



CENTURION

Lawyers and Business Advisors

**COVID-19 LEGAL
UPDATE:
EQUATORIAL
GUINEA**

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EMPLOYMENT

REDUCING EMPLOYEES' WORKLOAD AND PAY DURING THE COUNTRY'S LOCKDOWN DUE TO THE ONGOING PANDEMIC OF COVID-19

Art. 67.4 (Labor Law) states that "In no case may discounts be made on salary to guarantee the employer, its representative or any intermediary a direct or indirect payment in order to obtain or keep employment."

As a general rule, the law does not provide for the unilateral reduction of an employee's salary and we opine that it is prohibited. However, the law provides in specific cases, another instrument that allows for the suspension of the employment contract. This suspension of the labour contract shall be for no more than 1 month within a 12-month period. In this regard, the employee does not have to perform the job and the employer is not required to pay the salary.

We must point out that since work activity has not been included in the decree providing for the measures against Covid-19 in Equatorial Guinea, it will be challenging to justify reducing employees' salary at this time.

In practice and as of today, the Ministry of Labour has not approved any suspension of labour contracts on account of the Covid-19 pandemic.

The employer may reduce the number working hours for his employee and the corresponding salary. However, the nature and terms of contracts will be reviewed and agreed to by the parties.

OUTSTANDING LEAVE DAYS AS FORCED PAID LEAVE OR UNPAID LEAVE DURING THE LOCKDOWN. DEDUCTING QUARANTINE PERIOD FROM ANNUAL OR SICK LEAVE

Outstanding leave days:

Workers cannot be forced to take their outstanding leave days during the pandemic. However, the law allows an alternative timetable to be negotiated between the parties.

Deducting quarantine period from annual/sick leave:

There is no official quarantine period for workers in Equatorial Guinea. However, many companies have undertaken preventive policies to prevent the spread of the virus and protect their employees by allowing employees to work remotely or for reduced hours. The Law does not expressly provide for the situation where any quarantine period may be deducted from an employee's annual or sick leave.

Forced paid/unpaid leave:

It is important to state that the law acts in protection of the employees and we argue that the employer must provide a suitable reason for the employee to go on a forced paid or unpaid leave.



RENEGOTIATING THE TERMS OF EMPLOYMENT

Parties may renegotiate the employment contract during this period. However, employers must be cautious in this situation. The Government of Equatorial Guinea has not issued a mandatory lockdown directive in the country and so all work is expected to continue. An employer who wishes to renegotiate the contract because of the effects of COVID-19 may be required to justify their decision unless both parties consent to the renegotiated terms.

REMOTE WORK

There is a lacuna on this matter as remote work is not provided for under the law. Nonetheless, the official position from the Ministry of Labour as well as the Ministry of Mines and Hydrocarbons is to maintain all local employees with all their benefits regardless of where they work from.

EMPLOYMENT TERMINATION

The law provides for a suspension of the employment if the conditions are met, and does not provide for a termination.

EMPLOYMENT BENEFITS DURING PANDEMIC/ LOCKDOWN

Although remote work is not specifically regulated in the current Labour Law, we can conclude that working conditions do not change; except if the parties renegotiate the employment contract. Therefore, the employee will be entitled to its usual employment benefits.

COMPANY COVID-19 POLICY AND COMPANY LIABILITIES

The Government of Equatorial Guinea has issued specific measures on how work activities should be carried out. These measures generally include rules of hygiene and social distancing. Companies are required to have protocols or measures that give effect to and comply with the prescribed governmental measures.

If any employer suspects that any worker may have contracted the Covid-19, they are allowed to prohibit such employee from entering their facilities and report the case to the health authorities. In practice, most companies have prohibited the entry of workers with temperatures above 38 degrees.

PERFORMING OTHER JOBS WHERE CORE FUNCTIONS ARE DOWN DURING THE PANDEMIC AND LOCKDOWN

An employer may instruct that an employee performs some other tasks outside their core employment functions

if such core function cannot be performed during this period. Please note that an expert should be consulted to provide advice in this regard.

EMPLOYMENT INSURANCE POLICIES (GOVERNMENT OR PRIVATE) DURING THIS PERIOD AND ACCESSING THESE POLICIES.

The Government of Equatorial Guinea has not declared a nationwide shutdown on activities. Therefore, there are no government employment insurance applicable to the pandemic.

When it comes to private insurance policies, it would depend on the particular Contracts reached with the Insurance Broker.

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SSPORT



COVID-19

**No flights are authorised
to leave the country
during this period and
until further notice.**

IMMIGRATION

CURRENT SITUATION IN THE COUNTRY

Equatorial Guinea has declared a National State of Alarm and closed all its borders.

TRAVELLING TO EQUATORIAL GUINEA

The Government has issued a directive to shut down the airports. Consequently, no flights are allowed into the country. The restriction does not have a timeline and will continue in effect until further notice.

RESTRICTIONS OR CANCELLATION ON VISAS APPLICATIONS/ISSUANCE

Based on section 5 of Decree 42/2020, all Diplomatic and Consular Missions of Equatorial Guinea accredited abroad are temporarily prohibited from granting entry visas to the Republic of Equatorial Guinea.

EXPIRATION OF LEGAL STATUS WHILE IN EQUATORIAL GUINEA

Foreigners currently in the country can remain in the Country despite the expiration of their visa or permits. They will, however, be required to request an extension of their VISA/Residency from the appropriate authority.

LEAVING EQUATORIAL GUINEA

No flights are authorised to leave the country during this period and until further notice.

TAX

TAX EXEMPTIONS/RELIEFS

The Government of Equatorial Guinea has granted the following:-

- The extension of the voluntary period of Minimum Income Tax corresponding to the year 2020 until the month of June;
- The reduction of the Minimum Income Tax for the fiscal year 2020 from 3% to 1.5%; and

- Extension of the voluntary period for the settlement of the Property Tax of the 2019 fiscal year.

Please note that these policies are not applicable to companies operating within the hydrocarbons sector or to companies with service contracts with the national public sector.

GRACE PERIOD FOR THE FILING OF TAX RETURNS

The DEF of the 2019 financial year may be presented until June.

CORPORATE

SUSPENDING OBLIGATIONS UNDER A CONTRACT IN LIGHT OF COVID-19

It is possible for a party to suspend their obligation under the contract. However, this suspension must be provided for under the contract such as the force majeure provision. The contract may also regulate the procedure to suspend such obligation.

If the contract does not provide for force majeure or regulate the suspension of the contract, the parties may reach an agreement on the suspension of the contract or approach the court or the applicable dispute resolution mechanism, to determine their obligations under the contract in light of the pandemic.

COVID-19 AS A MATERIAL ADVERSE CHANGE IN A CONTRACT

The Covid-19 may constitute a material adverse change (MAC) if the company's long-term earnings were to be compromised. It would not be automatic and the party must prove it. Note that a simple decline in business prospects for a few months will not be sufficient as MAC.

REMEDIES FOR A PARTY'S FAILURE TO PERFORM ITS OBLIGATION UNDER CONTRACT

The interested party can initiate a claim for breach of contract case in Court or under Arbitration.

CORPORATE

REQUIREMENTS TO REGISTER DOCUMENTS UNDER THE COMPANIES REGISTRY RESPONSE

Most government bodies and agencies are open and are operating as normal. A few agencies or public entities have announced the suspension or reduction of certain activities. These include:

- The Ministry of Mines and Hydrocarbon;
- The State Treasury;
- CNADOGE (in English: National Center for the Issuance of Official Documents of Equatorial Guinea)
- GITGE (in English: Telecommunications Infrastructure Manager of Equatorial Guinea)

Until now, the Government has only decided to give a moratorium of three (3) month for the payment of the Minimum Amount Rate, and the DEF presentation.

EFFECTS OF COVID-19 ON DELAYS TO OBTAIN REGULATORY APPROVALS

Most government bodies and agencies are open and operating as normal. Therefore, no extensions have been granted.

GENERAL

FISCAL MEASURES TOWARD COUNTERING THE ECONOMIC EFFECTS OF THE PANDEMIC

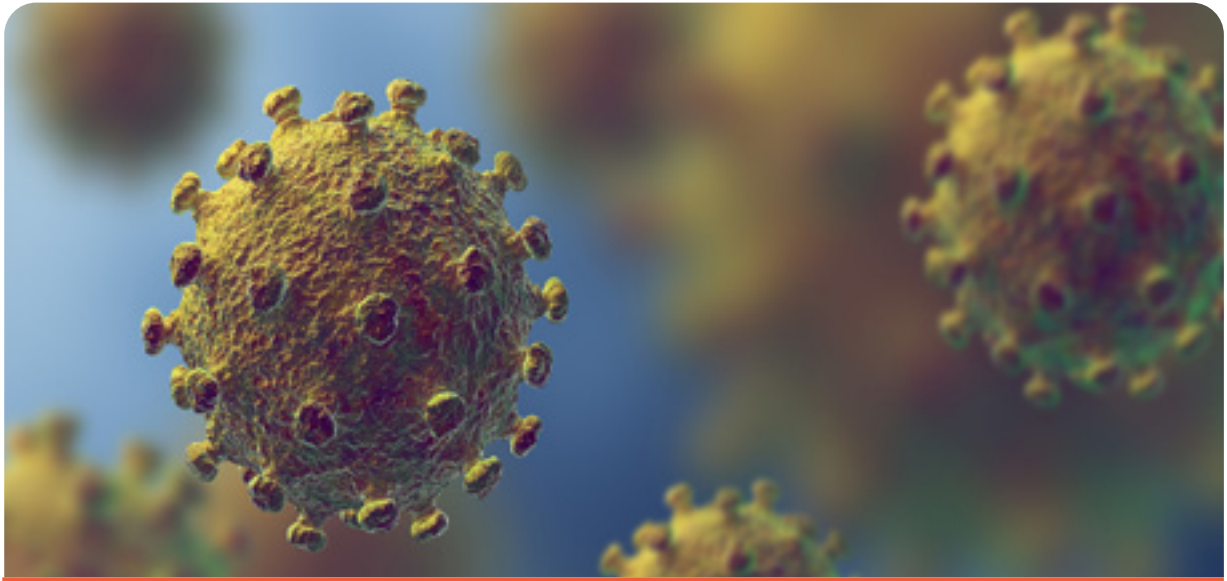
The Government has announced the following fiscal measures to combat the effects of the pandemic:

1. Postponement until June of the term for the payment of the minimum tax fee.
2. Postponement until July of the voluntary term for the liquidation of corporation tax
3. Reduction of the minimum tax fee from 3% to 1.5%
4. increased to XAF 1 billion the partial guarantee fund for SMEs

NEW LAWS/REGULATIONS TOWARDS FIGHTING THE PANDEMIC

New Decrees have been issued to combat the pandemic. The main ones include:





- The Decree No. 42/2020, dated March 31, declaring a State of Sanitary Alarm and issuing precautionary measures for the prevention and control of the pandemic (COVID-19) in the Republic of Guinea Equatorial; and
- The Decree Number 43/2020, dated March 31, adopting Economic Measures to Strengthen the National System of Social Protection and Support for SMEs.

EFFECT OF THE PANDEMIC ON THE COUNTRY'S ECONOMY AND ANY RECESSION RISKS

Equatorial Guinea's economic system depends

mostly on oil and as the price of oil has dropped considerably, the economy is expected to be seriously affected.

The Government has attempted to reduce this impact, by undertaking a forecast to reduce part of the budget expenditure forecast for this year and is studying other measures.

BANKING RESTRICTIONS

None

BORROWER PROTECTIONS AND MORATORIUM ON LOAN REPAYMENTS

None

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