

## Corona and Labour Law

As a result of the spread of coronavirus (COVID-19) all over the world, Turkey has also started to see the effects of this pandemic, which brings along social and economic changes as well as new precautions. In conjunction with pandemic's negative effects on commercial activities, many legal questions arise in terms of the obligations of employers and employees.

Accordingly, the questions that have importance are as follows:

### ***What are the obligations of the Employer in case of suspicion that the Employee is carrying Coronavirus?***

One of the primary obligations of employer is to maintain the occupational health and safety. In case of a suspicion that an employee is carrying coronavirus, the employer should initially explain the measures that can be taken in order to protect the employee's own health and the health of other employees, enunciate that those who are faced with such a situation should inform the employer immediately and encourage the employees to do so. Employer can not compel the employees to get medical report if there is no symptom. However, if any symptom is noticed, it must be notified to the occupational physician or to the paramedics.

### ***Is the Employee obliged to notify the Employer in case of the Employee has a suspicion of having Coronavirus?***

Employees are obliged to notify the employer immediately if they are infected with coronavirus or are at such a risk. These obligations of employees arise from their loyalty obligation to the employer. In addition, every employee is obliged to protect the health and safety of other employees who are affected by their actions or work.

### ***Is it possible to restrict or completely stop the activities at the workplace?***

An employer's primary obligation is to maintain the occupational health and safety. Therefore, in case of a life-threatening situation is detected at the workplace, the activities must be stopped until the situation is eliminated. It is possible to continue to the workplace activities only with the elimination of the life-threatening issue.

It is possible to restrict or stop the activities due to compelling reasons. In case of the working hours are significantly below than the normal working hours or the workplace is completely vacationing, compensatory work can be done for the period of day-offs within four months, provided that the compensatory work does not exceed a maximum of eleven hours a day. It is compulsory to pay employees' wages, however the compensatory work will not be counted as overtime work.

### ***Is it possible to adopt remote working method?***

It is possible for employees to work remotely based on the nature of the business.

In case of adoption of remote working method, the required working order and the manners of home-working should be determined. Additionally, a letter of consent should be obtained from the employees regarding their approvals of remote working in related period.

### ***Can the Employer unilaterally suspend Employees from work?***

It is possible that an employer unilaterally release the employees from their duties. However employees cannot be forced to take unpaid leave.

In addition to that, the employer is entitled to release the employees collectively, provided that the collective leave should be in between at the beginning of April and at the end of October.

### ***Are Employees entitled to refrain from working?***

If it has been confirmed that there is coronavirus infection in the workplace, it means that a serious and imminent danger has emerged for employees. In this case, the employer may be claimed to identify and eliminate the hazard. The employee has the right to refrain from working if the employer did not take necessary actions. In this context, employees' wage rights and other rights arising from the laws and employment contracts cannot be restricted.

***When can the employment contract be rightfully terminated?***

The employer may rightfully terminate the relevant employee's employment agreement if the employee is infected by the employer or another employee whom s/he meets constantly and closely or if there is a compelling reason preventing the employee from working for more than one week in the workplace.

The employer may rightfully terminate the relevant employee's employment agreement if the employee endangers her/his own health or other employees' healths by not complying with hygienic measures or refusing to use the mask and gloves, which is made compulsory by the employer.



**Gürkan Erdebil**

**Attorney at Law**

Istanbul

T +90 212 274 20 20

F +90 212 217 87 26

[gurkan.erdebil@schindhelm.com](mailto:gurkan.erdebil@schindhelm.com)