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**Measures Directed at Employers and Employees
during the Declared State of Emergency due to COVID-19**

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In relation to the state of emergency in the Republic of Bulgaria declared pursuant to a decision of 13 March 2020 of the National Assembly, for the duration of the state of emergency, a number of measures are introduced with regard to employees and employers within the meaning of the Labor Code. Below we have summarized the most important questions and answers regarding the emergency measures.

. Which activities are completely banned during the state of emergency (i.e. for the period 13 March – 13 April 2020)?

During the state of emergency access to certain places and certain activities is completely banned which means that the employers in the respective field must necessarily suspend work pursuant to the law and the Minister of Health orders. This includes, *inter alia* (the list is not exhaustive):

- all shops in Mall shopping centers with the exception of grocery stores, pharmacies, bank and insurance offices therein;
- discotheques, bars, drinking establishments, cafes, pastry shops;
- restaurants and fast food establishments can only make deliveries in compliance with the sanitation and personal hygiene requirements, but cannot serve customers on site;
- entertainment and gaming halls;
- fitness centers, sports and SPA centers;
- cinemas, theaters, concerts, museums, conferences and any other sports, cultural, entertainment and scientific events;
- any group forms and activities related to education and training of children and students (including study halls, field schools, excursions, clubs and the like).

. Which activities can be continued?

All activities that are not expressly prohibited or restricted by law or other act of a public authority may continue in compliance with the sanitation and personal hygiene requirements.

. What specific obligations are addressed to employers?

The specific anti-epidemic measures addressed at employers include:

- an obligation, depending on the specifics and possibilities for securing the respective business activity, to introduce with regard to their employees home-office work or telework within the meaning of the Labor Code;
- in case the introduction of home-office work or telework is not possible – an obligation to introduce enhanced anti-epidemic sanitation and personal hygiene measures in the work premises – e.g. filter, disinfection and ventilation, securing a distance of 1 meter between employees, personal hygiene instruction;
- an obligation to prevent employees and visitors displaying acute contagious disease symptoms from accessing the work premises;
- an obligation to ensure healthy and safe working conditions;

- a suspension until the end of the state of emergency of imposition of restraints on employees' remunerations.

What are the options for employers to suspend work during the state of emergency?

Depending on whether the activity of the enterprise falls within those, explicitly restricted by law or another public authority act, the employers have either:

- **an obligation to suspend work**

In the event that all or part of the activities of the enterprise must be ceased due to a public body act (e.g. by virtue of the law or of an order of a minister or another public body), the employer must not grant the employees access to their workplaces for the whole duration of the state of emergency. This obligation may apply to the entire enterprise, to a part thereof or to individual employees depending on the nature of the activity.

or

- **a right to suspend work**

Even if the employer has the right to carry on his business activities, he may, at his discretion and pursuant to a written order, suspend the activities of the entire enterprise, part of it or of individual employees until the state of emergency is called-off.

What are the obligations and rights of employers and employees in case of suspension of work during the state of emergency?

If the work has been suspended with an order of the employer or by virtue of a state body act, the law provides the following possibilities to employers:

- **unilateral granting of the paid annual leave to the employees**

The employer may unilaterally, without the consent of the employees, grant them their paid annual leave, even if the employee has not accumulated eight months of employment service.

However, the employer is not entitled to grant unpaid leave without the consent of the employee.

- **obligation to grant paid or unpaid leave to certain categories of employees**

The employer is obliged to grant the requested paid or unpaid leave to the following categories of employees:

- i. pregnant employees and employees at an advanced stage of IVF treatment;
- ii. mothers or adoptive mothers of a child up to 12 years of age or of disabled child, regardless of their age;
- iii. employees who are single fathers or adoptive parents of a child up to 12 years of age or of a disabled child, regardless of their age;

- iv. employees under the age of 18;
- v. employees with permanently reduced work capacity of 50 percent and above; vocationally rehabilitated employees and employees suffering from an illness stipulated in Ordinance No. 5 of February 20, 1987;

The period of the paid and unpaid leave during a state of emergency is recognized as employment service.

- **remuneration during work suspension**

If the work activity has been suspended but the employee is not using paid or unpaid leave, the employee is entitled to his/her full gross labour remuneration for the period of suspension due to the state of emergency, irrespective of whether the work has ceased due to an imperative state body act or by virtue of an order of the employer.

What are the opportunities for the employers whose activity has not been suspended during the state of emergency?

In case the enterprise's activity has not been explicitly banned by a state body and the employer continues his business, the following options may apply:

- **introduction of home-office work or telework**

During the state of emergency employers are entitled to introduce unilaterally home-office work or telework, without the consent of the employees. This requires an order of the employer, which should address the terms and conditions for its introduction, performance and control, as well as the main issues related to the technical, material and software support, consumables, technical and documentary supplies, technical support and other specific requirements for home-office work or teleworking.

- **introduction of part-time work**

Employers are entitled to introduce unilaterally part-time work for all or part of the enterprise for the entire or a part of the state of emergency period.

Despite the absence of a special provision to that effect, the introduction of part-time work should be stipulated in a written order of the employer communicated to the affected employees which should contain the term of validity, the work positions concerned and the length of the introduced work time.

The duration of the part-time work may not be less than 4 hours per day.

In the event of a state of emergency the employer may introduce part-time work without prior consultations with the representatives of the trade unions or the employees.

- **unilateral granting of half of the paid annual leave to the employees**

For the duration of the state of emergency employers may grant to the employees up to a half of their paid annual leave without their consent.

Will employers adversely affected by the emergency measures be entitled to financial aid?

For the duration of the state of emergency, but for no more than three months, the National Social Security Institute will transfer 60% of the social security income for January 2020, for the persons socially secured under Art. 4, para. 1, p. 1 of the Social Security Code (i.e, employees under employment agreements, persons working under management agreements, etc.) to insurers who meet the criteria, established by an act of the Council of Ministers. The funds will be transferred to the bank account of the respective insurer within 5 working days on the basis of the written information provided by the Employment Agency.

In case the insurer does not pay the full amount of the employment remunerations to the employees for whom he has received financial aid, he will be obliged to repay the funds.

What are the rules for use of leave due to temporary incapacity by the employees?

If the employee provides a medical document for temporary incapacity due to illness or quarantine, pursuant to the current rules which continue to apply, the employer pays to the employee 70% of the employee's gross remuneration for the first three days of the leave, and for the remainder of the temporary incapacity the employee receives compensation from the state social security.

It is also worth mentioning that during the state of emergency the statutory terms for insured persons in connection with the exercise of their social security rights under the Social Security Code shall cease to run, and the documents submitted by the persons within one month after the end of the state of emergency shall be considered to have been submitted on time.

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