
THE LABOR RELATIONSHIPS ARE SUBJECT TO SIGNIFICANT AMENDMENTS. IMPORTANT FOR EMPLOYERS AND EMPLOYEES.

On the 20th March 2020, in response to the escalating spread of Covid-19 on global level and its inevitable reflection over the economic situation in every state, the National Assembly adopted on second voting the Measures and Actions during State of Emergency Act, which has introduced additional means for the employers during the state of emergency, the purpose of which, on the one side, is to reorganize and restructure the commercial activity, and on the other side – to protect the employees by providing financial support from the state social insurance to the employers, meeting certain criteria, stipulated by an act of the Council of Ministers.

The adopted legal provisions definitely created significant alleviations for the employers.

Still, we shall point that certain situations are possible, where although the activity of the enterprise is not suspended by an act of a state authority, the volume of work is affected in such degree by the current situation, that it requires the working process in the enterprise to stop. In such situation, the options before the employer to simultaneously reorganize the working process and to preserve the work places remain limited. Minding the lack of possibility for the employers to provide unpaid leave to their employees without their consent during the state of emergency or at least such unilateral providing to be possible for a certain period of time, the dismissals in enterprises, which have difficulties to provide employment to their employees, remain inevitable.

Here are the new legal possibilities and conditions, adopted in the Bulgarian legislation during the state of emergency:

1. Homework and work from distance (the so-called “home office” remote work)

The employer is entitled, upon announcement of a state of emergency, to unilaterally assign with an order and **without the consent of the employee, the temporary performance of homework and/or work from distance**. This affects solely the place of work, whereas all other terms and conditions under the labour agreement of the respective employee, remain unamended. This is a legal possibility, but not an obligation for the employers and the appointing bodies.

Of course, the above-pointed will be acceptable depending of the work specifics, i.e. taking into consideration the characteristics of the work process and the assignments.

2. Use of the paid leave

The employers and the appointing bodies are entitled to provide to the employee, **without their consent**, the use of annual paid leave. The maximal period of this leave is up to half of the annual paid leave of the employee (**Art.**

8). As a comparison, the current framework allowed the unilateral provision of/sending to annual paid leave solely in the listed hypothesis, as per Art. 173, para. 4 of the LC.

3. Overtime work for certain categories of employees

The restrictions with respect to performance of overtime work and its duration shall not apply for employees on reduced working hours, who render or support the rendering of medical aid, respectively for state officers, who support the rendering of medical aid, in accordance with their job description or with a resolution of a director.

For the police and the fire safety and protection of the population authorities it is foreseen the performance of overtime work beyond the restrictions under Art. 187, para. 7 of the Ministry of Internal Affairs Act only upon the explicit written consent of the state officer, whereby the lack of such consent shall not be considered grounds for imposing disciplinary liability.

4. Amendments and supplements of the Labor Code and the Social Security Code

4.1. Interruption of the work in enterprise – upon announcement of state of emergency the employer **may interrupt the work of the enterprise with an order**; of part of the enterprise or of separate employees for the whole period or for a part of the period till the state of emergency is revoked. In case that during the announced state of emergency the working process of the enterprise or of part of it is interrupted with an order of a state authority, **the employer shall not provide access to the employees to their work places for the period, pointed in the order.** The employee is **entitled to their gross remuneration** for the period of work interruption in this cases

4.2. Adoption of part-time work hours – a possibility for establishment of **part-time work hours** is introduced with respect to the employees, who are at full-time work hours, for the whole enterprise or for a unit of the enterprise for the period of the state of emergency or for a part of that period.

4.3. Use of the annual paid leave upon announcement of state of emergency – a possibility **to provide the annual paid leave to the employee without their consent** is introduced, when due to the announced state of emergency the work of the enterprise, of part of the enterprise or of individual employees is interrupted by an order of the employer or a state authority. This legal possibility of the employer may be also applied to employees who have not yet acquired the 8-month work (labour) experience. **The discussed propositions for unilateral provision of the annual unpaid leave by the employer were not adopted.**

4.4. Obligation for the employer to allow the use of annual paid or unpaid leave for certain categories of employees upon announcement of state of

emergency – for the below listed categories of employees, during the state of emergency, the employer is obliged to allow the use of annual paid or unpaid leave, when **these individuals have requested it**:

- Pregnant employee, as well as employee in advanced stage of in vitro treatment;
- Mother or adoptive mother of a child under the age of 12 or of a child with disabilities, irrespectively of its age;
- Employee who is a single father or adoptive father of a child under the age of 12 or of a child with disabilities, irrespectively of its age;
- Employee under the age of 18;
- Employee with permanently reduced working capability 50 and over 50 to 100;
- Employee with the right of protection upon dismissal, as per Art. 333, para. 1, item 2 and item 3 of the Labour Code.

The period, during which the leaves under item 4.3. and item 4.4. above will be used, shall be deemed as work experience.

4.5. Payment from the state of 60 % of the remuneration of the employees:

For the period during which the Measures and Actions during a State of Emergency Act is in force, but for a term no longer than 3 (three) months, the NSSI shall pay 60 % of the amount of the insurable income for the month of January 2020 to individuals, insured, as per Art. 4, para. 1, item 1 of Social Security Code **by insurers, matching criteria, determined by an act of the Council of Ministers**. The funds shall be bank transferred to the respective insurer within a term of 5 business days on the grounds of information in written, provided by the Employment Agency. The transferred payments shall be at the expense of fund “Unemployment” of the state social security. In the event that the insurer does not pay the full amount of the remuneration to the employees, in favour of whom payments from fund “Unemployment” were received, the insurer shall refund them.

With respect to other current topics, in relation to the legislation, stipulating the relationships at the state of emergency, you may find information on our website – www.penkov-markov.eu . Of course, you may address us for any additional information and assistance at lawyers@penkov-markov.eu. The above provides general information regarding the new provisions within the scope of the labor law, whereas it is not exhaustive and serves as a guide for the interpretation of the new provisions, as of 26 March 2020.