

BEERG Webinar Company Responses to Covid-19 Germany

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WoCo– Virtual Negotiation



EWC

- EWC Agreement decisive
 - Virtual negotiation OK, if agreement provides for this
- No statutory provisions on virtual negotiation

Sanctions:

- No injunctive relief
- €15,000 fine

German WoCo

- Consultations and negotiations can be held virtually
- Admissibility of virtual decisions controversial
 - Risk: works agreement invalid
- But: better virtual decision than none at all

Sanctions:

- Injunctive relief

Closure of Site - Continued Remuneration?



By public authority

- No entitlement to remuneration
 - But:
- Authority reimburses salary

By employer

- Employer bears "entrepreneurial risk" of site closure
- Continued remuneration as long as employees willing to work and capable of working



Can Employer Order Leave/Overtime/Company Holiday

Order individual leave (-)

- Employer cannot unilaterally order employees to take leave.
- Only possibility: ask employees to do so

Order overtime (+)

- Employer may order overtime

Order company holiday

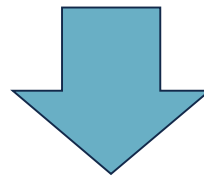
- Balancing conflicts of interest
- There must be an "urgent operational matter"
 - Works agreement required

Caring for Kids- Continued Remuneration?



New bill (entry into force April 1st):

- Up to 67% of normal net salary
 - Up to 6 weeks
 - Up to 2016€/month



- Payment by employer
- Reimbursement by health authority

Can Employer Order Work from Home?



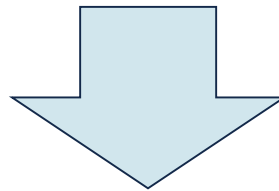
➤ Depends on employer's right to issue instructions

Rule: remote work only with
employee's consent or if work
from home is agreed upon in
employment contract

Can Working Time Be Monitored When Working From Home?

Yes

- Compliance with statutory working time limits must be checked



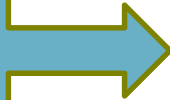
Time sheets:

- Send working times to manager
- Use existing working time systems

Short-Time Work (*Kurzarbeit*)

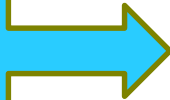


Short-time
work



- Companies in crisis: reduction of working hours and corresponding compensation
- Federal Labor Agency pays 60% of the normal remuneration to employees (67% if employees have children)

Coronavirus



- Federal Employment Agency: coronavirus pandemic = unavoidable event

Works Council has to agree on short-time work!

Short-Time Work



"Considerable loss of work" required for compensation for short-time work:

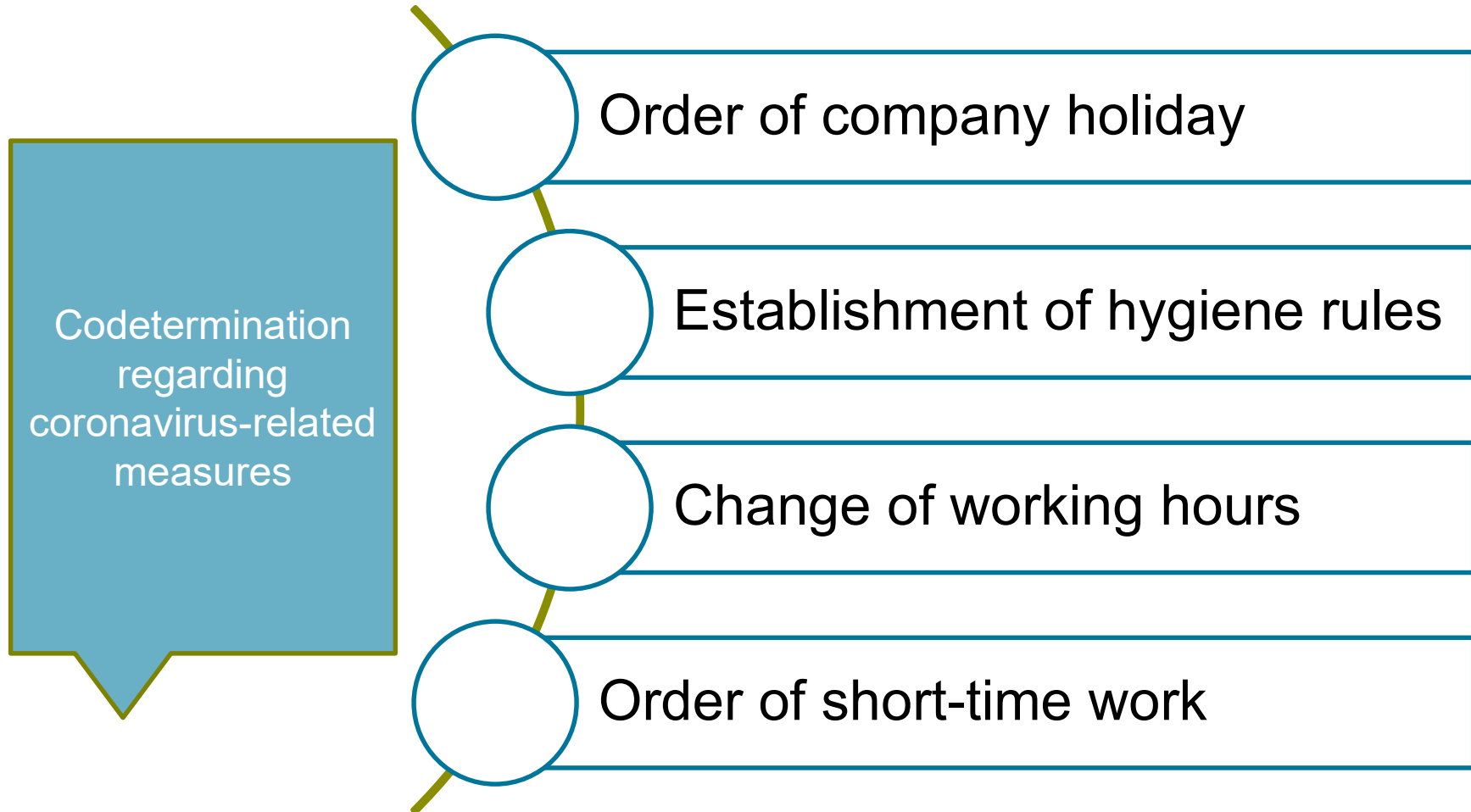
- Affecting at least 10% of all employees
- Affecting at least 10% of employee's gross salary

Notification of loss of work to Federal Employment Agency!

Compensation for short-time work for temp agencies

Full refund of social security contributions to employer

Coronavirus-Related Measures - Codetermination



Does Corona Trump Data Privacy?

NO

➤ Data privacy rules still applicable

Data processing only permitted if

- Necessary for performance of employment relationship or
 - With consent of employee

Processing employees' health data permitted if

- Serving legal obligation to protect employee
- Overriding interest of employee does not oppose

Thank you!



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