

## Questionnaire: Coronavirus and Labor Law

### My employer wants me to reduce my working hours. Do I have to accept that?

Employers can respond to the corona crisis with so-called “short-time work” (*Kurzarbeit*). Short-time work means that you work fewer hours than initially agreed upon in the employment contract. The fact that you work less hours has an impact on your salary. You can read what the so-called “short-time work allowance” (*Kurzarbeitergeld*) is in the next question. With the so-called “short-time work zero” (*Kurzarbeit null*) you temporarily do not work at all.

Companies cannot set short-time work on their own! If a contractual agreement (e.g. your employment contract (*Arbeitsvertrag*), a collective agreement (*Tarifvertrag*) or a company agreement (*Betriebsvereinbarung*)) provides a certain regulation regarding short-time work, the employer is allowed to mandate short-time work. If there is no contractual agreement on short-time work, the works council (*Betriebsrat*) must agree to short-time work. You can find out what a works council is and about its responsibilities [here](#) and [here](#). In companies without a works council and without contractual regulations regarding short-time work, the employer has to receive a written declaration of consent (*Einverständniserklärung*) from each employee affected by short time work. If you work in short-time work, you are entitled to short-time allowance. Get advice from a Fair Integration advice center if you are unsure whether you should sign a declaration of consent! Don't sign anything you don't understand.

### What is short-time allowance (*Kurzarbeitergeld*)?

Because of the coronavirus, there are new rules for short-time work. Under certain conditions, your employer can apply for short-time allowance (*Kurzarbeitergeld*) at the responsible employment agency (*Agentur für Arbeit*). You can read more about the conditions that your employer needs to fulfill in order to receive short-time allowance [here](#). If the conditions are fulfilled, the employment agency approves the short-time allowance and pays it to your employer. That is why you will receive both, your wages and the short-time allowance from your employer and not from the employment agency.

The fact that you work fewer hours has an impact on your salary. Short-time allowance is the money you get for your unpaid wages. That is 60% (if you have a child living with you 67%) of the net wage lost because of short-time work. The employer can increase the short-time allowance by up to 90%. A table, to help you calculate your short-time allowance can be found on the website of the [Federal Employment Agency](#).

**Important:** Even people who work in temporary agency work (*Leiharbeit*) can get short-time allowance! Under certain circumstances, trainees are also entitled to short-time allowance. There is no short-time allowance for employees who have a mini-job.

If the short-time allowance is not sufficient to finance your living, you can apply for supplementary social assistance (*aufstockende Leistungen*) at the job center or the social welfare office (*Sozialamt*). This also applies to: persons with permission to reside (*Aufenthaltsgestattung*) or special leave to remain (*Duldung*) and persons with a residence permit (*Aufenthaltstitel*) for employment or training.

**Attention:** Receiving supplemental social assistance from the job center or the social welfare office may impact your residency status! Receiving short-time work allowance will not affect your residency. If you have any questions, be sure to contact a Fair Integration advice center!

### Will I still get my wages if my company closes?

There are three options:

1. A government authority quarantines your company because, for example, many employees have contracted the coronavirus. The following applies: The employer generally bears the operational risk, even if operational problems that

they did not cause arise. If the closure has been ordered externally by an authority, the employer must continue to pay wages.

2. Your employer closes the company because he no longer has a job for you. If he meets the requirements, he can ask for short-time work allowance (*Kurzarbeitgeld*) from the employment agency (*Agentur für Arbeit*) for his employees. You can find out what "short-time work allowance" means in the question: "What is short-time work allowance".

3. Your employer closes the business voluntarily or as a precaution. In this case, you can stay at home and the employer must continue to pay your wages.

### Can my employer fire me because there is currently no work for me?

If you have been working in a company with 10 or more employees for more than 6 months, the statutory protection against dismissal (*Kündigungsschutz*) applies. This means that there must be certain reasons for a termination (*Kündigung*). The current corona crisis is not automatically a reason for operation related redundancies (*betriebsbedingte Kündigung*). If your employer terminates your contract with this reason, you should have your termination legally checked. To do this, you must file a so-called unfair dismissal complaint (*Kündigungsschutzklage*) with the competent labour court (*Arbeitsgericht*).

**Important: A termination might have consequences for your residency. If you have any questions, be sure to seek advice!**

**Attention:** If your employer wants you to sign a termination notice, you might actually sign your own notice of termination or a termination agreement (*Aufhebungsvertrag*). This can have disadvantages for you! Seek advice from a Fair Integration counselling office before you sign anything! Read the information on our flyer "[Termination - what I need to know!](#)".

### Does my employer have the right to send me home?

The employer can send you home if he has the impression that you are sick or due to an infection, that presents a risk for your colleagues. The employer can also send you home as a precautionary measure. In both cases, your employer must continue to pay your wages. If you are healthy and able to work, the employer needs a good reason or your consent to send you home. If he has no good reason, you have the right to continue receiving your full wages.

If the employer does not have enough work for you he is not allowed to single handedly decide that you have to reduce your accumulated overtime hours, take vacation, or reduce the credit on your working time account. You can read what a working time account is [here](#).

### Am I entitled to do home office, i.e. to work from home in the current situation?

You are not entitled to work from home, that is, to do "home office". If you want to work from home, you must discuss this with your employer. Many employers are currently making home office regulations. If you get such an offer from your employer, you should take advantage of it. Home office regulations can result from company agreements or a collective agreement. If there is a works council in your company, ask your works council which regulations apply to you. You can find out what a works council is and about its responsibilities [here](#) and [here](#).

In some companies, working from home is difficult. If there is no home office regulation in your company, you have to ask your employer whether you can work from home or not.

### My vocational school is closed because of the coronavirus. What should I do?

If your vocational school is closed, you must go to the company, in which the practical training takes place. Unless the company is closed due to quarantine. For exams, you must always ask the responsible office whether the exam is taking place. You can also find more information under [this link](#).

**Attention: If you have a "special leave to remain for the purpose of training" (Ausbildungsduldung) and get fired from your vocational training, get advice quickly!**

### **My child's kindergarten / school is closed because of the coronavirus. I have to stay home and take care of my child. Do I continue to receive money from my employer for the time I look after my child?**

Parents have to do everything in their power to ensure that their children are looked after. Under certain circumstances, you can receive part of your net wage (67%; but no more than € 2016 net) for a period of up to 6 weeks, if you have no other way of looking after your children (e.g. through another parent or caretaker). You will continue to receive the money from your employer. However, before you can claim this payment, you must first use up your vacation from the previous year, the vacation you have already planned and reduce overtime hours.

This is a new regulation that the federal government has adopted because of the corona crisis. This rule applies to parents who have a child under the age of 12. This rule does not apply to vacation periods (e.g. periods in which the kindergarten / school would have been closed anyway). If you have any questions, contact a Fair Integration advice center!

**Attention:** If you work in a so-called "systemically relevant profession" (e.g. as a doctor, police officer, elderly or nursing staff etc.), your child may be entitled to emergency care (*Notbetreuung*). In this case, you can take your child to the school / day care center that they normally attend. In order to send your child to emergency care in some federal states it is sufficient if one parent works in a systemically relevant profession.

If you make less due to the Corona crisis, for example because you receive short-time work allowance and your wages are not sufficient to support your family, you can get a child supplement (*Kinderzuschlag*) of up to € 185 a month under certain circumstances. As of April 2020, families who apply for the child supplement must provide proof of the income of the month before the application. This regulation is to apply until September 30th, 2020. You must submit the application for the so-called "emergency child supplement" (*Notfall-Kinderzuschlag*) to your "Familienkasse". You can apply online. You can find more information on the website of the [Employment Agency](#) (*Agentur für Arbeit*).

### **Can my employer make me work overtime if my colleagues are sick and unable to work?**

Overtime must always be agreed upon beforehand: in the employment contract (*Arbeitsvertrag*), in a company agreement (*Betriebsvereinbarung*) or in a collective agreement (*Tarifvertrag*). If there is no agreement, the employer may not order overtime without your consent. In exceptional situations, the employer may require you to work overtime. This applies, for example, if the employer can use overtime to ward off damages that threaten the company and that cannot be avoided otherwise.

### **Does the employer have the right to send me on vacation?**

When determining vacation, the employer must always take your wishes into consideration. In principle, he cannot force you to take vacation. If you are on short-time work (*Kurzarbeit*), other regulations may apply. If you have any questions, please contact a Fair Integration advice center!

### **Can I postpone my requested vacation?**

If you have submitted a leave request (*Urlaubsantrag*) and the employer has approved it, it is a two-way agreement to which both sides are bound. You can therefore only postpone your vacation with the consent of your employer. Talk to your employer whether this is possible under the current circumstances.

### **What happens if the bus, the S-Bahn, the U-Bahn or the train stop running and I cannot get to work?**

It is the responsibility of the employee to arrive at work on time. This means that as an employee, you have to make sure that you get to your workplace. Your employer does not have to pay you for the days that you do not come to work because of these circumstances.

If you are unable to reach your work place due to failure of public transportation, it might make sense to talk to your employer. Perhaps a suitable solution can be found (e.g. home office). You can also read the answer to the question: "Am I entitled to do home office, i.e. to work from home in the current situation?".

### I suspect that I have been infected with the coronavirus. Do I have to be in quarantine?

If you have reasonable grounds to suspect that you have contracted the infection (e.g. because you have been in contact with someone who is infected with the coronavirus), you should inform your employer immediately. Then you need to clarify whether a medical examination is necessary.

In addition, the competent authority can decide that you have to be quarantined, even if you are not ill yourself. For example, this could be the case if you have been in a heavily affected area in Germany or in an international risk area within the past 14 days, or because you have had contact with a person who has contracted the coronavirus. Please note the current information from the doctors and health authorities in your area. This explains what you should do if you suspect you have been infected. The relevant authority, such as the health authority (*Gesundheitsamt*), decides whether you need to be quarantined.

### Will I still get money from my employer if I am in quarantine?

Quarantine means that you have to stay home for a certain period. The relevant authority, like the health authority (*Gesundheitsamt*), decides if this is the case for you or not. You will continue to receive your wage while you are in quarantine. The Protection Against Infection Act (*Infektionsschutzgesetz*) regulates who is responsible for the loss of your salary.

**Warning:** If someone in your company is infected with the coronavirus, colleagues who have been in contact with the person may be put under quarantine. In this specific case, clarify this with your employer and the local health authority!

As long as you are healthy and circumstances allow you to, you may have to work from home (e.g. in home-office) while you are in quarantine. Discuss this with your employer.

### What happens with my wage if I have contracted the coronavirus?

If you have contracted the coronavirus, you will be unable to work and will receive a certificate of incapacity for work (*Arbeitsunfähigkeitsbescheinigung*) from your doctor. You must send this to your employer and your health insurance company (*Krankenkasse*). The normal rules in the event of incapacity to work apply here. If you are not working, you will continue to be paid by your employer for 6 weeks in accordance with the Continuation of Remuneration Act (*Entgeltfortzahlungsgesetz*). If you are sick for longer than 6 weeks you will receive sick leave benefits (*Krankengeld*) from your health insurance company. Those who are not insured through their work, e.g. mini-jobbers and people who are pursuing student employment do not receive sick leave benefits.

**Warning:** Usually you do not have to tell your employer why you are unable to work. However, since the coronavirus is highly contagious, it is highly advisable to inform the employer and colleagues about your infection with the coronavirus. This is the only way your employer can react accordingly and prevent the spread of the coronavirus. Your employer can write down a reporting obligation in a company agreement (*Betriebsvereinbarung*).

### Do I have to go to the doctor to report sick (*Krankmeldung*)?

For minor illnesses, such as a mild cough or a sore throat, call the doctor's office. You do not have to go to the doctor's office in person. After a phone call to your doctor, you can receive a sick note (*Arbeitsunfähigkeitsbescheinigung*), for a maximum of 14 days by post. This is a new regulation that will initially apply until June 23, 2020.

If the doctor's office is overloaded, the sick note may arrive late. In this case, pass the sick note on to the employer quickly as soon as it arrives.

The [CovApp](#) also helps you to better assess the need for a doctor's visit or coronavirus tests.

### I am afraid of being infected with the coronavirus. Can I stay at home?

The fear of being infected on the way to work or at work is no reason to not go to work. If you decide to stay at home on your own without consulting your employer and without a doctor's certificate of incapacity for work

(*Arbeitsunfähigkeitsbescheinigung*), your employer can give you a written warning (*Abmahnung*) or terminate your contract (*Kündigung*).

### Do I have to travel to a corona risk area if my employer sends me there on a business trip?

Your employment contract states whether business trips in Germany and abroad are compulsory for you. If you do not go on a business trip despite your obligation, this can be a reason for a written warning (*Abmahnung*) or termination (*Kündigung*).

**Important:** Nevertheless, your employer cannot send you on business trips anywhere without restrictions. You have the right to refuse a business trip under certain circumstances. The employer has a duty of care (*Fürsorgepflicht*). This means that, among other things, he has to protect the health of his employees. If there is an official travel warning from the Federal Foreign Office (*Auswärtiges Amt*) for a specific country or area, the employer must take this into consideration. Should your employer nevertheless send you on a business trip to a risk area, you should always speak to your supervisor and / or the works council. Let the Fair Integration advice center help you!

You can find the current travel warnings from the Federal Foreign Office (*Auswärtiges Amt*) under the [following link](#).

### What must my employer do to protect me from the coronavirus?

The employer must inform you of the risk of infection at work. He must inform you of the hygiene measures to be followed and take measures for your protection. Employees must be able to do their work safely. The risk of infection must be as low as possible. This can also include that the employer must provide you with facemasks and disinfectants in washrooms and at the entrances to the company.

### Do I have to follow the protective measures ordered?

Your employer has a so-called “instruction right” (*Direktionsrecht*). This means that he can require you to implement the necessary hygienic measures against the spread of the coronavirus. For example, the employer can tell you to wear a facemask and to wash or disinfect your hands regularly.

If you have any further questions, please contact your Fair Integration advice center. **Please note that the Fair Integration consultants can best be reached by phone or email during this time.**

The contact details (telephone number, email address) can be found here:

[www.faire-integration.de/beratungsstellen](http://www.faire-integration.de/beratungsstellen)