

## **Council of Ministers Decree on payment of compensations to employers who have suspended work due to the declared state of emergency**

According to the Measures and Actions in State of Emergency Act (“MASEA”) in the event of a state of emergency, the employer may suspend the work of the entire or part of the enterprise or individual employees for the whole or part of the period until the state of emergency is lifted. During the suspension period the employees or workers are entitled to their gross remuneration. While the MASEA is in force, but for a period not exceeding three months, the National Social Security Institute (“NSSI”) will pay the employers 60% of the insurance income (gross remuneration) for January 2020 of the suspended employees, under terms and conditions determined by the Council of Ministers.

In implementation of those regulations, the Council of Ministers of the Republic of Bulgaria adopted a Decree on the terms and conditions for payment of compensations to employers, aiming at retaining the employment of the employees and workers in case of work suspension due to the state of emergency declared by the National Assembly on March 13, 2020 (the “Decree”). The Decree enters into force retroactively as of March 13<sup>th</sup>, 2020. It provides for the eligibility criteria for the employers and the application procedure.

### **General provisions**

Compensations shall be granted to:

- (i) Employers who have suspended the work of the entire or part of the enterprise or individual employees as a result of an order of the Minister of Health<sup>1</sup>; or
- (ii) Employers of all economic sectors, whose sales revenue for March 2020 decreased by at least 20% compared to their revenue for the same period in 2019 due to the total or partial suspension of business activity or the introduction of part-time working hours, caused by the state of emergency.

The Decree explicitly excludes companies operating in the sectors of agriculture, forestry and fishing<sup>2</sup>, financial and insurance activities, health care and social work and education.

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<sup>1</sup> The economic sectors concerned are listed in Appendix 1 to the Decree and include *inter alia* retail trade except of motor vehicles and motorcycles, land transport, passenger air transport, hotels, restaurants, beverage serving activities, tourism and travel agency, organisation of conventions and trade shows, pre-primary education, cultural activities, motion picture projection activities, sports activities and amusement and recreation activities.

<sup>2</sup> For those sectors the Government envisages additional support mechanisms.

In order to qualify for compensation, it is essential for the employers not to have received public funding for payment of remunerations and social securities to the employees and for whom compensation is sought.

### Eligibility criteria

Compensation shall be paid to employers who meet the following criteria cumulatively:

1. are resident persons or foreign legal persons engaged in an economic activity in Bulgaria;
2. apply for compensation for employers or workers employed before the declaration of state of emergency;
3. have no obligations to the state or the municipality for taxes and compulsory social security contributions and the interest thereon, which are not rescheduled, deferred or collateralized;
4. have not been declared bankrupt or are not in bankruptcy or liquidation proceedings;
5. retain the employees for whom they have been compensated for a period at least as long as the compensation period;
6. do not terminate employment contracts on the grounds of closure of part of the business, redundancies, reducing workload or stopping work for more than 15 working days, during the compensation period;
7. have not been found by an enforceable penalty decree or judgment, to have violated the Labour Code or the Labour Migration and Labour Mobility Act for a period of 6 months prior to the issuance of the work suspension order.

### Procedure

Following the initiation of an application procedure on the order of the Director of the Employment Agency, the employers submit application forms, together with a copy of the suspension order, a list of the employees for whom compensation is being requested and a declaration on the circumstances under items 5 and 6 above and employer's bank account details. Employers applying for compensation based on a decline in revenue should also submit their 2019 reports and sales revenue data for the first quarter of 2020. Special provisions are provided to the companies established after March 2019.

Employers may decide to benefit from the measure partially - for part of the suspension period or for part of the staff concerned. Further changes in the scope of application are allowed.

The applications shall be examined in 7 business days. For the eligible applications the Labour office issues a resolution for approval and notifies the employer, the Employment Agency and the NSSI. For the duration of the suspension of the work, but for not more than 3 months, the NSSI shall transfer onto the bank account of the employers 60% of the insurance income of their employees for January 2020. Compensations shall be transferred within 5 days of notification.

### **Other conditions**

In case of resumption of work during the compensation period, the employer shall notify the Employment Agency in writing within 3 days from the date of issuance of the order for resumption.

The employer has to fully pay the remuneration and the social securities of the respective employees for which the compensation has been paid. Otherwise, the employer must pay back the compensation received. The same consequences shall apply in the event of non-compliance with the obligation to retain employees after receiving compensation, as well as in case of termination of labour contracts on the grounds of closure of part of the business, redundancies, reducing workload or stopping work for more than 15 working days, during the compensation period.

The compensations are qualified as state aid within the meaning of the European State aid legislation and the measure is expected to be approved by the European Commission.

In order to ensure transparency, the NSSI will keep a public register of employers who have received compensation under the measure.

***Should you need any additional information or assistance in the implementation of the new regulations, please contact Mr. Vladimir Natchev at [natchev@anglaw.com](mailto:natchev@anglaw.com) or Ms. Svetlana Ganeva at [ganeva@anglaw.com](mailto:ganeva@anglaw.com).***