

## New State Emergency Act

The State of emergency Act on the has been finally adopted on March 23th, 2020 by the Parliament of the Republic of Bulgaria , promulgated on April 24th, 2020. That Act provides for different measures and actions during the time of the state of emergency most of which having an essential effect on all business areas.

The main provisions of the Measures and Actions in State of Emergency Act are summarized in the following:

### **Commercial and administrative contracts**

- Suspension of the effects of late performance of the obligations of individuals and private entities, including interest and penalties for late payment, acceleration clauses, contract cancellation and seizure of property;
- Suspension of the implementation of the Public Procurement Act for tenders for supplies of medical devices, equipment, consumables, hygiene materials and personal protective equipment necessary for the diagnosis and treatment of infected patients;
- Possible renegotiation of the performance deadline under public procurement contracts, at a request of the contractor, but not more than the term of the emergency state;
- Possible unilateral modification of contracts under operational programs by the Management Authorities, including an increase in the amount of the contract and the award of grants under simplified procedures.

### **Employment**

- **Organization of the working process: the employers shall be entitled to unilaterally assign to their employees work from home or telework, to introduce part-time working hours for the whole or part of the state of emergency period, as well as to suspend the work in their enterprise or part of it, or of certain individual employees;**
- **The restrictions on overtime shall not apply for employees with reduced working hours who help with the provision of medical care;**
- **In case of suspension of the work the employees shall be entitled to their gross remuneration for the term of the suspension;**
- **The employer shall only be entitled to unilaterally grant their employees up to ½ of their annual paid leave, including those who who have not yet acquired 8 months of service. The employer is obliged to allow the use of paid annual leave or unpaid leave at the request of certain categories of employees;**
- **The state shall pay 60% of the remuneration of certain employees, who meet the criteria which will be determined by the Government, for a period of up to 3 months;**

## **Procedural rules**

- **Suspension of the procedural terms for judicial, arbitral and enforcement proceedings, except for criminal proceedings;**
- Suspension of the prescription periods and other periods provided for in the statutory acts, on expiry of which rights are terminated or extinguished or obligations arise for individuals and private entities, except for the prescription periods under the Criminal Code and the Administrative Violations and Sanctions Act;
- **Suspension of the terms for implementation of instructions issued by an administrative authority to parties or interested persons in proceedings, with the exception of the proceedings under the Management of Resources from the European Structural and Investment Funds Act.**
- **Suspension of the announced public compulsory auctions and entries into possession;**
- **Restriction of the operation of notary publics, except for urgent and emergency certification;**
- **No distraints and securitization measures shall be imposed in certain cases;**
- **Extension of tax and accounting deadlines.**

**The Act is expected to be promulgated in the State Gazette it will enter into force retroactively – as of 13.03.2020, except for certain provisions explicitly enlisted in § 52 of the Act which will enter into force as of the date of its promulgation. The Act shall be applied until the state of emergency is lifted.**

## **Legal Consequences on the commercial contracts and obligations**

The state of emergency can be considered as force majeure to some commercial contracts. In such an event, the parties could be released from their contractual obligations for the duration of the state of emergency. The occurrence of these circumstances can be proven by a certificate from an independent authority (such as BCCI) when this is explicitly provided in the contract. However, careful analysis of the terms of the particular contract is required in each case.

On a related matter, the Government together with the Bulgarian Development Bank prepare to introduce a new Program for support of the small and medium enterprises in a state of emergency. That program shall comprise two instruments - issuance of portfolio guarantees to commercial banks and repurchase of equity interest.

Should you need any additional information or assistance in connection with the implementation of the new law in your business activity, 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).