

Gugushev & Partners

L A W O F F I C E

LEGAL REVIEW

OF THE REGULATORY DEVELOPMENTS
IN RELATION TO THE COVID-19 PANDEMIC
AND THE STATE OF EMERGENCY



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I. INTRODUCTION

The present document represents a general analysis of the main regulations and amendments, introduced by the Emergency Act Regarding the Measures and Safeguards During the State of Emergency declared by the National Assembly of Bulgaria with its Resolution from March 13th, 2020 („the Emergency Act“ or “the Act”) as published in State Gazette, issue 28 of March 24th, 2020 (special issue).

The present review, updated as of March 24th, 2020, presents an analysis of all legal changes introduced by the final version of the bill that became law. This report has been prepared by the legal specialists of Gugushev & Partners Law Office and is to be used for information purposes only. This report does not represent a legal advice/statement, cannot be relied upon in any way as such and shall not in any way be considered legally binding with regards to Gugushev & Partners Law Office.

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II. AMENDMENTS RELATED TO SUSPENSION OF ALL PROCEDURAL TERMS ON LITIGATION, ADMINISTRATIVE AND ENFORCEMENT PROCEEDINGS

According to the final text of the Act, for the period from March 13, 2020, until the state of emergency is officially ended, the following terms will not run:

1. Procedural terms

Procedural terms on litigation, arbitration and enforcement proceedings, with the exception of terms related to criminal proceedings and procedures for imposition of coercive measures under the Law on Extradition and the European Arrest Warrant – i.e. all court proceedings are suspended except those relating to the criminal offence punishment requiring public prosecution.

2. Limitation periods

Limitation periods will not run, except those under the Penal Code and the Law on Administrative Offenses and Penalties - hence, the only time limits that will continue to run are those for the prosecution of criminal and administrative penal liability.

3. Terms for executing instructions given by an administrative authority to citizens or participants in proceedings

Terms for executing instructions given by an administrative authority to citizens or participants in proceedings will not run, with the exception of proceedings relating to the management of the European Structural and Investment Funds. The deadlines given to participants in procurement procedures, procedures of company registration, license and permits issuance procedures, etc. are suspended.

4. Terms under the Anti-Corruption and Forfeiture of Illegally Acquired Assets Act

The terms under the Anti-Corruption and Forfeiture of Illegally Acquired Assets Act, related to the submission of declarations of incompatibility and property and interests by persons holding high public office, as well as in proceedings for establishing conflict of interest and forfeiture in favor of the State of the illegally acquired assets, including the imposition of security measures to secure a future claim for seizure of property. An exception to the suspension is provided only in respect of the annual declaration of property and interests, the period of which remains until 15 May - for the previous calendar year.

5. Time limits under the Judiciary Act

Time limits under the Judiciary Act will not run. These are time limits for submission of declarations by judges, prosecutors and investigators before the Inspectorate at the Supreme Judicial Council. An exception to the suspension is provided only in respect of the annual declaration of property and interests, the period of which remains until 15 May - for the previous calendar year.

Beyond the procedural terms being suspended, the time-limits stipulated by law, which expire during the state of emergency, and which relate to the exercise of rights or the fulfillment of obligations of private persons and entities, are extended by 1 month, as well as the effect of administrative acts, which is limited in time and are to be expired during a state of emergency.

All announced public sales and enforcement actions announced by state and private bailiffs will be suspended and no new fees and costs for rescheduling will be due after the state of emergency is officially ended.

During a state of emergency, bank accounts of individuals and medical institutions, salaries and pensions will not be frozen, security measures on medical equipment will not be imposed, and enforcement actions against movable property and real estate of individuals will not be initiated except for fulfillment of obligations for child support, claims for damage or salaries claims.

Restriction on notarial proceedings except for urgent ones - the Act requires the Notary Chamber to provide notaries on duty at a ratio of at least one notary official per 50,000 citizens for the respective area.

Until the state of emergency is officially ended, the physical persons and legal entities will not be held liable for delayed payment of monetary obligations, as well as non-monetary consequences such as early repayment, contract cancellation and seizure of property, will not apply, i.e. banks will not be able to declare their loans ahead of schedule due to delayed payment by the borrowers or to charge additional penalty interest.

CONCLUSION

With the adoption of the Emergency Act, all procedural terms, which began to run before the announcement of the state of emergency, are suspended in pending court and administrative proceedings, with the exception of terms related to criminal proceedings.

The Act also provides for the suspension of the material limitation periods, as well as the extension of the terms related to the exercise of rights or fulfillment of obligations of citizens and legal entities that expire during a state of emergency. In addition, it cancels all public sales and enforcement actions and introduces a restriction on notary proceedings, except for urgent ones.

Until the state of emergency officially ends, the physical persons and legal entities will not be held liable for delayed payment of monetary obligations, i.e. banks will not be able to charge penalties for late payment or to declare their loans ahead of schedule.

III. AMENDMENTS RELATED TO UTILITY BILLS RELIEF AND GOVERNMENT ACCESS TO DATA

Amendments are also introduced in the Electronic Communications Act where all companies providing public electronic communication networks and/or services (i.e. telecom companies and internet providers) are required to retain traffic data regarding individuals who have been quarantined or ordered to undergo forced isolation/treatment and provide this data upon request to the Ministry of Interior. Previously data identifying the devices of the consumers, the time, date and duration of their connection to the public networks as well as the cells used were to be provided only upon orders from a judge presiding over a court institution or another person explicitly authorized by him/her.

The provisions of the Emergency Act also amend the general terms and conditions of all energy companies, providing electricity to end-users, by increasing the deadline for consumers to pay their electricity bills from 10 to 20 days from the date of the invoice. All planned repair works on the electricity grid requiring temporarily stopping power are postponed. The only exceptions are repair works required for removing power outages and breakdowns in supply.

IV. AMENDMENTS RELATED TO ANTI-EPIDEMIC MEASURES AND SAFEGUARDS AND SANCTIONS FOR THEIR VIOLATIONS

1. Health Act

The Health Act provides the Minister of Healthcare with the authority to order mandatory isolation of sick or contagious persons, contact persons and persons who have entered the territory of the

Republic of Bulgaria from other countries. The measures may be imposed at home conditions after an assessment of the existing epidemic risk has taken place. An appeal against the order for mandatory isolation issued by the head of the respective healthcare institution does not cease the execution of the order.

The following sanctions are provided for a violation:

- refusal of a contact person to conduct the necessary medical examination is punished with a fine of 50 to 500 BGN;
- in case of refusal of a voluntary attendance of a medical examination, a measure of coercion shall be imposed - forced bringing with the assistance of the Ministry of Interior authorities;
- in case of established carrier of infectious disease, refusal to perform compulsory isolation and treatment shall be punished by a fine of BGN 5,000;
- a fine of BGN 5,000 is imposed on those who enter the territory of the country who do not fulfill the imposed mandatory isolation.

2. Medical-Treatment Facilities Act

Amendments to the Medical-Treatment Facilities Act provide that within two months of the lifting of the state of emergency pharmacies shall dispense medicinal products only on a prescription booklet, in accordance with the recently given medicines. The Minister of Healthcare is entrusted with the authority to order checks on compliance with anti-epidemic measures and to ban the export of certain medicinal products.

3. State Property Act

Amendments to the State Property Act provide that during a state of emergency personal protective equipment, medical supplies, medical and laboratory equipment, hygienic materials, privately owned by the state, may be provided for temporary free use of medical establishments.

CONCLUSION

The adoption of the Act introduces new rules related to the purchase of medicines and medical supplies with the state budget resources, the limitation of medicinal products export, the extension of study sessions, as well as the powers of the military personnel from the armed forces to participate in the implementation of anti-epidemic measures on the territory of the country. Penalties for violation or refusal of assistance in relation to the conduct of a medical examination, mandatory isolation and treatment, and other quarantine requirements shall also be provided.

V. AMENDMENTS RELATED TO THE VALIDITY OF PERSONAL DOCUMENTS, TERRITORIAL EXPERT MEDICAL BOARD (TEMB) AND NATIONAL EXPERT MEDICAL BOARD (NEMB) DECISIONS AND OTHERS

With the adoption of the Emergency Act the validity of identity cards and driving licenses, which expire during the state of emergency, shall be extended by 6 months until 31 October. For the period of extension, the documents are considered valid only on the territory of the Republic of Bulgaria.

The validity of documents for residence of foreign individuals and their families respectively is also extended. Foreigners whose term of residence expires in the context of a state of emergency may apply for a continuation of residence within 14 days after the lifting of the state of emergency.

The People with Disabilities Act provides for an extension of the validity of the expert decisions of TEMB, NEMB and the Central Military Medical Commission at the Military Medical Academy, whose term expires during the state of emergency, by the period of the state of emergency and two months after its lifting. The period of validity of protocols for costly treatments of chronic patients, which expires during the state of emergency, is extended for the duration of the period of emergency and two months after its lifting.

VI. AMENDMENTS RELATED TO MANAGEMENT OF THE RESOURCES FROM THE EUROPEAN STRUCTURAL AND INVESTMENT FUNDS

Until the state of emergency is lifted, the management authorities of the resources from the European Structural and Investment Funds are entitled to:

- unilaterally modify contracts for financial support through grants in accordance with the need for crisis measures, including to increase the amount of the contracted grant;
- extend grants under simplified rules, including without the publication of a call for proposals;
- increase the overall resource for operations beyond those approved by the monitoring committee under the schemes eligible for emergency measures;
- at the discretion of the head of the relevant management authority, certain deadlines in the procedure of direct grant award may be shortened;
- the monitoring committee of the respective program may decide in absentia on all matters within its competence.

VII. AMENDMENTS RELATED TO PUBLIC PROCUREMENT PROCEDURES

The Act provides for changes in the sphere of public tenders. The contracting entity of the public contracts will not be obliged to conduct procedure under the Public Procurement Act in case of:

- purchase of hygiene materials, disinfection products, medical products, and personal protection products guaranteeing the anti-epidemic measures;

- purchase of medical products, medical and laboratory equipment, necessary for diagnostic and treatment of infected patients, consumables for them as well as activities for their introduction;
- assigning activities for disposal of pesticides and medical waste.

By request of the contractors of the public contract, the terms of implementation could be renegotiated, but not for period which is longer than the state of emergency.

The contractors for whom has arisen the obligation to apply centralized electronic platform for entrusting public contracts, apply for public tenders opened up to one month after the end of the state of emergency, the arrangement for service contracts in force until November 1st, 2019 with some exceptions.

VIII. AMENDMENTS RELATED TO TAXATION, ANNOUNCEMENT OF THE ANNUAL FINANCIAL REPORTS AND OTHERS

1. Corporate Income Tax Act

The amendments to the Corporate Income Tax Act extend until June 30, 2020, the deadline for:

- filing an annual corporate tax return;
- corporate and expenses tax payment;
- declaring the tax on ancillary and auxiliary activities under the Gambling Act and filing an annual activity report and paying the tax on the income from ancillary and auxiliary activities under the Gambling Act;
- filing an annual tax return by public-financed enterprises when subject to levy of tax on income and payment of the income tax by such enterprises;
- filing an annual tax return for the tax on the activity of operating a ship and payment of the tax on the activity of operating a ship;
- the advance payments shall be declared by 15 April 2020.

The persons who have paid the real estate and vehicle tax for the whole year until June 30, 2020, are entitled to a discount of 5 percent.

2. Personal Income Tax Act

The amendments to the Personal Income Tax Act extend to 30 June 2020 the deadline for:

- filing an annual tax return and for payment of the due tax on the annual tax base under the tax return by the persons engaged in business activities as traders within the meaning of the Commercial Act, including sole traders, as well as natural persons registered as farmers;
- payment of the tax on the expenses by the above-mentioned persons;
- if the declaration is filed and the tax is paid by 31.05.2020 the persons are entitled to a discount of 5 percent.

3. Accounting Act

The amendments to the Accounting Act extend the following deadlines:

- for publication of the annual financial reports and the annual activity reports - by 30.09.2020;
- for publication of the declaration on the lack of activity in 2019 - by 30.06.2020.

4. Tax and Social Security Procedure Code

By amendments to the Tax and Social Security Procedure Code for the period of the state of emergency:

- the prescription on public claims is suspended;
- the 10-year prescription term, which extinguishes all public claims irrespective of the suspension or interruption of limitation, does not apply;
- enforcement proceedings are not initiated unless it is necessary to protect important state or public interests, and enforcement is suspended.

5. Public Offering of Securities Act

Amendments to the Public Offering of Securities Act extend to 30 September 2020 the deadline for:

- submission by the issuer to the regulated market and the commission of the quarterly report on compliance with the terms of the bond loan in the cases where the issuer has not concluded a contract with a bondholders' trustee;
- submission by the issuer to the trustee of the bondholders of a report on performance of its obligations according to the terms of the bond issue;
- public disclosure by the issuer of a 6-month financial report on the activity;
- public disclosure by the issuer of a statement of its financial position;
- holding the regular general meeting of the public company.

The deadline for public disclosure by the issuer of the annual financial report for its activity is extended until July 31, 2020. The deadline for the investment intermediary to submit to the commission and the fund a report on client assets is extended until the end of the month following the reporting period.

6. Markets in Financial Instruments Act

Amendments to the Markets in Financial Instruments Act extend by 31 July 2020 the deadline for submission of the annual financial report by the investment intermediaries and the market operators.

7. Collective Investment Schemes and Other Undertakings for Collective Investments Act

Amendments to the Collective Investment Schemes and Other Undertakings for Collective Investments Act extend the deadline for:

- submission to the commission by the investment company and the management company of the mutual fund of an annual report - by 31 July 2020;
- submission to the commission by the management company of an annual report - by 31 July 2020;

- presentation to the commission and the public by the open-ended national investment fund of the audited annual financial report - by 31 July 2020;
- presentation to the commission by the investment company and the management company of the mutual fund of a 6-month report - September 30, 2020;
- presentation by the management company of a balance sheet and statement of income and expenses as of the last date of each quarter, as well as the quarterly statement of capital adequacy and liquidity - September 30, 2020;
- presentation by the national open-ended investment fund of a 6-month report - 30 September 2020;
- the period for announcement by the management company of the collective investment scheme of summarized information on the issue values and redemption prices of its units is extended to 7 working days from the end of the respective reporting period.

8. Insurance Code

By amendments to the Insurance Code, the period for submission by the insurers and reinsurers of the monthly reports and statements is extended to the end of the second month following the month to which they refer.

The Customs Agency is empowered to provide free of charge detained, seized, confiscated and abandoned goods (including ethyl alcohol for disinfection) to medical establishments, the Bulgarian Red Cross, kindergartens, schools, social institutions, state and municipal institutions. Excise goods provided shall be exempt from excise duty.

CONCLUSION

The transitional and final provisions of the Emergency Act postpone a number of deadlines provided for in the legislation relating to the taxation of natural and legal persons, the submission of annual financial reports, annual tax returns, and other financial and accounting documents.

IX. AMENDMENTS RELATED TO LABOUR AND SOCIAL SECURITY LEGISLATION

1. Labour Code

The changes in the Labour Code envisage right of the employer unilaterally:

- to assign to the employee without his/her consent home office and/or work from distance by changing the location of the working place. The order should arrange the new working conditions such as location of the working place, working remuneration, order, assignment and accounting of the work, supply of materials and stationery, stationery expenses and payment way;

- to stop the work of the whole enterprise, part of it or only of some employees. Work can be stopped for the whole period of the state of emergency or only for part of it until its repeal;
- to establish part-time work, for the employees who work full-time for the whole period of the state of emergency or only for part of it. The duration of the working time cannot be less than half of the duration of the working time provided by the law;
- to provide the paid annual leave to the employee without his/her consent, in case of cease work of the whole enterprise, part of it or its employees, including an employee who doesn't have 8 months of experience. The period of leave is acknowledged for work experience.

The changes in the Labour Code envisage the following obligations of the employer during the state of emergency:

- to pay the gross wages of his employees in case of cease work;
- to allow the use of paid annual leave or unpaid annual leave in case of the state of emergency if requested by;
 - ✓ pregnant women;
 - ✓ women in an advanced stage of in-vitro treatment;
 - ✓ mothers, single fathers and adoptive parents of a child under 12 years old or with disabilities, regardless of his/her age;
 - ✓ minors;
 - ✓ disabled workers with 50 and over 50% disability as well as employees with coronary heart disease, an active form of tuberculosis, oncologic disease, professional disease, mental disease or diabetes.

2. Law on Civil Servants

With the amendment of the Law on Civil Servants are introduced similar measures regarding professional relations.

The authority appointing civil servants can as well by its order assign home office or work from distance for its employees without their consent. In case it cannot assign work from distance or home, the authority is obliged to allow paid or unpaid annual leave, requested by the above described in the LC individuals.

During the state of emergency, the introduced legal restrictions for overtime and its duration are not applicable for the employees, performing or supporting medical care. The police and fire safety authorities can work overtime only after their explicit written consent. In case they do not give such consent, they will not be liable to disciplinary action.

3. Social Security Code

The changes in the Social Security Code:

- stop the periods provided by law of all compensations, compensations for accidents at work, and professional disease, statutory pension insurance, implementation control and disputes;

- applications, complaints and other documents in relation to money compensations, aids and pensions are submitted online or through a licensed postal operator;
- documents submitted by insured persons and pensioners up to 14 days after the end of the state of emergency in the relevant office of the National Insurance Institute are treated as submitted within the period;
- the financial compensations for unemployment are granted based on application, submitted online with a qualified electronic signature or with personal identification code in the National Insurance Institute or on paper at the relevant directorate of the Labour Office.

There is an option for state support for the employers, affected by the measures during the state of emergency by covering expenses in the amount of 60% of the insurable earning for January 2020 for the people insured by them. The criteria which they should cover will be determined by act of the Council of Ministers.

The aid will be paid by bank transfers to the employers within 5 working days based on written information provided by the Employment Agency. The measure is envisaged for the duration of the law, but not more than 3 months. In case the insurer does not pay the full amount of the working remuneration to the employees for whom he received the aid, he will be obliged to restore them.

Until September 30th, 2020, some deadlines related to the activity of the pension companies are prolonged.

CONCLUSION

The amendments introduce the possibility that the employers at any time during the state of emergency can unilaterally assign by his order, home office or work from distance office to his workers and employees without their consent, to provide half of the paid annual leave of the worker or employee without his/her consent, to stop work or to switch the employees of the company to part-time employment for some or all of the duration of the state of emergency.

We are looking forward to assisting you further, including for statements with the described topics.

Faithfully Yours,
Gugushev & Partners Law Office Team

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Sofia, Bulgaria