

**XXIII World Congress of the
International Society of Labour and Social Security Law (ISLSSL)
«Challenges to Labour and Social Security Systems»**

7 - 10 September 2021 – Lima, Peru

Final Report

Research Group: «New Challenges of Social Security»

Prof. Dr. iur. Kurt Paerli, Faculty of Law, University of Basel, Switzerland (Chair)

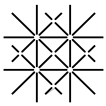
Prof. em. Masahiko Iwamura, University of Tokyo, Japan (Chair)

Thanks to the Members of the Research Group:

Sara Bagari, MLaw, University of Ljubljana, Slovenia
Prof. Lucas Bento De Carvalho, University of Montpellier, France
Dr. Audrius Bitinas, University of Vilnius, Lithuania
Dr. Quentin Detienne, University of Liège, Belgium
Dr. José Luis Dodera Cabrera, Universidad del Trabajo del Uruguay &
Facultad de Derecho de la Universidad de la República, Montevideo, Uruguay
Prof. Yves Jorens, University of Ghent, Belgium
Prof. Bok-gi Kim, Law School of Seoul National University, South Korea
Dr. Viviana López Dourado, Facultad de Derecho de la Universidad de la República, Montevideo, Uruguay
Dr. Adriana López López, Facultad de Derecho de la Universidad de la República, Montevideo, Uruguay
Prof. Elena Machulskaya, Moscow State Lomonosov University, Russia
Ass. Prof. Luka Mišič, PhD, University of Ljubljana, Slovenia
Prof. Dr. rer. publ. Lorena Ossio, Universidad Católica Boliviana - MPISOC
Max Planck Institute for Social Law and Social Policy, Muenchen, Germany
Ass. Prof. Vida Petrylaitė, University of Vilnius, Lithuania
Dr. Fabián Pita, Facultad de Derecho de la Universidad de la República, Montevideo, Uruguay
Ass. Prof. Álvaro Rodríguez Azcúe, Facultad de Derecho de la Universidad de la República, Montevideo, Uruguay
Dr. Jorge Rosenbaum Rimolo, Facultad de Derecho de la Universidad de la República, Montevideo, Uruguay
Dr. Gabriel Salsamendi, Facultad de Derecho de la Universidad de la República, Montevideo, Uruguay
Dr. Sophie Selusi, University of Montpellier, France
Prof. Dr. Grega Strban, University of Ljubljana, Slovenia
Prof. Marcelo Leonardo Tavares, State University of Rio de Janeiro, Brasil

In collaboration with:

Bettina Fischer, MLaw, Faculty of Law, University of Basel
Lale Andreani, stud. iur., Faculty of Law, University of Basel



NEW CHALLENGES OF SOCIAL SECURITY

Prof. Dr. iur. Kurt Pärli, Faculty of Law, University of Basel, Switzerland

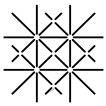
Table of contents

I. Introduction	1
II. Policies from international organizations	2
III. Financing of the costs for tests / vaccinations and loss of earnings in the event of quarantine by the social insurance funds (each employee + self-employed person)	4
1. Financing of tests and vaccinations	4
2. Financing of loss of earnings in quarantine cases or in the context of childcare during school closures	5
IV. Short-time work and unemployment benefits (each employee + self-employed person) ..	6
1. Employee	6
2. Self-employed person	13
V. Reflection and conclusion	16

I. Introduction

To prepare this report, the members of the Working Group «New Challenges of Social Security»¹ were contacted and asked to consider what issues related to Covid-19 with implications for social security law seemed germane to them. Obviously, we agreed that the impact of the Covid-19 crisis should be the main subject of the report. The relevant social security law issues may have been already present before or exacerbated by the crisis as well as they may have newly emerged as a result of Covid-19 and now require appropriate resolutions. The representatives of the various countries were asked to make a concrete and substantial contribution regarding their countries on the topic they had selected. In total, twelve members of the Working Group provided a comprehensive report on the relevant social security law issues related to Covid-19. While compiling the articles of the different countries, several additional questions emerged, which is why some of the members of the Working Group were asked to give a further assessment of the specific topics in order to complete the report.

¹ Members of Research Group «New Challenges in Social Security».



To supplement this report, further studies from other countries were considered. For this purpose, the special issue from Noticias Cielo² concerning the social consequences of Covid-19 in the form of a comparative law overview was consulted. Based on this contribution, reports from 34 countries, partly overlapping with the countries of the twelve members of the Working Group, could be reviewed. Where information from these reports has been included, the source is indicated in the footnotes below the text. In order to complete the last open questions, especially regarding the assistance provided by self-employed persons, the report was further refined with a general research. We used scientific publications and reports from international organisations.

This report first describes different policies from different international organizations as responses to Covid-19. Furthermore, it illustrates the financing tests or vaccinations and the loss of earnings in the event of quarantine through social security. Moreover, it describes the short-time work and unemployment benefits in the different countries and finally ends with a short reflection and conclusion. Special attention will also be paid to the social protection of the self-employed (during the pandemic).

II. Policies from international organizations

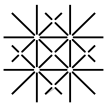
Many organizations were quick to respond to everything related to Covid-19 in the context of the social security law. In this report, however, attention is paid only to those contributions that have a certain topicality, what means, they were published at the end of the last year or preferably this year. As a result, this text focuses mainly on the reports about the second and now impending third wave.

The ILO highlights the pandemic's ongoing and devastating impact on jobs and incomes, as well as the labour market disruptions caused by Covid-19. In response, policymakers must maintain support for jobs and incomes in the coming months and well into 2021, maintaining the key challenges of getting the balance and sequencing of health, economic, and social policies right. Policies must provide the maximum support to vulnerable and hard-hit groups, including migrants, women, young people and informal workers.³ Restoring solid and sustainable growth in national income is a necessary but not sufficient condition for successfully overcoming the crisis, especially given the very different impacts on different employment categories, socio-economic groups, sectors and regions. Policymakers must address income losses, devote international attention to measures to support poorer countries, protect those vulnerable populations, incorporate a balanced sectoral policy dimension into recovery strategies, and promote the social dialogue.⁴ The crisis has revealed gaps in existing social protection systems due to problems inherent in today's world of work, particularly with regard to increasing precarious employment and growing inequality. Social security systems should effectively guarantee access to health care and income security for the entire population. Income security should be available in all situations of income loss, including involuntary reduced hours, unemployment, illness (including quarantine) and

² <https://mailchi.mp/cielolaboral/noticias-cielo-no-532172?e=933b929ef2>

³ ILO Monitor, Covid and the world of work. Sixth Edition, 23 September 2020.

⁴ ILO Monitor, Covid and the world of work. Seventh Edition, 25 January 2021.



increased family responsibilities. Social security should be extended to workers in all types of employment, including atypical employment. It is important to ensure a well-informed social dialogue as an important and effective mechanism to formulate social security responses to the Covid-19 crisis.⁵

The Council of the EU issued, that policy measures should be tailored to country-specific circumstances and be timely, temporary and targeted. Member States should continue to coordinate actions to effectively address the pandemic, support the economy and promote a sustainable recovery. As soon as the pandemic and economic situation allow, the emergency measures should be phased out while addressing the impact of the crisis on society and the labour market.⁶ The motto is securing employment and income for all, the workers must be considered a priority. Deeper institutional and policy reforms are needed to strengthen recovery and build resilience through robust and universal social protection systems, that can act as automatic economic and social stabilisers in the event of a crisis. Special attention and measures are also needed for groups outside the labour market who are already experiencing poverty.⁷

The UN urgently recommends further action to limit transmission of Covid-19 and ensure access to care for Covid-19 patients to reduce deaths. It is about strengthening national and global pandemic preparedness and striving for healthy societies in the future. Universal health coverage is built on the foundations of equity and can be a powerful social equalizer if countries move quickly and equitably to full population coverage. It has proven to be a catalyst for economic growth, benefiting individuals, families, communities, businesses and economies. Good health is both an outcome and a driver of economic and social progress.⁸ A WHO factsheet suggests that general gaps still need to be addressed to achieve poverty and income inequality reduction targets. The following two policy responses to the pandemic stick out as candidates for a long-lasting change in the European health systems: breaking the link between entitlement to health care and payment of contributions and excluding poor people and people with chronic conditions from co-payments.⁹

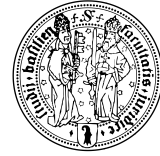
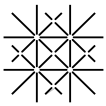
⁵ ILO, Assessment of the Social Security Responses to Covid-19, 2021.

⁶ Communication from the commission to the council; One year after the COVID-19 outbreak - the fiscal policy response, 2021.

⁷ European Economic and Social Committee, Resolution on the «EESC proposals for reconstruction and economic recovery after the Covid-19 crisis: 'The EU must be guided by the principle that it is a community of destiny'» based on the work of the Subcommittee on Economic Recovery and Reconstruction after the Covid-19 Crisis, 2020.

⁸ UN, Policy Brief: Covid-19 and the universal health coverage, October 2020.

⁹ WHO, Covid-19: a stark reminder of the importance of universal health coverage, 11-12-2020.



III. Financing of the costs for tests / vaccinations and loss of earnings in the event of quarantine by the social insurance funds (each employee + self-employed person)

1. Financing of tests and vaccinations

In order to effectively combat the pandemic and its consequences, many countries have relied on a pronounced testing and vaccination strategy. In this context, the immediate question arises as to who has to bear these costs.

In principle, the costs of vaccination do not have to be carried by the patient. In certain countries, the costs are covered by social security (e.g. in Korea¹⁰, where social security covers at least 70% and government takes care of the remaining payment). Meanwhile, other countries cover the costs of vaccinations through the government, as for instance Lithuania¹¹, Slovenia¹² and Japan.¹³ In other countries like France, vaccination is free for all, because the government considers that no one should give up vaccination or financial reasons.¹⁴ In Uruguay, the costs of vaccination are also paid by the state.¹⁵

Regarding testing, different approaches can also be found. Again, in general, the tests do not have to be paid for by the individual. This applies at least to the extent to which the tests are medically indicated and not used for recreational trips or similar. The government bears the costs for instance in Slovenia and Korea,¹⁶ while in Belgium and Uruguay the health insurance fund covers the costs.¹⁷ In Uruguay the Ministry of Public Health then reimburses them the costs, what means, that the cost of Covid-19 testing is borne entirely by the State.¹⁸ Japan, for example, takes a middle course and shares the costs between the government and the health insurance fund; the latter pays 70-90% depending on the age and annual income of the person concerned.¹⁹ In Belgium the competence in care and health/wellbeing and prevention falls within the regional competences which leads to

¹⁰ Bok-gi Kim, E-Mail from 26.4.2021 regarding «The Social Security Response to COVID-19 in Korea».

¹¹ Audrius Bitinas, E-Mail from 21.4.21 regarding «Occupational pensions in Lithuania: regulation and problems».

¹² Luka Mišič, E-Mail from 28.4.2021 regarding «COVID-19 Related Measures in the Field of Social Law Adopted in Slovenia».

¹³ Masahiko Iwamura, E-Mail from 8.5.2021 regarding «Replacement Incomes Introduced Due to Economic Impacts of COVID-19 in Japan».

¹⁴ Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

¹⁵ Álvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

¹⁶ Luka Mišič, E-Mail from 28.4.2021 regarding «COVID-19 Related Measures in the Field of Social Law Adopted in Slovenia»; Bok-gi Kim, E-Mail from 26.4.2021 regarding «The Social Security Response to COVID-19 in Korea».

¹⁷ Yves Jorens, E-Mail from 23.4.2021 regarding «Belgian Social Security Facing the Coronavirus Crisis»; Álvaro Rodríguez Azcùe, E-Mail from 21.04.2021 regarding «Measures Taken in the Uruguayan Legal System to Address the COVID-19 Pandemic from the Perspective of Social Security Law».

¹⁸ Álvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

¹⁹ Masahiko Iwamura, E-Mail from 8.5.2021 regarding «Replacement Incomes Introduced Due to Economic Impacts of COVID-19 in Japan».



the regions paying for the costs within the framework of their budget.²⁰ In France, PCR and antigenic tests are fully covered for everyone. The coverage does not depend on the reason for requesting the test.²¹

2. Financing of loss of earnings in quarantine cases or in the context of childcare during school closures

Many countries faced new problems during the Covid-19 pandemic, especially when workers were unable to attend work due to an ordered quarantine. This circumstance is to be distinguished from workers having to stay at home due to illness (isolation). Where measures against the coronavirus included school closures, issues also arose about how to deal with working parents who had to stay at home for childcare.

Most of the countries provide some form of benefit for a loss of income during an ordered quarantine or if a parent cannot attend work while taking care of his child, whether it be in the sense of daily allowance, paid leave, unemployment benefit, sickness benefit or benefits in any other form. In certain countries the benefits were issued directly to the individuals while in others the benefits were paid to the employers which were therefore able to pay their employees.

Whatever the form of the benefit, the question for self-employed workers was whether they were also included in these benefits. The regulations were often extended to allow the self-employed access to said benefits. However, this is not the case everywhere; for instance, in Japan, where self-employed workers do not get a cash benefit in case of an ordered quarantine.²² Further, in Korea employed workers can apply for family care leave and get supported by the government whereas a self-employed parent does not have any specific options other than receiving general compensation or support such as child allowance or children's care coupons.²³ In Uruguay, self-employed workers have whether the right to access any benefit in the event of mandatory quarantine, nor in the case that they cannot work due to attending family care tasks.²⁴

Even though in various countries benefits have been extended and made available to the self-employed, the conditions and the precise provisions often differ from those applicable to the employed. Self-employed persons forced to quarantine in Lithuania only get access to a benefit if they are formally registered as being self-employed and their business (in case of a legal entity) is not bankrupt or insolvent.²⁵ It is necessary to be covered under mandatory sickness insurance, which is not always the case for self-employed. In France parents who are unable to telework, will be able to benefit from a replacement income from the first day of their work stoppage, and at the

²⁰ Yves Jorens, E-Mail from 23.4.2021 regarding «Belgian Social Security Facing the Coronavirus Crisis».

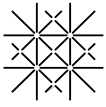
²¹ Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

²² Masahiko Iwamura, E-Mail from 8.5.2021 regarding «Replacement Incomes Introduced Due to Economic Impacts of COVID-19 in Japan».

²³ Bok-gi Kim, E-Mail from 26.4.2021 regarding «The Social Security Response to COVID-19 in Korea».

²⁴ Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

²⁵ Charles Szymanski & Gertruda Cepulyte, Labour Law and the Covid-19 pandemic: Lithuanian responses, p. 3.



latest until the end of the isolation period. This also applies to self-employed workers and contractual workers under public law, so that they will benefit from daily allowances after having filed their declaration on the platform.²⁶

The pandemic has demanded constant adaptation and finding new solutions, while taking into consideration as many people as possible. While Slovenia initially has not included the self-employed in its support scheme, self-employed are now covered by their fifth anti-corona package of October 23 2020 by having access to compensation benefits.²⁷

In Belgium the support in cases of quarantine or school closures is provided by the system of unemployment benefits. To fit the current situation, the so-called «bridging benefit», a kind of unemployment benefit for self-employed in cases of bankruptcy etc., was expanded. To receive compensation the work has to be interrupted for at least seven days while working from home must be impossible.²⁸

IV. Short-time work and unemployment benefits (each employee + self-employed person)

1. Employee

The EU provided support for short-time work and temporary lay-offs for the first time in the context of the economic financial crisis in 2007/2011 and were now further attenuated and extended (Poland, Lithuania, Hungary, Greece). Often the State guarantees that eventual reductions in wage are avoided: employees can keep their standard of living and are still able to spend money so that the economy will not shrink even further; for employers redundancy costs are avoided with a clear shift from employers to the State; for the State short-time work is often less expensive than paying unemployment benefits; employers obtain a great flexibility in arranging the employment situation of their employees and are able to adapt to economic fluctuations.²⁹ The Commission's policies culminated in EU Regulation 2020/672 of 19 May on establishing a European temporary support instrument to mitigate the risks of unemployment in an emergency (SURE) following the outbreak of Covid-19 and which establishes a reinsurance mechanism, a line of financing to Member States to prevent unemployment with a total budget of €100 billion. A line intended, as its art. 1 underlines, to finance «principally, short-time working schemes or similar measures designed to protect employed and self-employed workers and thereby reduce the incidence of unemployment and income loss», as well as, «on an ancillary basis, certain health-related measures, in particular in the workplace».³⁰

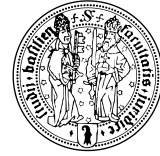
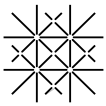
²⁶ Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

²⁷ Sara Bagari, E-Mail from 9.5.21 regarding «COVID-19 Related Measures in the Field of Social Law Adopted in Slovenia».

²⁸ Quentin Detienne, Fabienne Kéfer, *Belgian Social Security Facing the Coronavirus Crisis*, p. 8.

²⁹ Yves Jorens (Ghent University, Belgium)/Grega Strban (University of Ljubljana, Slovenia), *Contemporary Legal and social Challenges*, pp. 5 ff.

³⁰ David Lantaron Barquin, *Union Europea, pandemia y relaciones de trabajo*, pp. 5.



In Spain and Finland, the implementation procedure and the employee consultation period were shortened or in some countries the system could be relied on much easier (a lower percentage of employees had to be affected like in Germany or the scope had been extended to all workers and sectors, for instance in Italy, Malta, Luxembourg, the Netherlands) so that the interpretation of an entrepreneurial risk is extended and that situations of decline in profit might also be taken into account.

In Spain RDL 8/2020 introduced, with the same objective of avoiding dismissals and thus preserving employment, extraordinary procedures for the suspension of contracts and reduction of working hours due to force majeure, or for economic, technical, organizational and production reasons, as a consequence of or related to the Covid-19. These measures are subject to the company's commitment to maintain employment for a period of six months from the date of the resumption of activity.³¹

The package of Netherlands holds measures to safeguard incomes and salaries as a temporary emergency bridging measure to preserve employment including a temporary subsidy scheme as a contribution towards wage costs in order to maintain jobs in exceptional circumstances as well as compensation for entrepreneurs in affected sectors.³² In Estonia and the UK, a completely new temporary short-time working scheme was set up. Meanwhile, the UK is no longer part of the EU, the rules remain the same. Croatia and Ireland introduced an income support scheme providing a wage subsidy to companies that have to suspend their activities. In Austria and Germany, short-time work benefits have long been used in cases of complete loss of work.³³ The main purpose of this allowance in Germany is to enable employees to continue working and to avoid redundancies if they are temporarily unable to work.³⁴ In Austria, workers having reduced their working hours by up to 90% still receive the majority of their normal wage and the employer receives an allowance from the public employment system. The granting of short-time work is subject to various conditions, as the employer must not terminate employment relationships for operational reasons during the funding period. The number of employees must therefore be maintained at the level as before the start of Covid-19 short-time work. In addition, statutory vacation entitlements from previous years and time credits of the employees should be reduced. Nevertheless, employers are only obliged to offer this consumption to the employees.³⁵

Several countries have increased the amount these workers receive. The Belgian legislator, like a large proportion of its European counterparts, has preferred to treat the absence of work as a suspension of the contract due to force majeure, which has two kinds of implications. Firstly, the periods not worked are not counted as annual holidays or treated as an anticipation of public holidays; nor will waged workers have to compensate for them through additional work once the

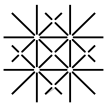
³¹ Rafael Gomez Cordillo, COVID-19. Un ano de hiperactividad normativa en materia sociolaboral en Enspana, pp. 4.

³² Beryl ter Haar/Hanneke Bennaars, The Netherlands and COVID-19 measures in the field of labour law, pp. 2 ff.

³³ Lorena Ossio, Email from 6.7.21 regarding «Contribution to the report».

³⁴ Bernd Waas, Covid-19: Labour Law and Social Security Law Measures in Germany, pp. 1 f.

³⁵ Elisabeth Brameshuber/Phillipp Ondrejka, The impact of COVID-19 on labour and social security law in Austria, pp. 1 ff.



crisis is over. Secondly, the Welfare State ensures that their income is supported through a derogatory temporary unemployment scheme. Not only are the conditions for accessing benefits eased and the formalities simplified, but the amounts granted are higher than in the ordinary regime.³⁶ Statutory civil servants have not been the target of any income support measures. There is already a social security system.³⁷

In France, whereas the compensatory indemnity paid to employees in partial unemployment is normally limited to the minimum wage, the government will now fully support (100%) it up to 4.5 times the minimum wages. The employer must apply to the administrative authority. If they accept the application, the employer must pay the employee compensation, which is not subject to social security contributions. In return, the employer receives an allowance co-financed by the State and UNEDIC.³⁸ Partial activity is a public policy tool to prevent economic layoffs, allowing employers in difficulty to cover all or part of the cost of their employees' remuneration. Government has decided to structurally transform the partial activity system, to provide France with a highly protective system.³⁹

In Denmark, Hungary, and Greece, temporarily unemployed employees will now receive 100% of their wages.⁴⁰ In Denmark compensation from the state constituted 90% of salaries for each full-time employee who would otherwise be dismissed due to lack of work (75% for white collar workers), capped at maximum DKK 30.000 (EURO 4.000) per month. Employers paid the remaining 10% of the salaries (25% for white-collar workers). Employees contributed with 5 days of holidays.⁴¹ The scheme in Hungary resembled the German-type short-time work, but it was less generous. The wage subsidy was transferred directly from the state to the employee while the reduced wage was paid by the employer. Over the course of the existence of the scheme, its eligibility criteria were progressively eased, so that the number of beneficiaries increased significantly. During the second wave more targeted support schemes has come in the forefront.⁴² Where, during the extraordinary epidemic situation, the employer in Bulgaria preserves the employment relationships with the workers and employees under Art. 120c LC, the latter receive the full amount of the gross labour remuneration they used to receive prior to the extraordinary situation being declared (Art. 267a LC).⁴³ In Slovenia the first anti-corona package introduced reimbursement benefits for (private sector) employers who temporarily could not offer work to their workers due to the epidemic, were

³⁶ Quentin Detienne/Fabienn Kéfer, *Belgian Social Security Facing the Coronavirus Crisis*, pp.1.

³⁷ Quentin Detienne/Fabienn Kéfer, *Belgian Social Security Facing the Coronavirus Crisis*, pp.2.

³⁸ Camille Percher, *Réaction du droit social français à la COVID-19*, pp. 2 f.

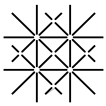
³⁹ Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».

⁴⁰ Yves Jorens (Ghent University, Belgium)/Grega Strban (University of Ljubljana, Slovenia), *Contemporary Legal and social Challenges*, pp. 5 ff.

⁴¹ Natalie Vodebaek Munkholm, *The Covid pandemic in Denmark*, pp. 3 ff.

⁴² Attila Kun, *HUNGARY – The impact of the labour law measures taken by the authorities: reflections one year after the official recognition of Covid.19 as a pandemic*, pp. 4.

⁴³ Vassil Mrachkov, *Bulgaria: An overview of Labour Law under COVID-19 Conditions*, pp. 2.



thus obliged to pay income replacement benefits to workers, and who will have fulfilled conditions regarding the loss of revenue.⁴⁴

The ACEP in Georgia included stimulus package for employers to preserve jobs. Employers who retain jobs were fully exempted from income tax on salary payments of up to 750 GEL for the period of six months.⁴⁵ In Poland, benefits from the state related to economic downtime or reduction in working time are granted for a total period of 3 months due to the Anti-Covid-Act. This has provided for certain forms of assistance to persons employed under civil law contracts. In return, the entrepreneur is expected to keep the employees covered by the subsidies.⁴⁶

One of the most important measures taken by the Portuguese government in the context of the pandemic was the creation of exceptional and temporary financial support aimed at maintaining jobs. Access to this support allowed employers to maintain their jobs, choosing either to reduce normal working periods or to suspend work contracts. In turn, employees would be entitled to a compensation corresponding to 2/3 of their wages. Another measure was the support for the progressive resumption of activity in companies in a situation of business crisis which aimed at companies with a drop-in turnover of at least 40%. Under this support, during the reduction of the normal work period, the worker is entitled to receive the corresponding remuneration for the hours worked, as well as a monthly compensation up to three times the SMN, in the amount of 2/3 or 4/5 of the normal gross remuneration corresponding to the hours not worked, in the months of August and September 2020, and in the months of October, November and December 2020.⁴⁷

Also, in Romania one of the most important measures adopted by the government is the payment of technical unemployment from the budget, up to 75% of the gross salary of employees in specific sectors.⁴⁸ Due to the restrictions implemented to counteract the spread of the Covid-19 disease, one important social security measure in Estonia introduced by the government to protect employee's incomes is the payment of the wage compensation to employees.⁴⁹ In Switzerland, as an example for a «non-EU-country», unemployment insurance, which is mandatory for all employees, uses the instrument of short-time work as well. Employees receive 80% of their wages from the unemployment insurance and can thus keep their jobs. Even temporary employees or persons in employer-like positions have a right to short-time work compensation.⁵⁰

The use of short-time work with compensation paid to employees in Turkey is facilitated by Laws No. 722613 and No. 724414. Short time work is provided for in cases where, due to a general, sectoral or regional economic crisis or force majeure, the weekly working hours are reduced by at

⁴⁴ Luka Mišič/Sara Bagari, COVID-19 related measures in the field of social law adopted in Slovenia, pp. 3.

⁴⁵ Zakaria Shvelidze, Covid-19 Pandemic and Labour Law Restrictions and Social Impacts in Georgia, pp. 3.

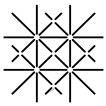
⁴⁶ Jakub Stelina, Anti-Covid labour law regulations in Poland a year after the start of the coronavirus epidemic, pp. 3 ff.

⁴⁷ Tiago Pimenta Fernandes, O impacto da COVID-19 nas relacoes de trabalho em Portugal, pp. 1 ff.

⁴⁸ Nicoleta Enache, Rumania a un ano del inicio de la crisis provocada por el virus COVID-19, pp. 4 ff.

⁴⁹ Merle Erikson, COVID-19 and Labour Law: Estonia, p. 3.

⁵⁰ Kurt Pärli, New Challenges Social Security Covid-19 Switzerland, pp. 1 ff.



least one third, or if there is a permanent or temporary cessation of activity for a minimum period of four weeks. The workers will then be granted a «reduced work allowance» of 60% of the average gross salary of the last twelve months. However, the allowance cannot exceed 150% of the gross minimum wage. The maximum duration, initially three months, is regularly extended to six months by presidential decision.⁵¹ Russia also launched protective measures for workers in the pandemic. They simplified the system of unemployment benefits to secure the income of people made unemployed by the pandemic.⁵²

In this period, according to the Iranian social security system, unemployed workers can claim a three-months unemployment benefit related to the Coronavirus. This is intended only to workers who are considered as «employee» and under the scope of Labour Act. Thus, many workers are excluded: i.e. those working in factories employing less than 10 workers, daily-workers, contractors or taxi drivers are not included in this provision.⁵³ The Korean government paid out emergency disaster relief money totaling 14.3 trillion won to 'all' households.⁵⁴ To improve working conditions of fixed-term and part-time employees, the Act on 'Protection of Fixed-term and Part-time Employees' was enacted in 2006. Regarding the unemployment benefits, the current Korean Employment Insurance Act does not cover a worker whose contractual monthly working hour are less than 60 hours. Concerning this problem, the Korean government currently plans to expand the coverage of employment insurance to all workers (so called 'universal employment insurance').⁵⁵

In Japan there was a benefit for sustaining undertakings' and self-employed workers' business: This benefit was planned and adopted on the initiative of Ministry of Economy, Trade and Industry. The aim is to establish the safety net for undertakings, in other words, to provide a cash available for all business needs in order to stimulate continuation, resume or resurgence of undertakings damaged by voluntary suspension of their business due to COVID-19 these target persons include not only permanent employees, but also non-permanent employees not insured by employment insurance scheme.⁵⁶

To maintain the basic living of unemployed workers, the government of China has adjusted the current unemployment insurance system, in order to simplify the process and to cover more unemployed workers for a longer period.⁵⁷

On 17 March 2020 a national wage subsidy scheme was established in New Zealand to prevent mass redundancies occurring. Employers that suffered a loss of expected revenue could apply for the subsidy on the condition they continued to retain their staff and pay at least 80% of their wages.⁵⁸

⁵¹ Melda Sur, La protection sociale en Turquie face au covid-19, pp. 2 ff.

⁵² Elena Machulskaya, Covid Russia, pp. 9 f.

⁵³ Elaheh Zabeheh, COVID-19 and Labour Law: Iran, p. 2.

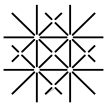
⁵⁴ Bok-gi Kim, The Social Security Response to COVID-19 in Korea, pp. 4.

⁵⁵ Bok-gi Kim, Email from the 26.04.21, The Social Security Response to COVID-19 in Korea.

⁵⁶ Masahiko Iwamura, Replacement incomes introduced due to economic impacts of covid-19 in Japan, pp. 9 ff.

⁵⁷ Wenwen Ding, COVID-19 and Labour Law: China, pp. 2.

⁵⁸ Dawn Duncan, The impacts of Covid-19 on Aotearoa/New Zealand's working people: A report 12 months on, pp. 3.



In response to the health emergency, the Canadian government introduced two types of assistance. The first offered a 75% subsidy for up to 12 weeks to businesses whose gross revenues were reduced by 30%. This Canada Emergency Wage Subsidy (CEWS) allows businesses affected by the pandemic to retain or rehire employees. Furthermore, on 25 March 2020, the Canada Emergency Benefit (CEB) was introduced for workers, which provided financial support of up to \$2,000 per month to employees and self-employed persons whose loss of income was caused by Covid-19.⁵⁹

The CARES Act in the USA provided federal funds to support «short-time compensation» programs, where employers avoid layoffs by reducing employee hours, with these employees receiving a prorated state UI. Where states have such programs, federal funds would cover 100% of a state's short-time compensation benefits for up to twenty-six weeks of benefits. Not all states have short-time compensation programs, but they can choose to develop one in order to take advantage of the federal assistance.⁶⁰

Chile and Uruguay do also have measures to support employment and maintain the income of the affected workers and companies. Chile, through Law 21,227, provided two tools for maintaining the employment relationship, thus, it enabled access to unemployment benefits in cases of temporary closure of companies by order of the authority; and the extent to which the Unemployment Fund pays the workers' income while the worker's employer pays the social security and health contributions. While Uruguay promoted telework in those activities in which it is possible to provide the service through this modality, indicated that the supply of the necessary elements to carry out this type of work the employer must provide. However there is no law regulating this type of work or providing the employer's obligation to provide work tools, but it is a peaceful criterion that the employer supplies the necessary elements to work.⁶¹ Informing this, through the General Labour Inspectorate, not having to alter the working conditions with the exception of the workplace.⁶² In Uruguay, the employer has been empowered to partially suspend the employment relationship, with the consequent payment of unemployment benefit, to ensure that the worker is paid 75% of the usual remuneration.⁶³ In order to preserve jobs, Uruguay has implemented other special unemployment insurance schemes for specific groups.⁶⁴

Law no. 14.020 of Brazil (2020) even defined a provisional guarantee of employment to the employee receiving the Emergency Benefit for Preservation of Employment and Income, in article 10, as a result of the reduction of the workday and salary or the temporary suspension of the work

⁵⁹ Urwana Coiquaud/Jeanne Pérès, Panorama des mesures réglementaires prises en matière sociale et du travail par le gouvernement canadien, pp. 4.

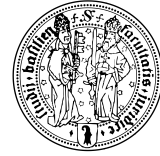
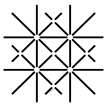
⁶⁰ Risa L. Lieberwitz, Federal government responses to COVID-19 in the United States, pp. 2.

⁶¹ Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

⁶² José Luis Dodera Cabrera, The perspectives and responses to the Covid Pandemic-19 seen from ILO Santiago Latin America Southern Cone, pp. 18.

⁶³ Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».

⁶⁴ Àlvaro Rodríguez Azcùe, Mail from 21.6.2021 regarding «Additions to the Report».



contract, for the same period of time of the contract suspension or reduction of the workday and salary.⁶⁵

The D.U. 038-2020 from Peru provides for the granting of an economic benefit up to a limit of three months at the expense of the State in favour of workers of micro-enterprises whose employment contracts have been suspended due to the Covid-19 pandemic, provided that they meet the following two requirements: i) they are subject to the legal regime of the Law for the Promotion of Productive Development and Business Growth and ii) their gross monthly remuneration does not exceed 2400 soles per month.⁶⁶

As part of the complementary measures in Venezuela within the social, economic and health order on the occasion of the Covid-19 pandemic, in principle, by decreeing in March 2020 the state of emergency alarm in Venezuela and ordering the suspension of labour activities, except for essential ones, the state approved to assume for six months the payment of salaries to private sector employees of small and medium-sized enterprises, as well as workers in the informal economy and private sector would receive «a special bonus» through the Carnet de la Patria, a tool through which benefits are granted to citizens.⁶⁷

The government of Morocco took several measures to cushion the impact of the entrapment and the resulting inactivity for some businesses, particularly in the informal sector, and to allow others to continue operating in this exceptional context. The same applies to the way the consequences are shared between the different stakeholders (state, employers, workers).⁶⁸ As well as Tunisia who paid their Employees whose salaries are not maintained, totally or partially, indemnities for the same period (200 Tunisian dinars/month) with maintenance of rights to health care benefits, family allowances and the single salary increase during the period of work stoppage. Government decree No. 2020-317 of 19 May 2020, setting the conditions and procedures for benefiting from the «AMEN SOCIAL» program, grants social assistance to limited-income categories worth 200 dinars with the right of access to care in public health establishments.⁶⁹

In summary, the instrument of short-time work is known primarily in Europe and the USA. In the EU itself, it has existed since 2007, and in the context of the Covid-19 crisis, additional money was made available for financing this support and many countries have simplified in addition the procedure for receiving the money. However, the percentage one receives is can vary from state to state. In Austria and Germany, short-time work benefits have long been used in cases of complete loss of work. In Netherlands, Estonia, United Kingdom, Denmark new benefits had to be created for

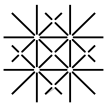
⁶⁵ Luciane Cardoso Barzotto, *Alguns aspectos gerais das alterações nos contratos de trabalho no primeiro ano de pandemia no Brasil*, pp. 1.

⁶⁶ Francisco Villanueva, *Las medidas con incidencia laboral adoptadas por el Gobierno de la República del Perú en el marco de la crisis sanitaria de la pandemia covid-19*, pp.5.

⁶⁷ Ydangely Tropiano/Atilio Noguera, *Las condiciones y medidas sociales y de seguridad y salud laboral en Venezuela, producto de la pandemia Covid-19*, pp. 6.

⁶⁸ Khalid Boukaich, *Les conséquences sociales de la crise Covid-19 au Maroc*, pp. 2.

⁶⁹ Hamza Safi Aicha, *Les mesures publiques sociaux à l'épreuve du Covid-19 en Tunisie*, pp. 4.



this case. This showed that even countries that have a long experience of «flexicurity» respond to the pandemic with similar measures.⁷⁰ In New Zealand, it works similarly by employers getting subsidies as long as they continue to pay their employees. Canada and Asia also provide support in the form of financial assistance packages for employees. Many parts of South America and North Africa also introduces measures in providing financial assistance to employees.

2. Self-employed person

The Regulation adopted by the Commission of the EU 2020/672 of 19 May on establishing a European temporary support instrument to mitigate the risks of unemployment in an emergency (SURE) following the outbreak of Covid-19 and which establishes a reinsurance mechanism also supports the self-employed persons. Its art. 1 underlines to finance «principally, short-time working schemes or similar measures designed to protect employed and self-employed workers and thereby reduce the incidence of unemployment and income loss».⁷¹

The support of the Belgian social security system for the self-employed has put the spotlight on a little-known scheme, the «bridging right». This is a kind of modest unemployment insurance that self-employed workers can benefit from when certain circumstances force them to suspend or stop their professional activity.⁷²

As to assist self-employed persons in Slovenia, the first anti-corona package introduced a «universal» basic income benefit in the amount of 700 euros net per month for every month of the epidemic (regardless of the amount of one's previous income from self-employment). With the fifth anti-corona package the amount was increased to 1,100 euros net.⁷³

In order to limit the number of economic redundancies or cessations of activity, financial support has been provided in France to the self-employed through the creation of a solidarity fund implemented by the State and the regions, which at the end of the year represented 14 billion euros of public expenditure. The stated aim is to prevent small businesses, micro-entrepreneurs, the self-employed and the liberal professions from going out of business.⁷⁴ In June, July and August, the solidarity fund should be adapted (pending a future decree) to support businesses during the reopening stages, while the sanitary constraints (gauge, protocol or curfew) will not be fully lifted.⁷⁵

Individuals who are self-employed but cannot work during the pandemic, because of the quarantine and the nature of their work, may also be entitled to certain benefits in Lithuania. To be entitled for this benefit, the self-employed person (apart from being unable to work because of the conditions of the pandemic) must: 1) be formally registered as being self-employed, 2) if he or

⁷⁰ Lorena Ossio, Email from 6.7.21 regarding «Contribution to the report».

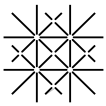
⁷¹ David Lantaron Barquin, Union Europea, pandemio y relaciones de trabajo, pp. 5.

⁷² Quentin Detienne/Fabienn Kéfer, Belgian Social Security Facing the Coronavirus Crisis, pp.1.

⁷³ Luka Mišič/Sara Bagari, COVID-19 related measures in the field of social law adopted in Slovenia, pp. 4.

⁷⁴ Camille Percher, Réaction du droit social français a la COVID-19, pp. 2 f.

⁷⁵ Sophie Selusi, E-Mail from 18.6.2021 regarding «Addition to the Report».



she has an employment contract, he/she cannot receive more than the MMW, and 3) if the person has incorporated his or her business as a legal entity, that entity is not bankrupt or insolvent.⁷⁶

Self-employed persons in Denmark with a decline in income of more than 30%, could receive compensation for general expenses (Parliament agreement of 27 March 2020 for companies, Parliament agreement of 18 March 2020 for self-employed and freelancers). Freelancers, as well as persons earn income from employment and freelance work, who used to earn a minimum of 10.000 DKK per month were eligible for salary compensation.⁷⁷

In Spain self-employed persons who suspend their economic activities as a result of the application of RD 463/2020 are entitled to access a benefit for cessation of activity. A similar right is granted to self-employed workers whose turnover has been reduced by 75% compared to the previous six-month period (art. 17.1 RDL 8/2020). FD 2a RDL 13/2020 and art. 13 RDL 30/2020 modify this extraordinary benefit, which remains in force for beneficiaries as of 31 January 2021 until 31 May 2021.⁷⁸

The ACEP in Georgia does not propose financial support for informal workers (whether dependent workers and self-employees) who lost their jobs and/or earnings.⁷⁹ The package of Netherlands holds measures to safeguard incomes and salaries of self-employed as a temporary support scheme for self-employed professionals called Tozo. In essence, the Tozo entails measures to safeguard the income of self-employed workers.⁸⁰

In Portugal the extraordinary support for the reduction of economic activity was created, aimed at self-employed workers, sole proprietors, managers and members of statutory bodies with management functions, whose activities have been suspended or closed down. This support takes the form of financial aid to workers covered exclusively by the self-employed workers regime, or who are also covered by the salaried workers regime and do not earn, under this regime, more than the value of the IAS16, and are in one of the following situations: a) in a proven situation of total cessation of their activity as a self-employed worker, or of the activity of the respective sector, as a result of the Covid-19 pandemic disease; or b) in a situation of abrupt and accentuated drop of at least 40% in turnover.⁸¹

The so-called standby pay from Poland should be mentioned in that respect, payable in the event of downtime in the business of self-employed persons or persons with whom civil law contracts have been concluded. The standby pay amounts, as a rule, to 80% of the minimum wage. Moreover, the state may subsidize the remuneration of persons employed under civil law contracts, as well as

⁷⁶ Charles Szymanski/Gertruda Cepulyte, Labour Law and the Covid-19 pandemic: Lithuanian responses, pp. 2 f.

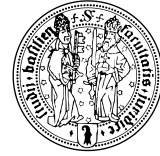
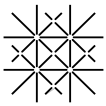
⁷⁷ Natalie Vodebaek Munkholm, The Covid pandemic in Denmark, pp. 4.

⁷⁸ Rafael Gomez Cordillo, COVID-19. Un año de hiperactividad normativa en materia sociolaboral en España, pp. 4.

⁷⁹ Zakaria Shvelidze, Covid-19 Pandemic and Labour Law Restrictions and Social Impacts in Georgia, pp. 3.

⁸⁰ Beryl ter Haar/Hanneke Bennaars, The Netherlands and COVID-19 measures in the field of labour law, pp. 2 ff.

⁸¹ Tiago Pimenta Fernandes, O impacto da COVID-19 nas relações de trabalho em Portugal, pp. 5.



business deductible expenses of self-employed persons, up to 90% of the minimum wage.⁸² There are approximately 1'050'000 self-employed persons in the Czech Republic and the year 2020 was very challenging for them. As their activities were practically stopped during the pandemic, the state adopted several measures in order to make their situation easier. They became eligible for compensation bonus which should have helped with the loss of their income.⁸³

The Federal Council of Switzerland, again as example for a «non-EU-country» has also introduced new social security benefits for self-employed persons and for employees who are prevented from working because of official measures in connection with the coronavirus. Particularly noteworthy is the setting up of social security benefits for self-employed persons due to loss of earnings.⁸⁴

The subsidies and support benefits in Japan adopted as counter-measures against Covid-19 targets a variety of persons including self-employed workers containing freelancers. Under-takings eligible for this benefit are beside small and middle size undertakings (i) self-employed workers including free-lancers, and (ii) self-employed workers who work by contract for work, business contract or service agreement and who filed their tax returns by declaring that their main earnings were not business income but salary and/or miscellaneous income.⁸⁵

The government of South Korea introduces a special support program for regional employment where local governments support the livelihood of workers including beside those on unpaid leave, also dependent self-employed persons and freelancer. They will receive up to 500'000 won for two months. The government also newly established «Emergency Employment Stability Subsidy» to support small business owners who suffered a drastic drop in sales, non-standard contract employees and freelancers who lost their work. This is particularly meaningful in that some dependent self-employees and freelancers are not eligible for the aforementioned «Special Support Program for Regional Employment», while «Emergency Employment Stability Subsidy» cover these workers, reducing the blind spot of employment insurance.⁸⁶

As of 25 March 2020, the Canada Emergency Benefit was introduced for workers. This taxable benefit provided financial support of up to \$2,000 per month to self-employed persons whose loss of income was caused by Covid-19, for a maximum of 7 months (March - October 2020), whether due to loss self-employment, or due to preventative or curative isolation due to Covid, provided that in the latter two cases the person was not or was no longer eligible for the Employment and Sickness Benefit (a pre-pandemic benefit).⁸⁷

⁸² Jakub Stelina, Anti-Covid labour law regulations in Poland a year after the start of the coronavirus epidemic, pp. 3 ff.

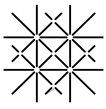
⁸³ Kristina Koldinska, Czech social and labour responses to Covid-19, pp. 2 f.

⁸⁴ Kurt Pärli, New Challenges Social Security Covid-19 Switzerland, pp. 1 ff.

⁸⁵ Masahiko Iwamura, Replacement incomes introduced due to economic impacts of covid-19 in Japan, pp. 9.

⁸⁶ Ministry of Employment and Labour Republic of Korea, Responding to Covid-19 – Emergency Employment measures, S. 11 f.

⁸⁷ Urwana Coiquaud/Jeanne Pérès, Panorama des mesures réglementaires prises en matière sociale et du travail par le gouvernement canadien, pp. 4.



In Chile the government ordered due to Covid-19 suspending provisional monthly income tax payments by companies for three months and refund withholdings to self-employed persons. On the other hand, the «Benefit for self-employed workers» was created, which includes a subsidy and an interest-free loan to self-employed workers who have issued invoices for at least three months in the last year or for six months in the last two years and who, in addition, in the month they apply for the benefit have experienced a drop of at least 30 per cent in their income compared to the April 2019 - April 2020 period. Uruguay created the Coronavirus Fund to finance extraordinary expenses generated by the pandemic.⁸⁸

Thus, for the self-employed persons, many countries have also enacted measures to protect them against Covid-caused income loss. For example, an EU Commission regulation explicitly intends that self-employed workers should also be considered for the financial support. Some countries got creative and built their own programs to support the self-employed persons. Others supported them with money from the funds made available due to the crisis. Whereas some payments are granted as earnings replacements (e.g. Denmark or Netherland), other aim at covering business costs and thus supporting livelihoods more indirectly (e.g. South Korea) or considering the benefit for cessation of activity, (e.g. Czech Republic, Portugal or Spain). Some groups of the self-employed are covered by existing social protection systems, of course the level of protection for self-employed workers varies considerably from one country to another.⁸⁹ The definition of who is considered self-employed and who is not, can vary from country to country as well as the additional conditions, such as income decline over a period of time, that must be met.

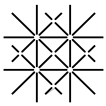
V. Reflection and conclusion

This report shows, that vaccinations and tests related to Covid-19 basically do not have to be covered by the individual. In most cases, either the health insurance companies or the government takes over the costs. The loss of income, during an ordered quarantine or when a parent is prevented from work due to taking care of their quarantined child, is compensated in most countries by a daily allowance from the health insurance, paid vacation or unemployment benefits. This is paid out either directly to the affected person or through the employer. These arrangements have often (but not always) been extended to the self-employed persons, so that they can also benefit under certain conditions. Employees are also given a further support in the form of short-time work or financial assistance packages in the event of a (temporary) suspension of work due to Covid-19. Self-employed persons in some countries also receive financial support in case of a loss of income.

The importance of social security in combating epidemics is already known from other sciences. The social insurances of a country should cover the most important social risks, such as health, age or death. If the requirements for social insurance benefits become tighter, this will have an impact on social assistance benefits, because in most cases the tightening will not create the intended

⁸⁸ ILO, Impact on the labour market and income in Latin America and the Caribbean, Labour Overview in times of Covid-19, September 2020, S. 29 ff.

⁸⁹ Lorena Ossio, Email from 6.7.21 regarding «Contribution to the report».



pressure for people to reintegrate into the labour market, but the slide into poverty. Self-employed persons and persons with several jobs are less adequately insured under social security law. In the event of an accident, illness, unemployment or age, many of these people are threatened with poverty and thus the risk of slipping into social welfare. This can be observed in the example of losing their job due to an extraordinary situation, such as the Covid-19 pandemic. In conclusion, a current precarious situation of a certain population will be further aggravated through a crisis like Covid-19. The worse the underlying systems are structured, the more the social security system will have to bear.

Finally, a few remarks on the link between sound social security provision and an effective fight against the spread of the Covid-19 virus are worthwhile. The WHO and all states around the world oblige their citizens to observe hygiene and distance rules and to wear a mask. In the event of Covid-19 infection or contact with people who have tested positive, state quarantine or isolation is ordered. Compliance with all these measures is very important for interrupting chains of infection. There is a probably a causal relationship between the level of social protection and compliance with the Covid-19 rules. Employees and self-employed Workers who can be sure that there will be no loss of income and work as a result of complying with the quarantine will comply with these measures. However, if there is a risk of not being entitled to an income during the quarantine or even of losing one's job, the situation is different. Rather, those affected must weigh up whether they can afford the economic consequences of the quarantine. This also has an impact on test readiness, which in turn has a direct impact on the spread of the Corona virus. The thesis «Compliance thanks to social protection» is also based on experiences in dealing with the HIV/AIDS epidemic. Here, too, a conflict(s) between the goals of public health and individual human rights becomes apparent, and here, too, good social integration and respect for human rights were (and are) supporting pillars of a successful fight against the epidemic.

NEW CHALLENGES OF SOCIAL SECURITY

- Role of labour law in cooperation with social security law in pandemic of COVID-19 -

Masahiko IWAMURA , Emeritus Professor of the University of Tokyo, Japan

Table of contents

<i>Preliminary remarks</i>	1
I. INTRODUCTION	2
1. THE RAPID AND GLOBAL SPREAD COVID-19 AND ITS EFFECT ON COUNTRIES' ECONOMY	2
2. SANITARY AND PREVENTIVE MEASURES FOR FIGHTING AGAINST COVID-19 AND THEIR EFFECTS	3
3. ROLES OF THE LEGISLATOR, THE GOVERNMENT AND THE SOCIAL PARTERRES.....	4
II. INTERNATIONAL ORGQNZATIONS' ACTIONS	5
1. WORLD HEALTH ORGANIZATION	5
2. INTERNATIONAL LABOUR ORGANIZATION.....	7
III. TELEWORK	8
1. ILO'S ADVICES	8
2. EUROPEAN UNION.....	9
3. MEASURES TAKEN WITH REGARD TO TELEWORK IN CERTAIN COUNTRIES.....	10
IV. CONCLUSION	12

Preliminary remarks

The theme that general reporters (Professor Kurt Pärli and me) and our research group adopted is "New challenges of social security". About this theme, we might discuss the various subjects;

- Social security scheme facing demographic evolution in developed countries such as :
 - Sustainability of mandatory retirement pension scheme based on pay-as-you-go financed system;
 - Role of occupational retirement pension scheme based on funding system¹;
 - Challenge of long-term care scheme for the dependent elderly facing their increase.
 - Challenge of long-term care scheme for the dependent elderly facing their increase.
- Challenge of social security scheme facing evolution of technology and science;
 - Impact of increase of medical costs on medical insurance and health service, for example resulting from new release of extremely expensive medicines.
- Financial difficulty of public mandatory medical insurance resulting from aging society and other factors which might reduce the coverage of public insurance and could extend role of private medical insurance.
- Possibility of closer link of prevention policy of chronic diseases such as diabetes with public medical insurance and health service.
- Emergence and increase of new types of workers such as freelancers getting their work by crowdsourcing sites and its impact on social insurance schemes (especially Bismarckian model).

¹ About Lithuanian situation Audrius Bitinas , " Occupational pensions in Lithuania: regulation and problems ", February 2021.

- Combating poverty.

During our discussions on the topics to be examined in our general report, we faced with rapid and serious spread of Covid-19 in the world and we recognized that epidemic of Covid-19 arose economic and social difficulties to which employees, the independent workers, families and businesses confronted.

In view of such difficulties, we came up to conclusion that the analysis of the health, economic and social measures taken to fight against the difficulties arising from COVID-19 would allow us to understand the more or less decisive elements determining the success or failure of these measures and therefore to catch the good examples to follow and bad ones to drop in the event of another epidemic caused by an unknown pathogen or virus in the future. This analysis also allows us to identify any gaps and / or inadequacies in social security law in force and to identify possible new challenges for serious discussion.

We found also that these difficulties involve both labour law and social protection law. Sometimes a question asked about labour law could give rise to another preliminary question relating to social protection law. Some of the difficulties faced by people working in the new form such as workers on online platforms are outside the scope of ordinary labour law and are outside the coverage of ordinary social protection². Thus, it seems necessary to us to examine the measures and devices introduced within the framework of the economic and social policy from two points of view, that is to say social protection law and labour law. Issues to be approached from the point of view of the latter are often those preliminary to the analysis on the aspect of the first. So, we set as the main topics to discuss the challenges of social security law and labour law facing with epidemic of Covid-19, and divide our general report into two paper. This paper analyzes the latter.

I. INTRODUCTION

1. The rapid and global spread Covid-19 and its effect on countries' economy

According to WHO, the first cases of Covid-19 was reported at Wuhan in China in December 2019³. Covid-19 spread very rapidly around the world. The first case of Covid-19 outside China was confirmed in Thai on January 13, 2020 and the second case in Japan 16 January, 2020. On 21 January, 2020, USA announced that the first case was confirmed there. The first cases of Covid-19 in Europe were declared by French authority on 24 January, 2020. On 29 January 2020, Arab Emirates announced the first cases in the region of the East Mediterranean. On January 30, 2020, WHO declared "Public health emergency of international concern". On 25 February, 2020, the first case was confirmed in Africa (Algeria, yet there was a precedent case in Egypt). WHO estimated that the spread of Covid-19 "could be characterized as a pandemic" on March 11, 2020.

Indeed, patients and deaths grew very fast, and their cumulative number is huge as the table below shows.

Covid-10 confirmed cases and deaths reported in the last seven days

	Cumulative cases	Cumulative deaths
Global	175,333,154	3,793,230
South Africa	1,739,425	57,653

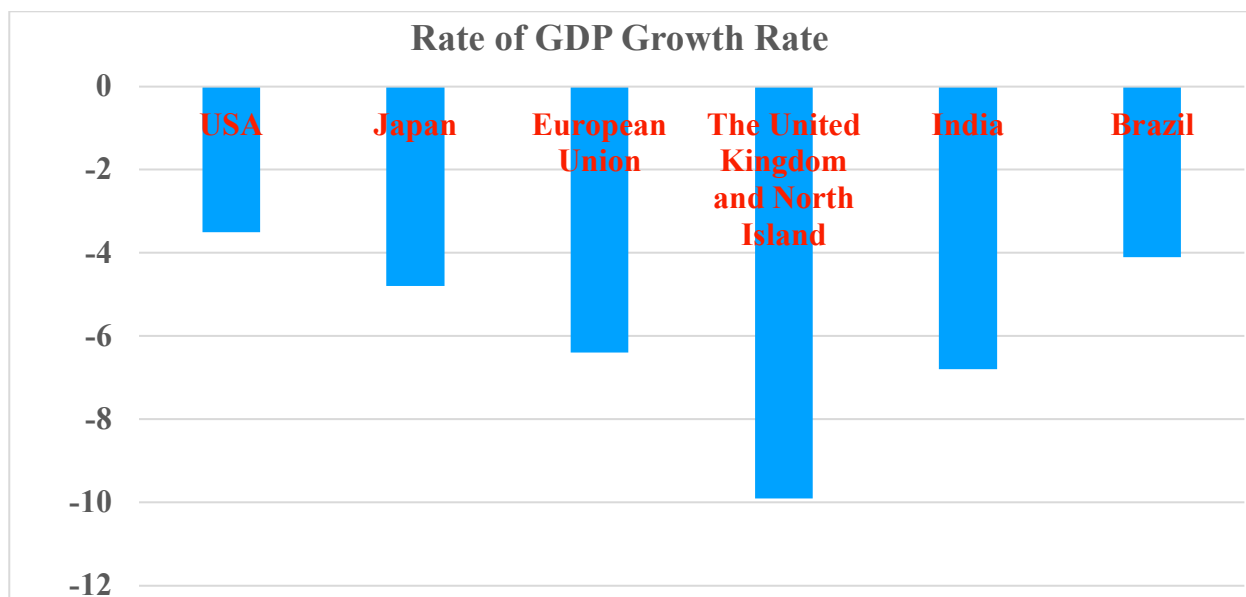
² About comparative analysis on social consequences, Jean-Michel Servais, « Les conséquences sociales du COVID-19 : un regard juridique comparé après un an », numéro spécial de CIEOL 2021, <http://www.cielolaboral.com/fr/las-consecuencias-sociales-del-covid-19-una-mirada-juridica-comparada-despues-de-un-ano/> (in Spanish).

³ <https://www.who.int/fr/emergencies/diseases/novel-coronavirus-2019> April 19, 2021.

Brazil	17,296,118	484,235
USA	33,120,623	594,272
Iran	3,020,522	81911
Russian Federation	5,208,687	126,430
The United Kingdom	4,558,498	127,896
Turkey	5,325,435	48,668
France	5,632,993	109,499
Germany	3,714,969	89,834
Spain	3,729,458	80,465
Italy	4,246,482	126,976
Poland	2,877,469	74,573
India	29,439,989	370,384
Japan	773,822	14,033

WHO Weekly epidemiological update on COVID-19 - June 15, 2021

Epidemic of Covid-19 causes negative economic growth especially in countries seriously damaged by it as Graph below.



United Nations, the GDP growth rate in 2020⁴

2. Sanitary and preventive measures for fighting against Covid-19 and their effects

⁴ UN, Department of Economics and Social Affairs, "World Economic Situation and Prospects as of mid-2021".

The causes of interhuman transmission of Covid-19 are respiratory droplets or physical contact by hand or on surface, so that preventive measures against contamination of Covid-19 are essentially not spread the droplets, avoid them suck, not touch others. Thus, in accordance with advice to the general public set by WHO, preventive measures against the Covid-19 advised to individuals are keeping a distance of at least one meter between themselves and others, wearing a mask correctly, avoiding confined and very crowded spaces (examples mentioned are restaurants, night clubs, the offices etc.).

Sanitary and preventive measures adopted by countries more or less seriously attacked by Covid-19 follow the same vision as WHO's advice above. Indeed, closing schools, lock down, advise or require the public to respect social distancing during daily purchases in shops and boutiques, wear a mask in workplaces and offices, advice or require to employers to allow telework to their employees working in the office in order to minimize the number of employees feeling to workplaces etc. are main measures implemented by these countries.

The health and preventive measures adopted by countries more or less severely affected by COVID-19 follow the same vision as the WHO advice above. Indeed, these measures are the closure of schools, confinement, advising or requiring the public to respect social distancing during daily purchases in stores and shops, wearing a mask in work premises and offices, advising or requiring employers to "allow their employees, particularly working in offices, to telework in order to minimize the number of employees arriving at the work premises, etc.

The governments of countries hit by COVID-19 naturally predicted that these health and preventive measures would profoundly disrupt the professional and family life of employees and self-employed workers (auto or micro-entrepreneurs without employees) as well as businesses, and that these measures would bring down employees, self-employed workers and companies in serious economic difficulties. For example, an employee parent would be obliged to stay at home to look after his child or children whose school is closed and to be absent from his work, thus he would be exposed to the risk of not to receive his wage; companies and auto-entrepreneurs with or without employees would be advised or more or less imposed on the total or partial suspension of their business, and these measures would have side effects; First, businesses and auto-entrepreneurs would suffer the total or partial loss of business and thus face the risk of business suspension and, at worst, the risk of permanent termination or bankruptcy; then their employees could, according to the legislative and / or regulatory provisions in the matter of each country, possibly lose their job or not receive all or part of their wage as a result of the termination or suspension of their employment contract on the grounds of the termination, suspension or bankruptcy of their employer's business.

3. Roles of the legislator, the government and the social parterres

It should also be remarked that the measures taken in the economic and social policy against COVID-19 were developed, adopted and put into force very quickly to respond effectively to the extremely rapid development of the COVID-19 epidemic and to the state of health, economic and social emergency⁵. In this process of developing, adopting and implementing measures, the legislative and executive powers carried out their own mission in accordance with the fundamental standards on the separation of powers, yet it seems to us that the immediate reactions against the COVID-19 epidemic and its economic and social impacts being strongly demanded in the emergency situation, it is often the executive power that played more prominent role than the legislative power. On the other hand, the role of social partners in drawing up social policy is also major, especially in Europe.

We also find that the methods adopted by the competent authorities to achieve the objectives of measures against COVID-19 are diverse. One of the methods often adopted is to impose by legislative or regulatory means on a person or a company concerned one or more duties (including prohibition) possibly under penalty of criminal or administrative sanction in the event of an infringement. Another is to stimulate a target person or company to follow an orientation, for example given by the administrative instruction or by a subsidy.

⁵ Luka Mišič & Sara Bagari, "Covid-19 related measures in the field of social law adopted in Slovenia", April 2021, p.1.

The preventive, health, economic and social measures to fight COVID-19 are diverse; as we mentioned above, they are either binding or only incentive; they are taken by the legislator or by the executive power (the government or the ministries concerned). However, such measures against COVID-19 cannot be taken only at the national level, because, to be effective, the measures must be based on scientific evidence approved at the international level and above all they must be recommended by the international competent authority since the COVID-19 epidemic is global. Thus, we first examine the activities of international organizations, i.e. World Health Organization and International Labour Organization (II).

The majority of health, economic and social measures recommended by the competent international organizations and adopted at the national level involve a lot of problems in labour law. These are work stoppages resulting from the closure of businesses, the need to care for children or for family members staying at home due to the closure of schools or due to the infection of COVID-19, redundancy, lay off, total or partial unemployment, etc. They are also closely linked to questions relating to social protection, thus they will be examined in another paper by Professor Kurt Pärli. However, among these measures, telework, one of the very effective measures for the prevention of COVID-19, would be worth the specific analysis because even if it is very often considered as the subject of labour law, it has a connection with questions of social protection (III).

II. INTERNATIONAL ORGANIZATIONS' ACTIONS

COVID-19 is causing health, economic and social hardship including labour and employment issues in all countries facing the COVID-19 epidemic. Recognizing that the spread of COVID-19 is extremely rapid and global, international organizations reacted very quickly. Thus, it is very useful for us to examine the activities of the relevant international organizations, namely WHO (1.) and ILO (2.) and, thus, they will be discussed in the third part of this report. So here we are looking at telework which is also a very important topic to discuss in the context of the COVID-19 epidemic (2.).

1. World Health Organization

First, the World Health Organization (WHO) specifies the elements to consider relating to public health measures because its essential missions are the advice, recommendation and development of global public health policies. What particularly catches our attention here is that it also indicates the elements to take in consideration concerning social measures in the workplace which are important from a public health policy point of view.

It indicates the preventive measures to be applied in all workplaces as follows;

- Hand hygiene (washing your hands with soap and water or rubbing your hands with a hydro-alcoholic solution, etc.);
- Respiratory hygiene (develop a mask wearing policy in accordance with national or local guidelines, etc.);
- Physical distance (maintain a distance of at least 1 m, reduce the density of people in the building, reduce the number of in-person meetings using the teleconference service, stagger work schedules, use telework, etc.);
- Reduction and management of work-related travel;
- Regular cleaning and disinfection of the environment;
- Communication, training and awareness of risks, etc.

It also specifies specific measures for workplaces and for medium-risk jobs and those for high-risk jobs. For example, those for medium risk jobs are;

- Reinforce the cleaning and disinfection of objects and surfaces;

- Stagger activities
- Reduce face-to-face contact;
- Install plexiglass barriers etc.

Those for high risk jobs are;

- Assess the possibility of suspending high risk activities;
- Give training to employees about anti-infection practices and the use of personal protective equipment;
- Avoid assigning high-risk tasks to employees with pre-existing medical conditions, to pregnant women or to employees over the age of 60, etc.

WHO stresses the importance of collaboration between, on the one hand, employers, employees and their organizations and, on the other hand, health authorities. It also emphasizes, on the one hand, the essentiality of cooperation between management, employees and their representatives relating to preventive measures in the workplace and, on the other hand, respect the rights and duties of employees and employers with regard to occupational safety and health. Also, according to WHO, in order to prevent and mitigate COVID-19, the development of action plans in the workplace is essential and must be carried out in consultation with employees and their representatives, and the plan thus developed must be informed all employees⁶.

WHO also gives advice on wearing masks for the general public including employees. It advises decision-makers of measures relating to wearing a mask to consider 6 criteria;

- The purpose of wearing the mask;
- The risks of exposure to the COVID-19 virus;
- The vulnerability of the target population;
- The living environment of the target population;
- Feasibility (availability and cost of masks etc.);
- The type of mask (medical or non-medical).

For example, in a context where respect for physical distancing is difficult and the targeted employees are cashiers, restaurant staff etc., the purpose of wearing a mask is to contribute to the fight at the source and the type of mask recommended is the non-medical one⁷.

WHO also indicates the measures to be taken depending on the level of the COVID-19 epidemic situation, mentioning, if necessary, those to be applied in the workplace. If we take the case of level 0 corresponding to a situation without transmission of the COVID-19 virus in the previous 28 days, the measures mentioned for the general public also apply to workplaces without any specific details.

On the other hand, if the situation worsens to level 3 in which the capacity to respond to community transmission is limited and the risk exceeds health services, WHO advises taking workplace measures such as shutting down non-essential businesses or telework as much as possible. It emphasizes also, not particularly for workplaces, hand hygiene, the wearing of masks, physical distancing and the need to avoid confined spaces, crowded places and close contact⁸.

⁶ WHO, « Éléments à prendre en considération concernant les mesures de santé publique et les mesures sociales sur lieu de travail dans le cadre de l'épidémie de COVID-19 », mai 2020.

⁷ WHO, « Conseil sur le port du masque dans le cadre de la COVID-19 », juin 2020.

⁸ WHO, « Éléments à prendre en considération lors de la mise en œuvre de l'ajustement des mesures de santé publique et des mesures sociales dans le cadre de l'épidémie de COVID-19 », novembre 2020.

2. International Labour Organization

ILO naturally plays the primary role of giving advice on occupational hygiene, safety and health measures against COVID-19⁹.

Its reaction against the global spread of COVID-19 was indeed quick, for example it published "Briefing Note" offering advice and recommendations on the issues in May 2020. In this note, acknowledging that the economic recession is spreading in the world as a result of the COVID-19 epidemic and that preventive and protective measures at work are considerably important in the fight against COVID-19, ILO evokes 4 issues to be considered for the development of social policy. The first issue is economic and employment policy aimed at stimulating business in order to encourage jobs and social protection.

The second issue concerns support for businesses through financial and tax relief, measures intended to safeguard jobs and income support by making use of the universal right to social protection. The issue related more directly to work is the third one; this Note first of all emphasizes the strengthening of occupational health and safety measures and the need to promote public health measures in the workplace; it then discusses the adaptation of working methods, in particular telework, and remarks the conditions to be retained for the establishment of the telework system; the prevention of discrimination and exclusion is also the subject of this Note's attention; Finally, it underlines the universal right to health and the extension of the right to sick leave and paid family leave.

Fourth issue is social dialogue between governments, representative organizations of employers and workers to find solutions to the questions raised in the three previous issues. In conclusion, ILO points out the great interests of international standards relating to occupational safety and health, social security, employment etc. which provide guidance on drafting resolutions, and also remarks the importance of a global effort to support developing countries.

Faced with the worldwide spread of COVID-19 steadily in 2021, ILO publishes "Policy brief" entitled "Preventing and mitigating COVID-19 at work" in May 2021. By mentioning the WHO document that we reviewed above, this document provides practical advice to be followed by governments, employers and workers' representatives in implementing the WHO and ILO recommendations on preventing the transmission of COVID-19 at work. In fact, in this Policy brief, ILO gives all the elements to consider and tells us the preventive and health measures to be taken in order to fight effectively against COVID-19.

Three policies designed to mitigate transmission in the workplace were indicated by this Policy Brief;

- Remote work is seen as a fundamental element;
- Measures in the workplace to stimulate or possibly impose a reduction in human density, social distancing, and the wearing of masks are mentioned;
- The attention of managers on the elements and steps to be taken into consideration for the reopening of workplaces.

This Policy brief also indicates the measures in the workplace that are qualified as strategic; starting with the determination of the risks of occupational exposure to COVID-19, it first underlines the importance of stimulating the transition to remote work and notes the points of intervention to be retained by employers for making their employees to carry out telework safely and efficiently with concern for their health. Among these points we find for example:

- Encourage employees to take short and regular breaks and to keep a regular rhythm between work and the break;

⁹ On ILO's role in the COVID-19 epidemic, Jean-Michel Servais, "The social consequences of the COVID-19: Which help to be expected from ILO? ", *Rivista Nuova di Diritto del Lavoro*, No.3 2020. On the activities of the ILO Branch in Latin America, José Luis Doderá Cabrera, " The perspectives and responses to the Covid Pandemic -19 seen from ILO Santiago Latin America Southern Cone 3, 2021.

- Take measures to avoid the isolation of employees working remotely through virtual meetings;
- Encourage employees to take care of their mental health.

And this Policy brief does not of course forget the measures intended to prevent the transmission of COVID-19 in the workplace such as ventilation, physical separation, hand hygiene, cleaning and disinfection of surfaces and personal protective equipment. To implement and enforce these measures, the key, according to this Policy Brief, is cooperation between employers and employees, particularly through institutions such as the joint health and safety committee.

The other points mentioned by this Policy brief are the screening of employees at risk and the plan for the gradual and safe reopening of the workplace. Government measures are also the strategic intervention points addressed by this Note. On this subject, she insisted first on the importance of international ILO standards and then on the need for effective monitoring by the competent authorities of safety and health measures. It should be remarked that this Note mentioned the need for the establishment of paid sick leave.

III. TELEWORK

Telework is one of the priority measures taken in the large number of countries affected by COVID-19, because it has dual purposes; First, telework makes it possible to avoid or at least significantly reduce physical contact in the workplace and therefore constitutes an effective preventive measure; then, it allows the total or partial continuation of business and thus helps to save not only jobs, but also businesses. This last effect is very important for the national social security system, because the financing of social security is ensured insofar as jobs and business are saved by this modality of work. However, telework involves certain risks for employees in telework. We first look at the roles of ILO (1.) and the European Union (2.) and then analyze telework in some countries (3.).

1. ILO's advices

While the ILO has several international conventions relating to working conditions applicable to telework, there is no one that directly regulates it. On the other hand, by remarking that, as we have already mentioned above (1.), remote work, more precisely in the current context, telework is an effective measure intended to mitigate the risk of the spread in the workplace as well as to protect employees against COVID-19, ILO is playing a significant role by publishing the practical guide in December 2020 which provides national and local governments, organizations of employers and employees' representatives with advice and recommendations on the measures to be adopted to ensure the safety and health of teleworkers. This guide, after stating about the dawn of a new era of telework, advises the above organizations to pay close attention to employees' well-being and maintaining productivity during telework. Among the eight issues mentioned in this Guide, the first, the fifth and the eighth issues particularly attract our attention.

The first issues are the control of the duration and the organization of telework; Indeed, this constitutes the key to guaranteeing the safety and health of employees carrying out telework since, according to this Guide, it is known that, in general, telework has an effect of lengthening the working time and increase evening and weekend work. This Guide also underlines that even companies that do not get used to telework are still obliged to use it for a very limited period of time and thus they have difficulties in adapting their work organization to it, in providing IT tools to their employees and to give training to those employees who do not have sufficient professional experience to telework. According to this Guide, the role of supervisory staff is also essential. By mentioning the importance of management methods concerning the setting of priorities, the workload, the tasks to be accomplished and the deadlines to be respected, this Guide thus recommends to employers the proven methods, in particular;

- "Agree on a system allowing workers to announce the time slots when they can be reached and please ensure that managers and their colleagues respect them";

- "Encourage workers to voice their concerns if they feel overworked"; "communicate with workers on how to perform the work";
- "Admit that workers sometimes have to disconnect in order to work well".

Then, the fifth issue concerns occupational safety and health. It is certain that these are very important, on the one hand, because, unlike work carried out in the employer's premises under his direct supervision, telework carried out at home is outside the direct intervention of the employer on the modalities and environment of telework, and on the other hand, since telework involves psychosocial risks and ergonomic problems which are accentuated by the COVID-19 epidemic. By indicating concretely the risks and problems entailed by full-time telework, this Guide advises the organizations concerned to take measures intended to ensure the safety and health of employees in telework, for example;

- The clarification and updating of the employer's responsibilities for the protection of employees' health and safety;
- The clarification of the rights and responsibilities of employees working from home in terms of their health and safety;
- Raising the awareness of executives and teleworking employees to take a sufficient number of breaks during the working day;
- Stimulation of the physical health of teleworkers.

The reconciliation of work and private life is the eighth issue noted by this Guide. its consideration is quite correct as the line between telework and private life is becoming more ambiguous than usual due to the COVID-19 epidemic. Like the other issues, this Guide indicates several points to remember to achieve the best reconciliation between telework and personal life which are; make it easier to manage the boundaries between work and private life by setting specific goals for telework; provide teleworkers with information on what time off work is permitted for rest and privacy; stimulate communication between teleworkers and supervisory staff relating to the range of work hours and availability; pay special attention to teleworkers with young children or other family responsibilities. Finally, it should be noted that this Guide mentions the importance of the gender dimension in telework during the COVID-19 epidemic

2. European Union

We start to point out that in terms of labour law, the Treaty on the Functioning of the European Union stipulates, in Article 153, that working conditions are the area it supports and complements the action of Member countries. Thus, like the fields of social security, workers' social protection and health policy¹⁰, these are the Member countries that hold the main competent authority over working conditions. Telework is positively accepted by employers and employees, while this way of working poses the challenges to be retained, including the safety and health of teleworkers¹¹. However, the European Union does not have a directive providing European legal framework directly aimed at telework.

On the other hand, the European social partners already reacted to the increase in telework before the COVID-19 epidemic. They concluded a framework agreement on telework on July 16, 2002. This framework agreement is not binding, yet it provides the guidelines to be followed, while introducing telework and during its implementation, about voluntary nature of telework, working conditions of teleworkers, respect for the field of private life, the health and safety of telework, their work organization and others.

¹⁰ Yves Jorens and Grega Strban, "Contemporary Legal and Social Challenges; Inventions of Social Protection with the spotlight on COVID-19: How did Europe react? », March 2021, p.2.

¹¹ Yves Jorens and Grega Strban, op.cit., supra note 10, p.7.

On the other hand, taking into account, not only the relevant European directives and regulations as well as the considerable expansion of telework and its occupational risks of the safety and health of teleworkers (the permanent connection, the ambiguous border between the duration of work and private life etc.), but also of the COVID-19 epidemic, the European Parliament adopted a resolution containing recommendations to the European Commission on the right to disconnect on January 21, 2021¹². In this resolution, the European Parliament calls on the Commission to;

- Assess and examine the risks of non-protection of the right to disconnect;
- Include the right to disconnect in the Commission's strategy on health and safety at work;
- Submit a proposal for a directive on the right to disconnect with the aim of requiring Member countries to take measures intended to (a) ensure that teleworkers do not engage in work-related activities or communications by means of digital tools outside working hours, (b) allow teleworkers to request and obtain the recording of their working time, (c) ensure that employers respect working conditions such as the practical procedures for disconnecting digital tools, health and safety assessments including those of psychosocial risks etc., (d) protect teleworkers against unfavorable treatment and guarantee them the right to appeal.

The purpose of this resolution is to protect teleworkers against the risks arising from telework by means of guaranteeing the right to disconnect. We will see the next step.

3. Measures taken with regard to telework in certain countries

The author of this part has only limited access to papers and documents on telework, the countries covered here are not numerous. Despite this, we are able to obtain the useful information.

(a) Latin America

In Uruguay, Decree No. 94/2020 encourages employers to implement and promote, as far as possible, telework. Because this is considered to be one of the measures to support employment and maintain the income of the employees and businesses concerned. To set up and implement telework, the employer must inform the General Labour Inspectorate and provide teleworking employees with the equipment necessary to carry out telework.

In Chile, Law No. 21220 was promulgated in March 2020 which amended the provisions of the Labour Code on remote work, regulated telework. This law also grants employees in telework the right to disconnect and provides the elements of individual protection and the procedures for managing occupational risks¹³. The opinions of the Superintendence of Social Security complete the criteria for applying workers' compensation insurance for employees in telework¹⁴. Labour Directorate offers alternative working arrangements to ensure the health of an employee's family members, and among those arrangements, we find telework.

In Paraguay, first, the resolution of the Ministry of Labour authorizes telework during the duration of the health emergency, and it establishes duties of the employer for this modality of work¹⁵. The new law on telework was adopted in June 2021. It defines telework, refers to the regulations and working conditions applicable to this modality of work as well as to those on occupational safety and health. This law also requires a written agreement between management and the teleworker, and mentions the voluntary nature of this working method¹⁶.

In Argentina, the Law No. 27555 on Legal Regime of the Telework Contract was adopted in August 2020. Regulatory Decree No. 27/2021 for implementing this Law was taken in January 2021.

¹² Yves Jorens and Grega Strban, *op.cit.*, supra note 10, p.10.

¹³ José Luis Dodera Cabrera, *op.cit.*, supra note 9, p.13; Pablo Arellano Ortiz, Andrés Ahumada Salvo, Natalia Astudillo Sanhueza, « COVID-19 and Labour Law: Chile », pp.4-5, *Italian Labour Law e-Journal Special Issue 1*, Vol. 13 (2020).

¹⁴ Pablo Arellano Ortiz, Andrés Ahumada Salvo, Natalia Astudillo Sanhueza, *op.cit.*, note 18.

¹⁵ José Luis Dodera Cabrera, *op.cit.*, supra note 9, p.15.

¹⁶ Roxana Maurizio(ILO), « Labour Overview Series Latin America and the Caribbean 2021; Technical note Challenges and opportunities of teleworking in Latin America and the Caribbean », July 2021, pp.20-21.

This Law defines telework and requires a written agreement between an employer and a teleworker in order to ensure the voluntary character of telework. Reversibility of this agreement (teleworker is allowed to ask to his employer to stop telework and return to a workplace whenever he wants) is required by this Law. It also stipulates equal treatment about rights and wages. According to this Law, teleworker's working time has to be previously fixed in a written employment contract conforming to legal and conventional regulations¹⁷. Privacy of a teleworker has to be respected. It has to be mentioned the implementation of telework was recommended by the Government in order to avoid workers' concentration in the workplace¹⁸.

(b) Europe

Estonia implemented restrictions leading to a high degree of telework. The main problem of telework from home is how the authority and employers ensure the health and safety of employees in telework because their homes are not under the employer's control. As Estonia has the rules on the employer's right to unilaterally change employment contract, its application is also important about this issue¹⁹.

Belgium adopted a rigorous labour policy to combat the rapid and significant spread of COVID-19. The Ministerial Decree of March 18, 2020 stimulating the confinement also imposes telework at home on companies in all sectors of activity for the tasks likely to be performed by this working method, except for the essential services listed by the above Decree. The author of the article to which we referred remarks that compulsory telework constitutes a derogation from the usual Belgian labour regulations, because collective agreement No. 85 on telework stipulates that a written agreement is compulsory for telework²⁰. Since June 27, 2021, telework is no longer compulsory, although this working method remains strongly recommended²¹.

In France, telework is regulated by the Labour Code since 2012. This provides a definition of telework and teleworking employees and sets out the conditions for the implementation of telework. It also points out that (a) the conditions for switching to telework and returning to work in company premises, (b) the conditions for the employee's acceptance of the conditions for implementing telework, time control working hours (the employer must respect the maximum working hours and rest periods), (c) the determination of the time slots in which the employer can contact the employee in telework and (d) the other conditions must be specified by collective agreement or the charter drawn up by the employer on telework. "The National Protocol to ensure the health and safety of company employees in the face of the COVID-19 epidemic"²² also mentions telework; in particular, it recommends the need to maintain links within the work group and the prevention of risks associated with the isolation of teleworking employees.

What particularly catches our attention is that the Labour Code stipulates that in the event of an epidemic threat, the employer can implement telework. Indeed, during confinement, telework was compulsory for all employees who could work telework²³. However, this regulation on telework has

¹⁷ Newsletter, «Argentina introduces a law on telework », Industrial Relations and Labour Law, April 2021; <https://ioe-wec.newsletter.ioe-emp.org/industrial-relations-and-labour-law-april-2021-1/news/article/argentina-introduces-a-law-on-telework>.

¹⁸ Facundo Martin Chiuffo, « COVID-19 and Labour Law: Argentina », p.4, Italian Labour Law e-Journal Special Issue 1, Vol. 13 (2020).

¹⁹ Merle Erikson, « COVID-19 and Labour Law: Estonia », Italian Labour Law e-Journal Special Issue 1, Vol. 13 (2020).

²⁰ Alexander De Becker, « COVID-19 and Labour Law:Belgium », pp.2-3, Italian Labour Law e-Journal Special Issue 1, Vol. 13 (2020).

²¹ Radio Télévision Belge Francophone, « Info ; Comité de concertation : dès le 27 juin, le télétravail n'est plus obligatoire mais il reste recommandé », juin 2021 ; https://www.rtb.be/info/societe/detail_comite-de-concertation-des-le-27-juin-le-teletravail-n-est-plus-obligatoire-mais-il-reste-recommande?id=10786675.

²² <https://travail-emploi.gouv.fr/IMG/pdf/protocole-nationale-sante-securite-en-entreprise.pdf>.

²³ Le gouvernement français, « Travail - Info Coronavirus », mis à jour le 9 juin 2021, <https://www.gouvernement.fr/info-coronavirus/retour-au-travail>.

just relaxed since June 9, 2021, it suffices for employers to set, within the framework of local social dialogue, a minimum number of teleworking days per week, for the activities which allow it²⁴.

In Switzerland, Covid-19 Regulation was adopted in April 2020 for reconciling the various interests. Namely, employers have to allow vulnerable employees at risk (those over 65 years of age and those having illnesses such as high blood pressure, diabetes, cardiovascular diseases, chronic respiratory diseases, etc.) to work from their home and undertake the indispensable organizational and technical measure. Employers have to offer these employees appropriate alternative tasks if it is necessary²⁵. In addition, a home office obligation was introduced in principle, however, employer will be exonerated from this duty in the case where the nature of activity does not make possible home office or this one is not able to be implemented even if employer does reasonable effort²⁶.

(3) Asia

In Republic of Korea, telework is the issue mentioned in the guideline published by MEL in order to ensure teleworker's safety and health. This guideline clarifies working time, overtime work and industrial injuries during telework²⁷.

Japanese Ministry of Health, Labour and Welfare set up a "Telework Comprehensive Portal Site". In this site, the Ministry offers information related to telework and to its introduction and utilization, such as a consultation window for telework and Q&A on telework²⁸. Telework is subject to the same laws and regulations as work carried out on company premises. There is no specific legislative and regulatory framework applicable to this working method. This Ministry issues administrative instructions about the modalities of the application of the law on working standards and about occupational health and safety at telework in 2004, and more recently it published the guideline on telework in 2018.

This guideline gives the recommendations intended for employers, unions, representatives of the majority of employees engaged in the establishment on the implementation of telework, or organization of telework arrangements, the conditions for the implementation of telework. This guideline shows its concern about the psychological risk, in particular arising from the isolation of an employee working from home. In addition, this Ministry introduced a subsidy intended to cover part of the equipment costs to stimulate small and medium-sized enterprises to set up telework (this subsidy is no longer available). It should be mentioned that the internal regulations drawn up unilaterally by the employer can give him the power to unilaterally fix the place where an employee performs his work, including his domicile, according to business necessity of the company, except in the case where there is a majority union that can consult with management on the establishment of telework and its implementation.

IV. CONCLUSION

By brief overview on the documents provided by WHO and ILO in **II.**, we confirm that these two international organizations are very active to face the health, economic and social crises resulting from the global epidemic of COVID-19 and that they fully assume their roles at the global level. The author was not able to analyze in detail on measures implemented by national governments, nevertheless, we recognize strong similarity between measures adopted by national governments and those recommended by these international organizations. It should not be forgotten that above all ILO stresses the importance of economic policy intended to support business and gradually revive the national economy to prepare for the post COVID-19.

²⁴ La Protocole national, op.cit., supra note 22.

²⁵ Kurt Paëli, « COVID-19 and Labour Law: Switzerland », p.4, Italian Labour Law e-Journal Special Issue 1, Vol. 13 (2020); Jean-Philippe Dunand et Rémy Wyler, « Mesures d'exception et droit au salaire en Suisse durant la pandémie du COVID-19 », Droit social, septembre 2020, p.704.

²⁶ Kurt Pärli, « New challenges of Social Security: The Covid-19-reponse of Switzerland », 2021, p.4.

²⁷ Sion Gil, « COVID-19 and Labour Law: Republic of Korea », p.2, Italian Labour Law e-Journal Special Issue 1, Vol. 13 (2020).

²⁸ Qi Zhong, « COVID-19 and Labour Law: Japan, p.2, Italian Labour Law e-Journal Special Issue 1, Vol. 13 (2020).

A brief overview on telework at international, European and national levels allows us to find some information. First, in dealing with the very rapid spread of COVID-19, some countries resorted to confinement and thus forced employers and employees to telework under certain conditions and reservations. Because telework is almost unanimously considered as one of the effective preventive measures, while it is true that telework is not the miraculous solution because there are many tasks which cannot be adapted to telework because of their nature. Except for telework forced during confinement or under other sanitary conditions, ILO, European Union and certain countries stress the voluntary nature of telework and insist on the right to disconnect. The main concern about telework is its risks for employees in telework, in particular, the psychological one and social isolation. This is the reason why the modality of control of working hours by the employer, the training of executives and line managers and the regular maintenance by management with employees in telework. Author does not analyze question of costs of equipment for telework, but this topic is attracting a lot of attention from ILO and some governments. Finally, some countries already put in place regulations specific to telework through laws or decrees, while the Japanese government is content to let the Ministry of Health, Labour and Welfare to issue the non-binding telework guidelines.