

Newsletter Fourth Edition | February 2021 |

- 1 Welcome to the fourth edition of our Newsletter. In this edition, we will look into “International Approaches to protecting Employees’ Wages during the Corona Virus Pandemic”.

“The approaches taken by countries worldwide were not the same, as different countries adopted different policies with regard to the protection of employees’ wages during the Corona virus pandemic. Some countries took similar steps and policies to what they had previously applied in other crises, such as the global financial crisis, and a few of these countries enhanced their former policies to be more responsive to the current circumstances. Other countries launched new programs and formulated novel policies.”



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Arguably, it is difficult to follow all international trends in how governments worldwide approach the subject matter of protection of employee wages during the Corona virus pandemic, and to determine whether there is a common policy among countries. One who examines and looks into the said policies for a number of countries finds that those policies are formed in response to different parameters and that they differ from each other according to the desired goals, the size of the national economy, and the nature of the restrictions imposed by authorities on economic activities. It should be noted that the employment rates and wages during the pandemic much depended on the policies adopted by the authorities during that time. Looking into international approaches, we find that some countries provided considerable financial subsidies to both employees and employers, while other countries prioritized by protecting the employment system as a whole by limiting widespread



layoffs and ensuring continuity in production. They did so even if that was at the expense of both parties (employees and employers), since such objectives might require taking measures to reduce employees' wages and at the same time requiring employers to pay the reduced wages without the right to lay off employees. Below we provide you with a glimpse into the most notable policies on employee support during the Corona virus pandemic as adopted by governments worldwide. The list is non-exhaustive but it shows the key international trends in that regard:

- Wage subsidies and financial assistance to encourage employers not to terminate employment contracts. Countries varied the amount of the subsidy for each eligible employee, the upper limit for the subsidy, and the duration of the government contribution. It was also noted that some countries (such as Germany for example) only paid for reduced



working hours (non-worked hours) while other countries (such as Ireland and Australia for example) took a different approach, in which they supported all employees if the required conditions were fulfilled. Thus, the latter's support was not limited to employees with reduced working hours,⁽¹⁾ but instead it included all employee categories.

- Other measures to protect employment and to prevent unemployment rates from rising include for example not permitting employers to terminate employment contracts or placing restrictions and conditions on the termination of contracts.
- We have also noted that some governments, such as for example the governments of Germany and France, reintroduced and reinforced former schemes; schemes that were previously launched to face challenges

such as the global financial crisis, while other countries created and implemented new programs.

We are of the opinion that this denotes the positive outcome of crises, as governments learn from their previous experiences and the experiences of other countries to prepare and create schemes and policies that are appropriate to extraordinary circumstances, and which are implemented to alleviate the effects of any future crises and improve future global resilience. The following is a brief overview of key measures taken by governments worldwide, noting that we have examined the Jordanian Government approach previously in the third edition of our Newsletter.

Firstly: The Kingdom of Saudi Arabia

The Saudi approach might be the closest to the Jordanian one, as the Saudi Government issued on 13/08/1441 A.H.

¹ For more details, please visit <https://www.instituteforgovernment.org.uk/coronavirus-support-workers-comparison>



(7/04/2020 A.D.) a ministerial decision that added a new article, article No.41, to the Executive Regulation of the Labor Law to regulate the matter of wage reduction and to limit its scope by stipulating certain requirements to be met, which states the following:

“In the implementation of Paragraph 5 of Article 74 (seventy-four) of the Law:

1- In case the country has taken measures, as it considers appropriate or as recommended by a competent international organization, regarding a condition or circumstance that entails reducing working hours or taking precautionary measures to limit the exacerbation of that condition or circumstance, which is included in the stated description of force majeure in Paragraph 5 of Article 74 of the Law, the employer initially agrees with the employee (within the six months

following the commencement of taking those measures) on any of the following:

- ***Reducing the employee’s wage, in proportion to the number of actual working hours.***
- ***Granting the employee leave to be deducted from his/her annual leave days.***
- ***Granting the employee exceptional leave in accordance with what is stated in Article 116 of the Law.***

2- Afterwards, it will be unlawful to terminate the employment contract if it was proven that the employer has benefited from any national subsidy to face that condition.

3- Notwithstanding the aforementioned, the employee has the right to terminate the employment contract.”²

² Please note that this is an unofficial translation from Arabic language in English of article No.41 of the Executive Regulation of the Labor Law (KSA).



By examining this article, it is clear that the rationale behind the issuance of such a decision was to protect the private sector, to provide support for the sectors affected by the Corona virus, and to safeguard employment opportunities as much as possible.

This article included a set of measures that both the employer and the employee must take into consideration prior to invoking the force majeure concept. The Saudi Ministry of Human Resources and Social Development published an explanatory memorandum that explained in detail those measures and their requirements. In this section, we will present only a part of what was included in that explanatory memorandum.

In regards to the matter of wage reduction,

there are a few requirements that must be fulfilled, which are:

- a. The reduction should not exceed 40% of the employee's actual wage.
- b. The reduction should be effected within the stipulated time period, taking into consideration that another ministerial decision was issued to extend that period.⁽³⁾

Upon completion of the aforementioned period, the employer must continue paying the employees their full wages (as they were before reduction).

We note that the Saudi regulation of wage reduction is different from the Jordanian regulation,⁽⁴⁾ as the former was general and comprehensive of all categories; full time, part time, working and non-working

³ It should be noted that the period for the application of these measures was no longer limited to six months, but on 13/02/1442 A.H. (01/10/2020 A.D.). it has been extended to be nine months by the decision issued by the minister of Human Resources and Social Development.

⁴ It should be noted that Article 41 of the Executive Regulation of the Labor Law stated that wage reduction should be proportionate to the actual working hours.



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employees. It also unified the reduction rate for a long period of time. On the other hand, the Jordanian regulation was rather detailed, as it dealt with each category separately.

Also, the reduction rate was inconsistent, as it varied continuously depending on the time period and the nature of the employee's work. ⁽⁵⁾

In regards to the rest of measures, they can be summarized as measures that allowed employers during the aforementioned period to place employees on paid annual leave (according to the wage before reduction) and/or unpaid exceptional leave upon the request of the employee.

It should be noted that the right to take the aforementioned measures was limited to the sectors affected by the condition/circumstance, which means that establishments that were not affected by

Corona virus had no right to adopt these measures. In this respect, we note a similarity between the Saudi policy and the Jordanian policy.

Lastly, it should be noted that the Saudi Ministry of Human Resources and Social Development has now announced the end of implementation of article 41 of the Executive Regulation of the Labor Law, as of 13/01/2021.

Secondly: Japan

We find that the Japanese Government has widened the scope of its protection of both employees and employers, as it has not viewed them in the light of their work status, but rather as a part of the Japanese community. Thus, it has spread its assistance widely and limited the number of requirements as much as possible. Here is a simple overview of some of the measures taken in Japan.

⁵ Please see the third edition of Hammouri & Partners Newsletters for more information on the Jordanian regulation of this matter.



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The initial Japanese Government approach was to pay (300000) yen (that is equivalent approximately to 2891 USD) to employees who lost their jobs or who had their wages reduced. However, it swiftly changed its approach and decided to pay every resident in Japan (100000) yen tax exempt (that is equivalent approximately to 964 USD).⁽⁶⁾ This denotes that the Japanese Government expanded the eligibility scope for the cash payments. It also offered other financial subsidies, such as an additional subsidy to those who have children and it granted loans to those who faced difficulties to pay their living expenses as a result of a decline in their income.⁽⁷⁾

One of the most prominent measures taken by the Japanese Government was

the supportive measure for employers. The Japanese Government revised a governmental system, known as the “Employment Adjustment Subsidy” to be more suitable and responsive to the pandemic⁽⁸⁾ by expanding the scope of eligibility for the subsidy and by easing its procedures.

This system aims at supporting employers who were forced due to the pandemic to reduce the size or suspend their business, including putting their employees on leave or reducing their working hours. Through this system, the Japanese government contributes to the payment of leave allowance provided its requirements are fulfilled.

⁶ Including foreign residents except short-term residents and unregistered residents.

⁷ For more information about other measures taken in Japan in response to the effects of Corona virus, please visit https://www.s-ge.com/sites/default/files/static/downloads/emergency_economic_measures_to_cope_with_covid-19.pdf

⁸ For more information about the system, please see <https://www.ccifi.or.jp/en/news/news-detail/news/quick-guidance-for-employment-adjustment-subsidy.html>



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Thirdly: Germany

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The German Government could foresee that establishments affected by Corona virus might reduce the number of working hours, and as a result reduce the wages. To avoid depriving the employees of their wages as a consequence of reduced working hours, the Government applied the “short time work/Kurzarbeit” scheme, which is a scheme that was founded a long time ago to overcome economic difficulties in Germany. In fact, it was previously implemented in 2008/2009 to combat the effects of the global financial crisis. It should be noted that the German Government modified the scheme to better fit the current circumstance of the Corona virus pandemic. This scheme aims to enable establishments to maintain employment opportunities during the pandemic, as the scheme would cover a percentage of the employees’ wages in an

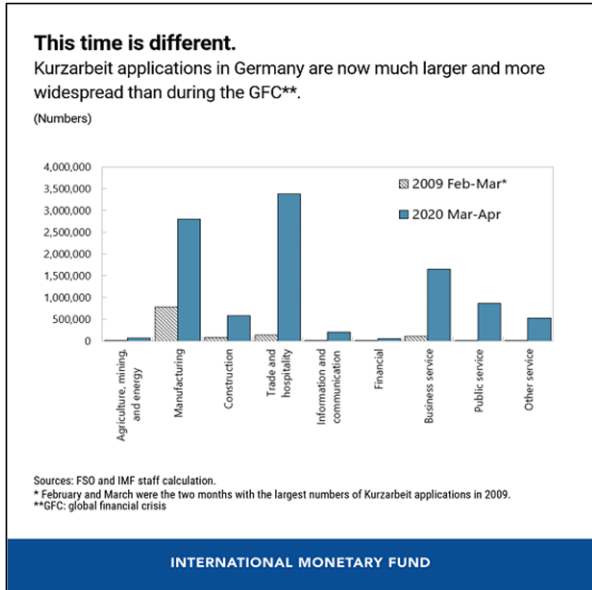
effort to reduce the financial burden on employers. The scheme’s coverage increases if the employee has children.

We can conclude that the main goal for governments who took similar approaches to that of the German Government is to reduce the number of lost jobs due to the pandemic and to save employment at large.

Below is a graph titled “This time is different” that was published by an international organization that shows the number of submitted applications to benefit from the program back in February and March 2009 in order to overcome the consequences of the global financial crisis and the number of applications submitted in March and April 2020 to benefit from the program in order to face the effects of the Corona virus pandemic.⁽⁹⁾

⁹ In line with the IMF policy we also ask you kindly to comply with the International Monetary Fund’s Copyright and Usage terms found on their official website.





Source: International Monetary Fund (IMF)

By looking at the figures, we note that the number of applications submitted in 2020 is substantially higher than those submitted in 2009, indicating the immense and unprecedented effects of the Corona virus pandemic on employment, which require more efforts to overcome.

Fourth: Italy

Italy took a set of general measures to deal with the suspension of work and/or the reduction of working hours. The measures targeting commercial and industrial establishments mainly consisted of three programs,⁽¹⁰⁾ whereby all these programs pay the employees' wages for a certain period of time. More specifically, the first program applies when a temporary crisis affects the establishment; in particular, establishments in the industry field. The second program applies when the number of employees in an establishment exceeds a certain number (over 15 employees in the industrial sector and over 50 in the commercial sector) and it applies in the cases of occurrence of a crisis or of a (corporate) restructuring.

If the requirements of these two programs are not met, the establishment may benefit from the third program that applies if

¹⁰ Cassa Integrazione Guadagni Ordinaria, Cassa Integrazione Guadagni Straordinaria, and Wage Integration Fund (FIS)



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work was suspended or reduced, provided that the number of employees exceeds 5.⁽¹¹⁾

We note that the Italian Government approach varied depending on the nature of the sector and the difficulties it endures. The implementation of several programs and tools indicates that the Italian Government's objective was to provide the highest amount of support to both employers and employees by applying the most appropriate programs to the size of the establishment, the number of its employees, and the challenges it faces.

Fifth: Denmark

In regards to the approach taken by the Danish Government on the subject matter, we will only present what piqued our interest, for we have noted that the Danish

Government has dealt with the smallest details. For instance: The employer was not obliged to pay for sick leave benefits when the employee's sickness was due to Corona virus, but instead the government would cover those benefits. The Government has also offered financial subsidies for startups and other subsidies for the self-employed (however, there is a limit to the compensation offered).⁽¹²⁾

We find that the aforementioned measures demonstrate how the Danish Government sought to protect all categories in the community despite the nature of their work, years of service and size of company.

In conclusion, we note that the approaches taken by countries worldwide were not the same, as different countries

¹¹ For more details about these schemes and other measures & schemes in Italy , please see <https://www.klgates.com/COVID-19-Italian-Public-Schemes-and-Social-Measures-During-COVID-19-Emergency>

¹² To know more about the measures taken by the Danish Government, please see <https://home.kpmg/xx/en/home/insights/2020/04/denmark-government-and-institution-measures-in-response-to-covid.html>



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have adopted different policies with regard to the protection of employees' wages during the Corona Virus pandemic. Some countries took similar steps and policies to what they had previously applied in other crises, such as the global financial crisis, and a few of these countries enhanced their former policies to become more responsive to the current circumstances. Other countries launched new programs and formulated novel policies. We also find that wage subsidy is one of the most prominent common policies across a large number of countries. Recently, the Jordanian

Government started to adopt this policy as we have shown in the previous third edition of our newsletters.

It should be noted that what we have included in this newsletter does not cover all the policies or measures on the subject matter taken by the countries mentioned here, but it only sheds the light on some of the key measures adopted by different countries. This newsletter aims to point out the variety of international policies and measures adopted by governments in relation to employee wages during the pandemic.

If you would like to discuss further any aspects of this Newsletter, please feel free to get in touch with one of our lawyers, using the contact details in the Contributors Section.

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Warm regards,

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ABOUT HAMMOURI & PARTNERS ATTORNEYS AT-LAW

Hammouri & Partners is a Jordanian multi-practice law firm, founded over two decades ago (established in 1994) by Professor Mohammad Hammouri. Professor Hammouri is the Chairman and Chief Senior Council of Hammouri & Partners Attorneys at-Law, a renowned attorney in Jordan, both as a litigator as well as an arbitrator, a former Minister of Higher Education and a former Minister of Culture and National Heritage, who wrote a plethora of books and articles, primarily on constitutional rights. Professor Mohammad Hammouri also founded the first School of Law in the Hashemite Kingdom of Jordan at The University of Jordan, in which he was its first dean. Today, the firm is managed by Dr. Tariq Hammouri, an academic, attorney and a former Minister of Industry, Trade and Supply at the Jordanian government. Dr. Hammouri is both an experienced attorney and arbitrator in the Corporate sector, Commercial Transactions, Financial Markets, Banking, International Trade and negotiations. He is an Associate Professor at the School of Law, University of Jordan and (formerly) the dean of the School of Law.

Hammouri & Partners team consists of 24 attorneys and a number of other professionals working in the firm's specialized departments, providing professional legal services at a local, regional and international level.

The firm's legal services cover numerous areas of practice, including the following: Corporate and Commercial Law (whether that is corporate set-up or drafting of all types of commercial agreements), Intellectual Property law, Banking and Finance Law (the Firm advises local and international banks regarding all Banking Transactions and Regulatory Compliance). Additionally, the Firm's Litigation and Arbitration department has the capabilities and competence to represent parties in the most complex and novel legal matters, as it encompasses expertise in several areas of law, whether it is before courts and arbitral tribunals. Hammouri & Partners Attorneys at-Law was one of the first firms in Jordan to establish a specialized International department to cater for the needs and requirements of international clients on an array of tasks with an international element, such as those regarding bilateral and International Trade negotiations, projects, contracts and others.

In addition, Hammouri & Partners provides legal advice and consultation to various industries such as those of Construction & Infrastructure, Manufacturing, Engineering, Trade, Insurance and Energy, as some of its clients are major energy, healthcare, information technology and telecoms companies.

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