

Rödl & Partner

NEWSLETTER HUNGARY

MUTUAL SUCCESS

3/2020

Latest News on law, tax and business in Hungary

www.roedl.de/ungarn | www.roedl.com/hungary

Read in this issue:

- COVID-19 pandemic in Hungary - Short-time work subsidies
- Foreword
- Comparison of the German and Hungarian regulations on short-time work
- Alternatives to Hungarian short-time work subsidies
- Summary

→ COVID-19 pandemic in Hungary – short-time work subsidies

FOREWORD

In this issue of our newsletter, we compare the legislation on short-time work in Hungary with the current legislation on short-time work in Germany introduced in order to overcome the negative effects of the coronavirus pandemic on economy. In addition, we list some possible alternatives for short-time work in Hungary. In our previous newsletter, we already referred to the regulations recently introduced in Hungary aimed at supporting jobs in the field of research and development, so we will not discuss them separately in this newsletter.

SHORT-TIME WORK IN GERMANY AND HUNGARY – COMPARISON

The introduction of short-time work for a given company usually serves to cover temporary downtime and to avoid redundancies that may become due to operating conditions. Short-time work regulations provide a relief for companies in terms of their personnel costs in a crisis situation without them having to lay off workers immediately.

In order to compensate, at least in part, for the resulting loss of income for the employees, the employer may apply to the German Federal Employment Agency for a short-time work subsidy (“Kurzarbeitergeld”). The purpose of state subsidies is to reduce threats to the survival of companies and to prevent permanent redundancies.

The subsidy in its current form was already introduced in Germany decades ago and, in the event of special circumstances, it was adapted to those circumstances. This was the case more recently as a result of the economic crisis of 2008/2009, when certain parameters were extended – e.g. the duration of the Subsidy was extended to two years at the time – and employers were granted significant exemptions from social security contributions. In May 2009, roughly 1.5 million people in Germany received short-time work a subsidy, many of whom would have lost their jobs without this subsidy. The current modifications are presented in the comparison below.

Following the German example, the Hungarian government planned to introduce its own version of the subsidy adapted to the Hungarian conditions and needs. However, it will only become clear in the coming months whether and to what extent the short-time work subsidy announced by Government Decree 105/2020 (IV.10.) entering into force on 16 April 2020 meets the needs and expectations of market participants.

Below, we compare the current legislation on short-time work in Germany (DE) and Hungary (HU). In doing this, we address the potential weaknesses and critical points in the current Hungarian regulations.

MAIN FEATURES OF THE GERMAN AND HUNGARIAN REGULATIONS ON SHORT-TIME WORK

Rate of loss of work covered by the short-time work subsidy:

DE	10% - 100%
	In a given calendar month, at least 10% of employees were affected by a loss of income of more than 10% of their gross monthly salary (COVID-19 pandemic special regulation, valid until 31 December 2020, previously it was one third of employees).
HU	30%, 40% or (max.) 50%
	Hungary currently has strict regulations on loss of work which set forth specific percentages. There is no entitlement to short-time work subsidy if the loss of work is less than 30% or more than 50%.

Maximum period of disbursement of the short-time work subsidy:

DE	12 months
HU	3 months

The basis for calculation of the individual short-time work subsidy:

DE	The calculation is based on the net difference between the flat-rate net wage and the employee's target wage, which is maximized in the value of the social security contribution estimation thresholds (for 2020: 'old provinces': EUR 6,900, 'new provinces' EUR 6,450).
HU	The subsidy is calculated on the basis of the net wage for the duration of the loss of work, taking into account the upper limit of the proportional net wage which is the double of the minimum wage (gross HUF 322,000, net HUF 214,130 x 0.5 x 0.7 = HUF 74,946, if the loss of work is 50%).

Rate of the short-time work subsidy:

DE	The rate of the subsidy is 60% of the net wage difference for the month in which the activity ceases. The subsidy rate increases to 67% if the employee is eligible for child support. In Germany, a claim for subsidy can also be asserted in the event of 100% loss of work. Subject to the upper limits, the net amount in this case may be up to EUR 2,500 .
HU	The employer must ensure that the net wage during the period for which the subsidy is granted corresponds at least to the employee's wage for 'downtime' (absence pay). This regulation applies a maximum of twice the minimum wage. The subsidy is 70% of the net wage of the lost wage and the upper limit of the subsidy is HUF 74,946 (ca. EUR 210) .

Payment of the Subsidy to the employees:

DE	The payment is made through the employer and the reimbursement will be made ex-post through the German Federal Employment Agency.
HU	Payment is made by the competent authorities directly to the employees.

Accumulating negative working hours:

DE	Under the COVID-19 special regulation, the accumulation of negative working hours is ignored before the subsidy is paid. Until now, the relevant agreements with employees had to be used up before the subsidy could be paid.
HU	Under the new Government Decree (GD 104/2020. (IV.10.)), companies have the right to unilaterally decide to impose a working time limit of 24 months (previously it was 4 months). This may result in workers accumulating a significant number of negative working hours during a crisis, which they then have to work after the crisis. If a company has a negative working hours policy, this option must first be exhausted before applying for the subsidy.

Further wage-earning opportunities:

DE	Income from newly introduced ancillary activities in systematically relevant sectors and professions (including trade and transport) for the period from 1 April 2020 to 31 October 2020 shall not be considered in the amount of the subsidy until the amount of the original wage has been reached. There is a separate COVID-19 pandemic regulation in this context. Otherwise, this is included in the amount of the subsidy.
HU	If the employee performs ancillary activities, the entitlement to the subsidy will normally cease.

Social security contribution:

DE	Social security contribution is also payable for the period covered by the subsidy and is calculated on the basis of a notional wage. These amounts are to be paid by the employer himself, but for the period from 1 March 2020 to 31 December 2021, they will be reimbursed to it by the German Federal Employment Service as a flat-rate amount under the COVID-19 pandemic regulation.
HU	Social security contributions are paid by the employer in respect of the wage components for which it is responsible, and these are not reimbursed . There are exceptions in certain industries.

Income tax on the short-time work subsidy:

DE	The short-time work subsidy is essentially tax-exempt but must be reported in the tax return and, due to the progressive tax rate, it leads to the application of a higher tax rate for taxable income components.
HU	Income tax is payable on a certain part of the subsidy paid by companies for the duration of the loss of work.

Submitting applications for the short-time work subsidy:

DE	It is submitted by the employer (or the works council) and must be enclosed with the current agreement with the works council or the employee.
HU	The registration of short-time work and the application for the relevant subsidy shall be filed jointly by the employer and the employee.

Prior to the introduction of the short-time work subsidy, the Hungarian government has repeatedly emphasized that the aim was to introduce a slightly modified form of short-time work that is similar to the German regulations. The above comparison shows the differences from the German regulations, as well as the fact that some of the differences are so big that their use by the majority of employers affected by the crisis seems rather questionable. Other transitional measures may, where appropriate, lead to better solutions for companies and employees.

Key points that make it difficult to apply for the short-time work subsidy:

- strict requirements for downtime with 30, 40 and 50% of working time (corresponding to e.g. 2.4, 3.2 and 4 hours per day),
- a period of only 3 months seems to be very limited,
- the rate of the subsidy is low,
- it generates wage costs for a period in which no work is done,
- social security contribution must also be paid for the period of loss of work,
- the statistical number of employees may not be reduced,
- further training or other useful activities should be carried out outside working hours, but it is not yet clear what exactly constitutes a 'useful activity',
- there are a number of requirements in the context of submitting an application for the subsidy.

In addition to what is listed above, there are a number of other requirements and restrictions that must be complied with in Hungary when applying for a Subsidy. Special requirements may arise in the case of foreign employees who work in Hungary at branch offices, operating sites or otherwise with local employers.

If we look at the list above and the other aspects, and think over the situation from a company-specific point of view, in many cases it seems to be better to look for alternative solutions to get through the crisis.

ALTERNATIVES TO HUNGARIAN SHORT-TIME SUBSIDIES

The advantage of legally defined short-time work is that when the situation of commercial orders improves, employees are immediately available

full-time and there is no need to find and train new employees. However, as the current regulations on short-time work subsidy in Hungary are very strict and offer only limited savings for businesses, the question arises as to what alternatives to the Subsidy are available in order to minimize the effects of the crisis to as low as possible.

Examples of alternative solutions could include:

- paid leave,
- unpaid leave,
- introduction of a 24-month flexible working time schedule,
- reduction of working time,
- reduction of wages,
- termination of employment.

The decision on which option to choose or which one should be used always depends on company-specific circumstances. This may include e.g.:

- expected duration of low demand
- attitudes of the employees/works council to the possible alternatives,
- social compatibility,
- costs of redundancy,
- time needed for training new employees,
- possible impact on corporate image, etc.

SUMMARY

After the announcement of the Hungarian short-time work subsidy based on the successful German model, the expectations were quite high. Even greater was therefore the frustration after the promulgation of the Government Decree on short-time work. It is questionable whether the current subsidy regulation in Hungary will be able to make a significant contribution to retaining jobs and whether companies will not resort to alternative solutions to overcome the crisis. A comparison of the German and Hungarian regulations on short-time work shows that there are major differences, and the Hungarian regulations, in contrast to the German model, significantly limit the benefits of using the subsidy.

If you have any questions about the topics discussed above or have specific concerns about your Company, please contact our colleagues in our relevant departments who stand at your disposal at any time. You can also consult our colleagues on the application procedure for short-time work, as well as on the specific details of possible alternatives. The same applies to the 40%

wage compensation for employees working in research and development, for whom a separate Government Decree (103/2020. (VI.10.)) has been promulgated.

We will continue to inform you of further selected developments and new measures taken by the regulators in relation to the coronavirus crisis.

CONTACT FOR MORE INFORMATION



Dr. Roland Felkai
Partner

Partner
+36 1 8149 800
roland.felkai@roedl.com

Imprint

Newsletter Hungary | Issue 3/2020

Publisher:
Rödl & Partner Budapest
Andrássy út 121
1062 Budapest
T +36 1 8149 800
www.roedl.com/hu

Responsible for the content:
Dr. Roland Felkai
roland.felkai@roedl.com

Layout/Type:
Dr. Roland Felkai

This Newsletter offers non-binding information and is intended for general information purposes only. It is not intended as legal, tax or business administration advice and cannot be relied upon as individual advice. When compiling this Newsletter and the information included therein, Rödl & Partner used every endeavour to observe due diligence as good as possible, nevertheless Rödl & Partner cannot be held liable for the correctness, up-to-date content or completeness of the presented information.

The information included herein does not relate to any specific case of an individual or a legal entity, therefore, it is advised that professional advice on individual cases is always sought. Rödl & Partner assumes no responsibility for decisions made by the reader based on this Newsletter. Should you have further questions please contact Rödl & Partner contact persons