

The Ministry of Labour and Social
Affairs

**Targeted Programme for
Employment Support:
“Antivirus”**

HANDBOOK FOR EMPLOYERS

Note:

The handbook for employers is only indicative. It is continuously updated, so please refer to the following websites:

<http://www.mpsv.cz>

<https://www.mpsv.cz/web/cz>

I. Background of the Antivirus Programme

Justification of the Antivirus Programme

On 1 April 2020, by Resolution No. 353, the Government of the Czech Republic approved the Targeted Programme to Support Employment entitled "Antivirus" (hereinafter referred to as the "Antivirus Programme") pursuant to Section 120 of Act No. 435/2004 Coll., on employment, as amended.

The aim of the Antivirus Programme is to mitigate negative impact of the global outbreak of the COVID-19 disease caused by SARS virus-CoV-19 (hereinafter the "COVID-19") **on employment in the Czech Republic**. The development of the COVID-19 outbreak in the world and after 1 March 2020 in the Czech Republic may result in serious economic problems with a negative impact on employment rate.

The protective measures of the state have a negative impact on employers, as they bring about obstacles to work hindering activities of employers. In such cases, employers must proceed in line with Act No. 262/2006 Coll., Labour Code, as amended (hereinafter the "LC") and in certain cases to provide their employees with **wage compensations for the duration of such obstacles to work**. This will give rise to costs of employers that are not compensated by their activities. At the same time, such obstacles to work are not objectively caused by the employer but by government interventions or force majeure. The resulting economic losses may lead to job losses and adversely affect the labour market and employment in the Czech Republic.

Underlying Principles of the Antivirus Programme

Partial compensation of total wage costs in the form of reimbursements of wages to which employees are entitled as long as obstacles to work brought about the quarantine, emergency measures, crisis-related measures related to the COVID-19 outbreak both in the Czech Republic and abroad and accompanying economic difficulties of employers **exist**. A financial contribution will be paid to affected employers through the Antivirus Programme. **The Antivirus Program is intended for all employers, the wage costs of which are not covered from public budgets**. Salary compensations are thus excluded by this.

The wage costs refunded to employers by the Antivirus Programme are for the time when the work is not performed for the employer. During such time, employees will receive a reduced wage compensation in accordance with LC. **In such situation, both the employer and employee will incur damage**. The interest of both, employers and employees, is to avoid situation when it is necessary to take part in the Programme and thus the room for wilful manipulation is minimised.

The Antivirus Programme is implemented by the Labour Office of the Czech Republic (hereinafter the "LO CR")

II. General information for applicants Antivirus

Programme Deadlines

Cost eligibility period: From 12 March 2020 to 30 April 2020

The Ministry of Labour and social affairs (hereinafter "MoLSA") assumes that the period will be extended depending on the current development of the COVID-19 outbreak **for May 2020**. The extension of the Antivirus Programme is subject to approval by the Government of the Czech Republic.

The applications can be submitted from 6 April 2020

MoLSA kindly asks employers to be benevolent and patient during the application administration, as high demand, particularly in the early days following the start date for the submission of application is expected and the administration of the contribution will require some time from LO CR.

MoLSA and LO CR will make every effort to process applications quickly and smoothly. Yet we would like to point out that the process of the application processing and subsequent settlement may take several days.

[What the contribution is intended for](#)

The contribution is provided to **cover wage costs of employers consisting in the paid wage compensation**, including any levies, **and only for employees under employment contracts**.

All employers in the wage sphere having at least one employee under employment contract who **participates in the sickness and pension insurance scheme under the Czech laws and regulations** and falls within the terms and conditions of A or B Antivirus Programme Regimes (see below), are entitled to receive support under the Antivirus Programme. Therefore, in the event of employees-foreigners, it is decisive whether they are employed under the Czech laws and regulations and participate in the Czech pension and sickness insurance schemes.

The contribution is granted solely for employees who are still employed at the time when the statement of account is submitted by the employer and who have neither been given a notice of dismissal nor are in the notice period, with the exception of dismissals pursuant to Section 52 (g) and (h) of LC.

The contribution is granted only if the employer has actually paid wages to his employees, or wage compensations respectively, has duly paid mandatory premiums on health insurance and social security and contribution to the state employment policy **both for the employee and the employer**.

Thus contribution is not intended to:

- **compensate for salaries reimbursements**

The employer providing remuneration to employees in the form of salaries, i.e. are employers under Section 109 (3) of LC, as their wage (salary) costs can be covered from other public resources.

- **reimburse costs incurred under agreements to perform work or agreements to complete a job**

Therefore, an employer cannot apply for a contribution to employees working under agreements to perform work or agreements to complete a job

- **if the employer has given the employee a notice of dismissal or the employment contract has terminated at the time when the statement of account is submitted**
- **for employees, for whom the employer has received another contribution from the LO CR**

The employer shall not be entitled to the contribution for employee for the calendar month for which the employer has received another contribution from the Labour Office, the amount of which is set on the basis of the actual costs incurred on wages or salaries, including the premiums on social security and contribution to the state employment policy and premiums on public health insurance that the employer has paid for himself from the assessment base of the employee.

- **if compensatory wage is covered from other public budgets**

Nor is the employer entitled to the contribution, if he has received other funds provided from the state budget, budgets of the self-governing territorial units, higher self-governing territorial units, European structural funds and investment funds, or other EU programmes and projects, or other public sources for the same purpose, i.e. such portion of compensatory wage or salary.

- **an applicant who is in liquidation or bankruptcy proceedings.**

- an applicant, to whom a fine **for facilitating the performance of illegal work** under Section 5(e) (3) of Act No. 435/2004 Coll., on employment, as amended, was imposed in the period of 3 years before the application date.

Employment Agencies

Employment Agencies **may take part in** the Antivirus Programme, however only on the following condition.

If the employer is an employment agency under Section 14 (3) (b) of the Employment Act, the employment contract of the employee, for which the contribution will be granted, must have been concluded before the declaration of the emergency state on 12 March 2020 and must be in effect for the whole duration of the Antivirus Programme.

Protected labour market (employers under Section 78 of Employment Act)

Employers who are recognised as employers on the protected labour market under Section 78 of Employment Act may participate in the Antivirus Programme on the condition above that they will not simultaneously receive the contribution for the settlement of wage costs under Section 78a of Employment Act in the relevant calendar month.

Currently, MoLSA is preparing a change regarding the conditions for the grant of the contribution in accordance with Section 78a of the Employment Act for the duration of the state of emergency so that the employers recognised as employers on the protected labour market may receive the contribution under Section 78a of the Employment Act to cover also wage or salary costs of employees provided to employees when obstacles to work on the employer's part exist. At present, this is ruled out by Section 78a (2) (c) of the Employment Act.

No Outstanding Payments

The current legislation regarding the provision of contributions of active employment, being also the Antivirus Programme, limits, in Section 118 (3) of the Employment Act, provision of contributions **only to such employers who do not have debts towards public budgets. "No outstanding payments" status is decisive in the period when the contribution is granted.**

With regard to the seriousness of the current situation and the need to reduce administrative burden, MoLSA is preparing a legislative draft that will cancel the condition above!!!

III. Programme regimes and compliance with the Labour Code

The employer must always proceed in accordance with Act No. 262/2006 Coll., the Labour Code, as amended (LC). The information concerning COVID-19 in relation to labour-law legislation are published and continually updated by MoLSA on its website. For detailed information please see: <https://www.mpsv.cz/web/cz/-/koronavirus-a-pracovnepravni-souvislosti>.

With regard to rights of employees and preservation of their rights in this difficult situation, we recommend to refer to the “Charter of Fundamental Rights of Employees During the Coronavirus Outbreak” that can be found here: <https://www.mpsv.cz/prava-zamestnancu>

The Antivirus Programme responds to a situation when in the context of the COVID-19 outbreak there are obstacles to work for both employees (quarantining, child care) but also for employers (ordinances to close down or reduce operations, absence of significant part of employees, reduced sales or limited incoming supplies, etc.).

The Antivirus Programme distinguishes A and B regimes that differ regarding the grounds of obstacles to work and the related amount of the granted contribution.

The employer is fully responsible to determine correctly the relevant obstacle to work and to comply with the relevant provisions of the Labour Code. To monitor compliance with the rules of the LC is the competence of the State Labour Inspectorate (hereinafter “SUIP”). However, **an incorrect determination of an obstacle to work is not a violation of the agreement to grant a contribution and does not imply that the contribution has to be returned**, if the wage compensation has actually been paid. Any sanctions for the breach of labour-law regulations may be imposed by SUIP in line with such regulations.

Regime A: Forced reduction of operations and quarantine

This regime shall apply to cases when operations have been closed down or reduced as a result of the crisis management or emergency measures taken by the government, the Ministry of Health (hereinafter “MoH”) or regional hygiene stations, and in instances when the employee was unable to work due to his/her quarantine ordered under legal regulations. Specific regime are described in more detail in the table with an overview below.

Ordering quarantine to employees

The employee is not working due that the fact that he was ordered quarantine. This is an important personal obstacle to work under Section 191 of LC and the employee is entitled to a wage compensation under Section 192 of LC for the first 14 calendar days of the quarantine.

This is the same case as in the event of temporary incapacity to work. To calculate the amount of the wage compensation that must be paid by the employer to the employee in this period, the following MoLSA calculator can be used: <https://www.mpsv.cz/kalkulacka-pro-vypocet-vyse-nahrady-mzdy-v-roce-2020>

The following situation are also considered quarantine:

- isolation

pursuant to Section 2 (6) of Act No 258/2000 on the Protection of Public Health, as amended, under Section 347 (4) of LC

- **eNeschopenka** if the word "quarantine" is indicated in the "profession" field.

For the administrative procedure regarding the completion of eNeschopenka to order a quarantine please see the information of the Czech Social Security Administration here: <https://www.cssz.cz/web/cz/-/pouziti-eneschopenek-pro-narizeni-karanteny>

- Quarantine ordered by the competent authority abroad

Impossibility to assign work to employees in connection with the issuance of crisis management resolutions of the Government of the Czech Republic and emergency measures taken by public health authorities

On the basis of the government resolution to take emergency measures or under emergency measures taken by public health authorities in connection with the COVID-19 outbreak, the employer is ordered to close down or reduce its operations.

In cases where the employer had to close or reduce its operations (activities) as a result of force majeure consisting in the direct prohibition of such activities, this shall be another obstacle to work on the part of the employer and the **employer must pay their employees, in accordance with Section 208 of LC, a wage compensation of the 100% average pay of employees.**

The method of calculation of the average pay is specified in Part 13, Title XVIII of the Labour Code. Please see the "Handbook for HR agenda and remuneration" link: <https://ppropo.mpsv.cz/XXI5Prumernyvydelek>

The following measures are deemed relevant measures prohibiting certain activities, including but not limited to any measures:

- adopted by government resolutions related to the Government Regulation No. 194 of March 12, on the declaration of the state of emergency

For the Government Resolution please see here: <https://apps.odok.cz/djv-agenda-list?year=2020>

- emergency measures ordered by the Ministry of Health in line with Act No. 258/2000 Coll., on Public Health Protection

These measures can be found on the website of the Ministry of Health, including their respective reference numbers (information necessary for the administration of the statement of account), are published here: <https://koronavirus.mzcr.cz/category/mimoradna-opatreni/>

- emergency measures ordered by other authorities for the protection of public health. These are particularly emergency measures ordered by regional hygiene stations.

A summary of the **applicable** government measures can also be found at the website of the Office of the Government of the Czech Republic, here: <https://www.vlada.cz/cz/media-centrum/aktualne/vyhlaseni-nouzoveho-stavu-180234/>

To be informed of any restriction of business activities, an overview prepared by the Ministry of Industry and Trade can be used, see here: <https://www.mpo.cz/cz/rozcestnik/pro-media/tiskovezpravy/aktualni-nouzovy-stav-omezeni-v-jednotlivych-sektorech--253513/>

The measures that are in force at the time when obstacles to work come to existence, i.e. in the period, for which the employer will apply for the contribution, are decisive.

Amount of the contribution under the Regime A

The amount of contribution will amount to 80% of the compensatory wage, including any levies, paid by the employer to the employee during the time when obstacles to worked existed.

In the statement of account, the employer will give the amount of the paid compensatory wage and such portion of the statutory levies corresponding to the amount of the paid compensatory wage. The contribution of LO CR will then be 80% of the sum of such amounts.

The maximum monthly contribution per employee shall be CZK 39,000.

Regime B: Related economic difficulties

This regime shall apply to cases when obstacles to work on the part of the employer exist as a result of the related economic difficulties brought about by the COVID-19 outbreak.

These are instances when there are obstacles to work on the part of the employer under part 8, Title III of the Labour Code. The cause of such obstacles is the current epidemiological situation and related measures to prevent the spread of the disease both locally and abroad.

From the LC perspective, these are instances when the employer may not assign work to employees,

- as significant or key portion of employees are absent from work (e.g. due to quarantine, sickness, childcare or even in situation when they cannot come to work, including foreigners);

In this case it is considered another obstacle to work on the part of the employer and the employer must pay employees compensatory wages of 100% of their average pay.

- must reduce the operations, as there are no incoming supplies (such as raw materials, semi-finished products, or services) or the demand for the products produced or service provided by him has been severely reduced

In the event of the lack of incoming supplies, this the so-called downtime, i.e. the obstacle to work on the part of the employer under Section 207 (a) of LC and the employer must pay the employee a compensatory wage of 80% of his average pay.

In the event of reduced sales, this is a partial unemployment, under Section 209 of LC when the employer must pay the employee a compensatory wage of at least 60 % of his average pay. However, the employer must be authorised to do so following an agreement with trade union organisations or under an internal regulation.

For the method of the calculation of the average pay, please see "Handbook for the HR agenda and remuneration", link: <https://ppropo.mpsv.cz/XXI5Prumernyvvydelek>

For obstacles to work, please see "Handbook for HR Agenda and Remuneration", link: <https://ppropo.mpsv.cz/IX2Prekazkyvpracinastranezamestn>

The fact demonstrating the relation of the specific obstacle to work to the epidemiologic situation both in the Czech Republic and abroad will not be required from the employer for the assessment

of the eligibility to be granted the contribution.

Given the extent of the COVID-19 outbreak's impact on the economic situation and due to mandatory financial participation of employers in the wage costs incurred at the time when their employees cannot perform work for them, it is deemed that the emergence of the obstacle to work is justified, and it is in the employer's interests to prevent such obstacles to work from occurring. However, this shall not affect the employer's obligation to proceed in compliance with labour-law regulations.

Amount of contribution under Regime B

The amount of contribution shall amount to 60% of the compensatory wage, including any levies, that the employer has paid to an employee in the period when obstacles to work exist.

In the statement of account, the employer will give the amount of the paid compensatory wage and such portion of the statutory levies corresponding to the amount of the paid compensatory wage. The contribution of LO CR will then amount to 60% of the sum of such amounts.

The maximum monthly contribution per employee shall be CZK 29,000.

IV. Administration

General principles:

- All acts will be made **remotely** via a web application, data box or E-mail with a recognised electronic signature. Other means of filing the application shall not be permissible.
- An emphasis will be put on the fast provision of the aid, however with an emphasis on thorough audits.
- The applicant is responsible for any errors in the statements and forms, of which he will be continuously informed.
- LO CR will not require other documents than the documents listed below from the applicant; however, this shall not apply with regard to any continuous or subsequent public administration audits. The list of the required documents to be provided by the employer in each of the administration phases, is given in Table 2.
- The contribution shall be granted solely for employees who are still employees of the employer at the time when the statement of account is submitted, and who have not been given a notice of dismissal, except in cases under Section 52 (g) and h) of LC, if they are employed under the Czech law.

Step 0: Emergence of the obstacle to work

- For reasons given in Part III above, the employer may not assign work to his employees.
- The employer shall proceed in line with the Labour Code, i.e. will primarily decide on the reasons why the obstacle to work exist, on the basis of relevant provisions of LC. **The employer is fully responsible that he will proceed in compliance with LC.**

- **The employer will duly familiarise himself with this Handbook.**
- **Due to the fact that the entire administration will exclusively take place via electronic means, the employer must have data boxes or have a recognised electronic signature.**

Step 1: Submission of applications

1. The employer shall submit the application for the contribution via the **web application designed specifically for this purpose**. The link can be found at www.uradprace.cz.
2. The employer will file the application with the branch of the Labour Office of the Czech Republic with the local competence according to his registered office.
3. The application must include the following:
 - proof of the account opening by the applicant where the funds will be remitted by the Labour Office of the Czech Republic.
 - power-of-attorney to represent the employer (authorised person)

The employer will provide the power-of-attorney only if other person than the person authorised to act behalf of the applicant has been authorised to deal with the application, or unless it has been provided in the past to the Labour Office of the Czech Republic

4. **The applicant shall be fully responsible that the data is complete, true and correct. Incorrectly completed applications will be returned for additional information/correction and will be reversed. The applicant must proceed in compliance with the Labour Code.**

Step 2: Conclusion of the Agreement

1. The agreement will be generated automatically after completing the application and will be submitted to the LO CR together with the application request. **The Agreement sent in the manner above shall be deemed to be signed by the applicant.** This shall not give rise to an obligation of LO CR to cosign the agreement.
2. LO CR will verify the authorisation of the signatory, proof of the existence of the bank account, identification details of the applicant and the fulfilment of the conditions for the conclusion of the agreement.
3. **If LO CR discovers an error following the delivery, it will send the applicant information that the application was reversed and will specify the error.** The applicant will make the correction and re-send the request with the newly generated agreement, it is permissible to proceed in the manner above even repeatedly.
4. The agreement shall be deemed to have been concluded, if it is signed by LO CR and returned to the applicant via data box or E-mail with a recognized electronic signature.

Step 3: Statement of account of the compensatory wages

1. The employer will prepare the closing of wages and attendance lists for the relevant calendar

- month and will pay employees compensatory wages and make mandatory levies in due time (social and health insurance).
2. Then, the employer will provide LO CR (via the web application) with a statement of the paid compensatory wages including mandatory levies that will include a list of employees and their birth certificate numbers or registration numbers of policy holders (if the birth certificate number is not assigned) for whom the contribution is requested.
 3. For each Antivirus Programme regime, the applicant will complete a separate form for the relevant regime, including an affidavit regarding the payment of the remaining wages, including any levies and the emergence of the obstacle to work in line with the Labour Code.
 4. The relevant "Statement of account - Antivirus" form both for Regime A and Regime B will be available in the web application. **The form is binding, the employer may not make any changes to it** (other than permissible)
 5. The "Statement of account - Antivirus" form for Regime A, if the employer applies for the provisions due to the emergence of other obstacles to work as a result of the crisis management or emergency measures, will also include the line of business or activities that have been affected (closure or reduction of operations as default), including an indication of the relevant measure (number of the government resolution, reference number of the measure taken by the Ministry of Health, etc.)

Step 4: Grant of the contribution

1. When the statement of account is received, LO CR will send electronically a request to the Czech Social Security Administration whether the employees for whom the contribution is requested are actual employees of the employer.
2. **The contribution shall be made available only to such employees who will be, following a check, found to be employed with the applicant.**
3. The contribution will be paid by LO CR to the account of the employer.
4. In the event of any irregularities identified between the data in the statement of account and the data kept with the Czech Social Security Administration, LO CR will invite the applicant to give explanation, or to provide documents (e.g. employment contract, registration attendance lists, wage sheet etc.). If the applicant establishes the eligibility of such requirement, LO CR will pay off the contribution.

Step 5: Controlling activities and sanctions

1. During the implementation of the Antivirus Programme and following its completion, the emphasis will be put on controlling activities.
2. Compliance with labour-law legislation and conditions for the payment of the contribution will be subject to national-wide audits by the competent authorities. The grant of contributions is also tied to an obligation of the employer to pay the employees relevant compensatory wages and pay the statutory levies.
3. A list of the required documents to be provided by the employer in each of the administration

phases, is given in the table.

4. A wilful misuse of the contribution may be classified as a criminal offence and will be dealt with by the competent law enforcement authorities.
5. A breach of the conditions of the written agreement may give grounds to return the contribution and may be referred to the Tax Authority for the suspected violation of budgetary discipline under Section 44 of Act No. 218/2000 Coll., on budgetary rules and amendment to certain related laws (budgetary rules).
6. Should a breach of the budgetary discipline occur, the budgetary rules will define penalties and Tax Authorities will be tasked with their recovery.
7. Audits in the area of the labour-law legislation will be performed, or subsequently sanctioned by SUIP. In the event of any breach of labor-law legislation pertaining to the grant of the contribution, SUIP will file a petition with the Labour Office of the Czech Republic.

Phase	Application/agreement	Statement of account	Audit (subsequent)
Required documents	<p>Automatic check</p> <ul style="list-style-type: none"> - identification details - authorisation of a person to represent the employer <p>The employer will provide</p> <ul style="list-style-type: none"> - proof of the bank account - any power-of-attorney for representation 	<p>Automatic check</p> <ul style="list-style-type: none"> - existence of labour-law relationship <p>Affidavit</p> <ul style="list-style-type: none"> - any compensations paid and levies made - existence of the obstacle to work and its duration - affidavit that the wage costs incurred that are subject to the statement of account are not covered from other public budgets, - affidavit is part of the statement of account, by confirming the statement of account (electronic signature, its posting in the data box), the employer automatically signs the affidavit <p>The employer will provide in the statement of account</p> <p>In the event of Regime A, relevant crisis measure (government resolution) or emergency measure of</p>	<p>LO CR in cooperation with SUIP will ensure a thorough continuous, but in particular, subsequent audit.</p> <p>During the audit, the employer will demonstrate, including but not limited to the following</p> <ul style="list-style-type: none"> - employment contracts, - internal regulations regulating obstacles to work, agreement with trade unions authorising them to pay reduced compensatory wages in accordance with LC, - ordered quarantines of employees, obstacles to work as a result of childcare, - earning records and attendance lists demonstrating the emergence of obstacles to work and payment of the relevant compensatory wages in accordance with LC, - account statements showing payments of compensatory wages to employees and that the levies has been paid, - in the event of downtimes

		<p>the Ministry of Health or regional hygiene station, under which the employer had to close down or reduce his operations. The employer will only indicate the number of the relevant resolution or the reference number of the relevant document.</p>	<p>(Section 207 (a) of LC or partial unemployment (Section 209 of LC), the employer will also provide documents showing the cancellation of contracts, reduction in sales, limitations of transport etc., i.e. will demonstrate that there has been an obstacle to work on the part of the employer.</p> <p>The audits regarding the compliance in the area of labour-law relationships will be performed by SUIP.</p> <p>The audit will be performed subsequently, should reasonable doubts arise, LO CR, may perform an interim audit in cooperation with SUIP. The audit activities may result in an obligation to return the contribution, specific reasons giving rise to an obligation to return the contribution will be agreed in the agreement.</p>