

II. Set of Recommendations for Economic Relief

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American Chamber of Commerce in Croatia *Američka gospodarska komora u Hrvatskoj*

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Introduction

The American Chamber of Commerce in Croatia welcomes and supports the efforts of the Croatian Government to help entrepreneurs overcome the period of crisis caused by the COVID-19 pandemic, ensure liquidity and protect jobs. AmCham additionally welcomes and supports the second set of amended economic measures adopted by the Croatian Government in April designed to additionally facilitate businesses in the upcoming period. There are indications that the Croatian Government is considering amongst other, reallocation of EU funds in order to finance the economic measures, which is also strongly supported.

We deem it hugely important to ensure simple and rapid application of the adopted measures in the upcoming period and to extend their duration. As regards the employment-preservation measures, we support an increase of financial aid to entrepreneurs aimed at maintaining the number of employees, but we think an introduction of new legal models of employment should also be considered for the duration of the anti-epidemic measures, taking cue from the countries in the region.

We also believe that in order to help the economy and companies, this is the right time to revise all the obligatory parafiscal charges and decide on their significant reduction, that is abolishment.

Considering the wide array and frequency of modifications of the economic measures aimed at supporting the economy which is in the domain of several different ministries, we propose a consolidation and presentation of the adopted measures in one place, e.g. in tabular form, containing links to details of measures presented on websites of various ministries and institutions. The existing website www.koronavirus.hr of the Croatian Government could be used for the consolidated overview of the economic measures.

Proposed additional economic measures

Introduction of "furlough leave"

Employers of workers who are forced to stay at home but are unable to work from home because of the nature of their jobs and therefore the obligations under their employment contract cannot be fulfilled, are currently in an unenviable position. In order to protect jobs in all business entities regardless of their sector of industry, we propose the introduction of a number of new legal categories of employment such as furlough leave whereby employees are entitled to compensation paid from the Government budget (equal to unemployment benefit), but employers retain such

workers in employment and “recall them to work” when the extraordinary situation ceases to exist, triggering reactivation of all employment rights and obligations.

- The basis for calculating the furlough benefit would be equal to that of the unemployment benefit which is paid from the Government budget. Workers would remain employed until the end of application of the anti-epidemic measures, after which the rights and obligations arising from employment would be activated *ex nunc*.
- During the furlough leave, employers would not be liable to pay healthcare and pension insurance contributions, personal income tax, surtax on the personal income tax and mandatory contributions.
- The proposed furlough leave would only be available if a particular worker performs tasks encompassed by the anti-epidemic measures and he/she is therefore prevented from accessing his/her workplace and/or perform contractual work assignments and he/she cannot perform them from home, i.e. if the employer cannot provide work to the worker due to the above measures.
- We propose that this measure applies to all sectors and activities regardless of the size of company.
- The worker would receive compensation equal to the unemployment benefit.

We point out that payment of such compensation would be of a temporary nature – until the end of application of the anti-epidemic measures. We deem the temporary compensation a suitable solution in the current circumstances imposing no additional burden on the business sector because the Government budget would still be liable to pay the compensation if the workers were to become recipients of the unemployment benefit.

To facilitate a better overview, we also refer to the Croatian Employment Service’s website:

The unemployment benefit corresponds to 60% of the basis in the initial 90 days of unemployment and 30% of the basis in the remaining period. The maximum and the minimum amounts of compensation are also prescribed. The maximum amount of compensation depends on the average salary paid in Croatia in the previous year and may not exceed 70% of such salary in the initial 90 days of unemployment, after which it may not exceed 35% of the amount of such salary. The lowest amount of compensation depends on the minimum salary in Croatia net of mandatory insurance contributions. Compensation may not amount to less than 50% of the amount of such salary. <https://hzz-helpdesk.kadei.cloud/251703-Koje-sve-uvjete-trebam-ispunjavati-za-ostvarivanje-nov%C4%8Dane-naknade>

Using available sources for illustration, we also present a calculation of the unemployment benefit relying on the average salary paid in 2019:

- The average monthly net salary paid to employees of legal persons in Croatia in 2018 amounts to HRK 6,242. Therefore, in the first 3 months, the maximum amount of financial compensation is HRK 4,369. Upon expiry of the 3 month-period, this amount may not exceed HRK 2,184. Those are the maximum amounts of unemployment benefits allowable in 2019.
- The lowest amount of compensation may not be lower than 50% of the minimum salary net of mandatory insurance contributions determined by separate regulations unless the amount of compensation is determined on a pro rata basis considering the proportion of hours worked. Example: The minimum net salary in 2019 amounts to HRK 3,000. Therefore, the minimum amount of compensation which may be paid is HRK 1,500.

We would like to point out that a similar measure has been put forward by the Government of Slovenia: Slovene employers will have to pay furloughing employees a compensation corresponding to 80 percent of the average salary paid in the last three months, of which 40 percent will be contributed by the state. The Government of Slovenia is currently also preparing emergency legislation on furlough co-financing whereby it would co-finance 40 percent of the salaries paid to all healthy employees unable to work from their homes, for which it earmarked a total of €51.5 million. Once enacted, the act should remain in force until September.

We are aware that Croatia's Government budget would not be capable of supporting a measure commensurate with the Slovene one. Therefore, we are proposing pegging it with the unemployment benefit which would still be paid by the state if the workers turn to the Croatian Employment Service instead of being furloughed. We deem the proposed measure benefits workers in circumstances which are beyond the control of employers.

The following realistic example is used to depict a specific situation: A worker cannot go to work due to the anti-epidemic measures in place, he/she cannot work from home (because his/her work is such that it cannot be done from home), the employer does not have the funds to pay his/her salary and activates the furlough category. The state protects a job by paying the compensation (equal to the unemployment benefit), but once the anti-epidemic measures are no longer in effect, the worker immediately resumes working for the employer and the employer starts to pay his/her salary. Without the furlough option, the worker turns to the Croatian Employment Service, the employer loses a worker and the worker becomes a recipient of the unemployment benefit paid from the Government budget.

Introduction of percentage-based participation in coverage of costs of salaries

AmCham proposes an introduction of a state subsidized employee salary amount ranging from the current HRK 4,000 to the maximum net amount of HRK 8,000 (with the state covering gross II for the above amounts). This measure refers to the state aid of up to maximum 70% of net salary with its gross amount, but not exceeding HRK 8,000, while the rest is covered by the employer. This proposal is aimed at highly skilled workforce whose salary contribution to the state budget in regular times is higher, so it is to be expected that in these current circumstances the percentage of their subsidized salary amount is higher as well. The measure is also aimed at their retention in Croatian companies who face the danger of losing these employees to the companies whose economies have the possibility of providing higher employee support schemes and thus higher salaries. This directly supports the competitiveness of Croatian companies and prevents them from being ousted from the market since it can be expected that economies and companies with more substantial employee support schemes will recover faster after the crises. The goal of this measure is to allow employers pay their contractual obligations to employees, thus avoiding the need for additional partial support measures.

Write-off of tax and contributions on salaries for all economic entities whose activities are affected by COVID-19

Considering the circumstances, it is reasonable to expect that both small and large companies will be equally exposed to unfavorable economic effects. Namely, it is certain that small businesses will be the first to suffer from the above adverse effects, but the impact will also be indirectly transferred to larger companies doing business with the small entities creating a chain reaction extending to all economic entities.

Accordingly, the aid announced by the Government involving a write-off of tax and other contributions certainly is a step in the right direction. However, it is not acceptable to limit the right to a complete write-off in a manner affording them to small taxpayers only (2019 income < HRK 7.5 million) while partial write-offs or postponement / payment in installments apply to others.

Namely, such a measure has a very short-term effect and even though it provides relief regarding the lack of liquidity over the next several months, it is a significant burden to taxpayers in the period following the termination of the special circumstances. Since the capacity of the economic entities to kick-start the economic recovery at an accelerated pace in the period following the end of the special circumstances is of key importance, we deem it particularly important not to burden the companies with tax liabilities incurred in the crisis period.

In this respect, taxes and contributions on salaries are especially important because their amount directly affects the employers' motivation to retain employees or

otherwise. If employers are subsequently required to settle taxes and contributions on salaries, many employers will not retain employees, leading to an outflow of high-quality workers which are hard or impossible to replace in the future. Namely, even though certain measures to protect jobs have been introduced, they are not sufficient to provide compensation for a highly educated workforce and it is likely that a large number of such workers will find themselves out of work.

Following the above, we propose an extension of the scope of the measure involving a write-off of tax and contributions on salaries to include all companies whose activities are affected by COVID-19 regardless of their size (i.e. the level of income generated in 2019).

A reduction of the regulated part in the final price of electricity

In the regulated part of the final price of electricity, the entrepreneurs are charged:

- A fee for renewable energy sources regulated by the Renewable Energy Sources and High-Performance Cogeneration Act and the Decision on fee for renewable energy sources and high-performance cogeneration prescribes that it shall be paid by all end users;
- A charge as compensation for the use of the transmission and distribution network paid by all buyers of electrical power regardless of their provider;
- Excise duty;
- Value added tax.

Since the fee for renewable energy sources is a parafiscal tax costing the entrepreneurs, according to the available data, nearly a billion Croatian kuna, we propose a **reduction of the fee for renewable energy sources**.

In the Commission report to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions "Energy prices and costs in Europe" (hereinafter: the Report) it is stated that in certain states, industry is often entirely exempt from or faces lower electricity taxes and levies than households and that industry faces lower network charges than households.

Even though it is difficult to find comparable data by state, the studies initiated by the European Commission have allowed comparisons which indicate that the price of electricity for industry in Croatia ranks among the five most expensive in the world, considering data for 40 countries. Among comparable countries, Slovenia is ranked 16th, Hungary is 14th and Croatia ranks 35th in terms of the price of electricity.

In order to reduce the regulated part of the final price of electricity, one of the measure can be a **reduction of the price of the network charge**.

The network charge for entrepreneurs was reduced in 2019 (compared to earlier years), but the reduction has been relatively small in relation to other countries in the region. For example, the network charge is lower by €8/MWh in Slovenia and, in case of large consumers requiring more than 100,000 MWh of electricity per year, an entrepreneur in Croatia would incur €2 million of additional production costs for equal consumption of electricity.

Reduction of network charges for both transmission and distribution networks could be implemented by increasing the cost efficiency of both network operators, HOPS (Croatian Transmission System Operator) and HEP ODS (HEP Distribution System Operator). That is, by increasing the efficiency of HOPS and HEP ODS operations, their operating costs would be reduced. In this way, through a methodology for calculating network charges, the regulator would grant lower revenues to operators and thus lower network charges for all customers. What should be taken into consideration is that this measure should not reduce their ability to invest in network development, but only increase their cost-efficiency.

Therefore, the abolishment or reduction of the fee for renewable energy sources as well as reduction of the price of the network charge are possible measures to ameliorate the economic crisis caused by the COVID-19 pandemic contributing inter alia to achieving the objectives set out in the Action Plan for Administrative Burden Reduction adopted by the Croatian Government.

Introduction of additional measures for tourism

It is already very likely that the year 2020 will be, *ceteris paribus*, the year of a significant decline in tourism globally. In the context of healthcare, the number of infections is expected to rise as the pandemic is accelerating,¹ additionally diminishing expectations of a speedy recovery of tourist demand in 2020. No adequate pharmacological substance has been demonstrated to affect recovery from or prevention of the COVID-19 disease. Trials of a number of potential medications are underway, but reliable results may only be expected in 2021.

In such conditions, it is clear that the existing physical measures restricting social contact will continue to apply until the spread of the virus is controlled adequately. Regardless of this, it is apparent that the entire summer season in Europe will be characterized by very restricted movement of tourists, if any at all, unless warm weather slows down the virus significantly or causes it to disappear altogether. Even in the event of recovery, states are likely to exercise caution in opening their borders and it is therefore questionable whether Croatia may expect any influx of foreign tourists during peak season which normally accounts for more than 85% of overnights in tourist accommodation establishments at the annual level. Also, we

¹ Virtual press conference of the World Health Organization, March 23, 2020

should keep in mind that some employees will have already used up their annual leave for self-isolation or quarantine while others opt to reduce their expenditure due to job uncertainty or the economic crisis.

Therefore, the summer tourist season in Croatia may be realistically expected to underperform in comparison to the past twenty years or more and this will be the first instance of the Croatian tourism industry relying nearly exclusively on domestic demand since the end of the war. Records show that domestic demand accounts for 10 to 15 percent of overnights in tourist accommodation establishments.

All of the above confirms and points to an unpleasant truth and a worrying scenario for the tourism industry in 2020 where, *ceteris paribus*, we should prepare for a significant drop in demand (60% to 90%) and a high level of dependence on the domestic market.

In such conditions of reduced demand, the tourism sector could not even cover its fixed costs at the annual level. This would lead to unprofitability and illiquidity of the sector and ultimately to bankruptcy of tourism companies as well as the entire sector.

Ultimately, it is important to point out that, in the context of tourism, this concerns a 12-month crisis situation management period because the sector, unlike the bulk of the economy, will not experience the next wave of demand until the summer of 2021, i.e. more than 15 months from now. Until then, the sector must be supported through a joint effort of entrepreneurs and the Government, otherwise the sector accounting for as much as about 20 percent of the GDP and guaranteeing macroeconomic stability of Croatia's economic system would collapse.

Therefore, the Government should resort to long-term measures in this sector of the economy, specifically:

- **Measures designed to protect jobs should be extended immediately for the tourism sector to a period of 12 calendar months**, i.e. until April 2021 due to the exceptional seasonality of the tourism product, which will not experience a new wave of demand and thus financial income until the summer of 2021.
- **The tourism sector should be afforded write-offs of parafiscal taxes for a 12-month period**, i.e. until April 2021 because the bulk of the tourism turnover will not be realized and the purpose of the parafiscal taxes will therefore not be performed. In this respect, the focus should primarily be on write-offs of the following parafiscal taxes: Water management fee, Croatian Chamber of Economy (HGK) membership fee, monument annuity, forestry levy, concession on maritime demesne, concession approvals, annual fee for use of public roads, communal fees, radio-television fee in the transport segment, fees for enjoyment of easement and development rights as well as the fee for non-compliance with disabled persons employment quotas.

- **Write-offs of taxes and contributions on salaries in correlation with the intensity of the decline in income** of tourism companies in the period of application of measures for the retention of jobs.
- **A correction of prices of electricity and water charged to tourism companies for a 12-month period**, i.e. until April 2021 since only a part of the overall price pertains to the price of water and electricity while the remainder consists of various fees (including investments and development fees). In this context, we propose a correction of the price by means of its reduction by the amount of the fees or by a portion thereof.

Provision of an extension of the time limit for implementation of the measures

Once the extraordinary circumstances caused by the pandemic end, it is expected that a certain period will be required to restart the activities suspended, place orders of raw materials, contact clients and establish a regular work cycle. Therefore, it is already necessary at this moment to consider an extension of the aid measures directed at the economy by three months following the end of the extraordinary circumstances. In case of tourism, it is necessary to plan extraordinary aid measures spanning 12 months immediately in order to achieve certainty of business.

Reasons for adopting the provisions to regulate the labor rights relations during the epidemic caused by COVID-19

In view of the new situation caused by the COVID-19 epidemic, with regard to all the restrictions that have been imposed on employers as a result of the consistent application of the Labor Act, and for the purpose of compliance with the Decisions of the National Civil Protection Headquarters (hereinafter: NCPH) in these circumstances, amendments to the Labor Act, or the adoption of a separate provision that would regulate these issues during the epidemic is considered necessary. Besides the measures aimed at amending tax regulations and defining State aid for the protection of jobs, the regulation of employment is also essential. Employers were already forced to take the measures described below (due to the absence of a legislative solution for this emergency situation), and the majority of the measures proposed below would only create a legal framework for the measures that already apply in practice. Of course, the proposed measures would only apply to emergency situations (such as this one) that involve limited business activities of employers, and exclusively in the imposed period of restriction, while workers would keep all the rights acquired in regular circumstances.

The main issues that employers currently face are the following:

1. How to organize work from home

In accordance with the Labor Act, work from home is defined as work at a remote location that requires the conclusion of an employment contract with the worker containing the provisions defined in Article 17 of the Labor Act. In the current situation, employers did not conclude such contracts and they cannot, for example, carry out assessments of occupational risks at remote work locations. It is therefore necessary to allow employers, in an emergency situation like the current one, to make unilateral decisions that define work from home as an employee's alternative work location, without the restrictions of Article 17 of the Labor Act. The emphasis is on the fact that an employer, due to the emergency situation, directs workers to work from home and disposes of the worker's workplace in its entirety (at the premises of the employer), i.e. the employer specifies work at a remote place of work in its full sense in accordance with the provisions of the Labor Act.

The Ministry of Labor issued an opinion that supports the aforementioned: "Considering the new extraordinary circumstances, the employer, for the purpose of maintaining employment, may use his fundamental legal right to determine the workplace and working methods more specifically during these circumstances. In terms of the implementation of occupational safety, when it comes to low-risk jobs (administrative and similar work), we believe that the period of working at a location other than the employer's premises (work from home), may extend to periods of exceptional circumstances that force the employer to allow workers to work from their home in order to prevent and protect against the spread of infectious disease. An apartment, house, or other premises of low risk for the employer where the worker works is not a workplace, but a residential facility or a facility of another purpose, so it is therefore not appropriate to require the fulfillment of all the safety requirements for the workplace in terms of occupational safety provisions. Therefore, the provisions concerning occupational safety shall be applied to the extent possible, while ensuring that both the safety and the health of workers is not compromised."

On those grounds, we consider it necessary, either through the Labor Act or a separate provision, to clearly define the right of the employer to make a unilateral decision to specify work from home in exceptional situations, without an obligation to document minor risks at the location of the worker's residence where he works. All the more, since the majority of the employers have already done this in practice, in accordance with the Decisions of the NCHP, specifically in order to protect the health of their workers.

2. Annual leave

Pursuant to the provision of Article 85, paragraph 4 of the Labor Act, the employer is obliged to notify his worker about annual leave at least 15 days in advance. Furthermore, the majority of company internal rules and regulations provide that annual leave is defined in accordance with the request of the employee. Employers have, due to the emergency situation, and as an emergency measure introduced for

the purpose of ensuring that employees maintain their remuneration in the full amount of their contracted salary, posted their workers to annual leave. However, they are currently neither able to define annual leave in accordance with the requests of the employees, nor able to notify their workers about annual leave 15 days in advance.

On those grounds, it is necessary to give employers the right to make unilateral decisions concerning the annual leave of workers without the 15-day notice period.

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