



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

National measures on OSH measures on return to the workplace and the right to withdraw labour

One note of caution, this briefing note captures a dynamic situation which is subject to ongoing change. We therefore kindly ask affiliates to provide us with further information on COVID 19-related measures that have been introduced in your country so that we can update this briefing note.

This briefing note aims at providing a unified presentation of social partners measures undertaken in the field of occupational safety and health. It takes stock of preventive measures at the workplace for those sectors which continued operating throughout the crisis and those which were implemented to facilitate the return-to-work strategy after the successive waves of contagion. This compilation incorporates an updated of the measures reported in the briefings issued in April 2020 on occupational safety and health and those of June 2020 on return to the workplace and the right to withdraw labour.

COVID-19 is the biggest health, economic and social challenge in the history of the European Union. The dimension of Occupational Safety and Health (OSH) is a fundamental part of the European strategy for limiting the spread of the virus and for maintaining economic activities. Numerous national measures have been implemented to fight the spread of COVID-19, also including those appertaining to workplaces and commuting to work.

Since the COVID-19 outbreak, workers in many sectors (most of them female workers) have continued being physically present at the workplace, at the frontline, fighting the virus, such as in healthcare, elderly care, education, transport, manufacturing, construction, cleaning industry, retail, agriculture and the food manufacturing industry. ETUC member organisations have been reporting OSH related problems such as lack of Personal Protective Equipment (PPE) in the health sector, non-appliance of social distancing in the construction and retail sector and derogations to health and safety rules in the transport sector. Social dialogue has however played an effective role in identifying a range of measures at both national level and workplace level. Some of these examples are presented in the country analysis below.

European countries have undertaken gradual retake of work and the return to the workplace amidst recurrent . Until vaccines become available to all citizens, the success of the EU exit strategy will largely depend on OSH-appropriate policies if we want to avoid recurrent waves of contagion by sending millions of people back to work. There are a range of measures, from provisions on hygiene, social distancing, maximum number of workers and/or customers per room, and personal protective equipment to work organisation, risk assessment, and role of



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

trade unions and safety representatives. A detailed list of the national actions as reported by the ETUC affiliated organisations is included in this briefing.

Occupational safety and health measures, through legislation or collective agreements, offers practical support for returning to the workplace. Trade union involvement in developing such measures is key. Appropriate preventive measures by employers will help to achieve a safe and healthy return to the workplace, following the moderation of the containment measures, and in particular of physical distancing measures and availability of personal protective equipment. They also contribute to eradicating the transmission of COVID-19.

ETUC is also calling on the European Commission to urgently ensure that work-related Covid-19 infections are compensated in the corresponding social security system. Therefore, the Commission Recommendation concerning the European schedule of occupational diseases should be revised to specifically include Covid-19 as applying to all workers who are exposed to infection without adequate protection. The burden of proof on the worker, to show that Covid-19 infection was due to exposure at work, should not a priori prevent the achievement of the corresponding social security compensation. Therefore, the hurdle for the recognition of Covid-19 should be low. While fully respecting the national competencies of the arrangement of the social security system, the possibility to transform the Recommendation into a Directive should also be explored.

ETUC welcomes the Commission proposal to include SARS-CoV-2 (the virus that causes the coronavirus disease COVID-19) in the list of biological agents in annex III of Directive 2000/54/EC on the protection of workers from risks related to exposure to biological agents at work. There is however a need to assess if there is room for improvement in the classification system of the Directive. The Directive explicitly covers all workers when exposed to biological agents, this aspect is not however very specific and not properly applied in the Member States' implementation of the Directive. The Directive should also be urgently updated to be fit for purpose in terms of dealing with a pandemic.

At European level, social partners of the hospitality sectors are negotiating a joint statement on re-opening. Also, EFFAT addressed a letter to the President of the European Commission and several Commissioners and members of the European Parliament calling for different measures to be undertaken in the tourism sector ahead of the re-opening of businesses before the summer of 2020. On OSH issues, EFFAT demands that workers must be confident that they are returning to workplaces that are fully risk-assessed, safe and compliant with WHO guidelines on safe working practices, personal protective equipment, and social distancing. Clear health and safety protocols for workers, guests and suppliers have to be adopted, as well as contingency plans for suspected COVID-19 cases on the premises.



COVID-19 WATCH ETUC BRIEFING NOTE ON RETURN TO THE WORKPLACE MEASURES AND THE RIGHT TO WITHDRAW LABOUR 16 FEBRUARY 2021

On April 24th, the European Agency for Safety and Health at Work (EU-OSHA) issued guidance on coming back to work, protecting the health and safety of workers. The guidance has been prepared by EU-OSHA in cooperation with the European Commission and with input from the tripartite Advisory Committee on Safety and Health at Work (ACSH). The guidance is available at the following link: <https://osha.europa.eu/en/highlights/COVID-19-back-workplace-safe-and-healthy-conditions>.

Some of the positive elements in the guidance worth mentioning are the following:

- The guidance places a strong focus on specific measures to be taken at the workplaces who have not stopped their activity in the context of the virus spread, when teleworking, for ill workers and for workers returning to work. The guidance is aimed at all sectors and workers.
- There is a call to involve workers and workers' representatives in the design of specific measures at company level.
- The guidance takes a broad scope by tackling both the prevention of COVID-19 and of mental strain and illnesses, including the right to disconnect and the setting of healthy boundaries between work and private life.
- Specific attention is given to vulnerable workers and workers who have vulnerable persons in charge.
- The guidance is non-binding yet can be a relevant leverage for the trade union work in guaranteeing health and safety at work during the pandemic and in the upcoming exit stages.

The guidelines have been translated into 25 European official languages and a revision of the OSH EU guidance was published on January 28th. The document includes examples of measures, which can help employers achieve an appropriate safe and healthy work environment when undertaking or resuming activities. Further information is available at: [https://oshwiki.eu/wiki/COVID-19: Back to the workplace - Adapting workplaces and protecting workers](https://oshwiki.eu/wiki/COVID-19:_Back_to_the_workplace_-_Adapting_workplaces_and_protecting_workers)

On May 10th, the World Health Organisation (WHO) issued return-to-work guidance covering workplace risk assessment, preventive measures and rights, duties and responsibilities of workers and employers. ITUC however identified serious gaps in these guidelines and questionable recommendations which could undermine existing standards.

Also at global level, UNI Global Union and the Spanish unions UGT and CCOO reached an agreement with the Spanish telecoms company Telefónica on May 12th securing the right to a safe return to work for the company's more than 120,000 employees worldwide. The areas covered include: personal protective equipment (PPE); workers' health will be protected through monitoring and testing where locally possible; cleaning of the facilities and



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

enforcement of social distancing; the establishment of a three phase plan to ensure employee safety in the return to work; the establishment of a monitoring mechanisms using existing health and safety committees or creating emergency COVID-19 commissions to respond to workplace issues, among other topics.

The right to withdraw labour

The right to withdrawal labour grants workers the possibility to refuse to work if they face serious and immediate danger. It places the primacy of the workers' right to her/his integrity over the legal subordination to the employer.

The International and European sources for this right are the Convention No. 155 on Occupational Health and Safety the right of withdrawal indicate that it was directly inspired by International Labour Organization (ILO) and the EU Framework Directive on the introduction of measures to encourage improvements in the safety and health of workers at work (89/391/EEC).

The right of withdrawal is granted by article 8(4) of the Framework Directive, which is directly inspired by Article 13 of Convention No 155, which provides that "a worker who has removed himself from a work situation which he has reasonable justification to believe presents an imminent and serious danger to his life or health shall be protected from undue consequences in accordance with national conditions and practice". It is supplemented by Article 19(f), which provides that the employer may not require workers to return to work until he has taken measures to remedy the danger.

The right of withdrawal is conditional on the worker's exposure to a serious and immediate danger. It is therefore a right applicable to all workers, even if they perform in an essential undertaking as far as they face a serious and immediate danger. The worker who exercises his right of withdrawal should not suffer any harm from the employer as a result of and must be protected against any unjustified consequences, which therefore includes the right to remuneration.

The right of withdrawal is an individual right linked to the perception of the worker of immediate and serious danger. In some countries, the individual right is linked with a collective right of safety reps to undertake an investigation and propose further measures (Sweden, France, Belgium).

The ETUC has collected a couple of national cases on the right to withdraw labour.

France. Public Service unions issued a prior notice of strike to make sure they can cover workers that refuse to work in dangerous conditions in the frame of a broader request of



SYNDICAT
EUROPÉEN
TRADE UNION

**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

providing occupational safety and health prevention in the context of Covid-19. The exercise of the right of withdrawal in France led some companies to suspend their activities during the Covid-19 crisis (Amazon and La Redoute), or to limit their activities to those that are essential to the functioning of the country.

Sweden. According to the Swedish Work Environment Act, in the event of immediate and serious danger to the life or health of an employee, a safety representative can decide that work should be interrupted (“safety representative work suspension”), pending a decision by the Swedish Work Environment Authority. The safety representative is not liable for any loss resulting of such measure. Since the outbreak of Covid-19, work suspension has been used 75 times in Sweden (statistics until May 14), due to imminent danger to workers’ life, most of them in the health and care sectors.

National OSH measures for workplaces during the pandemic and on return to the workplace

Some of the occupational safety and health measures on return to work agreed at national level are the following:

Austria: A regulation was issued by the Federal Minister for Social Affairs, Health, Care and Consumer Protection which came into force on 1 May 2020 to regulate the return-to-work strategy after the lockdown which was imposed since March 2020. It included the following observations: social distancing, use of mask and other protective equipment, and regulation of commuting to work. In addition to that the Central Labour Inspectorate (Federal Ministry of Labour, Family and Youth) issued a " COVID-19-Manual: Working safe and healthy - Recommendations for a safe and healthy cooperation on the job“. Furthermore, there are guidelines for certain sectors (construction sites, retail business, gastronomy, office operations, schools, kindergartens, universities). Also, sectoral social partners of the building and retail industries have signed agreements on OSH provisions to be observed at the activity during the pandemic, these cover elements such as protective equipment, social distancing, sanitizing and cleaning and – for the case of the retail sector - maximum number of people per shop, cashless payment and opening hours among other issues.

New regulations entered into effect as from December 28, 2020, encompassing the following personal and material scope:

People with serious illnesses. In order to protect these groups of people, the 3rd COVID-19 Act created an exemption from work for these people. The person concerned can present a risk certificate to the employer which was issued by a medical practitioner. The employer must check whether home office or adequate changes in working conditions are possible in order to reduce the risk of infection as much as possible. If this is not the case, the person concerned



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

is entitled to an exemption with continued payment. This regulation applies until March 31, 2021.

Corona tests. Specific regulations for corona tests in elderly homes, nursing homes, assisted homes for disabled people, hospitals, health resorts and other health services.

There are separate regulations for these areas because of the particular risk involved: The employer may only allow employees in retirement and nursing homes to work if they are tested for antigen twice a week. In hospitals and sanatoriums, the requisite is the administration of weekly PCR or antigen tests. The results must be negative. If the test results are positive, the employer can still let employees work if they either have been symptom-free for at least 48 hours or according to the medical laboratory findings (especially due to a CT value above 30) there is no longer any risk of infection.

Mask usage in the workplace. Mask covering mouth and nose must be worn at workplaces in closed rooms, except for those workers for whom the contact with other people is excluded (e.g., in an individual office) or if there are technical protective devices such as partitions. Face visors are no longer permitted as mouth and nose protection.

Since January 25, 2021, an FFP2 mask without an exhalation valve (or a mask of the same or higher quality) must be worn in the following areas:

- Public transport including stations, train stations, etc.
- Carpooling, taxis and taxi-like operations
- Cable cars and cog railways
- Customer areas in trade and in-service companies
- Markets (outdoor and indoor)
- Gastronomy, currently for example when collecting food and company canteens.
- Generally accessible areas of accommodation establishments (hotels, guest houses) that are currently open for e.g., business travellers

For employees with direct customer contact, in warehouse logistics, in kindergartens, crèches, after-school care centers and for teachers, there is a choice between regular tests and FFP2 masks.

Exceptions to the FFP2 mask requirement exist for pregnant women or if someone cannot reasonably buy the FFP2 mask, e.g. because they are currently sold out in the area. In these cases, mouth and nose protection must be worn. An exception is also possible for health reasons.

If a mask is required at the workplace, the employer must provide it free of charge.



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

Workers that are obligated to wear masks, can now take off their masks at least every three hours for ten minutes depending on their tasks. (It can also be less than three hours) In this time no tasks can be taken that require the wearing of masks.

ÖGB and the Economic Chamber agreed on a “General Collective Agreement” to regulate breaks from wearing masks at the workplace and COVID-19-tests during working hours. It is worth mentioning that this is the first cross-sectoral collective agreement since 1978. The agreement applies to all companies that are represented by the Economic Chamber (affecting 75% of workers in Austria). ÖGB is in discussions with voluntary employer organisations and the Chamber of Agriculture to reach full coverage for all workers. The Chamber of Agriculture has already signalled its support.

Belgium. In order to assist companies in the gradual resumption of economic activities, the social partners of the High Council for Prevention and Protection at Work, in consultation with the Strategic Cell of the Minister of Employment and experts from the Federal Public Service of Employment, have drawn up a generic guide which provides a framework with measures that can be adapted by the different sectors and by each employer to their specificities in order to ensure that the activities can be resumed under the safest and healthiest possible conditions (see <https://employment.belgium.be/sites/default/files/content/documents/Coronavirus/Genericguide.pdf> for the English version). The guide tackles several OSH related measures, these being: hygiene, commuting to work, arrival at work, use of changing rooms, teleworking, and social distancing, among other elements. In addition to this guide, many sectoral guides have been produced to deal with sector-specific matters (see <https://emploi.belgique.be/fr/themes/coronavirus/au-travail-en-toute-securite-pendant-la-crise-du-coronavirus-guide-generique> for French and Dutch versions).

Since the beginning of the pandemic, several ministerial orders on emergency measures to limit the spread of the coronavirus have imposed a cascade of measures on companies. At this moment (February 2021) telework is mandatory for all functions for which it is possible. If teleworking is not possible, companies should take all the necessary steps to ensure the well-being of their workers, including the application of social distancing (1.5 meters) in an operational and effective manner, taking into account the obligations in the OSH-legislation as well as the preventive measures mentioned in the generic guide and the sectoral guides. Labor inspectors are legally mandated to control these obligations. During the last weeks, controls have been increased on the application of the mandatory telework.

Since the beginning of the corona pandemic, the Group of 10 (one of the most important forums for social dialogue in Belgium, where the governing bodies of trade unions and employers'



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

organisations meet) has also stressed the importance of OSH-regulations and social distancing as well as the importance of the use of telework wherever possible.

Furthermore, workers who come into close contact with a person infected with COVID-19 are asked to go into quarantine and may receive a temporary unemployment benefit for the time of the quarantine, as far as they cannot telework. Workers who belong to a vulnerable group or of which a cohabitant belongs to such a group, can also receive such a temporary unemployment benefit, if they cannot telework.

Recently, the legal tasks of the occupational physicians were also expanded to play a more important role in companies in detecting high-risk contacts, providing quarantine certificates to workers, and referring to or administering a corona test themselves in situations of a high-risk contact.

With respect to the recognition of COVID-19 as a professional disease, it is possible for health care workers to be covered. For workers active in crucial sectors and essential services this recognition is only possible if they worked there between 18 March and 17 May 2020.

Denmark. All employers should arrange telework whenever this is possible, both in the public and in the private sector. Gatherings of more than 10 people are not allowed, this applying also to the workplaces. A social distance of 2 meters should be observed everywhere. The labour inspectorate has used the force majeure clause to allow people to have less resting time to cope with the re-organisation that meeting the preventive measures may incur. Social partners have issued two joint declarations, at both regional and local governmental level, calling for the existing collective agreements to be used as the foundation to changes in the work organisation, also considering occupational safety and health provisions.

Finland. After the outbreak of the Covid-19 crisis, the Council of Ministers issued a recommendation on telework for all the sectors where it is possible. It was said that even 59% of labour market were on telework in general. SAK undertook a research whose results were published at the end of January 2021 which shows that nearly 80 % of blue-collar employees are still in direct physical contact with other people at work, while 40-53% of white-collar workers has transferred mainly to teleworking. This evidences that telework is applying mostly to white-collar workers. A third of all employees answered that they are psychologically worse off during the pandemic. Almost half (44%) of blue-collar employees also feel that their work has become more stressful over this period. The complete document in English is available at: <https://www.sak.fi/en/whats-new/news/survey-coronavirus-hits-blue-collar-employees-hardest-among-staff-groups>



COVID-19 WATCH ETUC BRIEFING NOTE ON RETURN TO THE WORKPLACE MEASURES AND THE RIGHT TO WITHDRAW LABOUR *16 FEBRUARY 2021*

Since many workplaces did not close during the COVID-19 crisis, the return to work was not too problematic for the country. Shops and factories, for example, remained open. The only sector where return to normal posed some challenges was in education, where many teachers did not agree with the government decision to reopen schools again from May 15th on grounds related to the safety and health of the workers. Part of secondary schools and vocational schools have continued distance learning.

The Finnish Institute of Occupational Health maintains up-to-date guidelines for safe work, including a specific section on returning to work after the lockdown. [Guidelines for workplaces to prevent coronavirus infection - Finnish Institute of Occupational Health \(tth.fi\)](#). There are also up-to-date websites of the Occupational Safety and Health Administration: Questions on coronavirus and occupational safety and health (available in English at: [Coronavirus - tyosuojelu englanti - Occupational safety and health](#)).

Unions are providing regular information on the impact of COVID-19 in the world of work. Most of unions and their central organisations maintain their own websites where they give specific information. The priorities for the trade union movement are: cooperation with the employer, occupational safety and health representatives and occupational health care, and a proper risk assessment of the workplace (an obligation which has been observed with varying diligence by the employers).

An application for smartphones named “Koronavilkku” was made available by the Finnish Institute for Health and Welfare (THL) to help citizens to find out if they had been exposed to the coronavirus. The information is shared anonymously, and the application observes strong privacy regulations. The use of the app is voluntary, and more than half of the population had downloaded it by October 2020.

In January 2021, the vaccination process began slowly, but in February the situation seemed to improve. The social partners have suggested that occupational health care should be included in batch of vaccination of people of working age. Social partners also asked the state to take over these costs so that employers do not incur additional expenditure. There is a vaccination order (more information available at: [Vaccines and coronavirus - Infectious diseases and vaccinations - THL](#)), in which different groups of the population have a priority order in their access to the vaccine.

France. On April 22, a committee was established for monitoring the implementation and evaluation of support measures for businesses facing the COVID-19. The French unions denounced that they were not members of such Committee. Their OSH demands towards the exit strategy relate to the recognition of COVID-19 as an occupational disease for all workers and not just for health and care workers. Unions demanded return to work measures to be negotiated through social dialogue (at branch level and/or company level) to organize work



COVID-19 WATCH ETUC BRIEFING NOTE ON RETURN TO THE WORKPLACE MEASURES AND THE RIGHT TO WITHDRAW LABOUR *16 FEBRUARY 2021*

and manage all measures to protect the health and safety of workers: Distribution of all individual protective equipment, compliance with social distancing measures / safety distances, disinfection of workplaces and materials, organization of public transport, etc.

Germany: The Ministry of Labour and Social Affairs, the social partners, the federal states and the social accident insurance have developed the German SARS-CoV-2-OSH-Rule. It was published in the Joint Ministerial Gazette and has a binding character. The SARS-CoV-2 Occupational Safety and Health Rule specifies the requirements for occupational safety and health for the period of the epidemic situation of national importance in accordance with § 5 of the German Infection Protection Act. The rule presents measures for all areas of economic activities by which the risk of infection for employees can be reduced and kept at a low level. If new scientific findings emerge which have an influence on the necessary protective measures, the rule is adjusted.

The statutory OSH Committees are strongly involved in the development and revision of the SARS-CoV-2 OSH Rule, especially the Statutory Committee on Biological Agents, for Workplaces and the Medicine Committee. Trade unions are involved in all these committees. Disagreements between trade unions and the employers' organisations during the discussions about the SARS-CoV-2 OSH-Rule appeared especially in the field of teleworking, mouth and nose coverings (especially wearing time), and brief contacts at work.

On 27 January 2021, stronger measures came into force, the so-called "SARS-CoV-2 OSH Regulation", with binding responsibilities for all employers. The regulation is initially limited until 15 March 2021. Among the new features, the following can be mentioned:

- Employers are obliged to offer telework as far as it is feasible. Employees should accept the offer as far as they can.
- If rooms have to be used by several people at the same time, 10 m² must be available per person.
- In workplaces with 10 or more employees, they must be divided into fixed work groups that are as small as possible.
- Employers must provide at least medical face masks (providing mouth-nose protection).

The new regulation is available at the following link (in German):

<https://www.bundesanzeiger.de/pub/publication/5QH1uegEXs2GTWXKeln/content/5QH1uegEXs2GTWXKeln/BAnz%20AT%2022.01.2021%20V1.pdf?inline>

Furthermore, the Ministry established an OSH Board that monitors the developments of COVID-19 in terms of OSH. It is governed by representatives from the Ministry, the social partners, the federal states, the social accident insurance, and science experts. They also discuss the sector-specific guidelines that are developed by the social accident insurance



COVID-19 WATCH ETUC BRIEFING NOTE ON RETURN TO THE WORKPLACE MEASURES AND THE RIGHT TO WITHDRAW LABOUR *16 FEBRUARY 2021*

institutions. This OSH Board meets via videoconference on a regularly basis and it is chaired by the state secretary of the Ministry.

In addition, the social accident insurance institutions, that are structured by sectors, have developed sector-specific guidelines that substantiates the SARS-CoV-2-OSH-Rule on the needs of the sector. An overview is available at (only available in German): www.dguv.de/corona

Concerning a SARS-CoV-2 infection at work or on the way to work and back home, the social accident insurance extended the possibilities for a recognition as an insurance case. Besides the option for a recognition as an occupational disease for workers in the health care sector, the welfare services, laboratories and workers with a similar hazard, the recognition as work-related accident is also possible. The compensation in terms of medical treatment, rehabilitation and pensions are the same for occupational diseases and work-related accidents. Since the social security benefits of the accident insurance are better than those of the health insurance, it was very important for the trade unions to strive for the possibility of recognition as a work-related accident. Further information can be found here (available only in German):

- <https://www.dgb.de/themen/++co++4a38ec78-3df7-11eb-8d02-001a4a160123>
- https://www.dguv.de/de/mediencenter/hintergrund/corona_arbeitsunfall/index.jsp

The SARS-CoV-2 OSH Rule:

- German version: https://www.baua.de/DE/Angebote/Rechtstexte-und-Technische-Regeln/Regelwerk/AR-CoV-2/pdf/AR-CoV-2-Entwurf-Neufassung.pdf?__blob=publicationFile&v=4
(currently under revision)
- English version: https://www.baua.de/DE/Angebote/Rechtstexte-und-Technische-Regeln/Regelwerk/AR-CoV-2/pdf/AR-CoV-2-englisch.pdf?__blob=publicationFile&v=3

Greece: The GSEE trade union confederation has settled a one-stop shop on COVID-19 to provide support to workers affected by the health and economic crisis. The union denounces the vulnerable situation of those workers placed at higher risk of exposure to the virus, as health care workers, transport workers and workers in distribution services. The different levels and branches of the union remain vigilant on abuses from employers who don't observe OSH indications by forcing workers to work in unsafe working conditions where the risk of infection is higher (e.g., call center staff in overcrowded workspaces).



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

Hungary. The OSH department of the Innovation and Technological Ministry which is responsible of the portfolio of OSH since January 2020 has published the EU guidance COVID-19: Back to the workplace - Adapting workplaces and protecting workers. No social partners consultation has taken place, and neither has the national tripartite OSH Committee met, or been involved in any action related to COVID-19.

The OSH department has published the 177/2020 Government Decree on the testing and use and disposal of individual respiratory protective devices. The Decree also includes a measure on the postponement of periodic inspections for OSH purposes, the extension of the medical validity of the operating licences required for work and the postponement of individual periodic reviews.

It is worth mentioning, that the 104/2020 (10.04) Government Decree give all power to the employer to unilaterally order a 24 month long working time frame, while prohibiting any derogations by collective agreements. This measure complements the previous Government Decree on the measures "to mitigate the COVID-19 impacts on national economy" (18. 03), which suspended the provisions of the Labour Code "for the period of state of emergency" – making employees vulnerable and repealing collective agreements. The change of the Labour Code was made with the argument "to make employment regulations more flexible, in order to facilitate future agreements between employers and employees." This decree entered into force on 11 April and it had serious impact on OSH related issues too.

Despite the above-mentioned lack of collaboration between the Government and the social partners, MASZSZ acknowledges a good cooperation between managements and workers safety reps/ committees in elaborating and applying COVID-19 related OSH measures in big companies.

Ireland. The Health and Safety Authority (HSA), the Health Services Executive (HSE) and the social partners developed the "Return to work safely Protocol - COVID-19 Specific National Protocol for Employers and Workers". This extensive document describes the steps that employers and workers shall take in order to reduce the risk of the spread of COVID-19 in the workplace. Some of the elements tackled are: development and/or update the COVID-19 Response Plan; development or amendment of policies and procedures for prompt identification and isolation of workers who may have symptoms of COVID-19; development, consultation, communication and implementation of workplace changes or policies; implementing the COVID-19 prevention and control Measures to minimise risk to workers; hygienic measures, physical distancing; worker role; customer facing roles; reporting requirements under OSH legislation if a worker contracts COVID-19; first aid; mental health and wellbeing; heating, ventilation and air conditioning (HVAC); advice for employers and workers; information on public health and Occupational Health and Safety; among information on business continuity and supports, among many other topics.



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

The parties agreed that every workplace across the economy will have at least one worker representative appointed, who together with the Management COVID-19 response team, will support and oversee the implementation in the workplace of the measures contained in the protocol. The number of worker representatives will be proportionate to the number of workers in the workplace. These representatives will receive relevant training, be clearly identifiable in the workplace and receive full support in carrying out these functions.

On the matter of enforcement /compliance, the HSA has the power under OSH legislation to advise, offer guidance, monitor, inspect and enforce adherence to COVID-19 measures within a place of work. As part of its inspection programme HSA inspectors will provide advice and support to employers and workers in the implementation of the COVID-19 measures as a set out in the protocol. Following a workplace inspection, the inspector will provide the employer with their report. The inspector will take appropriate enforcement actions which can include an improvement notice and a prohibition notice. Inspectors also have powers under current OSH legislation to close workplaces that are non-compliant.

ICTU produced a short information video about the return-to-work arrangements in order to distribute it among members (available at: <https://www.ictu.ie/press/2020/05/18/covid19-return-to-work-safety-protocol/>).

HSA issued a series of templates and checklists to "help employers, business owners and managers to get their business up and running again and to inform workers about what they need to do to help prevent the spread of Covid-19 in the workplace" (available at: https://www.hsa.ie/eng/topics/covid-19/return_to_work_safely_templates_and_checklists/return_to_work_safely_templates_and_checklists.html). The Agency also produced). The Agency also published updated guidance on the use of face coverings. These documents were drafted based on the Government's Return to Work Safely Protocol and it meant at complementing the Return to Work Safety Protocol. Employers and workers were requested to work together to keep workplaces safe.

Also, the National Standards Authority of Ireland issued a consolidate practical guidance covering identification and defence against COVID-19. The document tackles the following three dimensions: How to defend against the spread of COVID-19; measures to manage detected on-site cases and recovery of processes and business functions after detection.

The rates of infection, hospitalisation and fatalities declined steadily in Ireland from June. Some regional increases occurred, notably from outbreaks in meat processing plants, and restrictions were implemented in a number of counties/regions in August.



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

On 15 September, the government announced a medium-term plan for living with COVID-19 that includes five levels of restrictions, with the entire country at Level 2 at that point.

In October 2020, lockdown restrictions were reimplemented nationwide following a rapid surge in confirmed cases and the commencement of a second wave of COVID-19 in Ireland. The country went initially only to Level 3, contrary to advice from the National Public Health Emergency Team (NPHET) who recommended Level 5. Rates continued to increase however, and a move to Level 5, with some amendments (which some termed level 4+) was introduced on 19 October and was to continue until December 1st. The rates of infection stabilised during this period and decreased significantly.

An updated “Work Safely Protocol” was published by the government on November 20th. (<https://www.gov.ie/en/publication/bb7fd-work-safely-protocol/>) following consultation with ICTU and employer bodies. In contrast to the first version, the update placed more emphasis on the fact that Covid-19 represented a risk in all workplaces and required continuous risk assessment and training. Some further amendments to the protocol were made on December 30th and January 8th.

Several business/employment support measures continue to be in place until at least March 31st, 2021. These include:

- COVID-19 Pandemic Unemployment Payment: The Pandemic Unemployment Payment is available to all employees and the self-employed who have lost their job due to the COVID-19 pandemic.
- Employment Wage Subsidy Scheme: The Employment Wage Subsidy Scheme (EWSS), provides a flat-rate subsidy to qualifying employers based on the numbers of eligible employees on the employer’s payroll.
- The COVID-19 Restrictions Support Scheme (CRSS) was introduced to support businesses significantly affected by restrictions introduced to combat the COVID-19 pandemic.

However, one of the issues the pandemic has highlighted is the fact that Ireland does not have a statutory sick pay scheme. Almost all EU27 Member States require employers to provide a minimum period of paid sick leave to their workers. Apart from a small number of workers with specific sectoral agreements, workers in Ireland have no legal right to sick pay. Sick pay is at the employer’s discretion to include in a contract of employment. As a result, hundreds of thousands of workers mainly in private sector jobs, including many essential workers, are not covered for sick pay, and face being forced out of financial necessity to continue to work unwell or to rely on social protection. The trade union movement has long recognised that this voluntary sick pay provision was not working. However, it took the pandemic to bring the longstanding flaws in the current arrangement to wider attention, in particular clusters among



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

meat plant workers denied paid sick leave by highly profitable employers. Following calls from ICTU, the government has committed to introduce a statutory sick pay scheme by the end of 2021.

As December approached, there was then considerable lobbying from business, and especially retail, representatives to ease restrictions coming into the Christmas period. General retail and restaurants re-opened, travel restrictions were lifted, and people were permitted household visits. Inevitably, this led to the third surge of infection which is still escalating as this is written. In response, the country was moved to full level 5 status on December 30th, to be continued until 5 March 2021 at the earliest. Under Level 5:

- Schools are currently closed for all students with remote learning in place. A phased return to in-person learning for children in special schools and children in special classes in mainstream schools will commence from 11 February.
- Childcare is closed except for services for vulnerable children and the children of essential workers.
- Construction work closed on Friday 8 January 2021, with some exceptions.
- Everyone must work from home, unless their work is an essential service that cannot be done from home.
- No visits to other households except for essential purposes.
- Only essential retail can open.
- Bars, cafes and restaurants are closed except for take-away food and delivery.

The disease spread faster in Ireland than in any other country in the seven days to January 10th, with 1,323 daily cases recorded per 1 million people, according to data compiled by Johns Hopkins University in the US and the non-profit organisation Our World in Data. Ireland's infection rate on the second week of January was not only the highest in the world, but one of the highest rates seen anywhere during the pandemic. It was second only to that recorded in Belgium in October – when the seven-day rolling average hit 1,536 cases per million people.

Considerable numbers of health-care workers continue to be infected by Covid-19 or are required to isolate because of close contact. This is placing considerable strain on our hospitals, with Intensive Care Units now under great strain and approaching capacity.

While the vaccination programme has commenced, with priority being given to healthcare staff and those in elderly/nursing homes, concerns have been raised about supply and distribution issues which are impacting on capacity.

Italy. On March 14th, the three main trade union confederations of Italy (CGIL, CISL and UIL), the Government and the employers' organisations reached an agreement for a Protocol on regulation of measures for the containment of the COVID-19 in workplaces (private sector).



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

The protocol specifically details some of the obligations under Legislative Decree no. 81/2008 (on occupational safety and health), with particular regard to the content of information due to workers and employees, the obligations of daily cleaning operations and periodic sanitation of workplaces and work tools (including computers, squeegees and screens), hygiene precautions (with related arrangement of disinfectant cleaning liquids), personal protective equipment (PPE), work place arrangement to guarantee the minimum distance of one meter. A Protocol including several extraordinary provisions on occupational safety and health for public servants has been reached on April 3rd.

On March 20th, the three main trade union confederations of Italy (CGIL, CISL and UIL), the Ministry of Transport and the employers' organisations reached an agreement for a Protocol for the containment of the COVID-19 in the transport and logistical sector. The protocol included several extraordinary provisions on occupational safety and health, on prevention fields such as sanitation, workplace arrangement to guarantee the minimum distance of one meter (between co-workers and with customers), guarantee of personal protective equipment (PPE), suspension of the sale on board and ticket control by the staff of road and railway transport, guaranteeing measures for loading and unloading of goods without contact, among others. In which respect to the specific situation of healthcare workers, in Italy there has been an agreement signed with the government regarding the distribution of PPE and verification of the quality of PPE, and an increase in testing for all health personnel exposed to the contagion.

The Tripartite Protocols signed in March were updated on April 26, when former Italian PM Conte outlined plans to ease the restrictions imposed seven weeks ago to curb the spread of the coronavirus in the country. Measures were relaxed as from 4 May, with people being allowed to visit their relatives in small numbers and adopting physical distancing. Parks, factories and building sites reopened, but schools did not restart classes until September. As of April 27th, many economic activities re-opened. Together with these measures the government negotiated a protocol agreement with trade unions and employers' organisations on health and safety at work. This protocol was an annex to the Decree published by the government on April 26th and is an updated version of the first one negotiated in March. These measures were then enforced by law and concerned in particular all those workplaces which were in operation. The measures included are: Right to information; access to workplaces; access of external suppliers; cleaning and sanitation; personal hygiene; personal protective equipment; use of shared spaces; work organisation (shifts and telework); all trainings and meeting are suspended; and health surveillance/ Plant physician / H&S reps and monitoring committees for the implementation of the protocol. Also, two specific protocol agreements on COVID-19 containment measures were negotiated by the social partners in the building sector for construction sites and in the transport sector and logistics.

Companies not observing the provisions enshrined by the protocol were forced to suspend their activities until the safety conditions were restored. The inspectors who detected



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

companies' failure to implement the protocol had to report the cases directly to the prefecture. Workers who were to detect problems and failures to implement the protocol had to report these dangerous situations to their workers' safety representatives, who urged the companies to fully implement the protocol. In the event of the employers' failure to do so, they had to report the case to the competent local bodies (local health units and labour inspectorate).

The protocol also included the situations in which workers arrives or are already present at work with fever or symptoms of respiratory failure.

The workers who believed they had contacts with infected or presumably infected people (serological tests alone were not enough – they had to be necessarily followed by the double swab) had to inform the employer (who was obliged to guarantee confidentiality) and the general practitioner who started the procedure for the swab. Meanwhile the workers were granted to take sick leave and, if tested positive, they were granted accident leave for Covid-19 by INAIL (Italian Institute for Occupational Safety and Health).

Latvia. The government together with social partners agreed at a meeting on May 7 to modify the strict measures in place to counter the spread of the COVID-19 virus. The current state of emergency was extended until June 9 and certain restrictions were eased. In most cases these represented a slight easing of restrictions, though there were also some new measures, such as the requirement to wear nose and mouth covering on public transport. The measures adopted went beyond the workplace level and concern education and sports, big events and gatherings, reopening of shopping centers, transportation and tourism.

Luxembourg. The Luxembourgish government did not sufficiently consult the trade unions OGBL and LCGB regarding the country's exit strategy. This lack of social dialogue has been criticized by the trade unions who were in favour of the traditional Luxembourgish tripartite cooperation model between trade unions, government, and employers in order to address the resulting social and economic consequences of the COVID-19 crisis.

The Government established four stages of the deconfinement. The first phase of deconfinement was launched on April 20th and it established the mandatory use of facial protection in public spaces if the two metres' safety distance cannot be kept. Each resident was provided with five face masks. Certain sectors (notably the construction and gardening sector) could resume work under very strict health and safety provisions. The trade unions provided relevant information to workers in these sectors. Some infractions and violations of the health and safety provisions were found.

The second phase of deconfinement officially started on May 4th, allowing medical activities in and outside the hospital sector to resume, and the reinforcement of public transport.



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

On May 11th the third phase of deconfinement started, and certain businesses were allowed to resume their work under strict safety and health provisions. The following businesses remained closed: cinemas (except for open-air cinemas), gyms, amusement parks, indoor games and entertainment activities, casinos, fairs and exhibitions. The restaurant sector reopened in June; the ban did not apply to take-away, drive-in and home delivery services, and hotels. Secondary school classes, vocational training as well as individual music lessons resumed its activities on May 11th, yet the attendance was voluntary.

The fourth phase of deconfinement started on May 25th, including new measures in terms of the business which could resume its activities and the provision of free tests for the whole population as well as cross-border workers. The borders to the neighbouring countries France, Belgium and Germany were closed. Cross-border workers with forms signed by their employer were allowed to cross. The three neighbouring countries performed regular border checks. Some border crossings which were completely closed-off re-opened in May 2020, most notably on the Luxembourgish-German border. The closure of borders was criticized by the Luxembourgish and well as interregional trade unions as well as many Luxembourgish municipalities and politicians.

Slovenia. Contention measures of self-isolation were adopted as from March 8th, together with respecting 2 meters between people at all public spaces, workplaces included. The trade union SDTS (member of the confederation ZSSS) negotiated with its employers' counterparts the terms for reduced opening hours for food shops. In the manufacturing industry, upon initiative of trade unions, a dedicated campaign of occupational safety and health specialists and the labour inspectorate is assessing the need to close some workplaces if preventive measures could not be observed.

The epidemiological situation of COVID-19 in Slovenia started to be lifted before the summer break, when many workers were allowed to return to work. The National Institute of Public Health prepared various instructions and recommendation to support a responsible dealing with the contagion in for different sectors and new guidelines were issued on a regular. Guidelines for a safe return to work were issued for the following sectors: restaurants; food sector; technical shops and services; hairdressing services; cosmetic services; real estate transactions; performance of craft and service works and chimney sweeping services at home; bookstores and stationery; massage services; activities of museums and galleries; garment stores; libraries; catering on terraces and summer gardens; printing services; watchmaking; goldsmithing and key making; footwear shops; manufacture and repair of textile; footwear and leather activities; transport and commuting to work; and public administration.

The recommendations covered the following measures: hygiene and sanitizing, maximum number of workers per room, maximum number of customers per room, social distance, use



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

and removal of personal protective equipment, cashless payment, special provisions for high-risk populations, and supervision of preventive measures, among others.

Also, the Slovenian Ministry of Health prepared non-binding guidelines for the exclusion of vulnerable groups of workers from the work environment if the specific OSH preventive measures in the light of the epidemic were not provided. These workers are: pregnant women, workers on biological and immunosuppressive drugs, workers with malignant disease on systemic cancer therapy (chemo-, immuno-, target therapy), workers after organ / tissue transplantation receiving immunosuppressive therapy, workers with uncontrolled diabetes, workers with chronic lung disease who have been or are on any type of systemic antidote or immunosuppressive (including biologic therapy) therapy, workers with high and uncontrolled blood pressure, workers with severe mental and behavioural disorders, workers with other serious chronic diseases at the discretion of occupational medicine practitioner and according to the risk assessment, and workers over the age of 65 (if possible, workers over the age of 60).

Spain. At the beginning of the pandemic, the Ministry of Health published an "Action procedure for occupational risk prevention services against exposure to the new coronavirus (SARS-COV-2)". Specific occupational safety and health measures have been established as well as protocols related to workers either in casual or frequent contact with infected people. The most representative Spanish trade union confederations expressed concerns on some of the provisions included. To date, they continue to call for improvements to the directive, in particular with regard to the clarification of the exposure risk scenarios which are currently included, as well as the extension of the protection for vulnerable workers against SARS-CoV-2 infection.

Several sector agreements were reached between employers' organisations and trade unions in the field of organisational and occupational safety and health measures in view of the return to work in the de-escalation phase against the COVID-19. Trade union organisations followed the compliance of the agreements, yet the unions are monitoring its implementation. In some sectors, the unions are visiting the work centres to disseminate the agreement and verify its compliance.

Some of the agreements reached were the following: Recommendations for the protection of workers' health from COVID-19 in the Chemical Industry; COVID-19 prevention measures in the perfume and cosmetics industry; COVID-19 prevention action guide for construction sites; COVID-19 prevention action guide for the paper industry; COVID-19 prevention action guide for activities in the metal sector; Protocol for the protection and prevention of workers in order to recover industrial and distribution activity in the automotive sector; Protocol and guide for good practices for the protection and prevention of workers in the food and beverage sector during the health crisis caused by COVID-19; Companies in the personal image sector [Guide



COVID-19 WATCH ETUC BRIEFING NOTE ON RETURN TO THE WORKPLACE MEASURES AND THE RIGHT TO WITHDRAW LABOUR *16 FEBRUARY 2021*

for the Evaluation of the specific risk due to exposure to the new coronavirus (SARS-COV-2) and planning of preventive activity]. Finally, an agreement was reached between the most representative unions in the public sector and the General State Administration for the return of public employees.

Recently, the COVID-19 infection among health and social-health workers has been considered an occupational disease, instead of an occupational accident. For UGT and CCOO, this is clearly an insufficient measure and we demand its extension to other groups, according to what the union has been demanding since the beginning of the pandemic. Specifically, we demand that the pathologies derived from COVID-19 infection are classified as an occupational disease for the professions listed in the Annex 1 of Royal Decree 1299/2006 of 10 November, specifically those included in Group 3 (biological agents), agent A, subagent 01, "infectious occupational diseases caused by biological agents due to the work of people involved in prevention, medical care and activities in which there is a proven risk of infection".

- Laboratory staff
- Workers in nursing or care homes, whether in hospitals, outpatient care, closed institutions or at home.
- Ambulance staff.
- Workers in research or laboratories of clinical analysis.
- Workers involved in the collection, handling or use of human blood or its derivatives.
- Dentists.
- Care-assistant workers.
- Prison workers.
- Law-enforcement officers.

COVID-19 infections among these groups of professionals should be considered as occupational diseases until the health authorities lift all the prevention measures adopted to deal with the health crisis caused by the SARS-CoV-2 virus. It is likely that COVID-19 will be a disease that will not disappear, which is why UGT and CCOO demand that it is included in the list of occupational diseases in Spain, so that it can be considered as such even after the health measures resulting from the pandemic are lifted.

UGT and CCOO believe that the measure adopted by the Government is temporary, and therefore insufficient in the long term. For this reason, it is proposed that the occupational disease be recognized on the basis of the legislation in force for all groups with possible exposure to biological risks and in a structural and permanent manner.

Sweden: Since the beginning of the spread of the pandemic in the country, the Swedish Work Environment Authority monitored the risk assessment undertaken by employers to contain the virus spread. To prevent the contagion, some companies employed half of their staff to prevent



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
16 FEBRUARY 2021**

the spread of the virus while maintaining production. Also, telework has been encouraged to those workers who are able to do so. The Government also decided to temporarily discontinue the sickness benefit qualifying day. Under the provision adopted in the light of the pandemic, sick pay hereby paid from the first day at home. The purpose of this change is to encourage people to stay at home even when having mild symptoms.

Since Sweden undertook a different manner to combat the COVID-19 spread compared to other countries in Europe (with no lock downs), national procedures on the return to work after the pandemic were not in the focus. The measures focused on how to protect and prevent the spread among workers who are working and on organizing the work as safe as possible. All employers are obliged to carry out a risk assessment in accordance with the rules of the Work Environment Act. The risk assessment must include a plan on the management of any infection or suspected infection from COVID-19. The Public Health Agency of Sweden changed the guidelines to strengthen the protective equipment of health care professionals and other workers in the forefront of the crisis. An increased attention has been given to the application of the national regulation which deals with basic hygiene (SOSFS 2015:10). The government included five additional amending budgets with proposals for active measures to limit the spread and mitigate the economic effects on society in budget adopted in spring of 2020.

LO has been demanding since the outburst of the crisis a focus on whether there is risk assessment in place, the provision of PPE for workers protection, balance between demands and resources, support for the severe mental stress suffered by workers on the frontline of the coronavirus. Other Swedish confederations back these demands. LO calls for undertaking a gender approach on OSH prevention, as women represent over 50 % of workers in highly exposed categories of work (personal care, cleaning, health care, teaching and personal service). They have also highlighted the divide between those professionals who can perform their work from home and those who have to go to the workplaces.

Turkey. The Turkish government granted administrative leave to vulnerable groups to encourage self-isolation. Telework was made possible in the public sector since the spark of the health crisis in the country.

The Ministry of Family, Labour and Social Services published guidelines on measures to be taken at the construction sites as part of combating COVID-19. The guide was brought to the attention of workers and OSH professionals. The Turkish Health Ministry, in cooperation with local cell service providers, has launched an application to track the movement of patients diagnosed with the novel coronavirus through their smartphones to prevent further infections. Downloading the app is mandatory for all confirmed coronavirus patients, and those found to be leaving their homes by GPS tracking, will receive automated text messages and calls asking them to return to certain quarantine areas. This



**COVID-19
WATCH
ETUC BRIEFING
NOTE
ON RETURN TO THE
WORKPLACE
MEASURES AND THE
RIGHT TO WITHDRAW
LABOUR
*16 FEBRUARY 2021***

app now can be downloaded by everyone and they will receive the alerts regarding risky locations and whether they contact with a COVID-19 positive person.

* * * *