

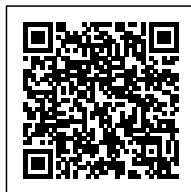
COVID-19 TIME TO THINK ABOUT WHAT'S REALLY IMPORTANT

Posted on 16/03/2020



Category: [Uncategorized](#)

Tag: [cat-covid19](#)





Author Joana Miranda Gancho
Advogada - Sócia Directora do Escritório
Ejaso

On January 30th, the World Health Organization declared the Outbreak in China of Covid-19 (a type of Coronavirus) as a public health emergency of international importance. In recent days, an outbreak caused by Covid-19 is developing fast in our country, and until now there is no specific medical treatment against it.

Its rapid transmission, and the fact that it is spreading internationally, makes different governments taking measures that directly affect business and labor activity: quarantines, closing of monuments, cancellations of congresses, prohibition of shows with mass public assistance, among others. In this way, the current situation, which is considered predictable for the coming weeks, can generate multiple situations that, in one way or another, will affect all commercial activity.

In this sense, the government has been having daily discussions on the subject and has also published an order that enforces measures to insure the social protection of beneficiaries who are temporarily prevented from the exercise of their professional activity by order of health authorities, due to the danger of contamination. In addition, there are already several guidelines by the Public Health Department ("DGS") for companies to take preventive measures.

There are many questions to which we have no answer, namely whether a worker can refuse to work in case of fear of Covid-19 infection and whether or not he may refuse to travel on duty, national or internationally. What we do know is, the employer has an obligation to ensure its workers safety and health, especially regarding risks of exposure to biological agents in the context of work.

Whereas, in the meantime, DGS has issued Guideline No 006/2020 (1), making a number of recommendations to companies on prevention, control and surveillance. Companies that do not comply with these recommendations may give their workers rightful reason to refuse to work, even without losing the right to remuneration. Furthermore, the practice of very serious misdemeanors may be at issue, which in this case, in our view, should be properly considered. On the other hand, should the company adopt every measure recommended and needed to prevent and assure their workers safety and health, then refusal to work may be classified as unjustified. In these cases, companies may study the possibility do punish them and in any case their absence will not be paid.

However, a case-by-case evaluation is suggested, considering the possibility of alternative forms of work (vg. telework, videoconferences, etc.) and specially the existence of more vulnerable groups of people.

With respect to travel, companies should assess the need for traveling and what measures can be adopted to insure safety and health at work in order to eliminate or at least mitigate the risks of contamination. If the displacement is necessary, considering the nature of the service and the needs of the organization/country, and the possible/needed safety and health measures have been implemented, the worker's refusal will most likely be considered unlawful, with the consequences above mentioned.

In sum, the key in all this pandemic event is, as in everything else, "good sense". Companies must understand we are crossing new paths, which no one is really prepared for it, specially workers that fear for their health and their loved ones. On the other hand, workers must understand their salaries and most everything that makes our society runs comes from companies, that are in essence made by their workers. So, entering in panic and adopting a selfish posture will not be helpful to the society in general, the company in particular and in the long run the worker itself.

We know that many of Companies will find it very challenging to work. We are currently watching the situation closely. It is our duty to help those who have doubts, and we are compromised in that. We look forward to this unique experience being a distant memory but are very grateful that we have never been through anything like this before. It's a challenge for everyone.

(1.)

<https://www.dgs.pt/directrizes-da-dgs/orientacoes-e-circulares-informativas/orientacao-n-0062020-de-26022020-pdf.aspx>

EJASO
ESTUDIO JURÍDICO

EIL®
GLOBAL

Rua Castilho N° 13D,1°B

1250-066 Portugal

Tel +35 121 352 81 33

Fax +35 121 352 81 03

jmgancho@ejaso.com

www.ejaso.com