

ACT ON INTERVENTION MEASURES TO PREPARE FOR THE SECOND WAVE OF COVID-19 (PKP4)

Reimbursement of wage compensations paid to employees who were temporarily laid off

Who can exercise the right to a measure of partial reimbursement of wage compensations paid to employees who were temporarily laid-off?

Any employer in the Republic of Slovenia who is temporarily unable to provide work to employees due to the consequences of the epidemic, except:

- direct or indirect user of the budget of the Republic of Slovenia or the budget of a municipality, whose share of revenues from public resources in 2019 was higher than 70%,
- an employer who performs financial or insurance activity, which belongs to group K according to the standard classification of activities, and has more than ten employees on 13 March 2020,
- foreign diplomatic missions and consulates, international organizations, missions of international organisations and institutions, bodies and agencies of the European Union in the Republic of Slovenia.

Which employers are eligible for reimbursement of the paid wage compensations?

Entitled to the reimbursement of the paid wage compensations are employers, whose revenue in 2020 will be reduced for more than 10 % in comparison to 2019 because of the epidemic (by their estimation).

Employers who did not operate in the entire year 2019 and/or 2020 are also entitled to the aid, if they have suffered more than a 10 % decrease in an average monthly revenue in 2020 compared to an average monthly revenue in 2019.

Eligible to the aid are also employers who did not operate in 2019 at all and whose average monthly revenue in 2020 will decrease by more than 10 % due to the epidemic compared to the average monthly revenue in 2020 until 12 March 2020.

If the above conditions are not met when submitting the annual reports for 2020, the beneficiary will have to return the received funds under the measure.

What about the employers who do not meet the criteria for the aid? Can they still be eligible for it?

No, unless they have a humanitarian status under the ZHO or a disability organisation status under the ZInvO.

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Until when (for how long) can an employer assign an employee to a temporary lay-off pursuant to the PKP4?

The eligible employer may assign an individual employee to a temporary lay-off for no longer than 31 July 2020.

The Government of the Republic of Slovenia may issue a decision to extend the measure no more than twice for a period of one month, but not longer than until 30 September 2020.

How does the employer refer an employee to a temporary lay-off?

The employer refers the employee to a temporary lay-off in writing. The written referral shall specify the period of the temporary lay-off, the possibilities and manner of urging the employee to return to work early, and the amount of wage compensation.

For up to how many days can the employer request that the temporarily laid-off employee returns to work?

During the temporary laid-off period the employee has a duty to return to work at the request of the employer for up to seven (7) working days in the current month. The employer must inform the Employment Service of Slovenia in advance about its intention of temporarily laying-off employees.

To what amount of wage compensation is the employee entitled while being temporarily laid-off?

Amount of compensation is equal to the amount envisioned for the instances of a temporary inability to provide work due to a business reason (i.e. 80% of the basis). Compensation must not be lower than the minimum wage in the Republic of Slovenia.

Unless otherwise provided by the PKP4, this amount of wage compensation applies to temporary laid-off employees, regardless of the provisions of the ZDR-1.

To what amount of wage compensation is an employee, who uses the right to annual leave during the temporary laid-off period, entitled?

If an employee, in agreement with the employer, uses the right to annual leave during the temporary laid-off period, he/she has the right to a wage compensation for the time of using the annual leave in accordance with the act governing employment relationships.

What is the amount of wage compensation if while being referred to a temporary layoff, the employee is entitled to absence from work or is entitled to part-time work?

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If an employee is entitled to being absent from work when being assigned to a temporary lay-off or if he/she (during the temporary laid-off period) acquires a right to absence from work under the regulations on health insurance or parental care or other justified absence and acquires a right to appropriate wage compensation or the payment of contributions, wage compensation for the temporarily laid-off employees shall not be paid during this period.

If, when being assigned to a temporary-lay off or during the temporary laid-off period, an employee is entitled to part-time work and receives partial compensation under the pension and disability insurance regulations or is entitled to part-time work under the health care insurance or parental care regulations, the wage compensation to which the temporarily laid-off employee is entitled is paid in proportion to that time, and the employee retains the right to the payment of social security contributions under these regulations as if he/she was working.

What is the amount of partial reimbursement of wage compensation to employers for temporarily laid-off employees?

The amount of partial reimbursement of the paid wage compensation by the Republic of Slovenia amounts to 80 % of wage compensation and is limited by the amount of the maximum amount of the unemployment benefit specified in the law governing the labour market (i.e. 892,50 EUR). 80 % of the wage compensation covered by the Republic of Slovenia includes wage compensation and all social security contributions.

The amount of partial reimbursement of the wage compensation paid by the Republic of Slovenia may not exceed 80 % of the value of paid wage compensation.

An employer who is a direct or indirect user of the budget of the Republic of Slovenia or the budget of the municipality and whose share of revenues from public sources was lower than 70% in 2019, may claim the reimbursement of wage compensation only in the amount equal to the share of its revenues from non-public sources.

How does the employer exercise the right to reimbursement of paid wage compensations under the PKP4?

The employer exercises the right to reimbursement of paid wage compensations under the PKP4 by submitting an application in electronic form to the Employment Service of Slovenia within eight days of assigning employees to a temporary lay-off, but no later than 30 June 2020 or in case of extension of the measure until 31 August 2020 or until 30 September 2020. However, if the employer temporarily laid off employees already before the entry into force of the PKP4 for the period from 1 July 2020 onwards, it may apply for reimbursement of wage compensation within eight days of the entry into force of the PKP4, if it meets all the conditions for exercising the right.

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The application shall be accompanied by an estimate of the decline in revenue, for the correctness of which the employer is criminally and materially liable, and evidence of assigning employees to a temporary lay-off due to temporary inability to provide work for business reasons.

An employer whose employment is directly or indirectly co-financed from the budget of the Republic of Slovenia through special programs and can claim reimbursement of wage compensation only in the amount of the difference between full co-financing and other subsidy, states in the application the share of financing from the budget of the Republic of Slovenia in 2019.

Who decides on the application by which the employer exercises the right to reimbursement of paid wage compensations?

The Employment Service of Slovenia decides on the application within 15 days.

When is an employer not entitled to the reimbursement of paid wage compensations?

The right to reimbursement of paid wage compensations cannot be exercised by the employer who:

- fails to meet mandatory duties and other monetary non-tax liabilities in accordance with the law governing the financial administration, collected by the FURS (Financial Administration), if it has unpaid due liabilities on the day of submitting the application. An employer shall be deemed not to have fulfilled these obligations also if it had not submitted all withholding tax returns on the date of submission of the application for the period of the last five years up to the date of submission of the application;
- if bankruptcy proceedings have been instituted against it or if it is subject to liquidation proceedings.

When is an employer reimbursed for paid wage compensations?

Partial reimbursement of wage compensation, except for employees for whom the payment of wage compensation is not borne by the employer, is paid to the employer monthly, in proportion or in full, on the tenth day of the month following the month of payment of wage compensation under the PKP4.

Who exercises control of the allocation and payment of wage compensations?

The Employment Service of Slovenia. An employer claiming the reimbursement of wage compensation must enable the Employment Service of Slovenia to exercise administrative and financial control over the fulfilment of contractual obligations.

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Can the employer assign overtime work or reschedule working hours during the temporary laid-off period?

During the temporary laid-off period, the employer may not assign overtime work or reschedule working hours if such work can be done with temporarily laid-off employees.

In which cases must the employer return the received funds?

An employer who receives or has received funds in accordance with the PKP4 must return the received funds in full if:

- during the period of receiving the reimbursements of paid wage compensations, does not pay wage compensations to employees;
- assign overtime work or reschedule working hours during the period of receiving wage compensation, although this work could be done with temporarily laid-off employees;
- it requests the employees to return to work and does not inform the Employment Service of Slovenia in advance;
- if it initiates liquidation proceedings under the law governing companies during the period:
 - of receiving funds and
 - after the cessation of receipt of funds, which is equal to the period of receiving funds.

Can the employer dismiss the employee for whom it is claiming reimbursement of wage compensation during the period of receiving wage compensation?

During the period of receiving compensation for temporary laid-off employees, the employer may not, for business reasons, dismiss the employee for whom it claimed reimbursement of paid wage compensation, or terminate employment contracts for a large number of employees for business reasons, unless the redundancy program was adopted before 13 March 2020 and the employer did not claim a subsidy under ZIUOOPE or ZIUZEOP for these employees.

Who carries out the inspection of the temporary lay-off measure?

The Labour Inspectorate of the Republic of Slovenia in accordance with the regulations governing inspection supervision.

Can the measure of partial reimbursement of wage compensation for temporarily laid off employees be combined with other measures to support the retention of workplaces?

Yes, provided that the combined support does not result in overcompensation for the wage costs of an individual employee.

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Reimbursement of wage compensations paid to employees who were temporarily laid off

In which cases (and to what extent) can an employer be penalized?

- A fine of 3.000 EUR to 20.000 EUR is imposed on an employer who:
 - does not allow for administrative and financial control;
 - pays wage compensations in contravention of this PKP4;
 - during the period of receiving a partial reimbursement of wage compensations, assigns the employees to work overtime or fails to notify the Employment Service of Slovenia in the event that the employee is requested to return to work.
- A fine of 1.500 EUR to 8.000 EUR is imposed on an employer who employs ten or fewer employees if it commits an offense referred to in the first bullet point.
- A fine of EUR 450 to EUR 2,000 shall be imposed on the responsible person of the employer if he/she commits an offense referred to in the first bullet point.
- A fine of EUR 450 to EUR 1,200 is imposed on an individual employer if it commits an offense referred to in the first bullet point.

Since when is the measure of reimbursement of wage compensations to workers who were temporarily laid off valid?

The measure is valid from 1 July 2020.

Wage compensations to employees due to ordered quarantine

Are employees who are unable to perform work due to the ordered quarantine in accordance with the law governing infectious diseases entitled to wage compensation?

Yes, unless quarantine has been ordered to the employee due to his/her travel to a country on the red list (however, even if such cases, certain exceptions apply in case of special personal circumstances)

Which employer is entitled to a reimbursement of paid wage compensations to employees who are unable to work due to ordered quarantine?

The right to reimbursement of paid wage compensation to employees who are unable to work due to the ordered quarantine and the employer is not able to organize work for them at home (and are entitled to wage compensation), may be exercised by the employer in accordance with the regulations governing employment if such employer declares that it cannot organize work at home for quarantined employees.

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Wage compensations to employees due to ordered quarantine

For how long is the employee who has been quarantined entitled to the wage compensation?

If an employee is quarantined, he/she receives wage compensation for the period for which the quarantine was ordered.

To what amount of wage compensation is the employee who has been ordered quarantine entitled?

An employee who travels to a country that is on the green or yellow list and is ordered quarantine when crossing the Slovenian border and is entitled to a wage compensation under the PKP4, is entitled to a wage compensation in the amount specified by law, governing employment relationships, for the case of temporary inability to provide work for business reasons (80% of the basis).

An employee who was ordered quarantine due to contact with an infected person and the contact with the infected person did not occur during carrying out work for the employer, to a wage compensation under the PKP4, is entitled to wage compensation in the amount determined by the law governing employment, for the case of temporary inability to provide work for business reasons (80% of the basis).

An employee who has been quarantined due to contact with an infected person in the course of performing work for the employer, as a result of which he/she cannot perform work in accordance with the employment contract and the employer cannot organise work at home, is entitled to wage compensation in the amount he/she would have received if he/she had been working.

A civil servant who has been quarantined for the performance of his/hers duties abroad or has been quarantined for the purpose of posting or transferring a civil servant to work abroad, as a result of which he/she cannot perform work in accordance with the employment contract and the employer cannot organise work at home, is entitled to wage compensation in the amount he/she would have received if he/she had been working.

An employee who has been quarantined for traveling to a red-listed country is not entitled to wage compensation during quarantine, except in the case of departure due to the following personal circumstances: (i) death of spouse or death of a child, an adoptee or a child of the spouse, (ii) the death of the parents (father, mother, spouse, adoptive parent), (iii) birth of a child. In this case, the employee is entitled to wage compensation in the amount determined by the law governing employment relationships for the case of force majeure (50% of the basis). The employee must submit a written statement to the employer no later than one day before departure stating that he/she is leaving to the country on the red list due to the aforementioned personal circumstances.

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Wage compensations to employees due to ordered quarantine

What is an employee who was ordered quarantine to do in relation to his/her employment?

A quarantined employee must notify the employer within three working days since the quarantine order was issued to him/her that he/she has been quarantined and must state the reasons for the quarantine. The quarantined employee must forward the decision on ordered quarantine to the employer no later than three working days from the receipt of that decision

Pursuant to the PKP4, is the wage compensation due to ordered quarantine paid to the employee, if that employee is entitled to absence from work during ordered quarantine or acquires the right to absence from work during ordered quarantine or has exercised or is entitled to part-time work during ordered quarantine?

If the employee is entitled to absence from work during ordered quarantine or during ordered quarantine acquires the right to absence from work on the basis of regulations on health insurance or parental care or other justifiable absence and to appropriate wage compensation or payment of contributions, he/she is not paid the wage compensation for the case of ordered quarantine.

If the employee has exercised or is entitled to part-time work during ordered quarantine and receives partial compensation on the basis of the regulations on pension and disability insurance or is entitled to part-time work on the basis of health insurance or parental regulations protection, the wage compensation for the case of ordered quarantine shall be paid in proportion to that time, and the employee shall retain the right to benefits or payment of social security contributions as if he/she was working.

How does the employer exercise the right to reimbursement of paid wage compensations?

The employer exercises the right to reimbursement of paid wage compensations by submitting an application in electronic form to the Employment Service of Slovenia within thirty days from the beginning of the employee's absence due to ordered quarantine.

The following documents need to be attached to the application:

- a copy of the decision on ordered quarantine, and
- a statement stating that it is not possible to organise work at home for the employee or, if necessary, a statement of the employee on the existence of special circumstances referred to in the fifth paragraph of Article 15 of the PKP4.

Who decides on the employer's application?

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Wage compensations to employees due to ordered quarantine
<p>The Employment Service of Slovenia decides on the application in accordance with the provisions of the law governing the general administrative procedure.</p> <p>Based on the decision on the recognition of the right to reimbursement of paid wage compensations, the Employment Service of Slovenia concludes a contract with the employer on the reimbursement of paid wage compensation, in which mutual relations, obligations and responsibilities are determined.</p>
<p><i>To what extent does the Republic of Slovenia reimburse paid wage compensations to employers?</i></p>
<p>The Republic of Slovenia shall reimburse in full wage compensations paid to employees who are unable to work due to ordered quarantine.</p>
<p><i>When is the employer reimbursed for paid wage compensations?</i></p>
<p>Reimbursement of wage compensation due to ordered quarantine (except for employees for whom the payment of wage compensation is not borne by the employer) is paid to the employer monthly, in proportion or in full, on the last day of the month following the month of payment of wage compensation.</p>
<p><i>In which case must the employer return the received funds?</i></p>
<p>If, during the period of receiving the reimbursement of paid wage compensations, it does not pay net wage compensations to employees and does not pay contributions for compulsory social insurances.</p>
<p><i>Until when can an employer claim reimbursement of paid wage compensation?</i></p>
<p>Eligibility for reimbursement of wage compensations due to the ordered quarantine lasts until 30 September 2020 at the latest.</p>
<p><i>Who controls the allocation and payment of wage compensations?</i></p>
<p>Employment Service of Slovenia. An employer claiming the reimbursement of wage compensation must enable the Employment Service of Slovenia to exercise administrative and financial control over the fulfilment of contractual obligations.</p>
<p><i>Who carries out the inspection of the implementation of the measure of reimbursement of wage compensations to employees due to ordered quarantine?</i></p>
<p>Labour Inspectorate of the Republic of Slovenia in accordance with the regulations governing inspection supervision.</p>

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Wage compensations to employees due to ordered quarantine

In which cases (and to what extent) can an employer be penalized?

A fine of EUR 3,000 to EUR 20,000 shall be imposed on an employer who:

- pays wage compensations contrary to the PKP4,
- does not enable administrative and financial control of the Employment Service of Slovenia.

A fine of EUR 1,500 to EUR 8,000 shall be imposed on an employer who employs ten or fewer employees if it commits the above offense.

A fine of EUR 450 to EUR 2,000 shall be imposed on the responsible person of the employer who commits the above-mentioned offense.

A fine of EUR 450 to EUR 1,200 is imposed on an individual employer who commits the above-mentioned offense.

A fine may be imposed in an expedited procedure for an offense referred to in the PKP4 in an amount higher than the minimum prescribed fines set in the PKP4.

What does the PKP4 stipulate regarding the service of a decision on ordered quarantine?

Notwithstanding the provisions of the law governing general administrative procedure, service of a decision on ordered quarantine on the basis of the Infectious Diseases Act may be affected in person or at the e-mail address provided by the person to whom the quarantine was ordered. Service shall be deemed to have been affected when the person has received the decision in person or by e-mail.

Mobile application for informing about contacts with those infected with SARS-CoV-2 virus and persons who have been ordered quarantine

What is the purpose of establishing a mobile application for informing about contacts with those infected with the SARS-CoV-2 virus and persons who have been ordered quarantine (mobile app)?

The purpose of establishing and operating the mobile app is:

- protection of human health and life;
- informing the users of the mobile app that there is a risk of becoming infected with the SARS-CoV2 virus due to the fact that they were in the vicinity of another user of this mobile application who tested positive for the SARS-CoV-2 virus or has been ordered quarantine or self-isolation;

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Mobile application for informing about contacts with those infected with SARS-CoV-2 virus and persons who have been ordered quarantine

- raising awareness of users of the mobile app about the symptoms of the SARS-CoV-2 virus (fever, cough, shortness of breath) and measures to combat the spread of the infectious disease COVID-19;
- recommending that users of the mobile app contact their chosen GP or emergency medical service immediately in the event of experiencing obvious symptoms of SARS-CoV-2 virus infection.

The Minister responsible for public administration shall publish in the Official Gazette of the Republic of Slovenia the date of commencement of operation of the mobile app.

Does the user have to pay for the installation and use of the mobile app?

No. The mobile application is installed and used by users voluntarily and free of charge. Notwithstanding the above, a person who is a user of a suitable smartphone and has been ordered quarantine or has tested positive for the SARS-CoV-2 virus must install the mobile app in such a way that a random single-use code can be entered. The single-use code is received together with the decision on ordered quarantine or the test results showing that the person is positive for SARS-CoV-2 virus.

How is the mobile app designed?

The mobile app is designed to allow for anonymous recording of contact data between users of the mobile app and informing users about contacts with other users of the mobile app who have tested positive for SARS-CoV-2 virus or have been ordered quarantine, but must not allow for the identification of the user, the collection of his location and other personal data. In order to ensure the anonymity of the user, the mobile application assigns a random identification code to the user upon its installation.

How does the mobile app work? How does the user enter data into it?

The user of the mobile app who has tested positive for SARS-CoV-2 virus indicates in the mobile application that he/she has tested positive for SARS-CoV-2 virus, for which he/she needs a random single-use code, which he/she receives together with the test results showing that he/she is positive for SARS-CoV-2 virus. The user of the mobile app who has been ordered quarantine indicates in the mobile app that he/she has been ordered quarantine, for which he/she needs a random single-use code, which he/she receives together with the decision on ordered quarantine. When a user indicates in a mobile app that he/she is positive for SARS-CoV-2 virus, the mobile app also allows him/her to enter the start date of symptoms.

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Mobile application for informing about contacts with those infected with SARS-CoV-2 virus and persons who have been ordered quarantine

Will additional rules for the functioning of the mobile application be issued?

Based on the expert opinion of the National Institute of Public Health, the Minister responsible for health prescribes the distance and duration of contacts between users required for the mobile app to record contact with another user of the mobile app, and the period for which contact with the infected person or the person to whom quarantine has been ordered shall be notified.

The Minister shall issue this regulation within one month of the entry into force of the PKP4.

How long are contact data between mobile app users stored?

Data on contact between users of the mobile application is automatically deleted after 15 days from the date of the entry.

How long does the measure of setting up the mobile app last for?

The measure is valid until the cessation of the reasons for it, which is established by the Government of the Republic of Slovenia with a decision published in the Official Gazette of the Republic of Slovenia.

In which cases (and to what extent) can an individual be penalized?

A fine of EUR 200 to EUR 600 shall be imposed on an individual who acts in contravention of the second paragraph of Article 29 of the Act (i.e. a person who should have installed a mobile app does not install it).

Derogation from the provisions of the Act determining intervention measures to mitigate and eliminate the consequences of the Covid-19 epidemic (ZIUOOPE) regarding the measure of partial subsidy of the reduction of the full-time work

Derogation from the ZIUOOPE regarding the written order on part-time work

The employer must send a written order on part-time work to the Employment Service of Slovenia within eight working days from the day of the order.

Derogation from the ZIUOOPE regarding the deadline to file the application for a subsidy for part-time work

In any case, the employer must submit the application for the subsidy to the Employment Service of Slovenia by 10 December 2020 at the latest.

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Derogation from the provisions of the Act determining intervention measures to mitigate and eliminate the consequences of the Covid-19 epidemic (ZIUOOPE) regarding the measure of partial subsidy of the reduction of the full-time work

Derogation from the ZIUOOPE regarding the required action before summoning the employer back to full-time work

The employer must inform the Employment Service of Slovenia in advance before summoning the employer back to full-time work.

In which cases can an employer be penalized (derogation from the ZIUOOPE regarding fines)?

A fine as set out in the ZIUOOPE shall be imposed on the employer receiving the subsidy, the responsible person of the employer which is the recipient of the subsidy, and the individual employer which is the recipient of the subsidy, inter alia for:

- violation of the prohibition on ordering part-time work during the period of notice (third paragraph of Article 12 ZIUOOPE),
- violation of the obligation to consult with a trade union or works council or informing workers in the usual way before taking a decision on ordering part-time work (fourth paragraph of Article 12 ZIUOOPE),
- violation of the obligation to consult in the event of changed circumstances of the order of part-time work by the employer (fifth paragraph of Article 12 ZIUOOPE),
- violation of the obligation to submit a written order to the Employment Service of Slovenia within three working days (fourth paragraph of Article 14 ZIUOOPE)
- violation of the obligation to deliver a written order to an employee to work part-time (fourth paragraph of Article 14 ZIUOOPE)
- violation of the obligation to pay employees wages and wage compensations (first paragraph of Article 18 ZIUOOPE)
- violation of the obligation to keep records on the use of working time (third paragraph of Article 18 ZIUOOPE),
- violation of the obligation to give prior notice to the Employment Service of Slovenia in the event that the employee is summoned to perform full-time work (fifth paragraph of Article 18).

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Derogation from the provisions of the Act determining intervention measures to mitigate and eliminate the consequences of the Covid-19 epidemic (ZIUOOPE) regarding tourist vouchers

Which business entities are considered to be providers in the field of tourism at which the tourist voucher is redeemed?

A business entity that in 2020:

- is entered in the Business Register of Slovenia and
- is entered in the register of accommodation establishments maintained by AJPES as a provider of accommodation establishments and
- performs activities according to the Standard Classification of Activities of the Decree on the Standard Classification of Activities (Official Gazette of the RS, No. 69/07 and 17/08) under the Annex I: Standard Classification of Activities - SKD 2008 and Annex II: Explanatory Notes to the Standard Classification of Activities - SKD 2008:
 - 55.100 - Hotels and other similar accommodations,
 - 55.201 - Holiday homes and resorts,
 - 55.202 - Tourist farms with rooms,
 - 55.203 - Renting private rooms to guests,
 - 55.204 - Mountain lodges and youth hostels,
 - 55.209 - Other short-term accommodations,
 - 55.300 - Camping activities.

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Our law firm is actively following the latest COVID-19 developments. As always, you can contact us via e-mail info@kbp.si or telephone +386 (0)1 2445500, or you can directly contact the lawyer you are generally in contact with.

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