

Important information regarding the adoption of the Law on Measures and Actions during the State of Emergency, announced by a resolution of the National Assembly on 13.03.2020

This analysis covers issues related to the adoption of a new law to regulate public relations in the country during the declared state of emergency. There are two major parts that require attention, the first one will cover an analysis of the measures under discussion, to be incorporated into the law, and the second one will cover the nature of the presidential veto that was imposed on 22.03.2020, including its consequences.

LEGISLATIVE ACTIVITIES

In connection with the appearance of the COVID - 19 virus, better known as the Coronavirus in the territory of the Republic of Bulgaria and with the purpose of limiting its spread, on 13.03.2020 The National Assembly unanimously decided to introduce a state of emergency in the country for a period of 1 month - to 13.04.2020.

In pursuit of that purpose, a Act to Amend and Supplement the Health Act and Act to Amend and Supplement the Criminal Code were adopted on the same day. The two acts were promulgated in the State Gazette, and you can read their texts here:

<https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=146942>; <https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=146941>

On March 18, 2020 The National Assembly adopted at first, and on March 20, 2020 at second reading, the Law on Measures and Actions during the State of Emergency, announced by a decision of the National Assembly on March 13, 2020.

The law provides for specific measures in different spheres of public life, and the more basic ones will be considered:

I. Time-limits

1. The law provides for the suspension of certain procedural time-limits.

1.1. **Procedural time-limits** for judicial, arbitration and enforcement proceedings, except for criminal proceedings and proceedings under the Extradition Act and the European Arrest Warrant;

1.2. **The limitation** and other **time-limits**, provided for in normative acts, with the expiry of which rights are prescribed or terminated or obligations arise for individuals, with the exception of the terms under the Criminal Code and the Administrative Violations and Sanctions Act;



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1.3. The time-limits for the implementation of instructions given by an administrative authority to parties or participants in proceedings, except for proceedings under the Management of Resources from the European Structural and Investment Funds Act.

2. The law provides for the extension of one month after the state of emergency has been lifted.

2.1. The time-limits defined by law, other than the above, which expire during a state of emergency and relate to the exercise of the rights or obligations of individuals;

2.2. The effect of administrative acts, which is limited in time and expires during a state of emergency;

3. The time-limits related to payments for the supply of electricity to residential customers shall be extended from 10 to 20 days.

II. Default

Until the state of emergency is lifted, the effects of late payment on the obligations of individuals, including interest and penalties for late payment, as well as non-monetary consequences such as early payment, contract termination and seizure of property, will not apply.

III. Enforcement

1. All public sales and holdings shall be suspended;

2. No preservations shall be imposed on bank accounts of individuals and medical establishments, preservations on salaries and pensions, protective measures on medical apparatus and equipment, as well as on the inventory of movable property and real estate owned by individuals, except for child support obligations, damages for illicit harm, and claims for salaries;

3. No enforcement proceedings shall be initiated under the Tax and Social Insurance Procedure Code, except in cases explicitly outlined.

IV. Notarial activity

Notarial proceedings are limited to urgent ones in compliance with sanitary and hygiene requirements. The Notary Chamber provides notaries on duty with a ratio of at least one notary per 50,000 inhabitants for the respective area. You can also find the full list of notaries on duty in the judicial districts here:

<https://www.notary-chamber.bg/en/communication/list>

V. Employment Relationships



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1. Employers and appointing authorities shall be allowed, without the consent of employees, to outsource work at home and remote work, and to grant up to one-half of the annual paid leave to the employee, even without their consent.

2. All students shall be provided with training and support for personal distance development in an electronic environment through the use of information communication technologies. For teachers and pedagogical specialists carry out the training and support for personal development under para. 1 within the framework of their employment relationship, without the need to conclude agreements under Art. 119 of the Labor Code. There is no obligation to conclude such an additional written agreement for school principals who will also continue to fulfill their duties remotely using information communication technologies.

VI. Social Security

The NSSI will translate 60 percent of the amount of the insurance income for January 2020 to insurers, the criteria and procedure for which should be determined by an act of the Council of Ministers.

VII. Health care

1. Pharmacies may grant medicinal products only by a prescription form, without presenting a prescription that is up-to-date.

2. The Minister of Health shall be empowered, by order, to restrict the export of medicinal products until the state of emergency is lifted.

3. The Minister of Health is given the opportunity to introduce other temporary measures and restrictions.

VIII. Taxation and annual closure

1. Until June 30, 2020 the deadline for filing an annual tax return under Corporate Income Tax Act and Income Taxes on Natural Persons Act is extended;

2. Until June 30, 2020 the period for using a 5% discount is also extended when paying the full amount of the real estate or vehicle tax;

3. The deadline for the publication of a declaration that the company has not carried on any business shall be extended to the same date;

4. The deadline for publication of the annual financial statements, the consolidated financial statements and the annual reports of the enterprises is extended to September 30, 2020;



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IX. Role of the Armed Forces

Soldiers to participate in monitoring the implementation of anti-epidemic measures is also one of the measures provided for by law. They will have the right to check the identity of the persons, to restrict their movement, if there is evidence that they do not comply with the measures provided for in the Health Act; to stop vehicles, and to use physical force when necessary.

X. Speculation

In connection with the numerous reports of increased prices of protective masks, disinfectants and medicines, amendments to the Consumer Protection Act have been adopted, with a view to a tighter regulation of the pricing of goods.

The same reason necessitated changes in the Criminal Code, which provide for increased penalties for speculators. Penalties are also provided for anyone who disseminates incorrect information in connection with the spread of the virus.

XI. Penalties for violators of established measures

A change will also be introduced in the Health Act, whereby anyone who violates or fails to implement anti-epidemic measures introduced by the Minister of Health or the director of a regional health inspection will be fined BGN 5,000.

THE PRESIDENTIAL VETO

On March 22, 2020 the President of the Republic of Bulgaria Rumen Radev exercised his constitutional right and vetoed the law adopted by the National Assembly - Decree No. 70 on the return to the National Assembly of the Law on Measures and Actions during the Emergency Situation, adopted by the 44th National Assembly on March 20, 2020.

Before considering the President's motives, it is necessary to clarify the nature of the veto and its legal implications, i.e. what to expect after the President has exercised his right.

The Constitution of the Republic of Bulgaria, in the part where the powers of the Head of State are expressed, in Article 101, paragraph 1 states that "the President may reasonably return the law to the National Assembly for a new debate, which cannot be refused". This means that the President is involved in the legislative process, and in particular in its final phase.

Through his veto power, he returns the bill for a new debate in Parliament, allowing Members to reconsider legislative decisions.



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What happens next?

After the law for reconsideration is returned, even in the hypothesis of the partially imposed veto, the National Assembly does not only have to review the provisions that have been returned, but the whole law.

Parliament could override the veto and pass the law in its original form only if more than half of all MPs vote for it. In this case, the President is obliged to promulgate the law, despite his disagreement with it.

Against which texts of the Law on Measures and Actions during the State of Emergency, announced by a decision of the National Assembly on March 13, 2020 objected Rumen Radev and what are his motives?

First of all, the President disagrees with the changes made to the Criminal Code regarding fines that will be imposed for the dissemination of false information. The main motive of the Head of State is that in this way the constitutionally established right to freedom of expression of every citizen is violated. He recalls the Council of Europe Parliamentary Assembly Resolution No. 1659 of 2009, which emphasizes that freedom of expression and publication of information should never be interpreted as a threat to national security, except in cases explicitly and clearly defined by law.

Rumen Radev believes that the text "false information on the spread of contagious disease" is a general and incorrect formulation, which contradicts the requirements of the ECHR and ICCPR. It is inadmissible to declare "false" information in relation to a phenomenon whose nature and peculiarities are the subject of scientific discussion, as is the case with the Coronavirus. The President believes that the "freezing effect" of freedom of expression and dissemination of information will be the result of the granting of such broad discretion to law enforcement. The imposition of such restrictions and the corresponding sanctions in case of violation does not achieve what is stated in the title of the law - the measures and actions of the state of emergency announced by the decision of the National Assembly of March 13, 2020, emphasizes Rumen Radev.

The Head of State also disagrees with the views of MPs on the changes adopted in the Consumer Protection Act. In his reasoning, he stresses that he shares the need for such protection, but not the way in which it is given. Firstly, he is concerned that no definition of the term 'unreasonably high prices' has been given, and that there is no regulatory basis for distinguishing them in the event of a state of emergency and in the absence thereof. This is seen as a prerequisite for legal uncertainty in obliged entities and at the same time administrative arbitrariness.

In its motives, he also points out that the introduction of fixing all prices in the economy, and not, as he thinks it would be more appropriate - introducing a threshold for the latter will lead to the inability to respond to changes in international markets; to the risk that goods which have become more expensive on the international markets, including life-saving medicines, will not be imported into Bulgaria at all, if the fixed prices here are lower than the



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import costs. It is alleged that the rules governing the free movement of goods within the Single European Market are being breached.

The President of the Republic of Bulgaria recalls that the freedom of economic initiative is also enshrined in the Charter of Fundamental Rights of the European Union, regulating it and when it can be restricted - insofar as the restrictions are "necessary and if they actually meet the objectives of the Union recognized by the common interest or the need to protect the rights and freedoms of others. "

It is emphasized that the texts adopted by the National Assembly also violate basic constitutional principles, namely that the economy of Bulgaria is based on a free economic initiative (Art. 19, Para. 1 of the CRB).

You can find the full text of the Presidential Decree at the following website:

<https://www.president.bg/cat47/1304/ukaz-n-70-za-vrushtane-na-zakona-za-merkite-i-deishtviyata-po-vreme-na-izvunrednoto-polojenie.html>

On March 23, 2020, an Extraordinary Plenary Session was convened to discuss the Law on Measures and Actions during the State of Emergency that was returned for reconsideration by the President, announced by a decision of the National Assembly on March 13, 2020.

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