Health, employers are advised to take adequate measures in order to mitigate risk factors such as:

- ▶ Whether the air-conditioning is sufficient
- ▶ Whether there is enough space for each employee to work while preserving social distancing
- ▶ Making sure the workplace and the employee services (if any) has sufficient hygiene standards
- ▶ Providing face masks to employees and ensuring the use of them
- ▶ Implementing an adequate working model to ensure the social distance of the employees in the workplace
- ▶ Directing the employees who display symptoms of respiratory tract infection (fever, cough, shortness of breath) to a medical facility and ensure them to work remotely during their illnesses
- ▶ Informing the workplace doctor regarding the presence of a COVID-19 positive employee at the workplace

Question	Response
<p>1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?</p>	<p>An employee whose workplace, as per the contract, is set to the office location of the employer may be contractually required to work from this location. As such, if an employee opposes attending the workplace, this may legally be regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.</p> <p>Pursuant to Presidential Decree No. 2021/8 and dated 14 April 2021, flexible working methods, such as remote working and rotational work, may be applied to those working in public institutions and organizations regardless of the way they are employed. However, Presidential Decree No. 2021/13 dated 30 June 2021 superseded the earlier decree and employees have been returned their normal working hours and conditions.</p> <p>Employees of public institutions and organizations, excluding the Ministry of Health and National Intelligence Agency, who are:</p> <ul style="list-style-type: none">▶ Over the age of 60▶ Suffering from a chronic disease, as determined by the Ministry of Health (except for the executives) or▶ Pregnant (between 24 and 32 weeks) <p>shall continue to be deemed as being on administrative leave.</p>
<p>2 Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?</p>	<p>No statutory limitations exists, however there are some advisory guidelines for protecting employees' health e.g., a maximum of one person per four square meters in the workplace and preserving social distance as one meter between employees and customers.</p>

Question



Response

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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Yes.

All employees should wear face masks in accordance with the rules, the face mask should be changed as it gets moist or dirty, and hand disinfectant must be used before and after its replacement.

Citizens are obliged to wear face masks without exception in all areas. These areas include (with the exception of residences):

- Public areas
- Avenues
- Streets
- Parks
- Gardens
- Picnic areas
- Beaches
- Public transportation vehicles
- Workplaces
- Factories
- Enclosed spaces (e.g., shopping malls, stores, cinemas and theatres)

Question

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	Question	Response
4	Can employees be required to take a temperature test when entering the office?	Yes, although there is no specific legislative basis for this. Employers are nevertheless still advised to check the temperatures of employees before entering the workplace, and direct those employees who have high temperatures to the workplace doctor (if not, to a medical institution) within the scope of the employer's obligation to protect employees.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>Yes.</p> <p>As the employer is responsible for providing a safe and healthy working environment by law, adequate actions need to be taken to safeguard individuals from infection at the workplace. This includes an obligation for employees to inform the employer whether they are or have been infected, or are at risk of being infected.</p> <p>At this point, it is important to emphasize that due to the law protecting employees' personal data, it is not possible for the employer to alert employees by naming a diagnosed individual. The employers must also alert all employees that an anonymous employee has been diagnosed with COVID-19 and direct them on what to do if they detect symptoms. Depending on specific circumstances, the employer may require all employees to be medically assessed and even consider closing down the facility for a certain period of time.</p>

Question

Response

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6 (a) Can an employer mandate employee vaccination and dismiss an employee who refuses?

No.

As per the existing legislation, the physical integrity of the person cannot be touched and they cannot be subjected to scientific and medical experiments without consent, except for medical obligations and the cases set out under the law. For this reason, it is only with legislation that mandatory vaccination is possible in Turkey.

However, there is no such regulation on compulsory vaccination. Since vaccination is offered on a voluntary basis, in the current situation, an employer has no legal right or obligation to require employees to obtain a vaccine.

It should also be noted that if the vaccination status of an employee should be requested by their employer, since health data of employees are sensitive personal data within the scope of the Personal Data Protection Law No. 6698, in order to process such data, the explicit consent of the employee should also be obtained.

Regarding the dismissal of the employees who are not vaccinated, there is no clear opinion on whether their employment contract can be terminated or not. The dominant view in the doctrine on this issue is that the employee's failure to obtain a vaccine does not permit the employer to terminate the employment contract with just cause. On the other hand, as of 6 September 2021, in the general letter published by the Ministry of Labor and Social Security, a negative PCR test result shall be requested once a week from an employee who has not obtained the vaccine. Where the employee does not provide such PCR test results, then it was argued that it might be possible to terminate the employment contract for a valid reason, by taking into account the circumstances of the case and the potential for such a situation to cause a potential risk to other employees and public health. However, as of January 2022, the obligation for unvaccinated employees to provide a weekly negative PCR test result was abolished. Therefore, this argument cannot be asserted any more.

Question		Response	Back to index
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.	
7 (a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Yes, within the scope of an employers' obligation to protect the health of their employees, it may be considered an administrative decision of the employer to recruit only candidates who have obtained the vaccine. However, it should also be considered that the rejected (unvaccinated) candidates may raise discrimination allegations.</p> <p>Vaccination status and medical test results are personal medical data, obtaining and processing this data by anyone other than the workplace physician is only possible with the explicit consent of the candidate. Furthermore, the personal medical data obtained cannot be used by employers in a way that leads to discrimination.</p>	
7 (b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.	

Question



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8 Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

The decision to call employees back to the workplace must be evaluated with reference to the physical conditions of the workplace, total number of employees and other factors. As it could be dangerous for employees' health, it may not be suitable for all employees to return to work at the same time as per the Guide on Pandemic Management regulated by Scientific Advisory Committee and COVID-19 Precautions recommended by Ministry of Health.

Currently, as explained in Question 1(b), in the public sector, with minor exceptions, employees have returned to their normal working hours and conditions. In the private sector, while a gradual opening is preferred by some employers where each employee is allocated one or a few days in the workplace, some employers have decided to return their normal working with full capacity as well.

In all cases, during the return to the workplace, it is necessary to apply social distancing rules and compulsory face mask use, place hand disinfectants in suitable places throughout the workplace, ensure that employees pay attention to hand hygiene, ensure regular cleaning with water and detergent every day in the workplace and frequent ventilation by opening doors and windows and update risk assessments and emergency plans taking into account the spread of COVID-19.

A preparatory team should be established as well. This team is formed of a committee in the workplace that may include the workplace physician, an occupational safety specialist and other health personnel, an employee representative, and if possible, persons who have received first-aid training. This team must carry out necessary studies on the measures to be taken, including hygiene and cleanliness in the workplace, coordinate internal and external communication, and keep the emergency plan updated.

Question



Response

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1(a)	<p>Which legal requirements must be observed by an employer when planning for a return to the workplace?</p>	<p>An employer is responsible by law, for preserving the health and safety of its employees in the workplace and has an obligation to continuously evaluate the work environment and mitigate potential health and safety risks to its employees. The employer's obligations to protect the health and safety of its employees in the workplace were laid down in Articles. 90 - 100 of Federal Law no. 8 of 1980 (as amended), (Old UAE Labour Law).</p> <p>The spread of COVID-19 globally is an ongoing and obvious risk in many businesses. Accordingly, appropriate occupational health and safety measures must be taken. A new Labour Law, Federal Law 33 of 2021 ("New UAE Labour Law") has recently been enacted, and is due to come into force on 1 February 2022. We await the Executive Regulations, within which we anticipate many of the details setting out how the New UAE Labour Law will be implemented. However, Article 13(6) specifically states that an employer must provide:</p> <ul style="list-style-type: none">▶ Necessary means to protect employees from the dangers of occupational injuries and diseases that may occur during work▶ Guidance and awareness regulations▶ Appropriate training for employees to avoid such risks▶ Conduct periodic evaluations to ensure that all work events comply with the requirements of health and occupational safety and security <p>The Command and Control Centre has not updated its guidelines since the above Circular was published while the Dubai government has relaxed many of its requirements for precautionary measures over the past year and a half. Some of the above guidelines would, therefore, no longer apply in Dubai, such as the requirement to maintain two meter distance between workers in the workplace.</p> <p>Provisions also already existed in UAE federal law to protect employees while at work (notably, the Federal Ministry of Labour Resolution No. 32 of 1982 on determining prevention means and measures to protect workers from work hazards), imposing general obligations on employers, including providing sanitary facilities and a safe workplace layout (passageways, surfaces, staircases, etc).</p>
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Question



Response

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1(a)	<p>Which legal requirements must be observed by an employer when planning for a return to the workplace? (cont'd)</p>	<p>Employers should engage competent staff and provide all employees with information about COVID-19, its symptoms and procedures to follow to prevent its spread. This information should be in accordance with the instructions issued by the Ministry of Health and Prevention as regularly updated. The Dubai COVID-19 Command and Control Centre (Centre) issued guidelines under a Circular on the Dubai Health Authority's website on 10 May 2020 for employers to follow to maintain the health of employees at the workplace. These guidelines include:</p> <ul style="list-style-type: none">► Providing sufficient amounts of hand sanitizer, and recommended cleaning supplies in the workplace► Preparing educational posters in languages that workers understand on preventing the spread of COVID-19, identifying and defining safety and hygiene measures► Preventing employees from performing work tasks collectively unless necessary and ensuring physical distancing measures► Outlining clear seating arrangements for office workers, with a necessary distance of at least two meters apart, preventing overcrowding by regulating entry and exit to the workplace, staggering shifts and meal breaks, and rotating teams► Ensuring physical distancing and use of face masks in worker transportation and accommodation► Providing thermal screening points to measure workers' temperature at the entrances and exits of the workplace <p>Although the Centre has not updated its guidelines since the above Circular was published, the Dubai government has relaxed many of its requirements for precautionary measures over the past year and a half. Some of the above guidelines would, therefore, no longer apply in Dubai, such as the requirement to maintain two meter distance between workers at the workplace.</p>
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Question



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1(b)

Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

These rules regarding permitted numbers of employees returning to the office have been changing frequently since May 2020, in response to the fluctuations in diagnosed cases and the different 'waves' of the COVID-19 virus. As such, rules have varied across the seven Emirates of the UAE and the Free Zones at different times during the pandemic.

We have also seen a variation of approaches across, as well as within, various sectors, as the government adjusts and readjusts the level of reopening of the UAE's economy according to the changing circumstances, and in a staged manner, which is proportionate to the numbers of COVID-19 cases being reported.

Currently, most businesses are now allowed to either operate at full capacity or partial capacity, fully reopen or partially reopen subject to restrictions (such as physical distancing, wearing face masks), although many employers that have businesses that can operate remotely (such as in the professional services sector) permit their employees to work from home.

However, if employers wish to mandate that their employees must return to the office, requiring them to return to work to do so must be a reasonable instruction, provided the employer has taken all measures to ensure a safe workplace. Under Art. 4 of Ministerial Resolution 281 of 2020 (applicable to the private sector), which was enacted at the start of the pandemic, but which continues to be cited as good law and has not yet been repealed, employers in the private sectors are required to follow appropriate measures (over and above those mandated for all employees) by giving the following employees a priority right to work remotely:

- ▶ Employees who are aged 55 and above
- ▶ Pregnant employees
- ▶ Those with respiratory or chronic diseases or a disability
- ▶ Mothers of children in the ninth grade and below

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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>In the public sector, female government workers who have children that are learning remotely were permitted to continue remote working until the end of the last school year, though we have not seen an update to this for the new school year.</p> <p>Employers should be mindful, however, of Article 4(1) of the New UAE Labour Law which incorporates anti-discrimination provisions which prohibit discrimination on the grounds of disability, which would weaken equal opportunities for individuals, or would prejudice equality in individuals obtaining or continuing a job and enjoying the attributable rights on the grounds of disability. Individuals, for example, who are immuno-compromised and wish to shield themselves from potential exposure to COVID-19 by working remotely could be protected by these new provisions. Employers should be mindful of them when considering their approach to requiring employees to attend the workplace.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>The current advice is that private sector employees suffering from respiratory conditions and other immuno-compromising illnesses should continue working remotely. From January to March 2021, the Abu Dhabi Department of Economic Development (ADDED) released several circulars (the most recent circulars published on the ADDED website), including:</p> <ul style="list-style-type: none">▶ January 2021: Circular directing employers to urge employees to obtain the vaccine for COVID-19▶ February 2021: Several circulars reducing the capacity in:<ul style="list-style-type: none">▶ Malls to 40%▶ Gyms to 50%▶ Coffee shops and restaurants to 60%▶ Cinemas - Closed until further notice▶ March 2021: Circular requiring employers to “direct their unvaccinated employees to be tested for COVID-19 (PCR tests) every two weeks, knowing the tests will be free of charge”

Question



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2

Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? (cont'd)

The rules regarding occupancy limits in the workplace (and public places) have continued to change frequently, in a reactive way to fluctuations in diagnosed cases and the different 'waves' of the COVID-19 virus. Since the ADDED circulars (see Q2) were issued, for example, permitted occupancy rates changed again in August 2021 with an announcement by the National Emergency Crisis and Disasters Management Authority (NCEMA) that capacity at shopping malls, cinemas and eateries in the UAE could be increased to 80%. In addition, in August 2021, Abu Dhabi announced that only individuals who have obtained a vaccine, who also hold a negative PCR test result, would be allowed to enter public places in the Emirate and would have to present an active "green pass" (see Q5).

On 22 January 2022, the Abu Dhabi Emergency, Crisis and Disasters Committee for the COVID-19 pandemic announced that individuals obtained a vaccine who have been diagnosed with COVID-19 must quarantine for a period of seven days, whereas unvaccinated persons must quarantine for up to 10 days.

Abu Dhabi:

The Abu Dhabi Emergency, Crisis and Disasters Committee for the COVID-19 pandemic, on the other hand, took a stricter approach in the initial months of the pandemic as it permitted private sector employees to return to work subject to offices limiting capacity by reference to certain thresholds. However, the Committee announced on 22 December 2020 (via WAM, the UAE's official news agency) that it had approved increasing the operational capacity of economic, tourism and entertainment activities to the optimal level, in accordance with the approved precautionary measures. These include shopping and entertainment centers, restaurants and nurseries.

Dubai:

In June 2020, the Dubai Supreme Committee of Crisis and Disaster Management announced that shopping malls and private sector businesses in Dubai were permitted to resume normal operations. In addition, many government offices resumed operating during their normal working hours but at lower staffing levels.

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)? (cont'd)	<p>In May 2021, the Federal Authority for Government Human Resources (FAHR) issued a circular ending exemptions granted to government workers, including the permission to work remotely. However, in the public sector, female government workers who have children that are learning remotely were permitted to continue remote working until the end of the last school year, though we have not seen an update to this for the new school year.</p> <p>The UAE is currently again seeing fluctuations in persons diagnosed with COVID-19, in particular the latest variant, and in response there has been some tightening of restrictions in relation to vaccination requirements or providing evidence of a negative PCR test result, as opposed to previous measures to only limit occupancy rates.</p> <p>Dubai International Financial Centre (DIFC):</p> <p>In DIFC, one of the key Free Zones in Dubai, the DIFC Authority announced that from 11 June 2020, DIFC entities were able to resume normal operations while maintaining social distancing and hygiene rules. Precautionary and social distancing measures must remain in place and employers should comply with the Dubai Health Authority Guidelines to maintain the health of employees.</p>	
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes. Employees must wear a face mask at all times. The UAE attorney general's office issued a circular in September 2020 stating that if employees fail to wear face masks at the workplace, the employer could be fined AED 5,000 and employees will face an individual fine of AED 500. While there is little data available regarding how these fines have been actually applied, employers are advised to take a 'best practice' approach and ensure the safety of their employees at all times by mandating wearing face masks in the office and, accordingly, amend/create the necessary policy or policies.</p> <p>In relation to public sector workers, FAHR published "Guidelines for Office and Workplace Environment during Emergency Conditions", which sets out instructions to assist the ministries and federal entities prepare for the gradual return of employees to the workplace "...to make sure COVID-19 does not spread further".</p>	

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3	Can employees be required to wear a face mask or other protective gear when visiting the office? Contd.	The FAHR Guidelines include maintaining a distance of two meters between desks, wearing both face masks and gloves and regularly using sanitizers. This guide was also re-annexed to the most recent Circular issued by the UAE Federal Authority for Government Human Resources (FAHR), No 1 of 2022 ("FAHR COVID Circular 1/2022").
4	Can employees be required to take a temperature test when entering the office?	<p>Dubai Economy tweeted in December 2020 that thermal scanners and manual temperature checks were no longer required for business establishments, including malls, from 1 January 2021.</p> <p>Many malls in Abu Dhabi continue to use thermal scanners to scan customers for symptoms at their entrances and exits, and have installed COVID-19 facial scanners to detect individuals with COVID-19 symptoms. It appears that thermal scanning is no longer mandatory for entry to business establishments in Abu Dhabi. However, in Abu Dhabi, as from 20 August 2021, a "green pass" on the Al Hosn application is required to enter public places. A "green pass" is only provided to vaccinated individuals who also hold a negative PCR test result. The "green pass" is valid for a period of 30 days, after which another negative PCR test result must be undertaken to enable continued entry to public places.</p> <p>An employer is responsible for preserving the health and safety of its employees in the workplace and has an obligation to continuously evaluate the work environment and act on potential risks. Please refer to comments provided in Q1(a). Testing employees for COVID-19 may, arguably, form part of this legal duty.</p>

Question



Response

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5

Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

Employees have a statutory duty under the Old and New UAE Labor Law not to endanger the health or welfare of their colleagues in the workplace and to comply with reasonable instructions or requests from their employers. Logically this may require employees to volunteer crucial (even if personal) information that could reveal possible exposure to COVID-19 to the extent such exposure could impact their colleagues. An employer may take actions, including disciplinary actions, when an employee fails to comply with instructions regarding safety of the workplace. Therefore, employers should be able to ask employees to confirm and specify whether they have, or live with someone who has ,COVID-19, and where they have recently travelled, to assess the level of risk to the workforce. Additionally, employers are also under an obligation to report suspected cases of COVID-19 to the UAE's health facilities to allow the relevant health authority to take the necessary measures.

However, there is currently no legal obligation for the employer to inform all employees, customers and any third parties (such as visitors to the employer's premises) of this information, so while the employer has a duty to inform the authorities about any confirmed cases of COVID-19 among its workforce, it has the discretion to decide whether to disclose this information internally or externally. If the employer decides to make such a disclosure, it is important that any communication made is taken with due regard to the balance between protecting the privacy and data of the diagnosed employee and the public interest in avoiding the spread of COVID-19. The identity of the employee should not be disclosed, to the extent possible. The UAE attorney general's office stated in its September 2020 circular that there would be a fine of AED 20,000 for those who "compile, broadcast, publish, reveal, transfer or send medical data or information of patients or those who have undergone treatment or medical tests at healthcare authorities."

Employers should use good judgment and try to be reasonable in such situations, ensure they communicate effectively with their employees and should take a 'best practice' approach and be able to evidence that the procedure they followed was reasonable in the circumstances.

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6(a) Can an employer mandate employees vaccine and dismiss an employee who refuses?

Yes.

Applicable to the public sector, pursuant to the FAHR Circular No. 13 for 2021, FAHR has issued Circular No. 21 of 2021 and Circular No. 1 of 2022. FAHR COVID Circular 21/2021 mandates that all federal entities may only permit entry to employees and customers who have received two doses of a COVID-19 vaccine approved in the UAE and whose status on Al-Hosn App is green (which requires also a negative PCR test – see below).

FAHR COVID Circular 1/2022 re-states this and adds that non-vaccinated employees that are consequently unable to attend the workplace due to their non-vaccinated status will be considered 'absent' from work, and disciplined accordingly, unless they have a valid medical excuse. It also urges federal entities to direct their employees to take COVID-19 vaccine as soon as possible to avoid these repercussions. The Al-Hosn application is the UAE's official app for contact tracing and health status related to COVID-19. It generates a unique personal QR code, following a color-coding system: Grey, green or red depending on the user's vaccination status and the validity/result of their PCR test. For example, it is possible to obtain "green" status whether vaccinated or unvaccinated, however, those who are unvaccinated will have to repeat their PCR test more frequently than those who are vaccinated in order to maintain their "green pass" status.

On the Al Hosn app, users are able to receive:

- ▶ COVID-19 test results and a record of all previous COVID-19 results with their dates
- ▶ A notification if they have been in contact with a confirmed case of COVID-19
- ▶ Vaccination record, including the type of vaccine taken and the date of dose given.

The application also facilitates sharing test reports and vaccination certificates.

Employees employed directly by the federal government, who have obtained a medical report from official health authorities in the UAE, indicating that they cannot receive the COVID-19 vaccine due to a medical condition (Medically Exempt Individuals), are excluded from the requirement to have obtained two doses of the COVID-19 vaccine, provided that the employee maintains "green pass" status on their Al-Hosn app, which requires showing a negative PCR test result every seven days, according to FAHR COVID Circular 21/2021.

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6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses? (continued)

However, whether an employer could succeed in persuading the Federal Labour Department or the UAE Courts of the soundness of his decision to dismiss an employee purely on the above basis is unclear and would depend on the specific facts of each case. For example, it may be more difficult for an employer to make such an argument where an employee can perform his role remotely. We are yet to see case law to support or disprove this assertion.

Prior to the enactment of the New UAE Labor Law, the UAE already had an anti-discrimination law on the UAE mainland (Federal Decree Law 2 of 2015), but it relates only to discrimination based on religion, caste, race, colour or ethnic origin rather than discrimination based on an individual's personal medical choices. However, as noted in our answer to Q1(b), Article 4(1) of the New UAE Labour Law introduces anti-discrimination provisions which prohibit discrimination on the grounds of disability. This would be applicable, for example, for Individuals who cannot take the vaccine for medical reasons. Under the New UAE Labor Law, such individuals could potentially be protected from discrimination for their unvaccinated status.

Free Zones such as DIFC and ADGM have their own employment regimes separate from the UAE Federal Labour Law. The DIFC and ADGM employment regulations contain anti-discrimination provisions. However, these regulations do not include any provisions prohibiting employers from discriminating against employees on the basis of their personal medical choices. It is, therefore, unclear whether dismissing employees who refuses to take a vaccine may be deemed a breach of the regulations.

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6(b)	<p>Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.</p>	<p>There is currently no legislation in the UAE expressly permitting employers to mandate that their current employees obtain the COVID-19 vaccine, although, as noted in 6(a) it becomes almost impossible in practice for federal employees to avoid taking the vaccine if they want to continue to work.</p> <p>Public sector: The FAHR COVID Circular 21/2021 states that the Federal Government employees can take advantage of a free COVID-19 test provided by the Ministry of Health and Prevention through “Shifaa App”. The requirement for federal employees to maintain “green pass” status on Al-Hosn app, regardless of vaccination status, extends not only to direct employees of the UAE Federal Government, but also to employees of outsourcing companies and public service companies that are contracted with Federal Government entities (such as companies providing cleaning services, front-of-house or security services) and need to attend Federal Government departments premises on a daily basis as well as customers.-As per FAHR COVID Circular 1/2022, all Federal Government employees must also receive a booster dose of the COVID-19 vaccine within a maximum of one month from the issuance of the FAHR COVID Circular 1/2022 (i.e. by 3 February 2022). The booster dose must be taken to ensure the continuity of the “green pass” status of the individual on Al-Hosn app.</p> <p>As mentioned above, a “green pass” status on Al-Hosn app is mandatory for entering all federal entities. Non-vaccinated people, and those whose status on Al-Hosn app is not green (e.g. vaccinated individuals but with an expired PCR test) are not allowed to enter any federal entity.</p> <p>Due to the restrictions placed in the country on non-vaccinated people, we are seeing that many employees in both the public and private sectors are opting to obtain the vaccine and, according to NCEMA (defined above 93.12% of the UAE population have received two doses of the vaccine as of 18 January 2022, and 100% have received one dose.</p> <p>We have not seen any legislation permitting the dismissal of any employee on the grounds of refusing to take the vaccine. However, in the public sector, federal entity employers can now treat unvaccinated employees, who are unable to attend work due to their unvaccinated status, as taking unauthorised absence from work and discipline them accordingly, which could result in dismissal</p>
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Question



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<p>6(b) Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference. (Continued)</p>	<p>Private sector: In the private sector, the requirements expressed in 6(a) above do not apply, however, that is not to say that employers are not, in practice, pressuring employees to get vaccinated . Whilst an employer cannot impose being vaccinated as a condition of employment. employers <i>can</i> require employees to maintain a “green pass” status on their Al-Hosn app to enter the workplace (requirements for which are set out above) and are actively encouraged by the government to urge employees to get vaccinated e.g. through conducting vaccination drives at the workplace and awareness programs. Also, as mentioned in our answer to Q2 (above), in August 2021, Abu Dhabi announced that only vaccinated people who hold a negative PCR test result would be allowed to enter public places in the Emirate and would have to present an active green pass, which would include many private sector workplaces.</p> <p>Neither the Old UAE Labour Law, nor the New UAE Labour Law, which applied/applies in the UAE mainland and in many Free Zones expressly permit the dismissal of any employee on the grounds of refusing to take a vaccine during an epidemic, nor are we aware of any legislation specifically relating to the COVID-19 pandemic directly permitting the dismissal of any employee on such grounds. However, as many businesses are now making it mandatory to show proof of vaccination in order to enter their premises or provide proof of a negative PCR test or a daily COVID-19 exposure/ symptom related self-declaration, it could be argued that an unvaccinated employee may be unable to carry out his duties efficiently if he has to regularly obtain a negative PCR test or submit a health self-declaration in the middle of the working week before he can enter his place of work.</p>
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7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No, while there is currently no legislation in the UAE directly requiring employees to be vaccinated or receive booster doses, the FAHR COVID Circulars 21/2021 and 1/2022 make it very burdensome for unvaccinated federal employees or visitors to federal government departments or employees or visitors who have not received booster doses to enter any federal government buildings/ premises. These FAHR Circulars require Federal government employees and visitors to maintain a green pass status on the Al-Hosn app. This burden inevitably impacts the public sector employer by extension.</p> <p>As a result, whilst it is neither directly permitted nor prohibited under UAE law to hire one individual over another purely on the basis of whether the individual is vaccinated (provided such decision does not contradict the anti-discrimination provisions of the New UAE Labour Law), it is likely that an employer would have a bias in favor of hiring a vaccinated individual over an unvaccinated individual, especially if the employer is recruiting candidates in an Emirate, such as Abu Dhabi, which imposes stricter rules with regard to COVID-19 vaccinations and booster doses.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>As noted above, the UAE is a highly competitive job market with qualified individuals across all sectors. Given the ready availability of different COVID-19 vaccines in the UAE all of which are free of cost and the restrictions imposed on an individual's lifestyle and ability to execute the duties of their employment if not vaccinated, private sector employers may treat vaccination status, or willingness to get vaccinated, as a metric for preferability amongst candidates. However, it is unclear whether demonstrating such a preference is permitted under the relevant employment laws or regulations (whether mainland or Free Zone) or would constitute a breach of such laws or regulations.</p>

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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

The FAHR COVID Circular 2 of 2021 announced that in joint cooperation with the Ministry of Health and Community Protection, the COVID-19 vaccine will be provided free of charge, for medically eligible citizens and residents, according to the priority announced by the UAE's health authorities from time to time, at all Ministry health centers in all Emirates, as well as health centers of the Department of Health in Abu Dhabi, in addition to a number of private hospitals in the country.

Vaccines were first administered to the following people as a matter of priority:

- UAE nationals and their household workers
- Senior citizens and residents (who are 60 years old and above)
- People with chronic illnesses
- Those working in the health and education centers
- Other people defined by the Ministry

However, this was rapidly extended in 2021 to permit all residents and citizens to obtain a COVID-19 vaccine, and the UAE is now in the process of rolling out booster vaccinations. As at 18 January 2022, NCEMA announced that 93.12% of the UAE population have received two doses of the vaccine, and 100% have received one dose. Given that the FAHR COVID Circular 1/2022 requires government employees to take the booster dose by 3 February 2022, we expect that the numbers of individuals who have received the booster dose of the vaccine will also rise quickly in the coming months.

The UAE comprises seven emirates and approximately 45 Free Zones. Federal laws (including the labor law and government-mandated precautionary measures to contain the spread of COVID-19 apply to companies operating in the mainland of each emirate. Some Free Zones have their own distinct regulatory regime (e.g., DIFC) whereas other Free Zones largely adhere to the federal law. Where the Free Zones have not issued their own guidance or regulations on a particular employment, health and safety, or hygiene matter arising from the COVID-19 pandemic, the federal law applies by default. This advice is provided according to federal laws and regulations as well as Dubai and Abu Dhabi Emirate laws as they are applicable to expatriate employees in the private sector. In addition, while it is not possible to provide an analysis of every Free Zone regime in such a short summary, some examples of how the Free Zones differ have been identified.

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

By law, an employer is responsible for the working environment, including the health and safety of employees. An employer must regularly follow up and assess the employees' working environment to mitigate risk factors.

Sec. 2 of the Health and Safety at Work Act 1974 provides that employers must:

- ▶ Provide safe systems of work and working equipment
- ▶ Provide relevant information, instruction, supervision and training
- ▶ Provide a safe working environment
- ▶ Make arrangements for workers' welfare at work
- ▶ Prepare and revise risk assessments

Further, employers need to be able to show that they have discharged their duty of care. Risk assessments should therefore be completed and reviewed by a health and safety or office manager.

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1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	<p>An employee whose contract sets out their workplace is the office location of the employer can be required to work from this location. As such, if an employee refuses to return to the office, it may legally be regarded as refusal to work, and an employer may be able to take disciplinary action. However, employers should be mindful of the needs of the vulnerable and those who are protected by discrimination law.</p> <p>Furthermore, taking disciplinary action for a refusal to return to work presents risks when employees have more than two years' service, thus the ability to claim for (constructive) unfair dismissal. It is unlikely that disciplinary action due to unauthorized absence will be considered to be fair if the employee has legitimate concerns about returning to work, and if the employer has failed to take steps to understand and remedy those concerns.</p> <p>If there is no right for employees to work remotely, it is open to employees with six months or more service to make a formal flexible working request for remote work, and their employer will be legally obliged to consider that request in a reasonable manner, discuss it with the employee and reach a decision within three months.</p>
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>No, there are no such legal limitations. However, employers will need to follow the United Kingdom Government guidelines on returning to work, including the guidance issued for specific sectors. Employers are encouraged to:</p> <ul style="list-style-type: none">▶ Consider the maximum number of people who can be safely accommodated on-site▶ Reduce the number of people each person has contact with by using "fixed teams" or "partnering" (so each person works with only a few others)▶ Stagger start and finish timings for staff

Question



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3

Can employees be required to wear a face mask or other protective gear when visiting the office?

Face masks must be worn by retail, leisure and hospitality staff working in areas that are open to the public and where they are likely to come into contact with a member of the public. This includes:

- ▶ Shops
- ▶ Supermarkets
- ▶ Bars
- ▶ Pubs
- ▶ Restaurants
- ▶ Cafes
- ▶ Banks
- ▶ Estate agents
- ▶ Post offices
- ▶ Public areas of hotels and hostels

Question

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3

Can employees be required to wear a face mask or other protective gear when visiting the office? (*continued*)

Face masks are not mandatory in offices and other indoor workplace settings. Employers should assess the use of face masks on a case-by-case basis depending on the workplace environment, other appropriate mitigations they have put in place, and whether reasonable exemptions apply.

Face coverings are not a replacement for the other ways of managing risk. The best ways of managing risk in the workplace are to:

- ▶ Minimize time spent in contact with others
- ▶ Use fixed teams and partnering for close contact work
- ▶ Increased sanitization of workplace and personal hygiene protocols, such as regular hand washing

Question



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4

Can employees be required to take a temperature test when entering the office?

The legal issues involved in checking employees' temperatures at work are complex and involve data protection laws. The government's detailed guidance does not address general workplace temperature testing, so the decision is left to employers in many cases.

Should the employer assess that this is necessary to ensure the health and safety of employees, such measures may be put in place and appropriate policies created. Given the employer's duty of care towards the health and safety of its employees, the employer's interest to ensure employee health and safety generally outweighs an employee's right to privacy in this respect.

It is, however, important that these tests are appropriately handled. Employees' privacy in respect of COVID-19 should be maintained to the extent appropriate and without risking the harm of other employees in the organization. To the extent privacy or health information legislation applies, such legislation should be followed to correctly handle information disclosed in connection with COVID-19.

Personal data that relates to health is sensitive and is classed as "special category data" and requires additional safeguards to ensure testing is compliant with data protection laws. If an employer does decide to carry out temperature testing of employees, and will therefore process special category data, the employer should conduct a "Data Protection Impact Assessment" that focuses on the new areas of risk presented by the testing.

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5

Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?

No.

Employees are not obliged by law to disclose information to their employer about where they have been or their exposure to COVID-19, or be required to provide health information.

Aside from obligations applicable under employment law, any personal data that an employer processes must also be processed in line with the applicable privacy requirements. Information about an employee's health (such as whether the individual has been diagnosed with COVID-19 or is suffering from any symptoms) is sensitive personal data, and additional requirements and obligations will therefore apply to the processing of such data in accordance with the GDPR and health legislation.

Employers may consider collecting health information from employees as part of its approach to maintaining a safe workplace. Employers must take care to keep data protection requirements firmly in mind when considering whether, or how, to collect, process and retain employee health information.

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6(a) Can an employer mandate employee vaccination and dismiss an employee who refuses?

It depends on the sector in which the organization operates.

Mandatory Vaccination:

Currently, only regulated care homes are able to legally require workers to obtain a vaccination. However, from 1 April 2022, regulated providers in the health and social care sector will also be able to legally require workers who have direct contact with patients to obtain a vaccination. However, there are allowance for medical exemptions.

In the absence of vaccination becoming a legal requirement, an employer cannot force an employee to obtain a vaccination without their consent. Vaccination without consent could amount to the criminal offences of assault and battery, and blanket mandatory vaccination policies, applied inflexibly, are likely to be ruled unlawful due to vaccination not being suitable for everyone, as well as giving rise to discrimination risks. However, an employer could decide to prevent unvaccinated employees from entering the workplace, or restrict their duties.

Dismissal of an unvaccinated employee:

An employer may potentially dismiss an unvaccinated employee if the vaccination requirement is reasonable in that it is essential and necessary for the employee to be able to carry out their role. Employers should consider their position very carefully before moving towards disciplinary processes and dismissal. The current legal approach would involve consideration of alternatives before considering dismissal, although such alternatives will not be available for many employers.

As vaccination is now mandatory for workers in care homes in England, employers in the care home sector may have a potentially fair reason to dismiss an unvaccinated worker.

Any dismissal procedure must handled fairly, including following an objectively fair process and consideration of any alternatives to dismissal.

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6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	Not applicable.
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>Yes, an employer could make an offer of employment conditional on the candidate providing proof of vaccination. The UK government has said that it will not take action against organizations to prevent this approach. However, employers should consider:</p> <ul style="list-style-type: none">▶ The data protection issues of requiring proof of vaccination and processing that data▶ That this requirement is likely to cause delays in the recruitment process and discourage otherwise suitable applicants from applying▶ Even in sectors where vaccination is due to become mandatory, there are exemptions for individuals who are advised not to obtain a vaccination on medical grounds▶ That job applicants are protected against discrimination in the same way as employees▶ Potential human rights issues <p>Employers should ensure that any vaccination requirement specified in job advertisements or via recruitment agencies should clearly note the caveat that those exempt from vaccination will not be excluded.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	Not applicable.

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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. The return should be phased, where each employee is allocated one or a few days in the office or at the workplace. Employers will need to ensure all employees understand the COVID-19-related safety procedures.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and any applicable CBAs. This will include carrying out risk assessments, making hygiene and cleaning arrangements and implementing social distancing measures by blocking certain workspaces and limiting the number of people gathering in shared spaces. Assessing the possibilities to return to work and preparing the organization for such return should also involve appointed safety representatives, if any.

Question



Response

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1(a) Which legal requirements must be observed by an employer when planning for a return to the workplace?

According to the Labor Code, one of the employer's legal obligations is to maintain a healthy and safe work environment for its employees, especially during a pandemic. While planning for a return to the office, an employer should follow the COVID-19-related recommendations and instructions provided by the Ministry of Health. These restrictions include the implementation of general safety rules, namely:

- ▶ Thermal screening of employees before entering the workplace
- ▶ Establishing hand sanitization stations at the workplace entrance
- ▶ Implementing distancing guidelines, such as social distancing of one-and-a-half meters between individuals
- ▶ Limiting the number of people that can gather in common areas (a maximum of one person per 10 square meters)
- ▶ Establishing an obligation to wear protective equipment in common areas
- ▶ Providing constant availability of liquid soap, antiseptics and paper towels in the bathrooms
- ▶ Carrying out deep cleaning and regularly ventilating the workplace (at least every two hours) during and after the end of the working day

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1(b) Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?

An employee whose workplace, as per the contract, is set to be the office location of the employer may be contractually required to work from this location. As such, if an employee opposes coming to the office, it can be legally regarded as a refusal to work, upon which an employer may take legal action. Any such action should, however, be carefully assessed in advance, factoring in the employee's personal situation and the work environment, including necessary precautions taken by the employer.

The government recommendation to employers, which is not an obligation, is to transfer employees to work remotely whenever possible during the pandemic.

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2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	<p>The distance between workstations or work areas must be at least one-and-a-half meters. Visitors may be allowed in the office by a prior registration and they must maintain the condition of one visitor per 10 square meters.</p> <p>Where the employees' temperature exceeds 37.2° C or symptoms of respiratory diseases are detected during temperature screening, such employees are not allowed to enter the workplace or perform their duties.</p> <p>Employers are obliged to temporarily suspend employees in high-risk groups from work (e.g., employees aged 60 years and above or persons suffering from chronic diseases that may lead to complications).</p>
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	<p>Yes.</p> <p>The Ministry of Health recommends that employees must wear protective gear to prevent the spread of COVID-19 at the workplace; The requirement may be put in place by means of employers' local policies.</p>
4	Can employees be required to take a temperature test when entering the office?	<p>Yes.</p> <p>Appropriate actions are required to prevent the spread of COVID-19 at the workplace. According to the recommendations of the Ministry of Health, temperature screenings should be established in the workplace (employees will be not allowed to enter if their temperature is higher than 37.2°C).</p>

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5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	<p>As the employer is obliged by law to provide a healthy and safe work environment, appropriate actions should be taken to prevent the spread of COVID-19 at the workplace. This also includes employees' obligation to inform the employer whether they have been in close contact with a diagnosed person or are at the risk of being infected. At the same time, employees' privacy should be maintained to the extent appropriate without risking the harm of other employees in the organization.</p> <p>As recommended by the Ministry of Health, employees are allowed to enter the workplace only on condition of their prior registration. This requirement allows employers to track the potential spread of the disease if some employees contract COVID-19.</p> <p>The law does not provide employees' with an obligation to inform the employer whether they were in contact with a person diagnosed with COVID-19, or have/had COVID-19 themselves. However, if an employee has been diagnosed with COVID-19 or in contact with a person who has been diagnosed with COVID-19, the obligation to self-isolate arises. The decision by an employer to suspend an employee from work must only be based on the information that such employee may be diagnosed with COVID-19.</p>
6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>In autumn 2021, the Ministry of Health published a list of professions subject to mandatory vaccination. The list specifies six categories, including:</p> <ul style="list-style-type: none">▶ Educational sector employees (both private and public)▶ Civil servants▶ Employees of institutions which provide social services

Question

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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses? Contd.	<p>It depends on the sector in which the organization operates.</p> <p>Employees in professions which are not on the Ministry of Health list are not subject to mandatory vaccination. For the listed professions, non-compliance with mandatory vaccination may result in the employee's temporary suspension from work, at the employer's discretion. The only exception is when an employee has a medical certificate excusing them from obtaining a vaccine.</p> <p>In any case, dismissal of unvaccinated employees may be viewed as a labor law violation.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>No, for the listed professions mentioned in Q6(a), it does not matter whether it is a private or public sector body.</p> <p>For non-listed prohibitions, the general prohibition against mandatory vaccination applies.</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>No, the labor law does not explicitly regulate mandatory vaccination for new recruitment.</p> <p>If the recruitment concerns one of non-listed professions mentioned in Q6(a) and vaccination status is one of the conditions of employment, the employer's actions may be viewed as discrimination, which is explicitly prohibited by law. However, the law is silent for professions included in the mentioned list. Failure to select a candidate based on their vaccination status shall also be viewed as unlawful discrimination.</p>
7(b)	Does the position on recruiting vaccinated workers differ between public or private sector organizations? If so, please specify the difference.	<p>In general, failure to select a candidate based on vaccination status may be viewed as discrimination. This principle applies to both public and private sectors. However, if the recruitment concerns one of the professions mentioned in Q6(a), there may be an argument that making vaccination status a condition of employment will not be judged as discrimination.</p>

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8

Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?

The exact requirements for soft openings are not prescribed by the law. The employer should design an action plan according to local policies, bearing in mind the employer's obligation to provide a safe environment for employees.

It may not be suitable for all employees to return to work at the same time, factoring in both public transport issues and social distancing. It may be advisable that the return should be phased in, where each employee is, for example, allocated one or a few days in the office or at the workplace.

Once back in the office, the employer will also need to manage employee well-being in compliance with laws, regulations and applicable CBAs. This could mean implementing social-distancing guidelines at the workplace by blocking certain workspaces and limiting the number of people that gather in small spaces. Assessing the possibilities to return to work and preparing the organization for such a return should also involve appointed safety representatives, if any.

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1(a)	Which legal requirements must be observed by an employer when planning for a return to the workplace?	The employer is required to implement measures to ensure safety and hygiene at the workplace and appoint employees in charge of supervision of the implementation of such measures.
1(b)	Can employees, as part of the employment contract, be required to return to the office, or is there any legal right to remain off-site?	The employee is required to work at the location as indicated in the employment contract. Off-site working is only permitted if there is mutual agreement between the employer and the employees.
2	Are there any statutory limitations with respect to returning to the office (e.g., statutory limits of the number of people allowed in the same location at the same time)?	No. There are no statutory limitations for private spaces.
3	Can employees be required to wear a face mask or other protective gear when visiting the office?	The use of face masks is compulsory only in the public areas. Thus, should the employer assess that this is necessary to ensure the health and safety of employees when visiting the office, such measures can be put in place by means of policies.

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4	Can employees be required to take a temperature test when entering the office?	The measurement of body temperature is also compulsory in public areas. Thus, should the employer assess that this is necessary to ensure the health and safety of employees when entering the office, such measures can be put in place and supporting policies created.
5	Upon return to the office, are employees obliged under law to disclose information to the employer as to whether they have or have had COVID-19, or live in a household with someone who has been diagnosed with COVID-19?	There is no statutory requirement for the employee to disclose information relating to COVID-19 to the employer. However, for the purpose of providing a safe and healthy working environment, the employee is obliged to comply with the measures for safety and hygiene at the workplace issued by the employer. As such, employees may be requested to inform the employer whether they have been exposed to the risk of infection to safeguard individuals from infection at the workplace.

Question



Response



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6(a)	Can an employer mandate employee vaccination and dismiss an employee who refuses?	<p>No. While an employer may require their employee to obtain a vaccination on occupational safety and hygiene grounds, the employee reserves the right to obtain a vaccination or not (especially in respect of a COVID-19 vaccination).</p> <p>An employer may not dismiss an employee who refuses to obtain a vaccination.</p>
6(b)	Does the position on mandatory vaccination differ between public or private sector organizations? If so, please specify the difference.	<p>Not applicable.</p>
7(a)	In the case of new recruitment, can employers make vaccination a condition of employment ?	<p>The position differs according to public or private sector.</p>

Question

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7(b)	Does the position on recruiting vaccinated workers differ between public and private sector organizations? If so, please specify the difference.	<p>Public sector: Being physically fit for the job is one of the recruitment criteria. However, there is no further guidance on defining “physically fit” and the law allows state authorities who are the recruiters to decide additional recruitment conditions. Therefore, an employer in the public sector has the discretion to decide whether vaccination is one of the grounds of meeting the physical fitness requirement. (NB: In practice, we are not aware of any employer in the public sector who has instituted vaccination status as one of the recruitment criteria or has rejected applicants due to their not being vaccinated.)</p> <p>Private sector: There is no legislative restriction on what employers in this sector may apply in recruitment procedures. In addition, if an employer prefers candidates who are vaccinated, this does not form part of any labor discrimination ground. Therefore, in the private sector, an employer could stipulate that they would only hire employees who have obtained a vaccination.</p>
8	Which other aspects should be considered from a legal and regulatory perspective when planning for a return to office, e.g., in a soft opening?	<p>Preventive measures may be taken at the employer’s discretion for the well-being of employees at the workplace e.g., employees may be requested to wear face masks in offices and public areas, regularly clean hands and maintain social distancing, such as staying at least two meters from other people both in indoor and outdoor areas.</p>

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