

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020



CEE LEGAL NEWSLETTER

CONTENTS

- New approval procedure for foreign investments in Hungary.
- Review of measures adopted in Slovakia due to COVID19 crisis.
- The effects of COVID19 on legislation in the Czech Republic concerning employment, leases and loans.
- The effects of COVID19 on legislation in Serbia.
- Bulgaria: emergency epidemic situation combined with political crisis.

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

NEW APPROVAL PROCEDURE FOR FOREIGN INVESTMENTS IN HUNGARY

During the state of emergency related to the COVID epidemic, the Hungarian Government introduced a new approval procedure for certain foreign investments in Hungary. This procedure was kept in place, after a number of modifications, following the termination of the state of emergency by Act LVIII of 2020 (the “**Act**”) and will apply up until 31 December 2020. The relevant provisions of the Act are quite complex and some are ambiguous. Set out below is a summary of the key provisions.

Obligation to notify

Pursuant to the Act, foreign investments in certain Hungarian companies must be notified to the Minister of Innovation and Technology (the “**Minister**”) and their completion is subject to the Minister’s approval.

Definition of Foreign Investor

Under the Act, a “**Foreign Investor**” is a person who/which is

- (i) a citizen of a state outside the EU, the EEA and Switzerland or a legal person or other organisation incorporated in a state outside the EU, the EEA and Switzerland (“**Third Country Investor**”);
- (ii) a legal person or other organisation incorporated in Hungary, in another EU or EEA member state or Switzerland and it is under the majority control of a Third Country Investor (“**Foreign Controlled European Investor**”).

Which Hungarian target companies are affected?

The relevant target companies (the “**Strategic Companies**”) are limited liability companies (Hungarian abbreviation: “*Kft.*”) or private and public companies limited by shares (Hungarian abbreviations: “*Zrt.*” and “*Nyrt.*”)

- (i) which have their registered seats in Hungary,
- (ii) whose principal or ancillary activities are among those listed in the relevant Government decree, and
- (iii) whose activities come within the
 - energy, transport or communication sector or
 - the strategic sectors determined by Article 4 (1) of REGULATION (EU) 2019/452 (which establishes a framework for the screening of foreign direct investments into the Union), excluding financial infrastructure(the “**Strategic Sectors**”).

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

Which transactions and investors are concerned?

Provided that the total amount of the investment is equal to or more than HUF 350 million (approx. EUR 1 million), the following transactions must be notified to the Minister and require his approval:

- any transfer of the shares or units held in a Strategic Company, whether or not for consideration (including contributions in kind),
- a capital increase in a Strategic Company,
- a transformation, merger or demerger of a Strategic Company,
- an issue by a Strategic Company of convertible bonds, bonds of preferential subscription right and bonds which convert and
- the creation of usufruct over the shares or units held in a Strategic Company

if, as a result,

- a legal person or other organisation registered in another EU or EEA member state (*i.e.* not Hungary) or Switzerland, a citizen of another EU or EEA member state (*i.e.* not Hungary) or Switzerland or a Foreign Controlled European Investor **directly or indirectly acquires majority control** (as defined in the Hungarian Civil Code) **in a Strategic Company**; or
- a Foreign Investor (*i.e.* a Third Country Investor or a Foreign Controlled European Investor) directly or indirectly acquires at least 10% of the shares or units held in a Strategic Company; or
- a Foreign Investor acquires 15%, 20% or 50% of the shares or units held in a Strategic Company; or
- Foreign Investors would together hold more than 25% of the shares or units in a Strategic Company (this does not apply to Strategic Companies which are public companies limited by shares (Hungarian abbreviation: “Nyrt.”)).

A transfer of infrastructure and equipment, transfer of the right to use or operate or a pledge of assets which are indispensable for carrying out the activities which form part of the Strategic Sectors, to a Foreign Investor or a legal person or other organisation in which a Foreign Investor has significant control (as defined in the Hungarian Civil Code), whether directly or indirectly, must also be notified to and approved by the Minister.

The Act states that the obligation to notify does not apply to transactions which

- concern legal persons or other entities whose registered seats are located outside Hungary (“**Foreign Legal Persons**”); and
- have the results noted above with regard to Strategic Companies which are the Hungarian subsidiaries of Foreign Legal Persons.

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

In which cases can the Minister prohibit the transaction?

The Minister prohibits the execution of the transaction if:

- the transaction actually or potentially breaches or endangers the national interest (*i.e.* public interest – which is not regulated by sectoral EU law and national law – in (i) the security and operability of networks and equipment and (ii) the continuity of supply), public safety or public order in Hungary, with special attention being paid to the security of meeting the fundamental needs of society, in accordance with Articles 36, 52 (1) and 65 (1) of the Treaty on the Functioning of the European Union;
- the applicant is directly or indirectly under the control of a non-EU state's administrative body (including state organs and armed forces) as a result of either its ownership structure or its significant financing;
- the applicant was involved in an activity which compromises safety or public order in another EU member state;
- there is a significant risk that the applicant will be engaged in illegal or criminal activities.

What are the legal consequences?

- If the Minister prohibits the transaction or fails to approve it, the purchaser cannot be registered in the Strategic Company's share register or list of members and cannot exercise any rights in the Strategic Company based on the shares or units in question.
- In the court company registration procedure relating to a relevant transaction, the Strategic Company must submit a declaration stating its strategic status and the Minister's approval of the transaction.
- Any contracts, declarations or corporate resolutions in breach of the rules on obligation to notify or which were prohibited by the Minister, shall be null and void. However, the Minister may later approve the transaction, in the event of a failure to notify, and thus repair the nullity.
- Failure to comply with the obligation to notify may result in a fine, the maximum value of which will be twice the value of the transaction and the minimum value will be (i) more than HUF 100 000, if the Foreign Investor is a natural person and (ii) more than 1% of the net turnover made by the Strategic Company in the last fiscal year, if the Foreign Investor is a legal person or other organisation.

Author: D'ORNANO PARTNERS

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

REVIEW OF MEASURES ADOPTED IN SLOVAKIA DUE TO COVID19 CRISIS

Since the declaration of the emergency situation due to the COVID19 crisis on 12 March 2020, the Slovak Government, together with the Public Health Authority, has adopted multiple measures in order to protect public health.

This article will discuss three categories of measures that have been implemented and which impact companies performing entrepreneurial activities in the Slovak Republic.

RENT SUBSIDY

Parliament adopted an amendment of **Act no. 71/2013 Coll.** on the provision of subsidies, pursuant to which all business operations that were forced to close due to the COVID19 pandemic or whose operations were restricted, can apply for state aid in the form of a rent subsidy.

Eligibility for subsidy

A subsidy is available in order to pay the rent owed pursuant to a lease, where use of the leased premises was either prevented or substantially limited as a result of their full or partial closure due to the measures implemented by the State ("**Restricted Use**").

The period during which the Restricted Use affected business operations is generally referred to by law as the "Restricted Use Period" and may vary for different types of operations. It basically corresponds to the duration of the restrictive measures.

Subject matter of the lease

The subject matter of the lease may be non-residential premises (that the tenant uses for the sale of goods or the provision of services to end consumers) or a marketplace. Non-residential premises also include service spaces (facilities, warehouses, etc.). Office premises are, accordingly, excluded from the rent subsidy provisions. The subsidy applies to leases executed on or before 1 February 2020.

Discount

The rent subsidy corresponds to the discount which the landlord agrees with the tenant. The highest possible subsidy is 50% when a 50% discount on rent is agreed. This situation is preferred

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

by law as it completely exempts the tenant from paying rent for the Restricted Use Period. The agreement between the landlord and the tenant, under which the landlord provides the discount from the rent for the Restricted Use Period, is the main prerequisite for provision of the subsidy.

In the event that the landlord provides the tenant with a discount of less than 50%, or does not provide any discount at all, the tenant may pay the remaining rent (after deduction of the discount and any subsidy, if applicable) for the Restricted Use Period to the landlord in 48 equal monthly instalments. If the tenant has already paid the rent, the tenant may pay the rent for another period of the same length (corresponding to the Restricted Use Period), again in 48 equal instalments.

Person authorised to submit an application

The application for the rent subsidy shall be submitted by the landlord on behalf of the tenant and on its own account. It does not matter whether the landlord is a natural person or a legal entity, whether or not a business owner. However, the tenant must be a business owner (whether a natural or legal person) and must provide the landlord with any necessary assistance.

Amendments which have no impact on the subsidy

The act also covers situations, where the landlord and the tenant have already agreed to reduce the rent or to waive it. Any rent adjustments or other changes made by the parties after 12 March 2020 shall not affect the amount of the subsidy (i.e. any artificial increases of rent shall be disregarded for the calculation of the rent subsidy).

Rent already paid

If the tenant has already paid the rent for the Restricted Use Period (or part thereof), the compensation may be provided for an equivalent period in the future, again in the amount of the agreed discount.

PROHIBITION ON LEASE TERMINATION

Parliament adopted an amendment to **Act no. 62/2020 Coll.** on certain emergency financial measures relating to the spread of COVID19.

As from the effective date of the amendment, a landlord cannot unilaterally terminate a lease of real estate (including apartments and non-residential premises) due to the tenant's delay in payment of the rent, if certain cumulative conditions are met.

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

Conditions for the grant of protection

- The tenant is late in the payment of rent or services, in respect of the period from 1 April 2020 to 30 June 2020 (e.g. a quarterly rent for the 3rd quarter, which is due in June),
- The delay has arisen due to the COVID-19 crisis – this condition is formulated in broad terms. A decrease in sales and a general reduction in economic activity will probably satisfy this condition. However, the tenant must also certify that it does not have sufficient funds to pay the rent (meaning funds to pay any other expenses than mandatory payments to the state budget or wages). An independent decision taken by the tenant not to pay rent, simply because its sales have decreased, will not satisfy this condition,
- The tenant has to provide sufficient evidence of the reason for the delay in payment – namely the provision of documents which prove (i.e. certify) that the delay only exists due to COVID-19.

Duration of protection

The unilateral termination of a lease by the landlord is prohibited until 31 December 2020.

Exceptions

It follows from the above that the prohibition on lease terminations does not apply to a termination arising as a result of the late payment of rent or operating costs due under the lease agreement before 1 April 2020 or after 30 June 2020. Similarly, the prohibition on termination does not apply to the right to apply to court for enforcement of the rental payment, or the right to seek default interest, or to enforce security available under the respective lease agreement (such as a bank guarantee, etc.).

It should be noted that the landlord's right to terminate the lease is only suspended (until the end of the calendar year 2020) and that the landlord's claims for the collection of rent are not extinguished.

TEMPORARY PROTECTION OF ENTREPRENEURS

A further measure adopted by parliament due to the spread of COVID19 concerns the temporary protection of business owners from the negative effects of the COVID19 pandemic.

In cooperation with:

BARTOSIK ŠVÁBY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

The intention is to support business continuity and establish the conditions required in order for the company to remain viable after the end of the COVID19 pandemic.

Requirements for the application

The entrepreneur submits an application using a form, which is to be published on the Ministry of Justice's website. An integral part of this application will be an affidavit, containing a statement that the entrepreneur has satisfied the conditions for the provision of temporary protection. One of these conditions is that, as of 12 March 2020 (i.e. prior to the outbreak of the COVID19 crisis), the entrepreneur was not in economic difficulties and not the subject of any enforcement proceedings etc.

Effects of the grant of temporary protection

- protection against all filings for bankruptcy by creditors,
- postponement of the obligation to file for its own bankruptcy,
- suspension of enforcement proceedings with effect from 12 March 2020 (only if the liabilities arose from business activities),
- prohibition against the enforcement of any pledges relating to an undertaking, its assets, rights or other funds belonging to the undertaking,
- prohibition on the set-off of receivables as against the protected entrepreneur,
- restriction on the termination of any contract with contractual partners for reasons of delay between 12 March and 12 May which are related to the COVID19 pandemic. This shall not apply in cases where the other contracting party's operations would be immediately compromised,
- the periods of limitation applying to claims against protected entrepreneurs are, however, extended,
- the entrepreneur can pay obligations relating to the operation of its business in priority.

The adopted measures shall apply until 1 October 2020. The Government can extend this period up until the end of 2020, at the latest.

The temporary protection provisions shall not apply to selected financial institutions, such as banks, insurance companies, health insurance companies, etc.

*Author: Bartošík Šváby s.r.o., advokátska kancelária | Bratislava, SLOVAKIA
in cooperation with D'ORNANO PARTNERS*

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

THE EFFECTS OF CORONAVIRUS ON LEGISLATION IN THE CZECH REPUBLIC CONCERNING EMPLOYMENT, LEASES AND LOANS

In connection with the COVID19, the Czech government declared a state of emergency within the territory of the Czech Republic on 12 March 2020. The state of emergency lasted until 17 May 2020. During this state of emergency, the government progressively adopted measures limiting several personal rights and freedoms, including the forced closure of some shops, general quarantine obligations etc.

We set out below an overview of certain legal aspects of the government's measures concerning employment relationships, loans and lease payments.

EMPLOYMENT ISSUES

Due to the government's decision to limit the free movement of persons, to prohibit cultural, sporting and other events and most retail operations, employers faced certain limitations on their business operations and on the assignment of work to their employees. This situation resulted in obstacles to employment for both employers and employees. The state accordingly put together a so-called ANTIVIRUS programme, in order to support employers and preserve jobs.

Based on the Antivirus programme, the Czech state provides subsidies to companies for the resources paid to their employees in order to avoid job losses. The programme comprises 3 different forms of state aid:

- **Antivirus A** – Under regime A, compensation may be sought by employers, whose employees were quarantined, or which had to restrict their operations, in whole or in part. The regime applies to costs incurred in the period from 12 March 2020 to 31 August 2020. The state allowance under this programme amounts to 80% of the respective employers' costs, subject to a maximum amount of CZK 39,000 (approx. EUR 1,466).
- **Antivirus B** – Under regime B, grants are provided to employers, in order to cover the costs related to employment obstacles for the employer caused by the spread of the coronavirus, in particular the absence from the workplace of a significant proportion of employees due to working restrictions, a reduction in the demand for the employer's production or services or the shortage of supplies for the employer's production. This regime also covers furloughing,

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

the so-called “*kurzarbeit*”. Employers which take part in this programme must pay the employee at least 60% of the average salary and may receive a refund of 60% of the salaries paid. The regime applies to costs incurred in the period from 12 March 2020 to 31 August 2020.

- **Antivirus C** – Under regime C, further relief is provided in relation to social insurance payments. Employers which have a maximum of 50 employees can apply for a reduction in social insurance payments, in order to preserve jobs.

MORATORIUM ON THE PAYMENT OF LOAN INSTALMENTS

The Act introducing certain measures concerning a moratorium on the payment of loan instalments due to the COVID19 pandemic came into effect on 17 April 2020.

Under the Act, subject to service of notice by a debtor (i.e. a borrower), the debtor’s duty to fulfil financial undertakings to the creditor (usually a bank, but possibly also a non-banking institution) may be suspended for a certain period of time (the so-called ‘**protection period**’). The repayment period and the period of validity of any securities are extended for the duration of the moratorium on loan payments, i.e. for the protection period.

The moratorium on loan payments will not result in an entry in debtor registries and will not be taken into account when assessing the debtor’s ability to repay loans. The moratorium is voluntary and free of charge. However, any interest payments which have been agreed will continue to accrue during the suspension period.

The suspension on payments applies to both consumers and businesses. It is possible to suspend the repayment of consumer and business loans entered into and obtained before 26 March 2020 and on mortgages entered into before 26 March 2020.

The repayment of both statutory interest and the principal sum may be suspended, with the exception of loans to legal persons, where only the repayment of the principal sum may be suspended, and the legal person shall therefore continue to pay interest.

The creditor is entitled to any interest accrued during the duration of the moratorium, i.e. the protection period. The amount of interest is capped at the Czech National Bank repo rate (which is currently 0.25%) plus 8 percentage points, which is essentially the same amount as the statutory rate

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

of default interest. If the agreed upon interest rate is lower than the above-mentioned rate, the interest will accrue at the agreed rate. Businesses must pay the interest in full without any limitation. If a fixed interest rate was agreed, the interest period will be extended for the duration of the protection period.

Legal persons which take advantage of the moratorium on payment of instalments must refrain from using property which could be used to discharge the obligations owed to the creditor.

In addition, the possibility of suspending instalment payments does not apply to a line of credit, operating lease, financial guarantee, loans taken out in relation to capital markets and certain other specific obligations.

The repayment can be suspended until 31 October 2020 (or only until 31 July 2020, at the debtor's request).

The protection period starts from the first day of the next calendar month following the day on which the creditor received notice from the debtor stating its intention to avail itself of the protection period.

Repayment may be suspended based on a written notice or by any other means chosen by the creditor. The notice must include a statement that the debtor intends to make use of the protection period due to the negative economic impact of the COVID19 pandemic and the notice must identify the loan in question (if no loan is identified in the notice, the suspension will apply to every loan between the creditor and debtor). Within 30 days of receipt of the notice, the creditor shall inform the debtor of the start and end of the suspension of instalment payments and about any other arrangements, notably concerning the repayment after expiry of the protection period.

ADJUSTMENT OF ARRANGEMENTS BETWEEN LANDLORDS AND TENANTS

The contractual relationships between landlords and tenants which have been affected by the COVID19 pandemic are also impacted by the new legislation. Two acts have been implemented, one concerning leases of business premises and the other concerning residential leases.

Leases of business premises

Pursuant to the Act introducing certain measures to mitigate the impact of the coronavirus epidemic on tenants of business premises up until 31 December 2020, a landlord will not be able to terminate the lease of business premises unilaterally, based only on the tenant's default (relating only to rent, i.e. not service charges) between 12 March 2020 and 30 July 2020.

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

The aforementioned Act only covers situations where the tenant could not duly pay the rent due to restrictions resulting from measures implemented by the government during the COVID-19 pandemic, which prevented the tenant from conducting its business or which made it substantially more difficult. The tenant must prove the reason for this default by providing documentary evidence within 15 days of the first day of the default.

All the tenant's debts (i.e. any outstanding rent plus service charges) that were payable between 12 March 2020 and 30 July 2020 must be settled by 31 December 2020. Otherwise the landlord can terminate the lease on 5 days' notice (which shall also apply in the event that the tenant states that it will not pay the debt).

If the lease is terminated before the expiry of the protection period (i.e. before 31 December 2020), the tenant is obliged to pay the due debts within 30 days of termination of the lease.

Subject to certain conditions, the landlord is entitled to apply to the courts for termination of the lease (especially if the lease is its only source of livelihood). However, no such application could be made before the state of emergency came to an end.

Residential leases

Pursuant to the Act introducing certain measures to mitigate the impact of the coronavirus epidemic on residential tenants up until 31 December 2020, a landlord will not be able to terminate the lease unilaterally, based only on the tenant's default (relating only to rent, i.e. not service charges) between 12 March 2020 and the day following the date of termination of the governmental measures during the epidemic but in any event no later than 31 July 2020.

This measure only applies to situations where the tenant could not duly pay the rent for reasons based mainly on the restrictions resulting from measures implemented by the government during the COVID19 pandemic, which prevented him/her from paying the rent or made it substantially more difficult for him/her to do so. This must be proved by a statement from the relevant labour authority (specifics are stated in the government guidelines).

All the tenant's debts (i.e. outstanding rent) that were payable between 12 March 2020 and the day following the date of termination of the government measures during the epidemic (but in any event no later than 31 July 2020) must be settled by 31 December 2020. Failing which, the landlord can

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

terminate the lease without any prior notice (this will also apply in the event that the tenant states that he/she will not pay the debt or where it is clear that he/she will not pay the debt).

As for a lease of business premises, the landlord has a right, subject to certain conditions, to apply to the courts for termination of the lease (especially if the landlord is in danger of losing its ability to obtain a livelihood due to the restrictions). In addition, no such application could be made before the state of emergency came to an end.

*Author: Pierstone s.r.o., advokátní kancelář | Prague, CZECH REPUBLIC
in cooperation with D'ORNANO PARTNERS*

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

THE EFFECTS OF CORONAVIRUS ON LEGISLATION IN SERBIA

The COVID-19 pandemic has affected everyday business activities in Serbia in many ways.

The Serbian Government was even forced to introduce a State of emergency, which lasted until 6 May 2020.

The COVID-19 pandemic has also led to some permanent changes in the legislation. Set out below is a general overview of the most important measures concerning the economy, companies and employment and changes to the legislation, which are a direct result of the COVID-19 pandemic.

ECONOMIC MEASURES IN THE PRIVATE SECTOR

The Serbian Government adopted the following set of economic measures, in order to mitigate the consequences of the COVID-19 epidemic.

Fiscal benefits

The deadlines for: (i) payment of payroll taxes and contributions; (ii) advance payments of corporate income taxes and (iii) advance payments of taxes on self-employed income for March, April and May 2020 have been extended until 4 January 2021, with the possibility of deferring payment of the amounts due by means of a maximum of 24 equal monthly instalments without any obligation to pay interest.

Direct grants

Companies and entrepreneurs in the private sector were given direct, non-refundable grants to be used exclusively for the payment of salaries and benefits to employees in 3 instalments, i.e. in May, June and July 2020, and in the amount of the net minimum wage for the month of March 2020.

Loans to maintain current liquidity and working capital loans

In order to mitigate the consequences of the COVID-19 epidemic on business activities, eligible business entities in Serbia may apply for loans to maintain their current liquidity and working capital loans, which will be granted on favourable terms.

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

These loans are granted by the Development Fund of the Republic of Serbia and, also, by commercial banks operating in the Republic of Serbia. The bank loans are secured by a direct State guarantee and the procedure for approval of the loans is conducted by the bank in which the customer (borrower) has a business bank account.

Applications for loans from the Development Fund of the Republic of Serbia can be submitted up until the exhaustion of the allocated funds but must in any event be made on or before 10 December 2020.

CORPORATE MEASURES

The Serbian Government adopted the following set of corporate measures, in order to mitigate the consequences of the COVID-19 epidemic.

The regular Shareholders' Meeting

The deadline for holding the company's AGM is delayed by 90 days from the date of termination of the State of Emergency, i.e. until 6 August.

The submission of annual reports

The deadlines for submission of annual reports have been delayed for 30/60/90/120 days from the date of termination of the State of Emergency, depending on the report in question and the classification of the legal entity.

The submission of corporate income tax returns, i.e. the tax return for self-employed income

The deadline for submitting corporate income tax returns, i.e. the tax return for self-employed income, is delayed by 90 days from the date of termination of the State of Emergency, i.e. until 6 August.

EMPLOYMENT-RELATED MEASURES

The Serbian Government has adopted the following set of employment-related measures, in order to mitigate the consequences of the COVID-19 epidemic.

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

Working from home

The authorities strongly recommend that all employers allow their employees to work from home, so long as the pandemic is still in effect, and the majority of employers are following this practice.

Flexible forms of work and flexible working conditions are acknowledged under Serbian law but, due to the COVID-19 epidemic situation, the number of employees in Serbia working from home has increased significantly.

Preventative measures imposed on employers and employees

Employers which opt to organise for their employees to work in their offices must follow strict health and safety measures, in order to safeguard the health of employees and business associates.

Such employers have the duty to apply: (i) preventative measures (e.g. working in shifts with a smaller number of employees; disinfection of the premises and frequent ventilation of the work area; providing employees with sufficient quantities of soap, towels, running water and disinfectants, alcohol-based hand washes, etc.) and (ii) preventative measures in the event of an infected employee (e.g. defining precise procedures for entering and leaving the employer's premises where the infected employee was regularly present; defining precise instructions for employee movements within work and auxiliary premises).

Some obligations are also imposed on employees, such as taking additional care of hygiene by washing hands or informing the employer if they, their family members or other employees show any symptoms of a contagious disease.

Adoption of the Preventative measures implementation plan

Employers are obliged to adopt the Preventative measures implementation plan up until 10 August 2020, for all work stations within the working environment, in order to prevent the occurrence and spread of an epidemic of infectious disease.

The Plan should be an integral part of the Risk Assessment Act, in accordance with the laws and regulations on health and safety at work.

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

The proper authorities in Serbia are very active in monitoring the effects of the COVID-19 pandemic on business activities, and in searching for optimal solutions in order to mitigate the effects of the COVID-19 pandemic.

*Author: Atanasković I Božović / Belgrade, SERBIA
in cooperation with D'ORNANO PARTNERS*

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

BULGARIA: EMERGENCY EPIDEMIC SITUATION COMBINED WITH A POLITICAL CRISIS

In response to the COVID-19 pandemic, Bulgaria declared an emergency epidemic situation on 14 May 2020, gradually relaxing the restrictions imposed during the preceding state of emergency of 13 March 2020. The extraordinary public health status, which was initially announced for a period of one month, has now been extended four times – up until 31 August 2020. Given the rate at which the virus is currently spreading, a further extension seems likely. In the meantime, political tensions in the country, provoked by an incident in the offices of the President of Bulgaria on 9 July, are based in part on public perception that the government has not managed the pandemic effectively and on the resulting economic crisis. While certain support measures have been in place since March 2020, the processing and administration of the associated payments is generally seen to be inadequate and cumbersome.

The main measures to mitigate the negative impact of the COVID-19 pandemic, and the ensuing restrictions and loss of business, focus on providing state aid to employers and loans at preferential interest rates for companies and entrepreneurs, along with a set of investment instruments for start-ups in the fields of innovation, digital technology and robotics, pharmaceuticals, hi-tech, etc. Launched during the state of emergency in March 2020, and then further revised and expanded to cover the subsequent epidemic crisis, the instruments will provide temporary emergency aid, which will be available until 30 September 2020, or until the second half of 2021 at the very latest.

The Fund of Funds

The financial instruments deployed by the government to mitigate the negative impact of the COVID-19 crisis and invigorate the economy are managed by the Fund of Funds, the entity which is in charge of all EU funds administered in Bulgaria. The measures include state guarantees for bank loans to small and medium-sized enterprises (SMEs), preferential loans for vulnerable businesses and entrepreneurs (which are specifically designed to counter the effects of COVID-19) and the fine-tuning of existing financial instruments to adapt them to the current circumstances of the public health crisis.

The 60/40 Employer Support Mechanism

This mechanism, introduced during the state of emergency in March 2020, is intended to help struggling employers maintain their workforce and to avoid redundancies by subsidizing 60% of

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

employee wages. It has been revised to take account of industry feedback and is at present intended to apply until 30 September 2020. It covers the employee's insurable earnings for January 2020, together with 60% of the social security charges payable by the employer.

State Aid for Employers in Tourism and Transport Businesses

The government provides ear-marked, state aid for employers in the tourism and transport sectors, as incentives to retain their employees during the pandemic. Tourism and travel agents, hotels and similar forms of accommodation, transport, restaurants, catering and hospitality businesses are all eligible to apply. Employers can be either companies (whether Bulgarian or foreign with places of business in Bulgaria, and whether under private or municipal ownership) or self-employed individuals (such as sole proprietors, professional practitioners and artisans).

The aid takes the form of a subsidy in respect of part of the employee's monthly salary of BGN 290 (approx. EUR 154 per employee or self-employed person), this amount including the associated social security charges to be paid by the employer, so that the employee will effectively receive BGN 189 (approx. EUR 95).

To qualify for this aid, the employer has to comply with certain conditions:

- The main prerequisite is to show a decrease of at least 20% in turnover compared to the same month in the previous calendar year (for companies registered between 1 June 2019 and 1 March 2020, the reference period is the average turnover for January and February 2020).
- The employer must undertake to continue to employ the subsidized employees for the entire period during which the compensation is being paid, and for at least half of that same period thereafter.
- All social security charges and taxes for 2019, both state and municipal, must have been paid or duly rescheduled.

The aid is paid for a minimum of one month, as from 1 July 2020, and is capped at a total of six months. The aid cannot be cumulated with any other support mechanism provided by the state to the employer, including payments derived from EU funding.

To reduce the risk of abuse, this aid does not apply to companies or individuals who registered after 1 March 2020, i.e. which effectively started their activity immediately prior to or during the state of emergency. Employees hired after 13 March 2020 (i.e. the start of the state of emergency) are not eligible, nor are self-employed individuals who launched their business after 1 March 2020. If the

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020

employee leaves, no aid is payable for the month of his/her departure – the reason being to avoid employers applying pressure on their employees to resign rather than making them redundant.

All the documents required from employers, including the application and reports, can be filed online and the administrative authorities have been instructed to facilitate electronic communications. Nevertheless, the process is considered to be in need of improvement and many employers find that exchanges with the authorities are time-consuming and that the official response time is too slow. Given the development of the pandemic and the surrounding uncertainty, employers are wary about committing to maintain their employees for the required period, since, if they ultimately fail to do so, the sanction is the reimbursement of the aid received, plus penalty interest.

Preferential VAT rate of 9% for hotels, restaurants, books and baby products

As of 1 July 2020, the standard VAT rate of 20% was reduced to 9% for hotels and similar tourist establishments (including camping sites), restaurants and catering establishments, book publishers (both for digital and print books), and retailers of baby food and nappies. The reduction is a temporary measure and will only apply until 31 December 2020. With respect to restaurants and catering establishments, the preferential rate will only apply to food served on-site at the restaurant; alcohol remains at the 20% VAT rate, along with takeaway orders, food stands or vending machines.

In general, the positive impact of these support measures on the Bulgarian economy is considered to be of limited effect and currently inadequate, especially in the context of the ongoing political crisis. One of the main concerns for business is the uncertainty surrounding the administration and expansion of the measures, in order to adapt them to developing circumstances and this is likely to remain the case in future months up until the elections. Meanwhile, the support measures are likely to be extended beyond the current deadlines.

Author: D'ORNANO PARTNERS

In cooperation with:

BARTOSIK & SVABY

PIERSTONE



ATANASKOVIĆ I BOŽOVIĆ
Attorneys at Law

August 2020



About D'ORNANO PARTNERS

D'ORNANO PARTNERS is an international law firm deeply rooted in Central and South-East Europe and in France. Our lawyers offer in-depth knowledge of local markets combined with unparalleled international experience.

We promote an integrated multi-disciplinary, cross-border approach, based on our strong capabilities and synergy between our European offices which work in close collaboration. We provide tailored legal assistance in the following main sectors.

Expertise

- Transactions: Mergers & Acquisitions - Real Estate
- Strategic Litigations
- Projects and Structural Investments
- Legal Support

One impressed client says that he is “always available and he produces high-quality work”, before adding: “We trust his judgement and opinions on matters, he has a very good knowledge of the local laws and situations”. (Chambers and Partners 2020)

