

GOVERNMENTAL MEASURES TO FIGHT AGAINST THE SPREAD OF COVID-19

The Luxembourg Government has decided to take additional measures to minimize the epidemic due to the increasing rate of Coronavirus infection.

As a reminder, one of the first extraordinary measures, taken on March 13th, was the closure of schools and childcare structures from March 16th to March 29th.

For this reason, the new extraordinary leave for family reasons was first introduced on March 13th 2020¹ in situations in which a parent no longer work because he/she has to keep his/her children under 13 years of age quarantined upon the order of the competent authorities².

This was once again supplemented, on March 18th 2020³, by a leave in situations where a parent can no longer go to work due to an isolation, eviction or 'stay-home' measure decided against children, based on imperious public health reasons, by the competent authorities when faced with the propagation of an epidemic.

Furthermore, on Wednesday, March 18th, the Minister of Education announced the extension of the suspension period for activities in the school and education sector until Sunday, April 19th (which coincides with the end of the Easter holiday). Accordingly, the closure will have lasted for five consecutive weeks.

The Government then issued several recommendations on March 15th, including staying at home for people over 65 and vulnerable people, or limiting travel for the general public. Regarding companies, it has been strongly recommended to give priority to teleworking.

The relevant protective measures were listed in a Ministerial Order of March 16th, 2020 published in the Memorial A and available online⁴. Accordingly, what has been the situation since the beginning of the week of March 16th?

On March 16th itself, the Government decided that the entry into Luxembourg of cross-border workers residing in France⁵ and Belgium⁶ will be controlled by a certificate, issued by the Luxembourg Government itself, justifying the need to cross borders.

¹ <http://www.legilux.lu/eli/etat/leg/rgd/2020/03/12/a146/jo>

² <https://www.cliffordchance.com/briefings/2020/03/extraordinary-leave-for-family-reasons-in-response-to-the-covid-.html>

³ <http://www.legilux.lu/eli/etat/leg/rgd/2020/03/18/a163/jo>

⁴ <http://data.legilux.public.lu/eli/etat/leg/amin/2020/03/16/a149/jo>

⁵ <https://gouvernement.lu/dam-assets/documents/actualites/2020/03-mars/certificat-frontaliers.pdf>

⁶ <https://gouvernement.lu/dam-assets/documents/actualites/2020/03-mars/form-be.pdf>

On the same day, an exceptional measure was introduced between Luxembourg and Belgium concerning the teleworking of Belgian cross-border workers: the limit of 24 days of teleworking per year will not be counted between March 14th and until further notice.

The same exceptional measure was introduced on March 19th, for French resident cross-border workers (where the Double Taxation Agreement provides for a limit of 29 days), but not for German cross-border workers yet. In addition, non-essential travel abroad has been strongly discouraged by the Department of Foreign Affairs. For Luxembourg nationals currently abroad who wish to return to Luxembourg, they must contact their travel agency, tour operator or airline.

Regarding the medical nomenclature, a new 'C45' act of teleconsultation is also introduced. The fee corresponds to that of a general practitioner and a geriatric specialist (Act C1), consulting with patients from a distance rather than face-to-face.

Specific tax measures in the context of Covid-19

Specific tax measures in the context of Covid-19 have also been announced on March 17h⁷:

- for legal entities and natural persons exercising an activity generating a commercial profit, an agricultural and forestry profit or a profit from the exercise of a liberal profession, tax advance facilities and payment deadlines will be automatically granted upon request.

Those have the possibility to make a simple request for the cancellation of tax advances for the first two quarters of 2020⁸ and/or apply for a four-month payment deadline⁹.

Furthermore, the submission deadline for 2019 tax returns for both, corporate and individual taxpayers, has been extended to 30 June 2020.

Specific VAT measures have also been announced by the Luxembourg VAT authorities¹⁰:

- a potential extension of the deadline for submitting VAT returns and granting of payment extensions. This tolerance shall apply until otherwise indicated by the VAT authorities.

In addition, VAT credits below EUR 10,000 shall be reimbursed as from 16 March 2020. The Luxembourg VAT authorities also asked taxpayers to communicate with them electronically, in so far as possible.

Coupled with that, the Government put in place precautions and derogations that also affect agricultural activity.

However, some activities remain authorized¹¹, maintaining the essential activity of the food supply.

Furthermore, the Government decided to close all construction sites by Friday, March 20th, 5 P.M. All municipalities must also close playgrounds and outdoor recreation sites.

⁷ <https://impotsdirects.public.lu/fr/archive/newsletter/2020/nl17032020.html>

⁸ <https://impotsdirects.public.lu/dam-assets/fr/formulaires/covid/annulationavances.pdf>

⁹ <https://impotsdirects.public.lu/dam-assets/fr/formulaires/covid/delaipaiement.pdf>

¹⁰ <http://www.aed.public.lu/actualites/2020/03/Covid19Toladmin/index.html>

¹¹ Those are listed here: https://gouvernement.lu/fr/actualites/toutes_actualites/communiqués/2020/03-mars/18-coronavirus-agriculture.html

Precautions are not limited to these areas.

Other stakeholders are involved:

- Vehicle inspection organizations: from March 17th to 31st inclusive, only vehicles for which the inspection's certificate is no longer valid or would expire within 2 weeks will be accepted. Contact with customers must also be kept to a minimum, including a reduction to a maximum of 5 customers in a waiting room, within 2 meters of distance. Inspectors must protect themselves with single-use gloves or a disinfectant.
- The Findel airport: the Internal Security Minister, François Bausch, announced the closure of the airport for the passenger traffic from next Monday, March 22nd.
- The Ministry of Higher Education and Research (MESR), including the Centre for Documentation and Information on Higher Education (CEDIES), the Diploma Recognition Service of the Ministry of National Education, Childhood and Youth (MENJE), and the Experience Validation Service (VAE) of the Ministry of National Education, Children and Youth (MENJE): since March 16th, the on-site consultations have been suspended and the offices are closed.
- The "Certificate of Nationality" and "Arms and Security Service": offices have been closed to the public from March 17th until further notice. The services will nevertheless be provided by e-mail or telephone.
- The National Institute of Public Administration and the National Society of Automobile Traffic (SNCA) also announced their closure on March 16th. The same applies to the Immigration Directorate, except for urgent applications, and for the House of Guidance.
- The National Roads Administration still provides public access but advised customers to prioritize the postal and electronic way or telephone.
- The Prison administration: visits are suspended from March 18th until further notice.

Even more recently, on Tuesday, March 17th, Xavier Bettel, in consultation with the whole Government and the Grand Duke, decided to put the country in state of crisis (Article 32.4 of the Constitution), which allows exceptional measures to be taken by the Government (possibly going against existing laws).

This state of emergency and the resulting measures have been implemented through the Grand Ducal Regulation of March 18th, 2020 introducing a series of measures in the context of the fight against COVID-19¹² (the "GDR of March 18th, 2020"), which came into effect on the same day¹³.

¹² <http://www.legilux.lu/eli/etat/leg/rgd/2020/03/18/a165/jo>

¹³ The GDR of March 18th, 2020 was amended by a Grand Ducal Regulation of March 20th, 2020, effective as from the same date: <http://legilux.public.lu/eli/etat/leg/rgd/2020/03/20/a174/jo>

The GDR of March 18th, 2020, as amended, contains an exhaustive list of commercial and artisanal activities to be maintained during the crisis, essential activities and permissible grounds to go outside. Regarding the aforementioned essential activities, the amended GDR of March 18th, 2020 expressly provides that the employer may refuse any leave in the targeted companies throughout the crisis.

In any case of non-compliance, fines can be imposed: for example, an amount of 4 000 euros for any retailer who does not comply with the (aforementioned) closures imposed, or 145 euros for any non-essential physical movement. These amounts can be doubled in case of non-payment.

The Chamber of Deputies confirmed this Regulation during its public session on Saturday afternoon, March 21st, 2020. Fifty-six representatives adopted the Bill 7534 allowing the Government to extend the state of crisis for a maximum period of three months. To summarize, everyone must stay at home, except for food supply¹⁴, going to the doctor, pharmacy or to work¹⁵. The major difference with France is that the Government does not impose forms and certificates justifying anyone's presence outside of his/her home for the moment.

Also per the GDR of March 18th, 2020, immigration permits that expire after March 1st, 2020 are prorogated 'for the duration of the crisis', and third-country nationals (i.e. non-E.U. nationals, non-U.K. nationals, and nationals from non-Schengen countries) may not enter Luxembourg territory for a period of one month (renewable).

Finally, specific arrangements have been introduced for the holding of non-physical meetings (shareholder meetings, noteholder meetings and meetings by other corporate bodies) of companies and other legal entities, via a specific Grand Ducal Regulation of March 20th, 2020¹⁶.

For instance, any contrary provision in the articles of association of a company notwithstanding, the corporate bodies of the company may hold non-physical meetings via circular resolutions, videoconference or any other means of telecommunication enabling the identification of the members of the relevant body participating in the meeting.

Members participating in the meeting via a like means are taken into account for quorum and majority requirements.

¹⁴ On March 19th, the Minister of Middle Classes, Lex Delles, and the Minister for Family and Integration, Corinne Cahen, launched an online sale platform dedicated to vulnerable persons: <https://corona.letzshop.lu/fr>

¹⁵ Following the current situation regarding COVID-19, additional adjustments will be applied in public transport: <https://gouvernement.lu/dam-assets/documents/actualites/2020/03-mars/Avis-Urgent-002-Covid-19pdf.pdf>

¹⁶ <http://legilux.public.lu/eli/etat/leg/rgd/2020/03/20/a171/jo>

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