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NORDBALT BRIEFING

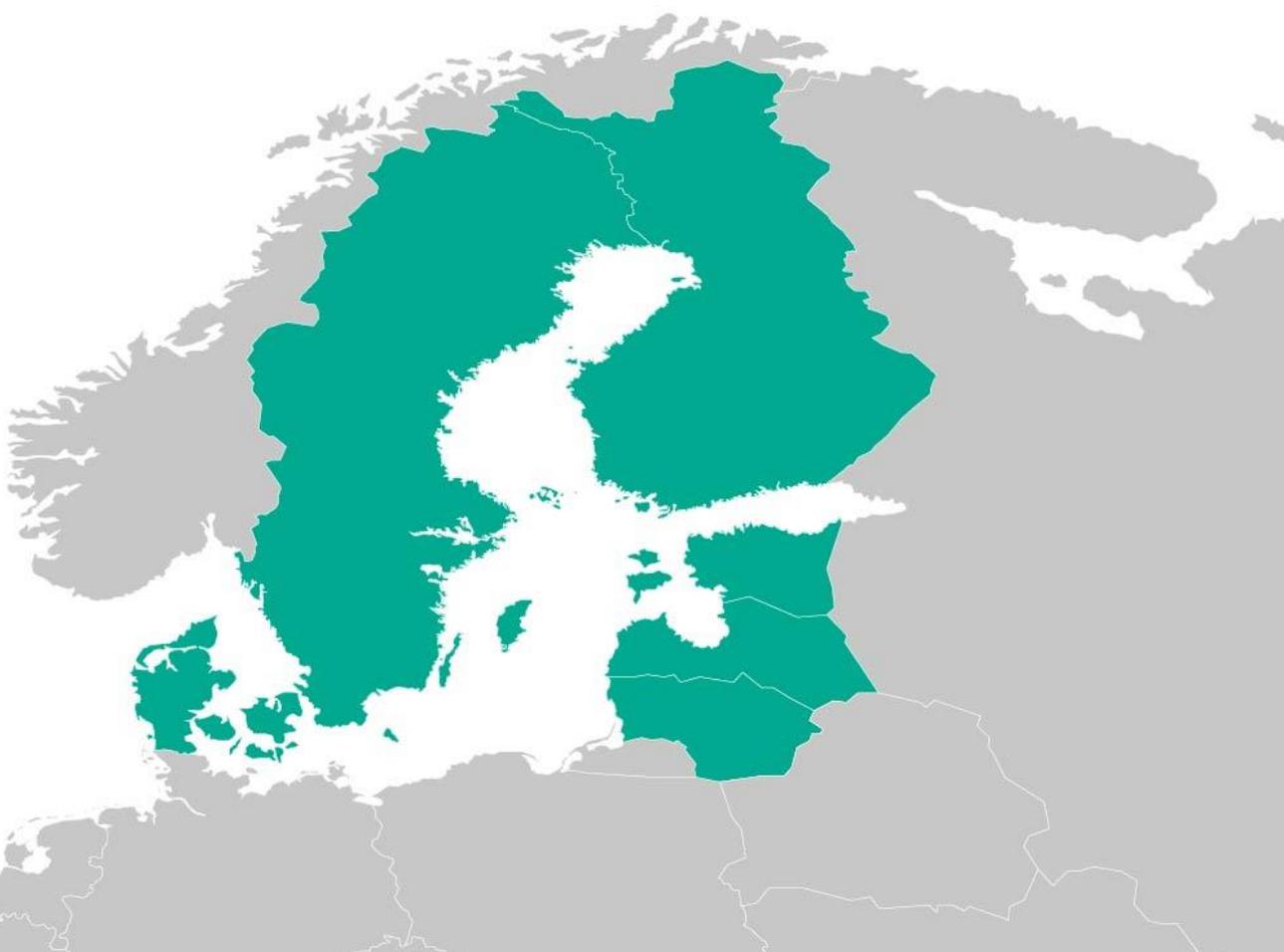
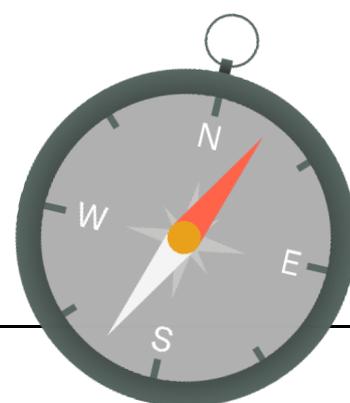
REGIONAL COMPASS

Issue:
March 2021

A 360° view of the Baltic Sea:
Comprehensive information and professional
insights for business in the Nordic Baltic region

Covid-19 – Business Impact

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→ Editorial

Dear reader,

Covid-19 continues to exert a firm grip on the countries of the North. Life oscillates between lockdown and laissez-faire as incidence tables and the availability of ICU beds continue to control the level of freedom enjoyed by ordinary people and businesses. But the end of the pandemic seems within sight: Vaccinations and herd immunity could soon allow a gradual return to normalcy, maybe as early as summer.

The business community around the Baltic Sea, at least, is convinced of this. In our daily conversations with our clients all focus has now turned to reactivating deferred investments and projects, picking up suspended lines of business and seeking out new opportunities. Above all, companies are preparing themselves for very practical challenges. Which exceptions in contract law will continue to apply? What happens to government aid and tax deferrals? What retrospective proof, if any, has to be supplied for subsidies and tax relief, will there be special tax audits? Which transactional risks have to be reassessed? Where do insolvency or cash flow problems threaten local suppliers and trading partners? What remains of the new working world? Will the obligation to work from home evolve into an actionable right?

The countries around the Baltic Sea are still at very different points in their fight against the pandemic, and they will face vastly different consequences during its course. Nevertheless, a number of economists are predicting a substantial turnaround, especially here in northern Europe, a region that presents itself more than ever as a safe, prosperous and well-connected neighbourhood for investment and trade. Clearly, the second half of 2021 will abound with opportunity, yet governments and business are faced with sorting out the pandemic's complicated legacy. This includes the afterlife of rushed administrative measures that were expedited under emergency powers, with little thought paid to their long-term function and effect.

Our NordBalt Briefing offers you our first take on the many practical issues that await us in the upcoming post-Corona time. We will continue to monitor the situation, keep you informed and are, of course, at your service at any time.

Yours truly,



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→ Denmark

Bullets



Societal initiatives as a result of Covid-19

Aid packages available in Denmark as a result of Covid-19: a) The extension of aid packages means that we as auditors have fewer free resources; b) The application deadline for Salary and fixed costs compensation have been postponed to April 2021; c) At the moment, there is no clarification in regard to the possible extension of aid packages in Denmark which currently expire on 28 February 2021.

Payment of taxes and VAT postponed due to Covid-19: The government continues to postpone the deadlines for tax, AM-contribution and VAT to help ensure that companies maintain continued liquidity.

The business community is holding their breath: a) Since 1 March, retail stores with an area of less than 5,000 square meters have been opened again; b) Surveys show that the business community has lost confidence in the government and lacks a clear plan for the phasing out of current restrictions.

Audit effects due to Covid-19

Online audits and skype meetings have become common due to the limited possibility of in company audits. This means that it has been necessary to re-think audit strategies in order to continue to streamline audit processes.

Our ability to adapt, and our client's openness to change, have allowed us to successfully deliver desktop audits.

Effect of financial statements due to Covid-19

Increased time consumptions as a result of new requirements and initiatives for descriptions in annual reports, including: a) Management report – the management must prepare a comprehensive description of the effects of the COVID-19 pandemic on their business; b) Going concern – due to the decreasing liquidity in some industries, there are higher requirements as regards the management's assessment of a going concern.

This means that additional time must be factored in for this process.

New accounting standards conflicts with Covid-19

New accounting standards (ISA 540) have increased the requirements for management's assessment and the documentation of accounting estimates: a) The management is now obligated to prepare a concrete method for calculating accounting estimates. This means that both management and auditors are required to allocate additional time for this process; b) Covid-19 can have a

major impact on accounting estimates if the company is affected by the pandemic.

Tax measures as a result of Covid-19

The government has adopted and intends to adopt further deductions and tax reliefs, this applies to: a) Increased deduction of research and development costs of up to 130 per cent (adopted); b) Increasing the limit for the immediate depreciation of fixed assets (expected to be adopted); c) Addition of taxable balance of fixed assets of 16 per cent (expected to be adopted).

→ Denmark

Covid-19 can no longer ease contractual obligations without a specific "Covid-19 clause"

Force majeure circumstances and contracts entered into prior to Covid-19

When the Covid-19 pandemic hit the world in early 2020, one of the most hotly debated issues was whether the pandemic could be characterized as a force majeure event, and as such, whether this would provide sufficient grounds for justifying a relaxation of contractual obligations.

According to Danish law's declaratory rules on force majeure, a liability-exempt force majeure event occurs when the following three conditions are met:

- The event must be unpredictable;
- The event must have been beyond the control of the party i.e., be extraordinary; and
- The event must have prevented the fulfillment of the agreement.

It is the responsibility of the contracting party who invokes force majeure to prove that the three aforementioned cumulative conditions have been met.

For contracts entered into prior to the time when the pandemic became a recognized reality in Denmark - namely at the time of the first lockdown on 11 March 2020 - a Danish seller or supplier will, with overwhelming probability, be able to prove that Covid-19 was such an extraordinary event of an unpredictable nature that the first two conditions can be considered fulfilled.

Covid-19 impact and contracts entered into after Covid-19 being known

For contracts entered into after this time, however, the situation is different. This is because the Covid-19 pandemic that unfolded after this time cannot be characterized as an unpredictable event. It is irrelevant that the pandemic occurs in waves and that infection control measures have very different significance for the "possibility" of contract performance.



For agreements entered into after the time when the supplier was or should have been aware of the existence of a pandemic and its possible far-reaching effect on the fulfillment of the contract, general declaratory force majeure principles cannot be used as a basis for easing contractual obligations.

For contracts entered into after this date, the consequences of the Covid-19 situation should, therefore, be explicitly regulated in the contract. The contract should include an explicit statement of the supplier's option to suspend delivery without contractual liability as long as the consequences of the Covid-19 pandemic prevent or impede fulfilment and/or, as the case may be, give the supplier the right to cancel the contract if the consequences of the Covid-19 pandemic involves (significant) increased costs for the supplier connected with the fulfillment of the contract.



It is not only the supplier who needs to be aware of force majeure events. The purchaser of the product must also be aware that conditions may also arise as a result of the consequences of the Covid-19 pandemic which might require the purchaser to postpone receipt of the delivery.

Which specific rights are to be cut off in the event of a breach of contract due to the consequences of the Covid-19 situation will, of course, depend on the individual contract. This also applies to the description of the consequences of the Covid-19 situation that are to be relevant here. As a contract drafter, one is often tempted to generally refer to "any consequence of Covid-19 and restrictions derived therefrom and the like." Such general wording is chosen for fear of not including all the less obvious consequences in the list of relevant consequences. However, as any ambiguity in wording will be interpreted against the author of the contract, we recommend providing a detailed exemplified list of possible events, both obvious and more unlikely events, and

then concluding this list with the general wording. This provides a higher degree of certainty that even rather unlikely consequences are covered by the limitation of liability.

When drafting contract clauses to alleviate fault, it is important to ask what impact the consequences of the Corona pandemic must have had on the ability to perform the contract in order for relief from liability to occur.

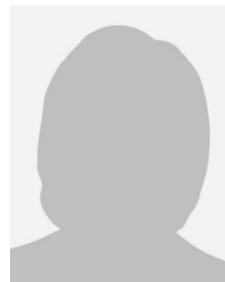
If a contractual clause refers to the fact that the circumstance in question "prevented" or "made impossible" performance, this means in concrete terms that the consequences of the Corona pandemic must actually have made it impossible to provide the planned service. If the performance is determined according to its type, this means concretely that it must have been impossible for anyone to deliver such goods within the type, regardless of significant increases in cost.

A clause in the contract stating that performance must be "prevented" due to the Covid-19 situation before the force majeure provision applies is therefore of little help to the supplier.

When drafting the contractual provision, it is better to use terms such as, for example, that performance has been "impeded" (in Danish "besværliggjort"), "made more expensive by more than x per cent" or, (if this is accepted) "affected" (in Danish "påvirket") by the consequences of the Covid-19 situation.

When drafting the force majeure clause, it is therefore important to describe what the consequences of the Corona pandemic will be for the contract before the reduction of liability occurs.

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→ Estonia

Bullets



Exemptions from restrictions for people who have recovered from or been vaccinated against Covid-19

The Government decided to extend the quarantine requirements for people diagnosed with Covid-19 and their close contacts until the end of May and to provide for an exemption. This allows people who have been vaccinated against or recovered from coronavirus in the last six months to bypass the 10-day quarantine from close contacts or self-isolation after crossing the border.

Authors will receive fair remuneration

The amendment to the Copyright Act will come into force on 1 April, which gives authors the right to compensation if their audio-visual work or sound recordings of their works are copied for personal use without consent. The remuneration collected must provide fair compensation for the

damage estimated to have been caused by the restriction of the authors' property rights, taking into account the number of copies made for personal use. The amendment also applies to producers of the first iteration of a film.

Amendment concerning actions for the infringement of an intellectual property right

The purpose of the recent change in the Code of Civil Procedure, which came into force this January, is to enable faster and more effective protection in cases of alleged infringement of copyright, related rights or industrial property rights. In the case of infringements of intellectual property rights in which certain content is made available on the Internet, changes made by law allow the intermediary to be required to temporarily remove the content or prevent access to it during court proceedings.

Income tax to be paid in Estonia on the salary of a temporary worker

As of 1 January 2021, an amendment to the Income Tax Act entered into force, according to which a non-resident who has provided an Estonian user undertaking with temporary agency workers is required to withhold income tax on the remuneration payable for work performed in Estonia. This obligation arises from the day when the foreign citizen began working in Estonia.

Amendments to the Bankruptcy Act

As of 2021, several amendments to the Bankruptcy Act entered into force that are intended to speed up bankruptcy proceedings. For example, a bankruptcy petition will, as a general rule, be reviewed in a written procedure. The law also ensures greater specialization of courts in insolvency matters, as well as a changed remuneration system for interim trustees. The enforcement of business bans during bankruptcy proceedings was enhanced.

→ Estonia

Covid-19 impact on business – new kind of thinking

Now that we have lived with the pandemic for almost a year – is it possible to now draw conclusions and predict what might come next?



The Estonian Government has ordered the Foresight Centre – a think tank set up within the Estonian Parliament, to carry out an analysis regarding the impact of the Covid-19 on the Estonian economy. Based on this research, we can conclude that there is definitely plenty of uncertainty in the current situation; however, we can that the Covid-19 has accelerated the development of the following trends:

- Making value chains and work processes more risk-proof. Even before the pandemic, the notion had developed that more complicated global value chains containing more transnational transactions had increased the effectiveness of the world economy, but at the same time made it more vulnerable. The effect of supply shortages due to trade restrictions, natural

disasters or other reasons is transferred from one country to other countries and economic sectors through the participants in value chains. If European companies start looking for new partners that are closer to home, this might create new opportunities for Estonian companies;

- Digitization and automation. Technology is opening up opportunities for companies to manage rapidly growing labour costs and increase productivity, allowing them to maintain their positions in a globally competitive market. Digitalization, however, does not happen instantaneously, it comes with the various barriers that accompany new technology, such as delays and friction costs. Digitalization decreases the need for low qualified staff, but also increases the qualification requirements for the remaining staff. The labour force needed for digitalization is sought globally;
- Working remotely and the use of virtual channels. The pandemic has, in a very short time, transformed attitudes towards remote work. Companies were forced to apply remote working solutions virtually overnight, which proved to be a serious challenge. However, remote working solutions have been adapted quickly and changes in working habits will most probably remain. This creates a need to rethink the meaning of the workplace – instead of physical space of work-tables, it will now become a cooperation centre for mutual objectives. Remote work enables people to work wherever, which will increase global competition in the workplace.

The research also points out the sectors with favourable outlook

- The role of information and communication technology in the economy will increase even more. The sector has proven to be the most crisis-resistant, and the IT sector will play a central role in the implementation of digital transformation and green transition.
- New businesses may be created in healthcare, mainly linked to information and communication technology and machine engineering.
- In the timber industry, the crisis will initiate a transformation in industry quality, as well as an expansion of the sector. New opportunities are being created by wood chemistry, which helps create more valuable products and expand the possible applications for local timber.
- Online-services are shaping the finance and insurance sector. New financial technology businesses which have appeared alongside the traditional banking sector have attracted new users during the crisis and are expanding their market share, including customers and companies that are not covered by traditional banks. New opportunities are provided by the development of Internet of things (IoT) and contactless payments – for example, cars which are connected to the network enable consumers to pay for fuel or food without touching cash or any other potentially infectious surfaces.
- The start-up sector has a favourable growth outlook. There is still plenty of free money in the market looking for investment opportunities, and the Estonian start-up ecosystem has proven an attractive proposition for investors. Possessed of a flexibility that is far in advance of that offered by traditional businesses, start-ups are able to adapt to fast changing demand, e.g., contactless services or remote work, but also in the fields of environmental sustainability and new energy.
- The shortening of supply chains provides new opportunities for electrical and electronic engineering industries.
- In the short term, training companies are able to sustain operations by offering further training remotely and retraining related to general changes in working patterns. Digital training will expand the market and export opportunities but will also increase inequality.



The areas most hit are those affected by the restrictions set for limiting the spread of the virus – accommodation, catering, the travel industry, entertainment, as well as transport and warehousing. The importance of these sectors will decrease for some time. Meanwhile, the contribution of virus resistant sectors will increase – information and communication, the timber and paper industry, and also the financial sector will continue to experience growth. Start-ups hold favourable prospects for growth due to the abundance of free money in the market looking for investment opportunities.

The sectors experiencing the largest decrease in sales in Estonia are accommodation and catering (ca 60 per cent), also real estate, wholesale and retail, transportation, entertainment sectors (up to 30 per cent), while agriculture and forestry and construction have also been hit. The information technology sector has done well in the crisis, with sales revenues increasing by ca 10 per cent.



Drilling down a little deeper into business, some interesting developments that illustrate market trends can be seen. The most shocking example of restructuring is the Baltika Group (an Estonian fashion brand house and

retailer, founded in 1928), which has decided to shrink its operations further by closing all but one line of business.

Finding new investors from the same branch of the economy: this is a strategy that is providing a lifeline for some companies, and allowing their former competitors to reap the benefit. In 2020, for example, a transaction was concluded between two of the largest regional cinema chains: Apollo Cinemas and Forum Cinemas. At the time of writing, it is still unclear how this situation will play out, as the merger transaction is subject to approval by the respective competition authorities. Also, in 2020 several major transactions in the Estonian IT sector took place, such as the sale of Fortumo and Pipedrive and the funding of Bolt.

There is one challenge that companies face both in good and bad times - the management of cash-flow. Companies whose business has declined need to find ways to survive until the situation stabilizes, while companies who are experiencing growth that far outstrips their expectations need to find new ways to finance that

growth. In all scenarios the need for good financial handwriting is key.

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→ Finland

Bullets



The economy is expected to grow in 2021

Finland's economy shrank less than was originally expected in 2020, and the economy is expected to grow in 2021. Vaccinations for Covid-19 are well underway, which is giving a boost to the economy and hope for businesses, such as restaurants, to return back to (new) normal, even if at the time of writing this, Finland is planning to impose partial lock-down measures in certain parts of the country.

The expected growth for 2021 in Finland is around 3 per cent.

Businesses are investing in Finland

The economy in Finland has been boosted by news of investments. In 2020, 244 foreign businesses invested in Finland. Businesses are continuing to invest in Finland, one of those being Metsä Group, who announced in February that it will invest in a factory in Kemi, Finland. This will be the largest investment in the lumber industry in Finland up to date.

New legislation for additional aid for businesses

The government is drafting legislation for new aid for businesses affected by Covid-19. The bill is currently being examined and it will be up for approval by the parliament later this spring. If the bill is passed, businesses will be able to apply for the grant until 23 June 2021.

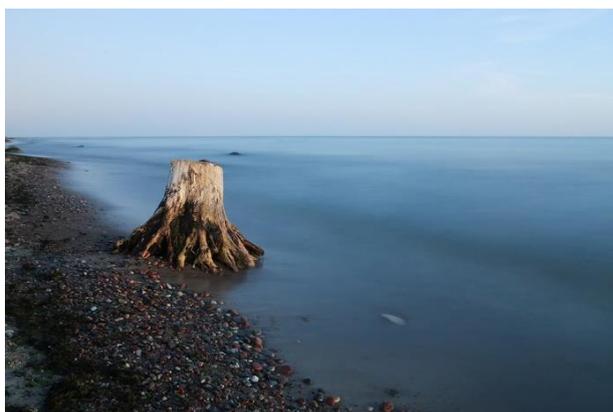


→ Finland

The impact of Covid-19 and the future landscape of business in Finland

The pandemic has affected the global economy, and Finland is no exception

Like the rest of the world, Finland has been in the midst of a pandemic for just shy of a year now. Not all industries and enterprises have been affected equally, but 2020 has been generally difficult for all. In Finland, gross domestic product, import and export all decreased mildly, while unemployment rates increased slightly. In 2021, however, all of these indicators are forecasted to improve, even if the Government is at the moment planning stricter measures to constrain the spreading of the virus and its new mutations.



Many factors are positively impacting Finland's business landscape in early 2021. Firstly, the vaccine rollout is continuing apace. Finland has managed to avoid the full weight of the virus' impact, and with about 6,3 per cent of the population vaccinated (23 February 2021) now, the end is in sight. It is estimated, that by late summer or early fall 2021 a sufficient amount of the population will have been vaccinated.

Export, in particular, is expected to grow in 2021. These expectations are already being realized in some industries in the first quarter of the year: the export of groceries and food products has increased significantly, with the total increase in January 2021 amounting to 7 per cent. The most significant increase has been that to China; the import of food products increased by 78 per cent in January.

The government and its organizations have been focusing funds to aid business and the economy during the pandemic. Even though it has been necessary to set some restrictions, such as limiting the business hours of restaurants and the

closing of businesses and spaces where it is impossible to maintain safe distances, the aim is to keep the economy active and businesses open.

Grants and financial aid from governmental organizations

The government and governmental organizations have aided businesses in Finland since the beginning of the pandemic. The Finnish Tax Administration has granted deferrals, refunds and payment arrangements for taxes.

Business Finland, a governmental organization tasked with helping business in Finland, has been giving grants and other assistance to businesses in Finland. Business Finland has funded businesses through loans, grants and programs, and it is now offering a grant for the circular economy, which can be applied for until 16 April 2021. Businesses whose investments contribute to the circular economy and green growth and are registered in Finland, are eligible to apply.

In addition, new legislation is being drafted to aid businesses affected by Covid-19. If the bill is passed this spring, businesses will be able to apply for a temporary grant up to 1,000,000 Euros.

Legal measures supporting businesses

As the first wave of Covid-19 hit Finland in last Spring, the Government rapidly introduced legislative measures aimed at allowing businesses to react quickly to the new situation. These measures were mostly addressed at shortening the period of time after which employers were able to carry out redundancies, for example. Also, creditors were no longer able to initiate bankruptcy proceedings merely on the grounds of a debtor's negligence to satisfy their creditor within a certain period of time after creditor's claim.

The legal measures were imposed on a temporary basis, in the first instance until end of 30 June 2020, and thereafter prolonged until 31 December 2020. There are currently no Covid-19 specific legislative measures in place aimed at supporting businesses through the ongoing second (and upcoming third wave). It is worth mentioning that Finland did not impose any legislative measures offering easements to rental relationships concerning business premises.

The landscape for business in Finland going forward

Some industries have experienced a natural boost due to the pandemic, the most obvious being various remote solutions, technology and health care. Health tech as an industry is thriving, and businesses in the industry have been doing well this and the past year. It is anticipated that the remote health care sector will continue to experience strong growth. In addition, grocery store chains and other businesses providing necessities have fared well.

The economy and businesses are already showing signs of recovery, and with the government continuing funding business, the economy is expected to recover at a steady pace

going forward, with consumer activity increasing and the limitations set due to the pandemic being lifted once the vaccination process has hit a sufficient point.

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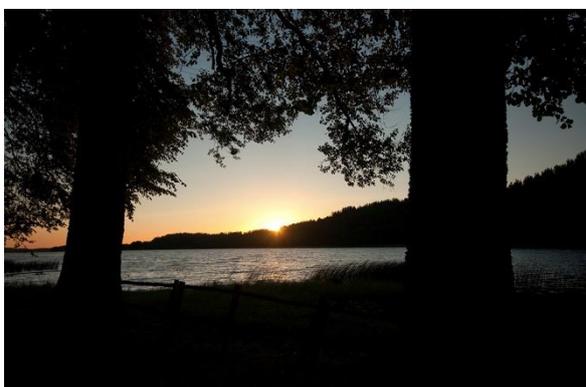
→ Latvia

Bullets



- On 18 February 2021, the Cabinet of Ministers decided to increase the total amount of state aid available for enterprises affected by the Covid-19 crisis. An additional 240 million Euros will be available for injection into current assets. In order to qualify for such support, companies must meet the criteria set. As it stands, this support will be available until 31 May 2021.
- On 5 February 2021, an additional support program was launched by the Investment and Development Agency of Latvia (in Latvian – Latvijas investīciju un attīstības aģentūra, LIAA) for exporting enterprises, allowing them to receive 50 per cent funding for the development or modernization of webpages and online stores. The deadline for the submission of applications is 2 months or until 40 applicants have been selected.
- On 4 February 2021, the Cabinet of Ministers approved the “Green Channel” initiative proposed by the Ministry of Economics. The main purpose of the initiative is to relieve high-value investment projects from administrative burden. The priority industries which will benefit from the new approach are: a) Smart specialization sectors – ICT, bio-economics, smart materials, photonics, biomedicine and smart energy; b) GBS (global business service centers); c) Construction, transport and logistics companies that are instrumental to the carrying out of projects in the abovementioned industries. In addition, the investment project will have to meet certain criteria, including the total investment amount, salary amount for new workplaces, export amount and investment in the company’s development and research.
- Amendments to the law On Personal Income Tax (Law) entered into force on 1 January 2021. These amendments set out the procedure for how employers may reimburse employees for expenses incurred as the result of performing work remotely at employee’s place of residence. From January 2021, there is a tax exemption for employee’s expenses related to remote work that are covered by employer, provided that the amount of compensation does not exceed 30 Euros per month for full-time work. Employees are not required to submit any documents supporting this amount. To qualify for such non-

taxation, the following requirements have to be met: a) Provisions on remote work should be included in the employment agreement (as one of the work organization options on offer) or determined by an employer's order specifying what kind of expenses will be reimbursed by the employer (e.g., electricity, internet, phone, etc.) b) Expenses may be reimbursed only by that employer to whom the employee has submitted his/her payroll tax book (in Latvian: algas grāmatiņa); c) The amount of expenses must be determined in proportion to working time (full-time or part time work) and the number of days of remote work per month that are indicated in the employment agreement or employer's order if the work is performed both remotely and at the workplace.



- Amendments to the Commercial law that entered force on 12 January 2021, allow for a limited liability company (in Latvian: sabiedrība ar ierobežotu atbildību or SIA) to distribute different types of shares among the SIA's employees and management, thus providing

additional motivation and making them co-owners of the SIA. According to the law, these shares may not only grant specific rights to their owners, but also limit such rights. Currently, the law does not provide any specific detail in respect to such limitations, which may potentially lead to disputes regarding the applied limitations.

Following the afore-mentioned amendments to the Commercial Law, related amendments to the Personal Income Tax law (PIT Law) were made that came into force on the same day i.e., on 12 January 2021.

By extending the meaning of the term "stock" (in Latvian – akcija) in the PIT Law, all the regulations applicable to stock option plans, and the granting and exercising of stock options – previously available only to employees of joint stock companies – are now equally applicable to the share options of SIAs. Also of considerable note is the fact that the amendments have also reduced the minimum holding period of share options – also stock options – from 36 months to 12 months. Consequently, a non-taxable benefit is available to employees much sooner than before.

- On 5 February 2021, the Cabinet of Ministers decided to extend the state of emergency situation until 6 April. Starting from 8 February 2020, the first steps towards loosening restrictions will begin coming force. Namely, stores whose product range is 70 per cent dedicated to grocery products are now able to offer their customers their non-grocery assortment as well. The same principle is also being applied to stores selling hygiene products, while bookstores are now able to sell their entire product range.

→ Latvia

Availability of the state aid and transfer pricing alternatives to enterprises affected by Covid-19

From the beginning of the Covid-19 pandemic, the government of Latvia has implemented various state aid mechanisms to support enterprises that have been affected by the Covid-19 crisis. However, for various reasons the efficiency and availability of these support measures has become questionable. As an example, during the first wave of the pandemic, the government had planned to spend 102 million Euros on downtime compensations for employees, but in fact only 53,6 million Euros have thus far actually been allocated. Similarly, the number of state aid recipients since

the autumn of 2020, during the so-called second wave of pandemic, is significantly lower than expected. From the experience we have gained over the last year, it has become evident that enterprises face a number of challenges when it comes to securing much-needed state aid. Some of our most important findings are briefly explained below. In addition, numerous solutions in the field of transfer pricing that may improve the situation of enterprises affected are explained as well.

Frequent changes to regulations

Various state aid mechanisms have gone through multiple changes and amendments, making it difficult for enterprises to navigate through them. For example, “Regulations regarding grants to ensure working capital flow for Covid-19 affected enterprises” have been amended 7 times in less than a year. Some of these amendments required approval by the European Commission, thus creating a timeline gap between approval by the Cabinet of Ministers and the time the new set of rules is implemented.

Implementation guidelines for state aid mechanisms administered by the Latvian tax authority, the State Revenue service (hereafter-SRS) are not always up to date with regards to the latest changes, and for some important components, like the calculation of the available amount of state aid, there are no guidelines at all. There have been cases where information in the SRS guidelines differs and contradicts current regulations, which in turn causes considerable difficulty when applying for state aid.

On a positive note, some of the recent amendments have broadened the scope of enterprises that qualify for state aid, as well as increased the amount of available state aid per company. Therefore, we suggest that companies continue to follow the latest news and that they have a system in place that would help them access this much needed state aid.

Calculation of available amount of the state aid

For state aid mechanisms, such as downtime compensation and wage subsidies, the calculations are straightforward and do not pose any questions. However, for state aid mechanisms which are implemented in accordance with Communication from the Commission’s Temporary Framework for State aid measures to support the economy in the current Covid-19 outbreak (hereafter – the Temporary Framework), there is a ceiling of 800,000 Euros for a single enterprise or group of enterprises. Recently, due to the prolongation of the Covid-19 pandemic outbreak, the maximum amount of the state aid set by the European Commission was increased to 1.8 million Euros per single enterprise or a group of enterprises. It should be noted here that regulations regarding this increase has not yet come into force in Latvia, as it has yet to be approved by the European Commission.

Enterprises that are part of a multinational group of enterprises need to gather information from related, i.e., linked, enterprises about the amount of state aid received or applied

for, and clarify whether this has been granted in accordance with the Temporary Framework. This can be a time-consuming and often even challenging process for large multinational groups of enterprises; independent enterprises, meanwhile, are assured a simpler path to receiving state aid.



The definition of linked enterprises is provided in Article 3 (3) of Annex I to Regulation No 651/2014. According to the aforementioned definition, the assessment criteria for the eligibility of receiving state aid does not consider all members of group enterprises to be linked enterprises.

To determine whether group companies are to be considered linked enterprises, the following four conditions must be assessed:

- Whether one of the enterprises has a majority of the shareholders’ or members’ voting rights in another enterprise;
- Whether one of the enterprises has the right to appoint or remove a majority of the members of the administrative, management or supervisory body of another enterprise;
- Whether one of the enterprises has the right to exercise a dominant influence over another enterprise pursuant to a contract entered into with that enterprise or to a provision in its memorandum or articles of association;
- Whether an enterprise, which is a shareholder in or member of another enterprise, has sole control of, pursuant to an agreement with other shareholders in or members of that enterprise, a majority of shareholders’ or members’ voting rights in that enterprise.

Therefore, any group of companies that display any of the characteristics listed above would qualify as linked enterprises within the context of state aid. Thus, when calculating received and potentially receivable state aid, only

those enterprises which are considered to be linked would be counted towards the maximum limits.

Many enterprises expect the SRS to provide clarification or methodology regarding the calculation of state aid available to multinational groups of companies. We would recommend that enterprises keep detailed records for this purpose. Having a centralized summary of the applied and received state aid for all of the group's entities would help ease and accelerate the application process.

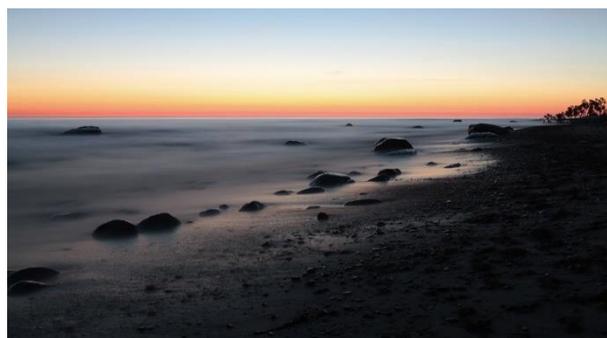
Undertakings in difficulty

Multiple state aid mechanisms have a condition in place which states that state aid is not available to enterprises that were in financial difficulty prior to 31 December 2019. The term used in EU laws to describe such enterprises is "undertaking in difficulty" (hereafter - UID). Enterprises that meet the criteria set for a UID in Regulation No 651/2014 are not able to obtain state aid.

Unlike the situation concerning the calculation of maximum amount of available state aid, there is a template available for calculating whether an enterprise, i.e., an applicant for state aid, can be considered a UID.



The financial situation is analyzed based on the data available on 31 December 2019. However, in certain cases current, more recent data can be taken into consideration as well. For state aid applicants that are part of a group of enterprises, (that is to say linked enterprises), the financial data of the group of enterprises is taken into account in order to assess whether the respective group of enterprises could be considered as the UID. There may be cases when the state aid applicant itself meets all the criteria but does not receive state aid due to the unstable financial situation of the entire group of enterprises.



Nonetheless, in the event that the state aid applicant qualifies as a UID based on data on 31 December 2019, there is still a possibility to receive state aid - providing that the group of enterprises' financial situation has significantly improved since then. The SRS will request evidence of such financial improvements. The enterprise in question will be required to submit latest financial statement to the SRS demonstrating improvements in their financial indicators. This statement must be approved by a sworn auditor and must not be older than one month from the date of the submission of the application for state aid. This may be a solution for new companies who were not operational long enough to post strong financial results at the end of 2019 but have nevertheless, and despite Covid-19 pandemic, improved their financial indicators since then.

Transfer pricing rules during Covid-19

Another challenge is to establish tax certainty on transfer pricing risks for 2020 and 2021 due to market, operational and financial risks arising from the Covid-19 period. An effective workaround is to request a tax ruling from the SRS which will help the enterprise in question to clarify numerous pressing questions arising from the latest OECD Guidance on the transfer pricing implications of the Covid-19 pandemic. Another far reaching solution is to prepare a real time transfer pricing documentation for the relevant Covid-19 period.

For example, enterprises that have not changed their management structure and financing sources could adapt the Covid-19 risk related reality to further minimize audit risks by requiring clarification from the SRS on such issues as what information in particular may be used for ascertaining the arm's length nature of transfer pricing policy. Also, the impact of granted/rejected Covid-19 state aid should be clarified. In addition, the enterprise may require clarification on whether corporate income tax declarations filed

after the end of fiscal year due to the latency of available information affecting transfer price (i.e., higher profit) includes upward corporate tax adjustment or not.

By following the said, the enterprise may use the tax ruling in the preparation of real time documentation and, therefore, may avoid additional tax risks due to losses, adjusted profits or Covid-19 related risks.

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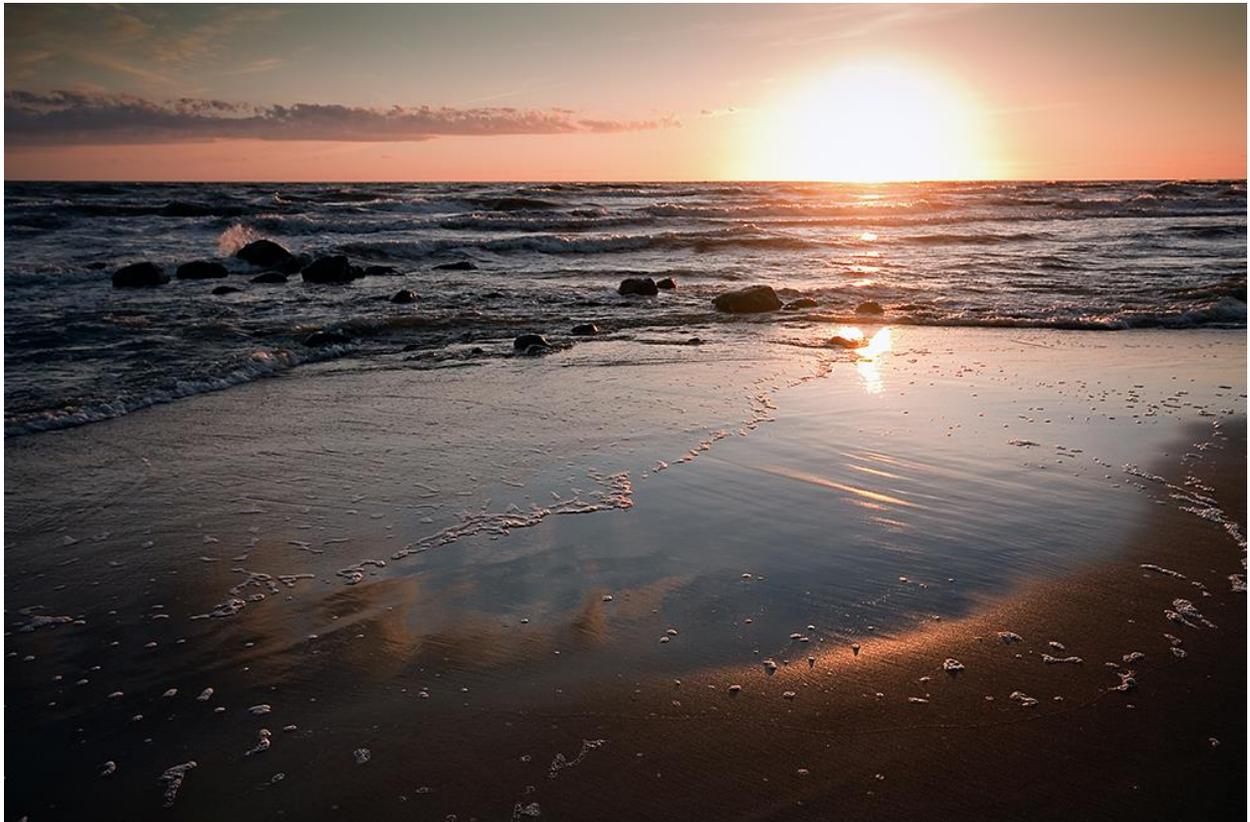


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→ Lithuania

Bullets



Tax aid measures to companies affected by Covid-19

The State Tax Inspectorate (hereinafter - STI) has announced a new list of companies affected by Covid-19, that will be allowed to postpone the payment of taxes until 30 June 2021. The new list of companies can be downloaded [here](#). If your business was affected and your company is not in the list, please let us know.

The aforementioned new list was concluded based on the company's performance indicators. For example, the list does not include companies whose turnover did not decrease in October, November 2020, compared to the same period in 2019. All companies selected for the new list must provide proof that that they were in fact affected (e.g., submit a profit and loss statement for 2020, trial balance, etc.).

Moreover, the companies who are not included in the new list, but who have also experienced financial difficulties due to Covid-19 are able to apply to the STI and submit an application through the My STI system.

VAT news for e-commerce business

E-commerce businesses selling cross-border should prepare for major tax changes coming into force from 1 July 2021. More information can be found in our newsletter [here](#).

Packaging tax obligations for companies selling goods to Lithuania

Companies selling goods to Lithuania in certain type of packaging should assess their packaging tax liabilities in Lithuania as soon as possible. The Lithuanian Government have increased the penalties for non-compliance with packaging tax obligations to up to 10,000 Euros, so it is crucial to settle such obligations in a timely manner. More information can be found in our newsletter [here](#).

A new methodology in public procurement procedures

A new methodology for determining the qualification requirements and compliance of suppliers

participating in public procurement procedures has entered into force. The rules set out in the methodology are intended to help the contracting authority to determine whether the supplier is competent, reliable and capable of fulfilling the terms of the procurement or contract. Meanwhile, the supplier has the opportunity to assess possible discrepancies and to prepare better for compliance with qualification requirements. The methodology is not mandatory for low value purchases.

New recast of the Lithuanian Law on Companies

From 1 January the new recast of the Lithuanian Law on Companies has entered into force. The latter enables legal entities to be established to open an accumulative bank account with a credit or electronic money institution. The changes aim to provide foreign investors with even more favourable and attractive conditions. Prior to this recast, the opening of a bank account was a rather complicated process.

→ Lithuania

Compliance in the context of state aid and the outbreak of Covid-19

On 19 March 2020 the European Commission adopted a Temporary Framework which enabled Member States to take compliant State aid measures to support their economies in the context of the COVID-19 outbreak. By adopting the Temporary Framework, the European Commission recognised that the entire EU economy was experiencing unprecedented disturbance and difficulties with several indications that the economic consequences could be worse than in 2008.

The Temporary Framework sets out compliance rules that allow Member States to take swift and effective action in order to maintain liquidity for solvent and less solvent undertakings. Given the current circumstances and the extent of the restrictions implied by the governments, even healthy undertakings risk suffering significant damage. It is vital for undertakings of all sizes to ensure the liquidity and continuity of their economic activities.

In order to make use of available State aid measures, undertakings need to take certain measures in order to ensure eligibility for State aid and compliance with the requirements set out by the Temporary Framework and national support schemes. This article focuses on state aid that may be granted in the form of direct grants, tax and payment advantages or other forms of support such as repayable advances, guarantees, loans and equity.

In general, temporary limited state aid must comply with the following main cumulative requirements:

– Limitation of aid amount:

According to the latest amendment of the Temporary Framework, overall aid shall not exceed 1.8 million Euros per undertaking. All figures must

be gross, before any deduction of tax or other charge.



– Aid scheme:

According to the Temporary Framework, state aid will be granted on the basis of a scheme with an estimated budget. It is recommended that companies submit applications as soon as national support schemes become available, as state subsidies are usually granted on a first-come-first-served principle.

In addition, national schemes very often include additional requirements and eligibility criteria which have to be taken into consideration. For example, in the case of the rent subsidy programme, which was approved by the Lithuanian government after the first wave of Covid-19, applicants were required to register rent agreements and their amendments publicly. As such registration required the presence of original agreements and flawless property registration documents, many potential applicants failed to submit applications on time.

Furthermore, depending on the authority administering national aid schemes,

additional technical measures, such as granting electronic access to declaration systems and the submission of authorization documents should also be taken into consideration in order to ensure that the applications are submitted on time and while there is budget still available.

– Undertakings in difficulty:

State aid may not be granted to undertakings that were already in difficulty on 31 December 2019. The idea behind this requirement is that state aid may only be granted to undertakings which were healthy prior to the Covid-19 outbreak, even if they subsequently entered into financial difficulty after the Covid-19 outbreak. In order to check this, national authorities ask businesses to provide financial statements for the financial years 2019-2020. Furthermore, “linked undertakings”, i.e. undertakings belonging to a group of companies, are very often requested to provide consolidated financial statements. Under the given circumstances, it is strongly recommended to prepare and to submit financial statements for registration as soon as possible. Undertakings whose financial year does not correspond to the calendar year, should prepare and submit interim financial statements.



– Deadlines:

According to the latest amendment of the Temporary Framework, state aid will be granted no later than 31 December 2021; however, this deadline has already been postponed several times. The more important deadlines are usually indicated in the national state aid schemes, which, amongst other requirements, include the deadline for application. Regardless of this, applicants

should be aware of the limited budget foreseen for each state aid package, which can be used up even before the deadline for submitting applications has passed.

– Special requirements for different types of undertakings:

The Temporary Framework sets out special requirements for undertakings that are active in the processing and marketing of agricultural products. National aid schemes often distinguish between small/medium-sized and large undertakings, or individual companies and companies belonging to a group of companies. Due consideration should therefore be given to the special requirements and eligibility criteria set out not only in the Temporary Framework, but also in the rules of the respective state aid schemes.

The Covid-19 outbreak poses the risk of a serious downturn affecting the whole economy, hitting businesses of all kinds and sizes and thus causing a severe lack of liquidity. State aid is needed to ensure that sufficient liquidity remains available in order to counter the damage inflicted and to preserve the continuity of economic activity. Businesses seeking state support have to make preparations in order to become eligible and compliant with the criteria and requirements set out in the Temporary Framework, as well as in their respective national support schemes. Foreign businesses and their managements should be made aware of the national support schemes available, as well as requirements and technicalities associated with application. It is therefore recommended that businesses seek assistance from their local advisor.

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→ Sweden

Bullets



Labour law: Prolonged recommendations

Employers who have the opportunity to let their employees work from home should recommend this. This recommendation is prolonged until at least end of May.

For employees that does not work from home, the employer is required to ensure that there is a distance between colleagues in the workplace, that working hours are adjusted so that employees do not have to travel to or from their workplace in rush hour traffic, and that good hand hygiene is maintained.

Containment restrictions

The prohibition of public gatherings and public events with more than 8 people has been in place since 23 November. This does not apply to private events but should be seen as recommendations for these events as well. As of 1 March, Bars, Restaurants, Cafés, etc. must be closed by 20:30 and restrictions on seating are in place (maximum 4 persons in every group).

Face masks should be used on public transport.

All unnecessary travel should be avoided.

New temporary Act

The Government has adopted a temporary Act to prevent the spread of the virus. This legislation is intended to give the Government the authority to adopt more binding communicable disease control measures than were previously possible. The Act entered into force on 10 January 2021 and will be in effect until 30 September 2021.

The new Act is intended to allow restrictions to be implemented, if necessary, within the following activities and places: a) Public gatherings and events; b) Places for recreational or cultural activities that are open to the general public; c) Commercial places that are open to the general public; d) Public transport and domestic flights; e) Places for private gatherings.

Covid-19: Rules for short-time work in effect until 31 May 2021

As of 16 March 2020, until the end of May 2021 employers (who can provide evidence for a drop in business due to the pandemic) can apply for short-time work. Employees' working hours are reduced and salary compensation is paid by the government (the compensation levels differ mainly depending on the levels of reduced working hours, the employee's salary level and what period/how long the company has applied for compensation).

So far more than 90,000 applications have been made.

Corporate compliance: General meetings of the shareholders

The Swedish parliament has passed a temporary law to facilitate the holding of general meetings under the current circumstances, which have been prolonged and now apply through 31 December 2021. The law makes it easier for companies to conduct general meetings in such a way that the risk of spreading the virus is reduced to a minimum.



The collection of proxies, postal voting and participation through representatives at general meetings will be possible to a greater extent. The number of people attending in person can be kept to a minimum, while the possibility for shareholders to exercise their right to vote is facilitated.

It is now also possible for companies to hold their annual general meeting by "electronic connection" (i.e., via video conference solutions) in combination with postal voting or to hold a general meeting with postal voting only.

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→ Get to know us!

Rödl & Partner in the heart of Helsinki, Finland

Rödl & Partner offers legal, tax and BPO services in Finland with solid cooperation from two teams: legal and accounting. The two teams came together under one roof as members of the Rödl & Partner family in 2016, before which both teams have long histories as experts in their respective fields in Finland.

Rödl & Partner Satakerta, the BPO team in Helsinki, was established in the late 1980's. It is a family business that has grown from a few professionals to a team of 25. In 2014, the team joined the Rödl & Partner family and continues to work under the name Rödl & Partner Satakerta. The roots of the legal team of Rödl & Partner in Finland date back to the early 1990's, when the predecessor of the current firm was established. The legal team, with 11 staff members currently, joined the Rödl & Partner family in November 2013 after several years' successful cooperation.

In 2016, both teams moved to a new office location, and work in close proximity separated by one door only. The offices are located in the heart of the capital of Finland, Helsinki, one street over from the city's busiest street. In addition to BPO services, our area of expertise is business law, with all that entails. Our attorneys are specialized in M&A, labor law, tax law, contract law and dispute resolution, to name some of our core areas of expertise. We are happy to help with all legal questions related to your business expansion to Finland, or from Finland to the rest of the world.

Satakerta Rödl & Partner



Tero Heikkilä, Team Leader

Anja Söderholm, Key Account Manager

Kati Jalojärvi, CEO

Rödl & Partner Attorneys



Timo Huhtala, Attorney at law,
Managing Partner

Tommi Koponen, Attorney at law,
Partner

→ Events

M&A Campus 2021



#1 Webinar | M&A Campus, 3 February 2021.

Rödl & Partner has commenced a session of webinars titled [M&A Campus 2021](#) that is dedicated to a wide range of M&A-related topics. Our highly experienced professionals from various jurisdictions will be sharing their M&A expertise and practical tips.

We are glad to inform you that the initial webinar took place on 4 February 2021. The event was dedicated to the topic of share purchase agreements in the times of the pandemic. [Tobias Kohler](#), Partner and the head of the Lithuania and Belarus offices, in cooperation with Hans-Ulrich Theobald Partner in the Czech Republic, delivered insights on international transactions, current and potential risks, and share purchase agreement-related crisis scenarios. In addition, the experts overviewed counterparties' challenges arising from the volatile situation during the pandemic.

The webinar attracted over 150 attendees – leading entrepreneurs, owners, and managers – who had the opportunity to remotely discuss the issues together with the presenters.

→ New employees

Rödl & Partner Denmark



Rasmus Hemmingsen has joined Rödl & Partner Denmark in 2021. He will be working as a Manager (Cand Merc Aud) and serving clients in audit, tax and accounting advisory.

Rasmus has an extensive experience of both smaller ownership and larger companies, including listed entities. In addition, he is experienced in the implementation of IFRS and changes in audit accounting policies within local GAAP, as well as in implementing controls, optimizing processes in companies within IT.

Before joining Rödl & Partner Denmark, Rasmus Hemmingsen worked for one of the BIG4 accounting companies.

Rödl & Partner Latvia



On 1 January 2021 Rödl & Partner Legal ranks were further strengthened by the arrival of a new professional: **Esmeralda Balode-Buraka**, an attorney at law who is experienced in dispute resolution, competition law, regulatory & compliance, financial instruments and energy law.

Esmeralda Balode-Buraka has more than 20 years' professional experience obtained both from work in both the governmental and private fields. Her recent experience covers in-depth legal consulting on matters related to energy markets and international trade, derivatives trading, as well as representing clients in regulatory disputes.

Ms. Balode-Buraka advises corporate clients of various sizes and structures on developing their legal compliance programs, including legal risks assessment and management, assists on their implementation and helps clients to establish their ESG programs. As one of the leading EU law experts in Latvia, she consults international and local governmental and non-governmental bodies on EU law implementation and application in areas such as agriculture, Green Deal, energy and transport.



As of 15 February 2021, a new legal assistant – **Maruta Kalpinova** – joined the Rödl & Partner Latvia Legal team. Maruta has previously taken part in an international law moot court competition, and for almost 5 years worked in a district court as a judge's assistant, gaining hands-on experience in court proceedings and procedural aspects.

Maruta Kalpinova has gained experience and knowledge in different areas of both domestic and international law, specifically regarding litigation, and is now already engaged in research in different fields of law.

→ Rödl & Partner in the Nordic-Baltic Region



As an integrated professional services firm, Rödl & Partner is active at 109 wholly-owned locations in 49 countries. We owe our dynamic success in the service lines audit, legal, management and IT consulting, tax consulting as well as tax declaration and BPO to our approx. 5.120 entrepreneurial minded partners and colleagues.

Rödl & Partner has been present in the Nordic-Baltic Region for more than 27 years. As the leading consulting company of German origin, Rödl & Partner supports via its offices in Copenhagen, Tallinn, Helsinki, Tampere, Kouvola, Riga, Vilnius, Stockholm and Malmö some of the most important investment and major transaction projects by foreign companies in the region.

More than 135 employees in the Nordic-Baltic Region offer legal, tax and economic advice from a single source and thus provide local know-how, worldwide experience in international matters.

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