

# Update on Labor and Employment-Related Measures Aiming To Combat the COVID-19 Epidemic and Its Effects

Skadden

April 28, 2020



If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

---

## Philippe Despres

Of Counsel / Paris  
331.5527.1156  
philippe.despres@skadden.com

## Nicolas Etcheparre

Associate / Paris  
331.5527.1146  
nicolas.etcheparre@skadden.com

## Carine Louyot

Associate / Paris  
331.5527.6104  
carine.louyot@skadden.com

---

This memorandum is provided by Skadden, Arps, Slate, Meagher & Flom LLP and its affiliates for educational and informational purposes only and is not intended and should not be construed as legal advice. This memorandum is considered advertising under applicable state laws.

One Manhattan West  
New York, NY 10001  
212.735.3000

68, rue du Faubourg Saint-Honoré  
75008 Paris, France  
331.5527.1100

On April 13, 2020, the French government announced that the lockdown measures in force since March 16, 2020, will remain in force until at least May 11, 2020. The government is still working to produce a road map for how to end the lockdown, continuing to determine the approach. Additionally, on April 17, 2020, the parliament voted to expand the budget for the state of emergency and increased it to €110 billion for the current fiscal year, primarily to cover the extended duration of the lockdown period.

On April 13, 2020, the French government also announced and implemented a variety of measures or revisions to existing ones, specifically to adapt them to the extended duration of the lockdown and ensuring their operation at least until May 11, 2020.

### Measures Relating to Temporary Layoffs

On April 16, 2020, the French government published a decree providing additional information on the conditions under which employers will be reimbursed for the indemnity paid to employees put on temporary layoff (TLO) and working under a days-per-year or hours-per-year scheme, or paid to top executives that are not subject to working time regulation. The decree also details the conditions under which bonuses should be included in calculating these employees' indemnities.

On April 22, 2020, the French government published an ordinance that provides which employers may now use TLOs on an individual scale, meaning they can request that specific employees be assigned to TLO, which was not possible previously. To do so, employers will either need to sign a companywide or industry-level collective bargaining agreement on this issue, or consult their works council and obtain a positive opinion in that forum.

Additionally, the April 22, 2020, ordinance modifies the applicable tax and social security treatment of indemnities paid above the statutory threshold (*i.e.*, 70% of the employee's gross salary). Starting May 1, 2020, such indemnities will be fully subject to social security contributions and income tax for the amount that is in excess of approximately €4,850.

### Measures Relating to Sick Leave

Starting May 1, 2020, employees currently using sick leave to take care of a person under the age of 16 or a person who is classified as vulnerable to the coronavirus illness will automatically be put on TLO.

# Update on Labor and Employment-Related Measures Aiming To Combat the COVID-19 Epidemic and Its Effects

---

## Recent Case Law on COVID-19 and Health and Safety

Though most trials have been suspended for the duration of the state of emergency, jurisdictions can still hear plaintiffs regarding urgent matters, in particular those pertaining to health and safety, and several decisions were delivered over the past few weeks regarding such issues.

Key decisions were delivered against Amazon, regarding the health and safety of its employees working in warehouses. On April 16, 2020, a judge issued an emergency order that the company cease all operations except for those pertaining to the handling of goods that are deemed essential under the current COVID-19 regulations (food, hygiene and medical supplies) until the company evaluated the health and safety risks tied to

its continued operations during the current pandemic, with the agreement of its works council. The decision provided for a fine of €1 million for each day of noncompliance. Amazon appealed the decision and closed all of its French warehouses until the court of appeals rendered its decision on April 24, 2020. The court of appeals confirmed the decision of the first judge but added three caveats that: (i) expanded the list of goods that can be handled in warehouses, in particular to include office supplies; (ii) changed the fine to €100,000 for each instance of noncompliance (for example, for each item handled by employees that was not on the list of allowed items); and (iii) gave Amazon an additional 48 hours to comply with the decision before the fine is applied.