

## SUMMARY OF THE LEGAL EFFECTS OF THE CORONAVIRUS EPIDEMIC

In order to prevent the spreading of the virus and protecting the health of its citizens, the Government of Hungary declared the state of danger on 11 March, 2020. The following summary provides a general overview of the potential legal effects of measures taken since the conclusion of the previous summary, which took place after 16 March, 2020, with particular reference to the public law aspects of the Covid-19 pandemic, as well as to labour and contractual legal regulations.

### PUBLIC LAW ASPECTS OF THE COVID-19 PANDEMIC

#### Provisions restricting the rules of leaving one's residence:

Governmental Decree no. 46/2020. (III. 16.) was the first order, which prescribed several restrictions regarding the visitation of several stores, shops and public events. It was published on 16 March, 2020. With respect to the rising number of infections, a new decree was issued, which prescribes stricter rules for leaving one's residence. The provisions of Governmental Decree no. 71/2020. (III. 27.) are in force from 28th March until 11th April. According to this Decree, everybody shall minimize its social contacts and keep at least 1,5 m distance from other people, except from those, with whom he or she shares a residence. The residence or the usual place of stay may be left for a substantial reason, listed in Section 3 of the Decree. People over 65 years are allowed to visit grocery stores, pharmacies, drugstores and marketplaces only between 9 AM and 12 AM. During these hours, buyers under the age of 65 are not allowed to be inside the mentioned stores. It is the responsibility of the operator of the store to enforce these limitations.

Any breach of the restrictive measures stated in Governmental Decree no. 71/2020. (III. 27.) shall be considered a misdemeanour and punishable by a fine, which amounts between 5.000-500.000,- HUF.

#### Provisions regarding the payment of taxes:

Based on Section 5 of Governmental Decree no. 47/2020. (III. 18.) those low tax-bracket enterprises, whose main activity is listed in Governmental Decree no. 61/2020. (III. 23.) and in Governmental Decree no. 68/2020. (III. 26.) shall be exempt from the payment of the specific tax prescribed by Act CXLVII of 2012 on the Fixed-Rate Tax of Low Tax-Bracket Enterprises and on Small Business Tax for March, April, May and June of 2020. The exemption from tax payment shall have no effect on the entitlement to social security benefits and the amount of these benefits.

Based on the provisions of Governmental Decree no. 61/2020. (III. 23.), (i) payers with respect to the employment of natural persons; (ii) individual entrepreneurs with respect to this status and (iii) those who shall be considered business partners according to Act LXXX of 1997 on the Eligibility for Social Security Benefits and Private Pensions and the Funding for These Services with respect to this status those entities, who carry out activities listed in the Decree shall be exempt from the payment of social contribution tax for March, April, May and June of 2020. The previously mentioned entities shall also fulfil their contribution payment obligation different from the provisions of Act LXXX of 1997. They shall solely pay in-kind health insurance contributions at the rate of 4 % after their contributory income, but at the maximum of 7.710,- HUF.

### Provisions regarding public procurements:

Section 4 of Governmental Decree no. 48/2020. (III. 19.) establishes special rules regarding procurements related to the protection against the coronavirus. Procurement related to the protection against the coronavirus may be carried out by the contracting entity in a manner other than the general rules of public procurement and procurement, on the basis of an individual exemption of the Government member responsible for resolving the state of danger. The contracting entity, in case of reaching the national limit, is entitled to make the procurement without carrying out a public procurement or any other procurement procedure, asking for three offers, if possible. The contracting entity is obliged to examine in advance, whether its procurement needs can be met by applying a framework agreement or other framework contract resulting from a centralized procurement procedure, within the time possible with respect to the state of danger. The regularity of these procurements might be audited by the Minister responsible for public finances afterwards. The special rules of procurement are not applicable for procurements using developments funds of the European Union.

### Provisions regarding judicial enforcement:

According to Governmental Decree no. 57/2020. (III. 23.) in the course of the state of danger, judicial documents shall not be served, the deadline applicable to service begins again on the 15th day after the end of the state of danger. In the course of the state of danger, the bailiff shall inform the debtor about the option and conditions of paying in instalments at the time of delivery of the enforcement order. If the debtor notifies the bailiff that he or she intends to pay in instalments, the bailiff is entitled to state the payment in instalments without the prior authorization of the judgement creditor. The bailiff shall suspend its opening hours until the day after the state of danger ends, until then he or she shall provide availability by means of electronic communication or in writing.

Until the end of the state of danger, on-site proceedings may not be carried out, auction may not be held and on-site procedural actions may not be taken. The deadline applicable to carrying out procedural activities begins again on the 15th day after the end of the state of danger. Procedures for the evacuation of a residential unit and related procedures may not be carried out in the course of the state of danger. The bailiff may take action for auctioning the residential property of a natural person debtor at the earliest of the 15th day after the end of the state of danger. Measures to enforce a specific act or carrying out a procedural action may be taken after the cease of the state of danger. In this case, the relevant deadlines begin again on the 15th day after the end of the state of danger.

Special rules are applicable to the fine for contempt and for the suspension of the enforcement procedure by the court. During the enforcement procedure, the person, who is unable to fulfil its obligations prescribed by the law, because of the special epidemiological measures in the course of the state of danger, shall not be fined for contempt. Exceptionally, at the request of the debtor, the court of origin for authorizing enforcement may also suspend enforcement, if the debtor is placed in a life situation which shall be considered a reasonable cause in connection with the epidemiological measures.

According to Section 9 of the Decree, from 24 March, 2020 the ongoing enforcement proceedings of tax authorities carried out by Act CLIII of 2017 on Enforcement Proceedings to be Implemented by the Tax Authority shall be suspended until the 15th day after the end of the state of danger. In these proceedings, the running of the limitation period of the right to enforcement shall be suspended from 24 March, 2020 until the 15th day after the end of the state of danger.

### Other relevant provisions:

According to Governmental Decree no. 46/2020. (III. 16.), official documents issued by governmental offices shall be delivered only by post from 17th March.

According to Governmental Decree no. 46/2020. (III. 16.), the Minister for Innovation and Technology has more significant and broad rights to access and process data in order to prevent spreading of the virus and protect the health of the citizens.

According to Governmental Decree no. 48/2020. (III. 19.) in the course of the state of danger, commercial activities outside of shops may be carried out without notification and registration in order to supply citizens, according to the provisions of the contract concluded with the catering business and the business selling everyday consumer goods. Mail order businesses may also carry out business without registration and notification for the benefit of the general public. The mentioned businesses may only sell products consumed on a daily basis and products sold by catering businesses, including food.

According to Governmental Decree no. 60/2020. (III. 23.) the payment service provider shall not use strong customer authentication, unless the individual amount of the touch electronic payment transaction exceeds 15.000,- HUF.

## LABOUR LAW

### The effects of the extraordinary measures introduced in the state of danger on labour matters:

The government introduced new extraordinary measures with Government Decree no. 47/2020. (III. 18.) concerning labour matters, derogating from the effective provisions of the Labour Code for the duration of the state of danger and for 30 days thereafter.

The employer shall provide the working time schedule to the employee in writing for at least a period of a week, and at least 168 hours prior to the commencement of the working hours. In the absence of such notification, the last working time schedule provided shall apply.

Pursuant to Section 97 (5) of the Labour Code, the employer may modify the announced working time schedule 96 hours prior to the commencement of the working hours, in the event of unforeseeable circumstances in its business operations or management. The employer may also modify the announced working time schedule at the written request of the employee. As a result of the extraordinary measures, the employer may derogate from the announced working time schedule 96 hours before the commencement of the working hours. However, the general principles of the Labour Code will continue to apply, and, for example, pursuant to Section 7 (1) of the Labour Code, the prohibition of abuse of rights will still limit the scope of measures which may be taken by the employer.

As a result of the extraordinary measures, the employer may order home-office and teleworking unilaterally. This amendment applies specifically to teleworking within the meaning of Section 196 and 197 of the Labour Code, where the employee regularly carries out work, using electronic devices, at a location different from the premises of the employer, and the results of which are transmitted electronically. As a result of the extraordinary measures, the employer will have the option to unilaterally change the employment relationship to teleworking employment. Pursuant to Section 196 (3) of the Labour Code, in case of teleworking employment, the employer shall inform the employee of the rules of monitoring his or her work, restrictions on the use of computer or other electronic devices and the organizational unit to which the employee's work is related. However, teleworking is different from non-regular „home-office” work, where the employee has the option to work outside of the workplace using electronic devices, but solely on an ad hoc basis and not in a regular way. The employer may order the latter „home-office” type of work even without the need to modify the employment contract. Thus, the employer must consider whether, under the circumstances caused by the coronavirus epidemic, teleworking should be introduced on a permanent basis, in which case the employer is required to modify the employment contract in accordance with the provisions of teleworking set out in the Labour Code and establish the framework of rules regarding the monitoring of the work carried out by the employee as mentioned above. It should be noted that working from home is also considered regular even if it does not affect all working days of the week (e.g. mandatory work conducted from home every Monday).

The extraordinary measures will also allow the employer to take the necessary and justified measures to monitor the employee's state of health, thus providing the employer with an appropriate legal basis for handling the related personal data. It is important to note however, that pursuant to Section 10 (5) of the Labour Code, the employer shall inform the employee concerned in writing about the processing of his or her personal data and shall comply with the rules on the protection of such personal data. It should also be emphasized that data regarding medical condition belong to a special category of personal data, and thus enjoy enhanced protection: the employer shall ensure that access to such personal data is granted only in order to perform the duties in connection with the processing of personal data, and such access is strictly necessary to perform such obligations.

The abovementioned amendments introduced by the extraordinary measures shall prevail over the different rules set out in collective agreements.

The extraordinary measures will also allow the employer and the employee to derogate from the provisions of the Labour Code in a separate agreement. This is a significant change in the current structure of the Labour Code: (i) derogation from certain provisions of the Labour Code is granted only to the benefit of the employee; (ii) in other cases, the Labour Code allows derogation to the detriment of the employee, but only to a certain extent; (iii) there are

also certain provisions in the Labour Code which allow no derogation, with no exceptions. As a result of the changes introduced by the extraordinary measures, the employee and the employer may, by mutual agreement, derogate from any provision of the Labour Code. On the one hand, this allows the employer and the employee to find a more flexible solution to the current employment situation in order to maintain the employment relationship, on the other hand however, the rules set out in the Labour Code which limit or prohibit derogation in order to protect the employee will not apply during the period of the state of danger and for 30 days thereafter.

## CONTRACT LAW

### Payment moratorium:

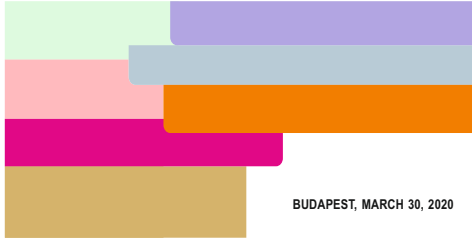
In order to ensure that liquidity problems amongst retail and corporate customers do not exacerbate economic problems, the Government has issued Government Decree No. 47/2020. (III. 18.) and No. 62/2020. (III. 24.), which serve - inter alia - the abovementioned economic operators, the debtors' ability to pay.

The essence of the payment moratorium is that the debtor's payment obligation will be deferred until 31 December 2020 in respect of capital, interest and fees arising from a commercial loan or from a financial leasing agreement. This means that the deadline for fulfilling the contractual obligations and the duration of the commitment will be extended with the period of the payment moratorium. The contract which expires during the state of danger shall be extended until 31 December 2020. The contract so modified does not need to be included in a notarial (public) deed and the earlier notarial (public) deed is valid within framework of the amended content of the contract.

The moratorium on payments applies to loans already granted under contracts existing at 12:00 PM on 18 March 2020, i.e. before the entry into force of Government Decree No. 47/2020. (III. 18.), provided that, in the case of consumer loan contracts – which were not secured with mortgage – entered into after the entry into force of the government decree, the total credit indicator (TCI) shall not exceed the central bank base rate plus five percentage points. The central bank base rate applicable on the first day of the relevant calendar semester shall be applicable for the entire duration of that calendar semester. These provisions shall apply to contracts concluded after the entry into force of the government decree, until 31 December, 2020. In the case the time limit will not be extended with respect to the TCI, then TCI specified in the lenders notice at the time of the conclusion of the contract shall apply.

It is important to emphasize that the capital debt cannot be increased, either during the payment moratorium or after the expiry of the payment moratorium, with the amount of unpaid interest during the payment moratorium, which means that the interest will not be capitalized. Lack of capitalization of the interest means that the outstanding interest debt is to be paid without interest, so no compound interest is calculated. Accumulated interest shall be paid in equal instalments after the end of the payment moratorium, together with any instalments due, provided that the sum of the interest and due instalments shall not exceed the amount of the instalments under the original contract. These rules on interest also apply to fees accordingly.

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