

Information “Beratungsstelle Arbeitnehmerfreizügigkeit SH”:

Coronavirus pandemic: The Five most important issues of Labour Law

1. Am I entitled to compensation if my employer suspends my employment contract because of the coronavirus pandemic?

Yes. If your employer suspends your employment contract, you are entitled to compensation.

2. Am I entitled to compensation if I decide to stay at home for fear of being infected by the coronavirus?

No, in this case you lose your right to compensation. If you stay home, you will be absent from work without an excuse. There is no general right to refuse to work even in the event of a pandemic. There is only this possibility if there is an objective and understandable danger of becoming infected at work. Only in this case, it is allowed to stay at home. For this, however, you would have to prove that there has been at least one case of someone infected with the coronavirus (covid19) at your workplace. In this case, however, your company must in any case take precautionary measures as recommended by the authorities.

3. Do I have the right to do home-office?

There is no unilateral right for employees to decide to carry out their work tasks at home – i.e. to do home-office. Again, if you stay at home, you will be in breach of your duty to go to work, which will also lead to lose your right to compensation.

Of course, your employer may agree with you about the possibility to do home-office for a period. However, your employer's agreement is required.

4. My company is now closed. Can my employer force me to take vacation (forced leave)?

In principle, no. Both the decision of taking of holidays and the holidays compensation require a mutual agreement between the employee and the employer. Of course, you can request part of your holiday and reduce overtime.

If the authorities suspend the activities of the company where you work because of the quarantine, the employer must continue to pay the wages, but receives a compensation from the state. However, if the employer decides that his employees can stay at home because they are not required at this time, he decides then a suspension of their obligation to carry out the mandatory tasks under the employment contract – in this case your employer must continue to pay your wages and the time spent in inactivity must not be deducted from neither your holidays nor your overtime.

5. Is my employer allowed to fire me during the crisis?

Legally, an employer can always terminate the employment contract (Kündigung). However, it is not always easy to determine whether he has done so in accordance with the law. In any case, you can always contest the dismissal. But you must do so within three weeks after receiving the notice of dismissal. Please do not rely on verbal promises from employers. The only effective means of challenging the dismissal correspond to the legal proceedings provided by law.