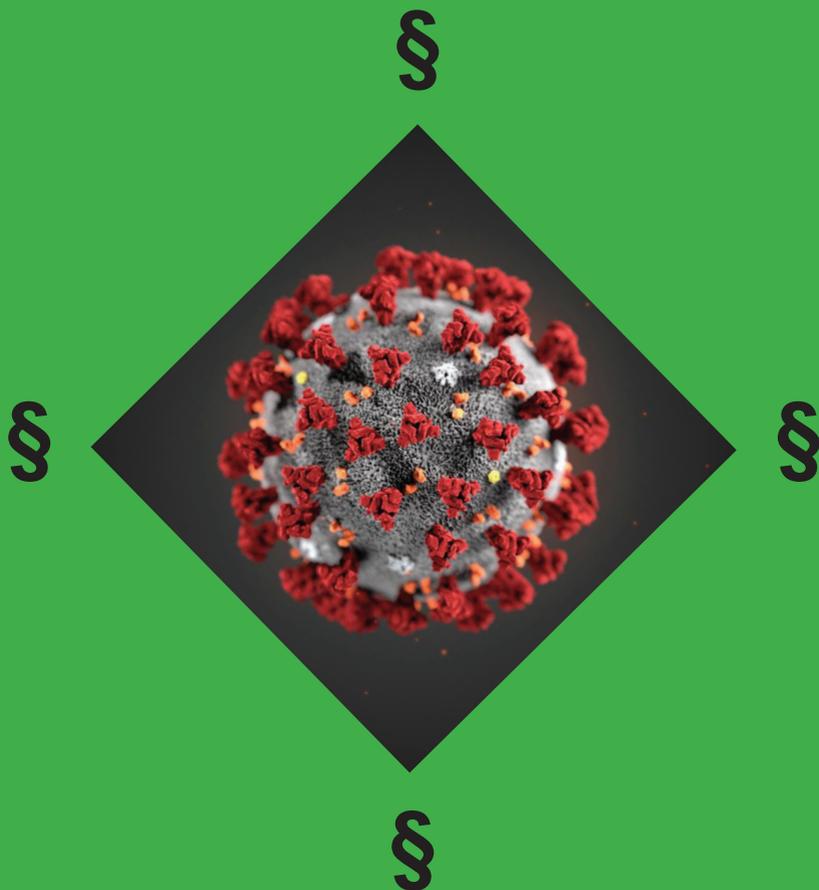


Labour Law and Coronavirus



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FAU 
the base union

You fall ill

Your salary is guaranteed for a limited period (Art. 324a CO/OR). For employees with an open-ended employment contract, who have been employed for several years and who have not yet used up their sick leave, the situation is unlikely to cause many problems. However, the same cannot be said for other workers. We consider this to be an extraordinary situation. We will have to fight to ensure everyone's right to a salary in the event of illness. Contact the FAU.

You fall ill during your holidays

Your salary is guaranteed for a limited period (Art. 324a CO/OR). You are entitled to reclaim your holiday leave. Your employer may ask for a doctor's certificate as proof. If you cannot return from holiday because you have fallen ill and are unable to travel to get to work, your salary is also guaranteed according to Art. 324 CO/OR.

You can't return from your holiday because the border is closed or public transport is no longer running

If you are not affected by the virus, your salary is not guaranteed. Nevertheless, we consider this to be an extraordinary situation. In normal times, the law says that the worker must take into account the risk of unforeseen events and plan with enough leeway to get to work. However, society as a whole was caught off guard by the virus and we consider that this is not applicable to the current situation. Obviously, we will have to fight for this interpretation to be recognised.

Your employer cannot return from holidays because the border is closed or because public transport is no longer running

In this case you are not at fault if you cannot work. You are unable to work because your employer is unable to provide you with work. You are guaranteed a salary. (Art. 324 CO/OR).

As a result of the virus, your suppliers are no longer able to fulfil their obligations and your employer's operations are shut down

Here too, in accordance with Art. 324 CO/OR, your salary is guaranteed. The SECO has decreed that in such cases partial unemployment measures may be applicable (in these cases, if there is no work, the state will pay up to 80% of employee wages). However, we consider that in light of the current situation, full wages should be paid. The employer should pay the remaining 20% of wages. Again, we will have to fight for this interpretation to be accepted.

You don't want to go to work because you are afraid of being infected

If your fear is justified (sick colleagues coming to work, inadequate hygiene, no safety measures), you have the right to refuse to work and your salary will nevertheless be guaranteed. You must write a letter (and send a copy by email) to your employer informing them of the missing safety measures. It is important to write the following sentence at the end of the letter: «I am, of course, willing to return to work immediately once all measures to protect my health have been implemented». You should also state that you are sending a copy of your letter to the cantonal labour inspectorate and the cantonal doctor (and send them a copy). Talk about it with your colleagues. If you have colleagues who also do not feel safe and who also want to do something, do it together. We can help you to justify your refusal to work. Contact the FAU.

If your refusal to work is unfounded, your salary is not guaranteed. But even then, we consider this to be an extraordinary situation. This is not simply a question of staying at home for fear of catching a cold. Right now, there are people around us who are in high-risk categories. It's not so much a matter of being infected ourselves, but of risking getting sick and subsequently infecting people who are at risk. We believe that this is justified and not «unfounded». We are unable to provide general guidelines here. The best solution is to contact the FAU so we can discuss your situation together. Group pressure is necessary here as well. We believe that the state is not currently fulfilling its obligations, as those working in non-essential jobs are still required to go to work. The state is therefore unnecessarily putting the lives of many people at risk, and we consider that it is justifiable for people to refuse to go to work. Contact the union before making a decision.

There is an exclusion zone, buses and trains are no longer running and you cannot reach your workplace

Your salary is not guaranteed. Again, we view the current situation as extraordinary. Contact the union.

Schools and childcare facilities are closed and you have to stay home to take care of the children.

It was the authorities who ordered that schools be closed. So it was not you who chose to take care of the children. You are therefore entitled to a salary for a limited period of time (Art. 324a CO/OR). Here too we consider the situation to be extraordinary. In normal situations, the law states that workers must organise childcare solutions for themselves. If it is already difficult to do this in normal circumstances, it is completely impossible to do so in the current situation. You will need to fight to ensure your salary. If you are in this situation, contact the union.

Your kids catch coronavirus and you have to take care of them

If your child is sick, you can take three days off work per illness - not per year. If your child needs more time, you will have to arrange an alternative or ask your employer if you can take a holiday. Many contracts (CEAs or your own) stipulate that parents can only stay at home for three to five days a year to look after their sick children. This is against the law and is therefore null and void. Here again we consider the situation to be extraordinary. Contact the union.

Your employer has sent you home as a safety precaution

Your salary is guaranteed (Art. 324 CO/OR). If you are ill, your salary must be paid for a limited period of time (Art. 324a CO/OR). We will have to fight to increase the length of this limited period. If you are in this situation, contact the union.

Your company is closing down because of the coronavirus

If the company is closing due to mistakes made by your employer (especially if mistakes were made concerning safety measures), your salary is guaranteed. This is not the case if all businesses are forced to shut down. Such a case would be likely to be considered as an «objective impossibility». If companies are entitled to make use of partial unemployment schemes, we consider that in this situation the entire wage should be paid. Contact the union.

Your place of residence is under quarantine and you cannot go to work because of this

Your salary is not guaranteed, unless the quarantine applies only to you and your family, in which case you are entitled to a salary for a limited period of time. Again, we consider that normal regulations do not apply. Contact the union.

You are employed with an hourly wage

In cases where your salary is guaranteed, you are also entitled to it. Your monthly salary should be the average of the last six months (in some cases 12 months). It is difficult to advocate in these situations due to the precarious nature of these occupations. You will probably have to fight for this as well. Contact the union.

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