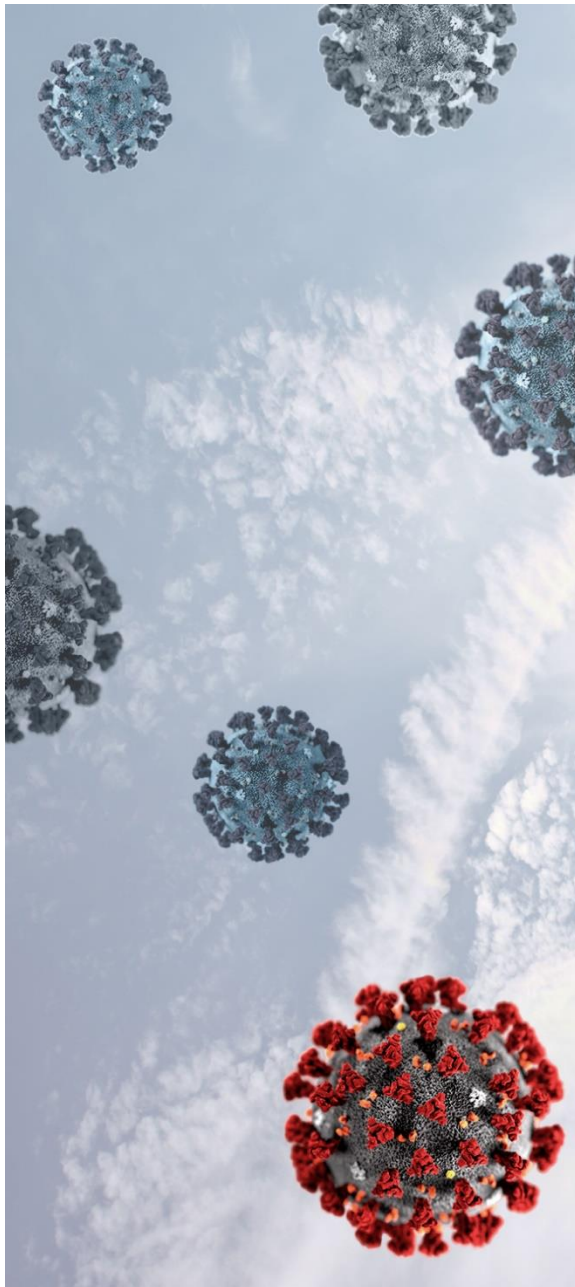

CORONAVIRUS: PREVENTIVE MANAGEMENT FROM A LABOR PERSPECTIVE

March 2020



Key issues

- > The coronavirus epidemic (or SARS-CoV-2) is giving rise to complex situations in the management of labor relations.
- > Companies must carry out a series of preventive actions to prevent the virus from spreading to the workforce, as well as a possible future contingency for their employees' health and safety.
- > It is advisable to prepare a protocol available to all employees on how to proceed in this situation, as well as the measures to take depending on the extent of the crisis in the company.
- > The closing of schools and nursing homes by some authorities will result in numerous requests for adapting working time/forms because of difficulties in the conciliation of work and family life (for example by teleworking).
- > To determine whether organizational measures need to be taken that could affect the provision of services, it is also necessary to assess the impact of the crisis on business activity.



1. The company is responsible for guaranteeing the protection of the health and safety of its employees. Despite the publicity and general knowledge of the preventive measures that citizens must adopt, companies should also adopt protocols available to all employees, including the following:
 - Implementation of all basic information and training measures regarding occupational risk prevention relating to the entire workforce, such as (i) providing information on hygienic measures (e.g., washing hands frequently, not sharing objects, ventilating the workplace, guaranteeing surfaces and objects are kept clean, and avoiding contact with people suffering from acute respiratory distress); and (ii) providing employees with collective protection measures and the equipment necessary in each case.
 - Continuous updating of the information based on the guidelines of the public authorities:
 - [Ministry of Health](#)
 - [Ministry of Employment and Social Economy](#)
 - [World Health Organization](#)
 - Establishment of a specific communication channel for employees' questions or concerns.
 - To ensure the company fulfills its informative and formative obligations, special risk situations should be defined derived from (i) personal factors, such as employees who are pregnant or breastfeeding; (ii) functional factors, such as greater public exposure; and (iii) geographical factors, based on the risk situation of each territorial area at any time.
- Improve team leaders' ability to identify specific situations requiring greater attention to preventive actions.
2. Inform the occupational risk prevention services of the *Action Procedure for occupational risk prevention services against exposure to the new coronavirus (SARS-COV-2)* issued by the Ministry of Health. This presents the preventive measures based on the levels of risk, in order to develop the corresponding preventive protocol adapted to each organization.
3. Implement specific actions for coordinating preventive activity with contractor companies carrying out services in the company's work centers or vice versa: determining the reciprocal information on risk situations and the preventive measures to be taken.
4. If an employee is at particular risk of having contracted SARS-CoV-2 (because of exposure to contagion; e.g., trip to risk zone or contact with other patients), but the employee does not have any symptoms and the authorities have not issued an isolation order:
 - the employee must be sent to the health & safety service for a medical examination; all mandatory medical examinations must be consulted with the workers' representatives; and
 - the employee's refusal to undergo a medical examination may constitute a labor offense, and that employee, in all cases and for precautionary reasons, should be prevented from carrying out services in the workplace.
5. If one or several employees, without symptoms, are potentially affected or they have received an isolation order from the authorities because of SARS-CoV-2, the situation is qualified as



temporary disability, exceptionally assimilated to an occupational accident (temporary disability for professional contingency), by [*Royal Decree-Law 6/2020 of, March 10*](#)).

6. If the level of absenteeism (due to direct situations or preventive isolation) causes the company's workforce to be insufficient for its normal operation, assess the possibility of one or several organizational measures, such as irregular distribution of work hours, transfers, substantial modification of working conditions, and even temporary suspension of employment contracts or reduction of working time according to the procedure established in article 47 of the Workers Statute.
 - The total or partial suspension of contracts could also arise (for organizational or productive reasons) in cases in which, due to the market situation (e.g., supply of raw materials and decrease in demand), it is not possible to continue with the business activity.
 - A specific procedure must be followed to suspend employment contracts. Therefore, these types of decisions (or alternatives) must be anticipated as much as possible.
7. Besides, the closing of schools and nursing homes by the authorities of several autonomous communities will result in numerous requests for adapting working time/forms because of difficulties in the conciliation of work and family life (for example by teleworking, when feasible).
8. Policies or decisions regarding employees who the company has on transnational mobility should be reviewed, as well as the situations in which repatriation could be activated, especially if the region has been declared a risk area by the WHO and the Ministry of Health. There are rulings

that not only declare, as a professional contingency, the health effects a displaced employee may have suffered due to a risk associated with infectious diseases, but also consider the company responsible for not having acted appropriately from an occupational risk prevention perspective.

Regarding upcoming transnational mobility, some public authorities are recommending avoiding all unnecessary traveling, and many companies are restricting travel to the strictly necessary, and in all cases avoiding the risk areas identified by official bodies.

In any case, if travelling is unavoidable, the company should provide specific information/training on health & safety to the affected employees. It should also coordinate a specific preventive activity with the company or work center of destination.

9. Finally, it is advisable that all above issues are included in a company protocol adapted to each case. It is important to remember that all the above precautions are aimed at avoiding the possibility of the contagion spreading to the workforce. However, if this does happen, they are also aimed at in case the contingency being considered professional (because of occurring or having a direct relationship with work), the company may prove it has adopted the reasonable preventive measures to reduce the possibilities of suffering public (criminal, administrative, or service surcharge) or private damages. At this point, even if the employee is not harmed, not taking preventive measures can generate situations of responsibility (criminal, administrative, or both).



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