



Topic of the issue:

Game rules for the “red” quarantine zone

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Starting from late August to early September, a new wave of Covid-19 incidence is unfolding rapidly in Ukraine. It should be recalled that quarantine restrictions are currently determined depending on whether the relevant region or city is marked as a certain zone, from ‘green’ to ‘red’, depending on the level of morbidity, hospital occupancy, etc. The ‘red’ zone symbolizes the highest level of danger, which is the ground for the harshest restrictions to be applied.

As things stand, Kherson, Zaporizhzhia, Donetsk, Dnipropetrovsk, Odesa and Sumy regions are already in the ‘red’ quarantine zone, and it is expected to be extended to Kyiv, Rivne and Mykolaiv regions in the coming days. Experts believe that most of the country will ‘redden’ soon. Given these circumstances, we have set out the basic rules, restrictions, and our recommendations in case of a ‘red’ quarantine zone.

Note:

This publication is not a legal advice and provides only general information about the most important legislation changes in Ukraine. In order to avoid any risks prior to making any decisions related to information contained in this publication, please, seek the legal advice.

RESTRICTIONS

The same restrictions and prohibitions as during the last lockdown are effective in the 'red' zone. This has the greatest impact on the operation of trade and entertainment facilities, catering establishments (cafes, restaurants), hotel business, and other service industries (gyms, beauty salons, etc.).

However, unlike with previous lockdowns, the government has introduced certain access conditions for visitors and staff that allow this sector of the economy to operate and has announced that it does not contemplate changing it during this aggravation period.

TERMS OF ADMISSION

Trade & entertainment as well as hotel business, other business areas subject to the prohibition to operate, will be allowed to receive visitors if all employees of the relevant establishments have one of the **following documents**:



Covid-certificate (international, domestic, foreign) of one of three types: vaccination, recovery or a negative PCR test result;



Negative result of a PCR test performed within 72 hours before entering the facility; or



Negative result of an antibodies rapid test made within 72 hours before entering the facility.

The same requirement applies to all visitors save for persons under 18 years of age.

DATA PROTECTION

Notably, the verification of the documents involves personal data processing, including 'sensitive data' (health information). To this end, businesses should have a specific legal ground. Based on the current legislation of Ukraine, it may be the exercise of rights and obligations in the field of labour relations for employees, and an unambiguous consent to the processing of such data for visitors. Moreover, **businesses should**:

- provide adequate information on the processing of employee and visitor data;
- choose a method of data processing that will meet the set goal – to check the availability of the above documents for admission;
- not use the data for any other purpose;
- delete the data in a timely manner;
- take data security measures.

For this purpose, we advise companies to establish a separate business process and appoint a responsible person.

IF NOT ALL OF THE EMPLOYEES ARE VACCINATED

It is not infrequent that some employees refuse to be vaccinated. However, employers may not require their employees to be vaccinated (except for some fields of occupation where vaccination is required by law). In this case, an employer must either require its employees to be COVID-tested every 3 days or not allow such employees to work with visitors.

If employees refuse to provide vaccination documents / negative test results to the relevant employers, the latter **can use the following options:**



Remote work (using electronic means of communication) or **home-based work** (e.g. manual labour);



Unpaid leave (until the end of quarantine or within 15 calendar days per year after the end of quarantine);



Paid basic and additional annual leave (if there are unused days);



Downtime with payment of 2/3 of the salary (as a rule).

ON-FIELD SITUATION

Although the practice of applying the new requirements is still very much in its infancy, it can be surely stated that businesses face various challenges when operating in 'red' zones:

- Timely informing all visitors about the transition to a new mode of operation is often problematic, and visitors are often upset or annoyed when learning about the new rules at the entrance, which sometimes trigger conflict situations.
- In the 'red' zone, most visitors give up optional activities (such as entertainment), thus suffering a significant reduction in revenue, up to 50% or more;
- New requirements in conjunction with potential conflict situations require additional administrative resources to ensure document verification and an appropriate level of security;
- The National Police, jointly with the State Food and Consumer Service as well as (from time to time) the National Guard, conducts inspections of businesses for compliance with new requirements and severely fines violators. Cases are known in which the police sealed the premises where violations were found.

However, we hope that the practice of applying the new requirements will soon get stabilized, the degree of tension in society will decrease, and the implemented measures will give a positive result in the form of restored 'yellow' and 'green' zones in Ukraine.