

FINANCIAL AND INSOLVENCY MEASURES: LEGISLATIVE FALLOUT FROM THE COVID-19 OUTBREAK

A multijurisdictional overview for the central European,
southern European and Baltic countries

May 2020

INTRODUCTION

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The COVID-19 pandemic has, and will have, an unprecedented impact on the economy of all countries across the globe. Many governments and banks have introduced extraordinary measures to moderate the financial and economic impacts of the pandemic and inevitable domino effect of credit defaults in the economy.

Such measures often include time-limited moratoriums on loan repayments or changes in the insolvency or debt enforcement legal framework that aim at decelerating the expected future wave of bankruptcies.

Our guide contains a brief but comprehensive overview of the current credit moratoriums and insolvency measures in the Baltic/CEE/SEE countries. It was prepared by a consortium of top independent law firms operating in the relevant jurisdictions.

Should you need assistance in this area, we would be delighted if you turn to the appropriate contact person in the relevant country as listed below.

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BALTICS



BANKING AND FINANCE

- The Estonian government adopted a short-term economic support package on 19 March 2020. According to this package, state funds are channelled to support businesses through state-owned financial institution KredEx Foundation and state-owned financial aid institution for farmers and other agricultural entrepreneurs Rural Development Foundation.
- The package also includes Unemployment Insurance Fund labour market support, sickness benefits, tax benefits and allows tax arrears to be deferred for 18 months. It also includes temporary suspension of the government's second pillar contribution to the pension fund and partial reimbursement of the direct costs of cancelled events.
- Some support can be also obtained from the Enterprise Estonia Foundation.

KredEx Foundation Services

By decision of the government, the KredEx Foundation will offer the following new services:

- additional security as loan guarantees for new and existing bank loans (total budget EUR 1 billion);
 - for new bank loans the additional security is up to 90% (but no more than EUR 5 million) per company;
 - for existing bank loans the additional security is up to 50% (but no more than EUR 5 million) per company;
 - securities for accommodation and catering companies are up to 100% (but no more than EUR 700 000) per company;

- securities for small companies (companies with less than 50 employees and turnover less than EUR 10 million) for small loans is up to 100% (but no more than EUR 100 000) per company;
- securities for nationally crucial projects is up to EUR 10 million (but no more than 90% of loan);
- revolving business loans in order to help companies to overcome liquidity problems caused by COVID-19 spread outbreak, including, where necessary, the re-payment of bank loans (total budget EUR 500 million);
 - loans are up to EUR 5 million per company;
 - loans for nationally crucial projects are starting with EUR 10 million per company;
- investment loans to companies so they can overcome problems caused by the coronavirus (EUR 50 million);
 - loans are up to EUR 5 million per company;
 - loans for nationally crucial projects are starting with EUR 10 million per company.

The target group of KredEx includes all companies registered in Estonia under following conditions:

- the financial status of the target company must be in order as at 31 December 2019;
- the company must not have already encountered difficulties before the crisis; and
- difficulties of the company are directly or indirectly caused by the coronavirus outbreak.



MARI KARJA



KARMELEINBERG



Unemployment Insurance Fund Services

The Unemployment Insurance Fund will support employers who have been significantly impacted by the outbreak of the COVID-19 spread by compensating the income of employees. The total amount is EUR 250 million and is subject to the following conditions:

- the benefit is available to any qualifying employer for a period of two months requested by the employer within the period from March to May 2020;
- the allowance will be paid up to a maximum of EUR 1,000 per worker per month; and
- the allowance will be payable, as a general rule, at 70% of the gross salary of the employee over the previous 12 months, plus at least EUR 150 gross salary per month will be paid by the employer;
 - e.g. if an employee's one month salary for past 12 months was EUR 1000, the fund will compensate EUR 700 per month and the employer will pay at least EUR 150 in addition – the employee will receive EUR 850 as salary; however it is the employers' aim to maintain the salary of the employees', therefore many employers will opt to compensate more than the minimum of EUR 150; in this example, in order to maintain the salary of EUR 1000, the employer would compensate EUR 300.

The Unemployment Insurance Fund and the employer pay all taxes on wages and allowances.

Advance social tax aid measures will be implemented for self-employed workers.

The Rural Development Foundation Services

The government will allocate EUR 200 million to the Rural Development Foundation in order to alleviate the situation of agricultural enterprises. The Rural Development Foundation will offer the following services to agricultural enterprises:

- a loan surety as a loan guarantee for loans of agricultural enterprises (total budget EUR 50 million);
- a working capital loan to overcome liquidity problems caused by the COVID-19 spread outbreak (total budget EUR 100 million); or
- land capital for farm owners for sale-and-leaseback transactions to overcome liquidity problems caused by the SARS-COV-2 virus outbreak (total budget EUR 50 million).

Enterprise Estonia Foundation services

Micro and small enterprises have the possibility to apply for support for partial compensation of a small entrepreneur's damages caused by COVID-19 spread outbreak. This will come into force in May 2020. The support is for micro enterprises whose 2019 yearly turnover was at least EUR 20,000 and at most EUR 100,000.





- The amount of compensation for small enterprises whose 2019 turnover was between EUR 20,000 and EUR 40,000 is EUR 3,000.
- The amount of compensation for small enterprises whose 2019 turnover was between EUR 40,000 and EUR 100,000 and whose turnover in March or April 2020 decreased by at least 30% in comparison to the turnover in the same month in 2019, is EUR 5,000.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The Estonian Parliament has adopted a draft law called Measures related to the outbreak of the SARS-COV-2 virus causing COVID-19 disease (COVID law) (the “**Estonian COVID law**”).
- The final draft of the Estonian COVID law was adopted



by the Parliament and passed to the President for approval on 20 April 2020.

- The Estonian COVID law amendments will come into force from 12 March 2020 (retroactively), when the emergency situation was announced, and will last until two months have passed from the end of the current state of emergency. At the moment it is not clear when will the end of the state of emergency will be announced.

Key elements

- Suspension of the management board’s obligation to file a bankruptcy application.
- Suspension of the period of limitation for recovery proceedings.
- The requirements on due diligence regarding prohibited payments remain intact.

Suspension of the management board’s obligation to file a bankruptcy application

- Under the Estonian COVID law the obligation of the management board to file a bankruptcy application is halted.
- This amendment applies to all legal and natural persons.
- However, an undertaking that lacks prospects of restoring and continuing its economic activities after the current emergency has passed should immediately file a bankruptcy application against itself.

- This does not hinder a creditor’s right to file a bankruptcy application instead.

Suspension of the period of limitation for recovery proceedings

- The deadlines related to recovery proceedings are being halted.
- The Estonian Bankruptcy Act sets out a period of limitation for transactions that can be revoked. The Estonian COVID law halts the expiration of limitation periods and therefore suspends the deadlines for transactions that can be revoked during bankruptcy proceedings.

The requirements on due diligence regarding prohibited payments remain intact

- When insolvency is evident, a management board member is allowed only to make essential payments, regardless of the deadline for filing a bankruptcy application.
- The prohibition on making payments, other than payments that conform with due diligence requirements will remain intact.
- Otherwise, a management board member will be liable with his or her personal property. In addition, criminal liability remains unchanged.
- Unequal treatment of creditors and favouring creditors related to oneself as well as concealment of property remains illegal under Estonian law.

BANKING AND FINANCE

State loans by the state development finance institution ALTUM

- Small, medium-sized and large enterprises facing financial difficulty due to COVID-19 spread may apply for loans to finance their working capital with subsidized/lower interest rates and decreased security requirements of up to EUR 1 million per company, a maximum term of 3 years and a grace period of 12 months for payment of the principal amount. The total amount of financing available for the said loan is EUR 200 million.
- The total loan cannot exceed at least one of the following criteria:
 - 25% of the company's turnover in 2019;
 - double the size of labour costs (incl. social contributions) in 2019 (if the company was founded in 2019, the planned amount for the next 2 years);
 - the amount of liquidity required to ensure the operation of the company for the next 12 months.
- The loan is not accessible to companies operating in specific fields (e.g. the arms and ammunition trade, tobacco and alcohol trades, gambling, finance and insurance, real estate operations).

Loan guarantees by ALTUM

- Small, medium-sized and large enterprises facing financial difficulty due to COVID-19 spread may apply for guarantees to secure:

- existing loan obligations (investment loans, financial leasing), by postponing the payment of principal for up to 2 years, or
- new loans for working capital for up to 3 years.

- Maximum amount of guarantee: EUR 5 million per company and up to 50% of the loan obligation.
- Maximum term: 3 years for working capital financial services, and 6 years for investment loans and financial leasing services.
- State loans and guarantees cannot be obtained by companies that were experiencing financial difficulties already before 31 December 2019.
- The total amount of financing for the guarantees is EUR 50 million and it will allow to restructure loans for the total amount up to EUR 700 million.

INSOLVENCY AND RESTRUCTURING

On 22 March 2020, the Latvian Law on the threat to the state related to the spread of COVID-19 and measures for prevention and remedying its consequences (the "**Latvian Covid-19 Law**"), as later amended on 3 April 2020 and 23 April 2020, came into force.

Key elements

- Suspension of creditors' right to file an insolvency application against debtors.
- The management's obligation to file for insolvency of their own company if the company has overdue debts remains unaffected.

- Possibility to file for insolvency electronically and hold remote creditors' meetings.
- Extended terms in restructuring proceedings.

Suspension of creditors' right to file for insolvency

- Under the Latvian Covid-19 Law, any creditor (including an employee or the tax administration) is precluded from filing an insolvency application against a debtor (legal person) until 1 September 2020.
- The moratorium applies to any creditor-debtor relationship and hence is not limited to any industry or to debtors facing financial difficulties specifically due to the outbreak of the SARS-COV-2 virus.
- Creditor cannot cause a debtor to be declared insolvent prior to 1 September 2020, even if the debtor fails to meet its debt obligations towards the creditor.

Possibility to file for insolvency electronically and hold remote creditors' meetings

- During the state of emergency (from 12 March 2020 till 12 May 2020, unless extended) related to the spread of SARS-COV-2 virus, an application for legal protection (restructuring) proceedings, insolvency proceedings of a legal person and insolvency proceedings of a natural person may be submitted electronically by signing it with an electronic signature.
- Creditors' meetings can be held remotely both in insolvency and legal protection (restructuring)

proceedings, with creditors participating and voting at the meeting through electronic means

Extended terms in restructuring proceedings

- During the state of emergency related to the spread of SARS-COV-2 virus and for six months afterwards, in cases where an application for approval of a plan of measures of legal protection (restructuring) or for amending such a plan has been filed with the court, the length of the restructuring proceedings may be set at up to four years (as opposed to the pre-emergency maximum term of two years, with a possibility of further extension for two years).
- If the deadline for implementing legal protection proceedings has already been extended and adverse effects which have arisen due to the spread of COVID-19 prevent a debtor from implementing the plan of measures of legal protection, during the state of emergency related to the spread of COVID-19 the deadline for implementing legal protection proceedings may be further extended by another year, if the required majority of the creditors agrees.

OTHER MEASURES

Debt recovery

Under the Latvian Covid-19 Law, debt recovery has become more debtor-friendly, mainly via the:

- introduction of a minimum term of 60 days for warning a debtor before commencing out-of-court debt recovery (in the case of debtors-natural persons, the warning term of 21 days has been extended to 60 days);
- introduction or extension of a minimum term of 60 days for certain types of special enforcement proceedings such as, most importantly, commercial pledge enforcement without court involvement and undisputed enforcement of obligations, which is the typical way of enforcing mortgages in Latvia; and
- extension of the minimum term from 10 to 60 days when a debtor may voluntarily comply with a court judgement on debt recovery.

Limitation of late payment interest and pause on limitation periods

- From 1 April 2020 to 1 September 2020, interest for delay in the performance of a civil law (contractual law) obligation may not exceed statutory interest 6%. This does not apply to other types of contractual penalty.
- From 12 March 2020 to 1 July 2020, the limitation period for civil law (obligations law) obligations is suspended, and this period is deductible from the calculation of the limitation period.

BANKING AND FINANCE

The Lithuanian State company INVEGA has announced a list of measures aimed at distributing state support to business in three main areas:

1. Guarantees

Portfolio guarantees for loans 2 (PGP2) and leasing 2, and export credit

- Available to small, medium-sized and large enterprises, if one of the following conditions is met:
 - the turnover decrease by at least 40%;
 - the financial flows generated became insufficient to cover existing liabilities;
 - the value of the emergency coverage (critical liquidity) ratio became less than 1 (the value deteriorated compared to 31 December 2019).
- INVEGA will guarantee to banks and other financial institutions, including leasing companies, fulfilment of loans already granted and new loans. Loans that can be secured by the guarantee:
 - unsecured investment loans granted (including leasing transactions) and working capital loans (excluding reverse leasing transactions) for which the repayment schedule was extended or the deferred repayment was applied, without compromising other loan repayment terms, not earlier than on 16 March 2020;
 - new working capital loans (including reverse leasing transactions) to support corporate liquidity.

- The measure does not apply to loans granted to companies which are:
 - directly involved in organizing gambling; or
 - operating in sectors such as production, processing and sale of arms and ammunition, tobacco & tobacco products and distilled alcoholic beverages.
- Guarantee up to 80% of the loan principal and up to a maximum of EUR 5 million per one or few loans to one enterprise. The amount of the guaranteed loan depends on the amount of salaries accrued to the company's employees during the year, the company's turnover, investment and other liabilities.
- Total budget is EUR 85 million from the state budget of the Republic of Lithuania.

Export credit guarantees:

- Intended for micro, small and medium-sized enterprises that have been operating for more than one year with last annual income of over EUR 100,000.
- The maximum of all export credit guarantees for each exporter cannot exceed EUR 2 million.
- The maximum of all export credit guarantees for each buyer chosen by the exporter cannot exceed EUR 750,000.
- Covers up to 90 per cent of the aggregate of all deferred payments.

Portfolio guarantees for factoring 2 (PGF2)

- This measure is intended to guarantee covering factoring limits granted by financial institutions to micro, small and medium-sized enterprises.



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DOMANTĖ LUNYTĖ



KAMILĖ KUKAITYTĖ





- Up to 80% of the factoring transaction limit will be guaranteed, with a maximum of one factoring limit per company EUR 1,875,000 or EUR 937,500 for road freight transport companies.
- The maximum financing period for a factoring transaction is 12 months. New guaranteed factoring transaction might be concluded with the enterprise after the end of the factoring financing period.

2. Loans

Loans to cover due invoices up to EUR 500,000

- For small businesses which are not receiving payments for invoices issued from 1 January to 31 March of this year.
- Up to 85 per cent of unpaid invoice could be covered by the loan.
- The applicant and the company which failed to pay the invoice (the buyer of goods or services) must not belong to the same group of companies.
- The applicant must have retained at least 50 per cent of employees, compared to their number as of 1 March 2020.
- The company which failed to pay the invoice must be included in the list of businesses affected by COVID-19 spread (the list is prepared and updated by the State Tax Inspectorate).
- Repayment of the loan begins 6 months after disbursement. Period of repayment is 12 months (with the possibility to extend the repayment up to 36 months).

Alternative financial instruments up to EUR 200,000

- This measure is designed to promote financing of small and medium-sized enterprises by alternative financiers.
- Financing is provided in the form of a loan, factoring or financial lease (leasing).
- An alternative financing provider or alternative financier may be:
 - a financial institution established and operating in Lithuania (except for credit institutions and their related companies);
 - a collective investment company which is entitled to invest its funds in the form of a loan; or
 - management companies of collective investment company, if their management is transferred to management companies.
- Until 1 December 2020 an alternative instrument can be used to refinance the existing loans if the financing conditions for existing borrowers are improved. Possible improvements are e.g. that the loan repayment schedules are changed (the repayment term is extended) or the repayment of loan instalments is postponed.
- Maximum period of alternative financial instrument is 24 months.

Loans to businesses most affected by COVID-19 up to EUR 100,000

- INVEGA plans to provide (via financial institutions) soft loans for companies to maintain liquidity.
- The measure is targeted at small and medium-sized enterprises operating in the most affected sectors, if:





- the activity of the company is completely banned and turnover either does not take place or has fallen by over 30%;
 - the company meets the minimum criteria of a reliable business (such as – not a subject of insolvency; must not have no record of tax penalties, etc.);
 - the company retained at least 50 per cent of its employees, compared to their number as of 1 March 2020.
- The size of the loan will be limited to the amount needed to cover the company’s necessary expenses in the time period from 16 March 2020 to 31 July 2020.
 - Loans will be issued on a monthly basis. Maximum loan granted to one borrower under the instrument up to EUR 1,000,000.
 - Loan repayment begins 6 months after disbursement. Repayment period is 24 or 36 months.
 - Loans are subject to a fixed interest rate:

- up to 12 months – 0.1 per cent, and
- from 13 to 36 months – 0.19 per cent.

3. Compensation

- Available to small and medium-sized enterprises.
- The purpose of the measure is to reimburse 100% of the interest payable (up to 7% annually – if the interest is higher, than it is calculated as it was 7% p.a. and the reimbursement will be less than 100%) on loan or lease payments for 6 months, if the loan repayment term was deferred after 16 March 2020 (the date that quarantine was announced).
- Part of the wages paid to employees can be reimbursed.
- Interest compensation is paid monthly.
- Effective as of 3 April 2020.

The Association of Lithuanian banks has announced two temporary moratoria:

Moratorium for private obligors

- In force from 17 April 2020 until 1 July 2020.
- Credit institutions undertake to change the payment schedules of real estate related credits, consumer credits and leasing issued to their clients – natural persons.
- Any other conditions of the loan agreement must not be changed.
- The obligor must meet the following criteria:
 - must not have had significant (more than 30 days) delay in fulfilment of his obligations for the past 12 months prior to the announcement of the COVID-19 quarantine;

- must not have been declared insolvent or bankrupt;
- must indicate the COVID-19 pandemic related cause for the deterioration of the financial situation (loss of job, loss of income, or other).

- Repayment of mortgage loans will be postponed up to 12 months.
- Repayment of consumer credits and private leasing will be postponed up to 6 months.

Moratorium for legal entities

- In force from 17 April 2020 until 1 July 2020.
- Credit institutions undertake to change loan repayment schedules which provide for interim repayments, including:
 - financing instruments for working capital with an obligatory decreasing utilization limit; and
 - leasing agreements that provide for interim repayments of the value of the leased asset, e.g. amortised loans granted to their clients.

- Other conditions of the loan agreement must not be changed.
- The moratorium is not applicable to loans granted by using State funds, e.g. to Loans to businesses most affected by COVID-19 as described above.
- The client must:
 - not have had significant (more than once or for more than 30 days) delays in fulfilment of its obligations to financial institutions for the past year prior to announcement of the COVID-19 quarantine on 16 March 2020;
 - not be declared insolvent;





- not have been subject to reorganization measures;
 - have positive equity capital for the 2019 financial year;
 - indicate the COVID-19 pandemic related cause for deterioration of the financial situation.
- Loan repayments will be postponed for up to 6 months on client's request.

INSOLVENCY PROCEEDINGS

- The Lithuanian Parliament has enacted the Law on the Impact of the Effects of the New Coronavirus (COVID-19) on the Application of the Lithuanian Law on the Insolvency of Legal Entities (the "**Lithuanian COVID-19 Law**").
- Effective date is 25 April 2020.
- The Lithuanian COVID-19 Law applies only to companies that have experienced financial difficulties and / or become insolvent as a result of the COVID-19 crisis.

Key elements

- Suspension of managers' duty to file for insolvency.
- Suspension of creditors' right to file for insolvency.
- Termination of restructuring cases.

Suspension of managers' duty to file for insolvency proceedings

- Managers' obligation to file for insolvency is suspended.
- Managers must contact creditors in writing and offer

to conclude an agreement on support (*in Lithuanian: Susitarimas dėl pagalbos*) which would postpone the company's obligation terms, change the type of obligation, terminate obligations to creditors, etc. The notice to creditors must specify a term of at least 15 days for taking a decision on the conclusion of such an agreement.

- The Lithuanian COVID-19 Law suspends calculation of the 15 day term and the obligation of managers to apply to the court for insolvency proceedings during the quarantine period and for 3 months from revocation of the quarantine. But this applies only if a notice to creditors was sent.
- After the end of the 3 month period from revocation of quarantine, calculation of the 15 day term will be renewed. Then managers will have to reach an agreement on support. Managers who fail to do so will be obliged to initiate insolvency proceedings.
- The COVID-19 law also allows the Government to extend the term of suspension (e.g. quarantine period + 3 months) taking into account the economic situation in the country, but not beyond 31 December 2020.

Suspension of creditors' right to file for insolvency

- Under the Law on Insolvency of Legal Entities, creditors acquire the right to apply to a court to initiate insolvency proceedings against a debtor if they have previously set a term of at least 15 days to fulfil obligations, to agree on assistance or decide on out-of-court bankruptcy proceedings.

- The Lithuanian COVID-19 law suspends the 15-day term during the quarantine. This means that the courts will not open insolvency proceedings during quarantine, although the term will not be considered expired.

Termination of restructuring case

- The Lithuanian Law on Insolvency of Legal Entities provides several grounds for terminating a restructuring proceedings, among them (i) if the restructuring plan is not properly implemented; (ii) if a legal person fails to pay all or part of taxes due. However, the court may terminate restructuring proceedings only if circumstances forming such grounds continue for more than 3 months.
- According to the Lithuanian COVID-19 Law, the courts will not be able to terminate a restructuring proceedings based on the above grounds during the quarantine period and for 3 months from its revocation.
- The Lithuanian COVID-19 law also enables the government to extend the suspension period of quarantine period plus 3 month from its revocation taking into account the economic situation in the country, but not beyond 31 December 2020.

CENTRAL AND EASTERN EUROPE



AUSTRIA

BINDER GRÖSSWANG

The Austrian government has enacted several COVID-19 legislature measures to mitigate the impact of the COVID-19 pandemic on the Austrian economy (the 2nd and 4th COVID Act). Legislature responses are mostly in effect only for a limited period of time. Further measures may follow.

MORATORIUM FOR CONSUMERS AND MICRO ENTERPRISES

- Implemented with the 4th COVID-19 Act effective as of 5 April 2020 until 31 December 2020.
- Effective as of 1 April 2020.
- Austria is following the example of other countries (especially Germany) by providing relief for borrowers who suffer loss of income as a result of COVID-19 pandemic.
- The moratorium applies for loan agreements with:
 - consumers; and
 - micro enterprises, which
 - were entered into prior to 15 March 2020.
- The moratorium only covers loan agreements and no other forms of financing (e.g. payment extension of purchase price).

Effects of the moratorium

- Lender's claims on capital and interest payments due between 1 April 2020 and 30 June 2020 shall be deferred for a period of three months from the original due date.

- No formal demand by the borrower is necessary but the borrower must still get in touch with the lending bank in order to provide evidence regarding the pre-conditions (see below) being met.

Preconditions

- This deferral is subject to the condition that the respective borrower (consumer or microenterprise) has suffered a loss of income due to the exceptional circumstances caused by the COVID-19 pandemic, which makes it unreasonable for the borrower to continue the debt service.
- It is in particular unreasonable for the borrower to continue the debt service, if his or her reasonable maintenance or the reasonable maintenance of his or her dependants is at risk.

INSOLVENCY LAW ADJUSTMENTS

Period to file for insolvency (2nd COVID-19 Act)

- 2nd COVID-19 Act effective as of 23 March 2020 until 31 December 2020.
- Period to file application to open insolvency proceedings has been extended from 60 to 120 days if insolvency is at least indirectly caused by COVID-19 pandemic.
- The purpose is to increase the leeway for restructuring efforts and public support if insolvency is caused by such events.

Limitations regarding debt resurgence (2nd COVID-19 Act)

- The debt resurgence in case of payment default in relation to the fulfillment of an already court approved restructuring plan has been forbidden.
- If the debt was due on or after 22 March 2020 and a written demand for repayment of such debt was dispatched by the end of 30 April 2020, non-repayment of this debt does not lead to default under the Austrian Insolvency Code.
- This measure is intended to protect debtors from not being able to pay restructuring plan quotas as a result of the current crisis and slipping back into insolvency due to such demands received from creditors.
- Also some reliefs in relation to court approved payment plans of individuals were provided, e.g. a moratorium regarding payment plan installments in case of unemployment of the individual (4th COVID-19 Act).



GOTTFRIED GASSNER



GEORG WABL



PHILIPP SCHANNER





Suspension of duty to file for insolvency (over-indebtedness) (4th COVID-19 Act)

- Over-indebtedness as insolvency trigger (*Überschuldung*) is only applicable in relation to companies.
- Suspension of the duty of companies and their directors to file for insolvency due to over-indebtedness (*Überschuldung*), provided over-indebtedness occurred between 1 March 2020 and 30 June 2020.
- In case the company is (still) over-indebted after 30 June 2020, an insolvency application must be filed until the later of (i) 60 days after 30 June 2020 or (ii) 120 days after occurrence of over-indebtedness.
- The goal of the suspension to file is to prevent companies from filing for insolvency, which have a negative balance sheet due to the current crisis and are at the same time not in a position to provide for a valid forecast on their continued existence (*Fortbestehensprognose*) due to the current uncertainties.
- This exemption does not apply in case of illiquidity (*Zahlungsunfähigkeit*).

Creditor insolvency applications excluded in case of over-indebtedness (4th COVID-19 Act)

- Correspondingly to the suspension of the duty of companies to file for insolvency (as described above), in the same period the opening of insolvency proceedings due to over-indebtedness at the request of a creditor is excluded.

- Also this exemption does not apply in case of illiquidity (*Zahlungsunfähigkeit*).

Directors' liability linked to the prohibition of payments in insolvency (Zahlungsverbot) (4th COVID-19 Act)

- A possible directors' liability for over-indebtedness arising from violation of the prohibition of payments in insolvency (*Zahlungsverbot*) is excluded until 30 June 2020.
- Possible liability mainly relates to the principle of equal treatment of creditors.
- Also this exemption does not apply in case of illiquidity (*Zahlungsunfähigkeit*).

Bridge loans only be avoided to a limited extent (4th COVID-19 Act)

- In addition, avoidance law shall be limited in the case of bridge loans granted in the period from the effective date of 4th COVID-19 Act up to 30 June 2020 to finance COVID-19 short term work assistance.
- Does only apply if (i) no collateral from the borrower's assets is provided and (ii) the lender is not aware of a possible illiquidity of the borrower at the time of granting the loan.
- Regarding other types of financings, all avoidance rules are still applicable.

Facilitation of shareholder loans (4th COVID-19 Act)

- If companies are granted short-term (up to 120 days) loans from their shareholder in the period from the effective date of 4th COVID-19 Act until 30 June 2020, such loans are not reclassified as equity, as may otherwise be the case with shareholder loans during a crisis.

Other aspects

- A moratorium outside of insolvency proceedings does not (yet) exist and also the EU Directive on preventive restructuring has not been implemented yet.

Enforcement proceedings (2nd COVID-19 Act)

- No moratorium or other restrictions regarding individual enforcement actions.
- Still, procedural deadlines in civil and enforcement proceedings are interrupted from 22 March 2020 until 30 April 2020 which may temporarily prevent enforcements from being initiated or continued.
- Amendment of the Austrian Enforcement Code: Under certain circumstances enforcement acts may be suspended upon request of the obligor if (i) the obligor has been affected by a natural disaster (e.g. a pandemic such as COVID-19 spread) and (ii) such disaster led to the initiation of the enforcement proceedings and (iii) such enforcement would ruin the commercial existence of the obligor.

CZECH REPUBLIC

LOANS

- The Czech Republic has introduced Act on certain repayment measures related to the COVID-19 pandemic (the “**COVID Loan Act**”).
- Effective as of 17 April 2020.

Effects of the COVID Loan Act

- Temporary interruption of principal instalments repayment with no additional sanctions.
- The loan repayment period will be extended.
- Legal entities will continue to pay interest and possible default interest and other sanctions.
- Consumers are exempted from any sanctions imposed due to their default and the accruing interest is capped. Legal entities are not exempted.

Protection Period

- Until 31 October 2020 unless the borrower expressly states that it shall only apply until 31 July 2020.

Eligible Loans

- Business loans contracted and utilised before 26 March 2020 and mortgages contracted before that date.
- Loans in payment default exceeding 30 days on 26 March 2020 are not eligible.

Application

- The borrower must notify the lender of its intention to use the so-called protection period. The protection period will commence on the first day of the following month.

Payment of Interest and Costs

- No payments are due during the protection period by borrowers who are consumers. Interest payments are postponed along with repayment of the principal. In addition, the interest rate with respect to consumers is limited by the Czech National Bank’s official repo rate increased by eight percentage points.
- If the borrower is an entrepreneur, it shall pay both the agreed interest and the agreed fees during the protection period.
- The lender cannot claim any special remuneration for acts related to the use of the protection period.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The Czech Republic has introduced Act relating to the effects of the COVID-19 pandemic on court proceedings, insolvency and debts enforcement (the “**Lex Covid**”).
- Effective as of 24 April 2020.



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FILIP ČABART





Key elements

- Introduction of extraordinary moratorium.
- Suspension of the debtor's obligation to file an insolvency petition.
- Suspension of the creditor's right to file an insolvency petition.

Extraordinary moratorium

- The main objective of the extraordinary moratorium is to provide protection by temporarily restricting realization of collaterals or the commencement of enforcement proceedings or sale of seized assets.
- The extraordinary moratorium is intended only for those debtors who face problems in connection with the COVID-19 pandemic and were not bankrupt before the state of emergency was imposed on 12 March 2020.
- Declaration of a moratorium entails several restrictions (e.g. certain limitation to dispose of assets).
- Preliminary insolvency trustee may be appointed.

Suspension of the debtor's obligation to file an insolvency petition

- The obligation will be suspended until the lapse of 6 months from the termination or cancellation of the pandemic emergency measures.
- The exemption is not applicable where bankruptcy had occurred before the extraordinary measures were

adopted or where bankruptcy did not occur as a result of the pandemic.

Suspension of the creditor's right to file an insolvency petition

A creditor's insolvency petition cannot be filed until 31 August 2020.



HUNGARY

LOANS

- The Hungarian Government ordered a repayment moratorium through Government Decree no. 47/2020. (III.18.) on immediate actions taken in order to mitigate the effects of the corona virus pandemic on the economy (the “COVID Loan Decree”).
- The COVID Loan Decree entered into force on 19 March 2020.

Effects of the COVID Loan Decree

- Repayment moratorium on the eligible loans (see below for scope of eligible loans), meaning that all capital, interest and fee payment obligations of the borrower arising from these agreements shall be amended in a way that the borrower shall receive a payment extension on its capital, interest and fee payment obligations.
- The moratorium shall apply to ancillary and non-ancillary side-obligations securing the eligible loans notwithstanding the fact whether the parties incorporated these obligations into an agreement or a unilateral statement.
- The completion date of the obligations under the eligible agreements and the commitment period shall be extended with the period of the moratorium (as described below).
- All agreements expiring during the crisis situation shall be extended until 31 December 2020.

- The repayment moratorium does not apply if the borrower and the lender jointly agree otherwise, and the borrower may choose to perform under the original terms of the agreement.

Protection Period

- The moratorium shall last until 31 December 2020 and the Hungarian Government may extend this term in its sole discretion with a Government Decree.

Eligible Loans

- All facility agreements, loan agreements and financial leasing agreements concluded on a commercial basis, which already existed on 18 March 2020 12:00 am (CET) and under which loans were already utilised.

Application

- Automatic.
- The borrower shall inform the lender if it intends to perform as per the original terms of the agreement.

Exceptions

- The Hungarian State, local governments and enterprises in certain sectors (for example: banks, credit institutions and insurance companies etc.) shall not be considered as borrowers under the COVID Loan Decree.



INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The Hungarian Government has introduced certain supplementary procedural rules applicable to insolvency and enforcement proceedings through various Decrees.
- However, no general moratorium or suspension was ordered in connection with these procedures.

Special procedural rules applicable to insolvency proceedings

- Procedural declarations and briefs may only be submitted in writing, making declarations in person is not possible.
- Special rules apply to procedural actions to be initiated in locations under closure linked to the epidemic (e.g. with certain exceptions such actions shall be postponed until the closure is lifted, and the deadline applicable to these actions shall be extended with the period of postponement).
- Deadlines shall lapse as originally determined by law or the proceeding Court.

Special procedural rules applicable to enforcement

- The following procedural steps cannot be taken during the crisis situation:
 - on-site procedures and on-site enforcement measures;

- traditional (non-electronic) enforcement auctions;
- evictions of real estate.

- Special rules apply to the auction process of real estate owned by private individuals.
- The rules of delivery have become simpler.
- The rules of payment in instalments have become more permissive.
- A fine cannot be imposed on the participant of the procedure if their omission was a result of the pandemic measures.
- The majority of the enforcement procedures initiated by the Hungarian Tax Authority are suspended.

Duration

- All of these rules shall be applicable during the period of the so-called state of danger.
- The state of danger is a special legal order regulated by the Hungarian Constitution, which was ordered with the effect of 11 March 2020 from 3 PM. The state of danger will remain in force until it is formally terminated by the Hungarian Government; this shall happen after the circumstances giving rise to the state of danger situation no longer exist.



FINANCIAL SUPPORT

- Poland has passed a law to protect the Polish market during the Coronavirus crisis (the “**Anti-Crisis Shield**”). The law came into force on 31 March 2020 and was amended on 18 April 2020.
- In the Anti-Crisis Shield package there are also some other laws adopted and actions taken both by the Polish government as well as state owned institutions.
- The support measures have the form of state aid as well as general measures and other kind of facilitations.
- The main measures’ goal is to help businesses facing the consequences of COVID-19 outbreak, sustain the liquidity and protect jobs. The support measures depend on several factors like:
 - status of the potential beneficiary – large enterprises or small and medium enterprises;
 - specific conditions to be met – both with regard to beneficiary and the details of the given measure;
 - financial situation and link between financial situation (deterioration) and COVID-19 outbreak – important;
 - temporary aid – till the end of 2020 or for the period of the state of epidemic.
- In case of state aid – most of the measures are based on crisis measures under EC Temporary Framework for state aid.

New funding and guarantees schemes

- A state-owned investment fund (PFR) – based on a government programme (3 basic components with a total value of PLN 100 billion: PLN 25 billion will go to micro enterprises, PLN 50 billion to small and medium-sized enterprises and PLN 25 billion to large enterprises):
 - financing for micro and small and medium enterprises in the form of repayable advances (under certain conditions) – up to 800.000 EUR per enterprise;
 - financing for large undertakings (and some SMEs) – still in preparation:
 - ◆ investment financing – e.g. acquiring shares or bonds;
 - ◆ preferential financing (partially redeemable loan);
 - ◆ liquidity financing.
- Wage subsidies for enterprises facing reduced turnover and economic downtime due to COVID-19 crisis.
- State bank:
 - guarantees schemes for new loans – applies to new or renewed working capital overdrafts and credit lines after 1 March 2020, guarantee up to 80% of the amount of obligation/limited duration/defined premium;
 - the measures are aimed at alleviating the temporary liquidity needs caused by COVID-19 outbreak;
 - interest rate subsidies covering part of financial costs of commercial loans to reduce borrower’s burden (works on law in progress);


PIOTR ANDRZEJCZAK



- Additional state aid funds to undertakings in the form of grants, loans, guarantees from EU Funds and operational programmes (to be introduced by appropriate Managing Institutions), mainly for small and medium enterprises.
- A one-off loans up to PLN 5,000 for micro-enterprises, which should be used to cover the current costs of the business operation.
- Loans, guarantees, refinancing of lease contracts for the road transport sector offered by Industrial Development Agency mainly to small and medium enterprises on the market conditions (goal: finance the deficit in working capital and/or to finance wages).

Public dues

- Other measures involve changes in the payment of public dues, e.g.:
 - right to defer payment of social security contributions without paying an extension fee;
 - exemption for certain entities from social security contributions (for entities with fewer than ten employees) or partial exemption (for entities with between ten and 49 employees) due for the period from 1 March 2020 to 31 May 2020;
 - reliefs concerning real estate tax and liabilities to public entities (e.g. waivers, deferrals, spreading over instalments re renting, leasing real property; refraining from claiming civil law amounts due to local government units – in most cases additional resolutions of local authorities needed);

- deferral until 1 June 2020 of employers' remittance of advance personal income tax for employees for March and April 2020;
- tax deferrals, e.g. deferral of the obligation to pay retail tax, property tax exemptions;
- right to deduct losses incurred in 2020 from 2019 revenue.

Other instruments

- Facilitations and flexible solutions for ongoing EU projects – framework law, the details to be negotiated on the project basis;
- Widen offer of KUKE (Export Agency) in export insurance (the detail conditions are still elaborated).

Credit costs

- The Anti-Crisis Shield limits the non-interest costs of future consumer loans.
- Maximum non-interest costs of a consumer loan may not exceed 45% of the total loan amount.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The Anti-Crisis Shield includes provisions amending the obligation to file for bankruptcy and time limits in enforcement proceedings.

Changes to the obligation to file for bankruptcy

- The Anti-Crisis Shield extends the time limit for filing a petition in bankruptcy to thirty days from the date that the state of epidemic is lifted by repeal of the Minister of Health Regulation (the Regulation on the state of epidemic was introduced for a non-fixed term, so the time limit will not start running until the Regulation is formally repealed).
- The extended time limit does not apply if:
 - bankruptcy occurred before 13 March 2020 (date the state of epidemic was introduced); or
 - bankruptcy of the company is not due to COVID-19 pandemic.
- If bankruptcy occurred during the state of epidemic it is presumed that it was due to the COVID-19 pandemic.
- However, an unsatisfied creditor can try to prove otherwise claiming that the bankruptcy is not due to the COVID-19 pandemic and extended time does not apply in the proceeding against management board members for damages incurred by late filing the motion in bankruptcy. Such process can result in management board members liability for debts of the company.
- The same situation can occur in criminal proceedings instigated towards management board for not filing bankruptcy motion on time. The expert witness appointed by criminal court could determine that the cause of company's insolvency was other than COVID-19 pandemic.



- Despite the obligation to file for bankruptcy having been suspended, a debtor may file for bankruptcy and restructuring (but is not obliged to), while creditors may file for a debtor's bankruptcy without any restrictions.

Time limits in enforcement proceedings

- Creditors can start enforcement proceedings without any restrictions.
- The Anti-Crisis Shield suspends the running of court time limits in enforcement proceedings for the duration of the state of epidemic.

- However, the court can decide that some court time limits will start if it is necessary due to important public or private interest.
- Currently the legislature works on a project which lifts the suspension of the court time limits. It is estimated that the new law can enter in force in May 2020.
- Debtors may file appeals after the state of the epidemic is lifted, when court time limits begin to run again. However, the court may order the start of the time limit in a particular case. This may result in a slowdown in enforcement proceedings and uncertainty as to the effectiveness of actions taken in enforcement proceedings, which may be problematic for creditors.

Suspension of administrative enforcement proceedings

- Under the Anti-Crisis Shield, the government has the power to introduce a regulation suspending administrative enforcement proceedings involving monetary claims. However, the government has not yet issued this regulation.
- This may be to the benefit of many businesses as, among other things, taxes, fees, fines, penalties imposed by public administrative authorities and other public dues are subject to administrative enforcement.



LOANS

- The Romanian Government has introduced certain facilities for loans granted by credit institutions and non-banking financial institutions to certain categories of debtors under Government Emergency Ordinance no. 37/2020 (the “**GEO 37/2020**”) as further detailed with effect as of 30 March 2020.
- Further amendments may be expected under the law which will approve GEO 37/2020 as well as under a separate law on suspension of repayments of credits which was approved by the Romanian Parliament – however, both laws are pending review by the Romanian Constitutional Court.

Effects of GEO 37/2020

- The payment obligations by debtors of the due instalments (principal, interest and fees) under loan and leasing agreements concluded before 30 March 2020 (the time of entry into force of GEO 37/2020) may be suspended by creditors at the request of the debtors for a period between 1 and 9 months, but in any case no later than 31 December 2020.
- The maturity of the loan or leasing agreement can be extended with the period during which the repayment obligations were suspended.
- In case of loan or leasing agreement secured by security agreements created by third party guarantors, also the term of such security agreements can be extended with no more than the period during which the repayment obligations were suspended.

However, save for retail mortgage loans, it appears that the effects of the extension of the term of the loan or leasing agreement (with all its consequences) is only opposable to co-debtors, guarantors, security providers or any other party to the loan or leasing agreement who have given their prior consent.

- The interest related to the due amounts which are suspended from payment will be capitalised in the loan balance existing at the end of the suspension period and repaid in instalments until the new maturity of the loan or leasing agreement, save for the retail mortgage loans, where the interest will be considered a distinct and independent debt with 0% interest repayable in 60 equal monthly instalments starting with the following month after the suspension period ended.

Affected Creditors

Creditors which are / will be impacted by GEO 37/2020 are:

- credit institutions, as defined by Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy;
- non-banking financial institutions, as defined by Law no. 93/2009 on non-banking financial institutions, as well as
- branches of foreign credit institutions and non-banking financial institutions conducting activities in Romania.
- GEO 37/2020 does not apply to multilateral development banks or to credit institutions and non-banking financial institutions directly carrying out lending activities in Romania (for instance according to the EU passporting rules).



SABIN VOLCIUC-IONESCU





- The different treatment between various types of lenders may create practical issues - for instance, in case of syndicated lending where there may be lenders subject to the legal moratorium as well as some which are not and it remains to be seen if affected creditor can and/or will use assets and liabilities management to limit the impact of GEO 37/2020.

Eligible Debtors – Beneficiaries

Debtors who can benefit of the suspension right under GEO 37/2020 are:

- natural persons (including authorised persons);
- individual or family enterprises;
- persons exercising liberal professions or other professions according to special laws; and
- legal entities, except for credit institutions.

Eligible Loans

- The loan/leasing agreement has not reached its maturity and the creditor has not accelerated the repayment before 30 March 2020 (the entry into force of GEO 37/2020);
- there were no outstanding amounts of the debtor under the loan/leasing agreement when the state of emergency was established in Romania (16 March 2020) or such outstanding amounts were paid prior to requesting the suspension of payments;
- the income of the debtor has been affected by the COVID-19 pandemics;
- the activity of the debtor was suspended (totally or partially) as a result of the decisions made by the competent authorities during the state of emergency and

the debtor has obtained a certificate for emergency situations issued by the Ministry of Economy, Energy and Business Environment, in case of debtors who are not natural persons; and

- there is no outstanding insolvency procedure against the debtor when requesting the suspension, in case of debtors which are not natural persons.
- In order for the suspension to operate, the debtor should submit a request for suspension to the creditor no later than 45 days from the entry into force of GEO 37/2020 (e.g. 15 May 2020). The creditor will review such request and approve or reject it within 15 days from receipt. The suspension will take effect from the date of receipt of the debtor's request.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The state of emergency was initially declared in Romania by the President under Decree 195 dated 16 March 2020 and further extended under Decree 240 dated 14 April 2020 (the “**State of Emergency Decrees**”) – such State of Emergency Decrees cover the proceedings in front of the Romanian courts.
- State of emergency in Romania: effective as of 16 March 2020 until 15 May 2020 (and is unlikely to be extended).

Key elements

- Civil litigation (including insolvency) before Romanian courts is, in general, suspended during the state of emergency (unless special urgency), but filings can be

registered - the statute of limitation and the lapse terms are frozen or suspended if such deadlines started to lapse.

- Cases of special urgency, nevertheless, continue – for the business-related litigation and insolvency, such cases include request to temporary suspension of enforcement, requests for temporary suspension of enforcement against the assets of companies which have filed for their own insolvency, until a ruling on that request, in urgent cases which may jeopardize the assets of the debtor.
- Enforcement proceedings continue only in cases where it is possible to comply with the sanitary discipline rules (included in the State of Emergency Decrees and various military ordinances).



LOANS

- The Slovak Republic has introduced an Act No. 67/2020 Coll. on Certain Extraordinary Measures in the Financial Field in Connection with COVID-19 (the “**COVID Financial Act**”) as well as Anti-corona scheme of bank guarantees and interest subsidies – “Soft loan facility for SMEs due to COVID-19”.
- Effective as of 4th April 2020.

Deferral of loan instalment repayments

- Intended to both natural and legal persons based on application.
- Maximum period: 9 months from the due date of the next outstanding instalment; the maturity of the last outstanding instalment which became due during the period of not more than 30 days prior to the submission of the deferral application shall also be deferred (in which case the deferral period shall be counted from the maturity date of that earlier instalment).
- The deferral of instalments provided by a creditor (financial institution) other than a bank/a branch of a foreign bank is allowed for a maximum of 3 months (mainly leasing companies, hire-purchase companies) with the possibility of extension for another 3 months.
- The application may be refused if, at the time of its submitting, the debtor (i) was in delay in repayment of such a loan to the creditor for more than 30 days prior to submitting the deferral application, (ii) was in delay in repayment of at least EUR 100 of another loan to the creditor for more than 30 days, or (iii) was in the state of failure.

- The creditor is obliged to process the application within 30 days. The debt shall still bear interest for the deferral period.
- The permitted deferral of instalment repayments shall not constitute a negative record for the debtor, i.e. it will not be included in its failure and shall not compromise its credit quality.

Increasing contactless payment limit

- The limit for a single payment shall be increased from EUR 20 to EUR 50 and for recurring or cumulative payments to EUR 150.

Anti-corona scheme of bank guarantees and interest subsidies – *Soft loan facility for SMEs due to COVID-19*

- Intended for self-employed persons and small and medium-sized enterprises.
- Small and medium-sized enterprises will be able to apply for soft bank loans provided by commercial banks with the state guarantee through Slovak Investment Holding (“**SIH**”).
- The maximum loan amount will be EUR 1,180,000, with SIH’s guarantee up to 80% of the loan, maturity from 36 to 48 months (including deferral of repayments, with the possibility of deferral by 12 months immediately), and the interest rate will be reduced by a 50% less bank margin and by payment of thus reduced interest rate of up to 4% through SIH instead of the borrower (SMEs), without the loan fee.
- The assistance per enterprise may not exceed EUR

200,000. Eligible applicants are (i) small and medium-sized enterprises established and doing business in the Slovak Republic (including the BA region), (ii) which do not qualify as a “an enterprise in difficulties” (if active for more than 3 years), (iii) do not fall into the highest credit risk rating category (as assessed by the bank), (iv) do not operate in the fisheries and aquaculture / primary production of agricultural products, (v) have no arrears overdue for more than 180 days to the Social Insurance Agency or health insurance companies, and (vi) are not in bankruptcy or restructuring. Additional conditions may apply.

- small and medium-sized enterprises will be able to use soft loans to (i) acquire tangible and intangible assets related to the maintenance or increase of jobs (including the transfer of ownership rights and working capital), (ii) as working capital related to the maintenance or increase the number of jobs and related to strengthening, establishing or expanding business (e.g. purchases of energy, goods, supplies), (iii) as working capital related to maintaining or increasing the number of jobs, also to promote special access to disadvantaged social groups, and (iv) as working capital for small and medium-sized enterprises with limited access to capital due to the COVID-19 crisis.



ONDŘEJ MAJER





INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The Slovak Republic has introduced Act No 62/2020 Coll. relating to the effects of the COVID-19 pandemic on court proceedings, insolvency and debts enforcement (the “**Lex Covid**”).
- Effective as of 27 March 2020 with amendments to be effective from 12 May 2020.

Key elements

- Extension of the deadline for filing a debtor’s bankruptcy petition.
- Restricting the exercise of pledge and the realization of the debtor’s assets (effective until 31 May 2020).



- Suspension of enforcement for natural persons.
- Temporary protection of entrepreneurs (to be effective from 12 May 2020).

Extension of the deadline for filing a debtor’s bankruptcy petition

- If the debtor’s insolvency occurs between 12 March 2020 and 30 April 2020, the deadline for the debtor to file a bankruptcy petition is extended from 30 to 60 days.
- The exemption is not applicable where bankruptcy had occurred before or after the statutory period (12 March – 30 April). The debtor’s bankruptcy does not have to be related to the pandemic situation.

Restricting the exercise of pledge and the realization of the debtor’s assets

- Until 31 May 2020, pledges cannot be exercised or the debtor’s assets cannot be realized by selected means and persons, e.g. in enforcement.
- Acts leading to the exercise of a pledge or the prohibited sale of the debtor’s assets between the date of entry into force of this measure (27 March 2020) and 31 May 2020 are ineffective or invalid.

Suspension of enforcement for natural persons

- The enforcement will be suspended until the lapse of 6 months from the issuance of the notice of suspension

of enforcement, but no longer than 1 December 2020. During the suspension, the executor is entitled to perform actions aimed at identifying and securing property subject to execution.

- Suspension of enforcement is available only for natural persons, not for legal entities.

Temporary protection of entrepreneurs

- The main objective of the temporary protection is to provide protection by temporarily restricting realization of collaterals or the commencement of enforcement and insolvency proceedings or sale of seized assets.
- The temporary protection is intended only for those debtors who face problems in connection with the COVID-19 pandemic and were not bankrupt was imposed, no enforcement of pledge in relation to his enterprise was commenced and no enforcement proceedings were pending before the state of emergency on 12 March 2020.
- The effects of temporary protection are in particular: (i) proceedings on the creditor’s petition for bankruptcy are suspended; (ii) the entrepreneur is not obliged to file for declaration of bankruptcy of his assets; (iii) enforcement proceedings are suspended; (iv) the exercise of pledge cannot be commenced.
- No insolvency trustee is appointed during temporary protection.
- The temporary protection is to be effective from 12 May 2020 and the temporary protection expires on 1 October 2020 at the latest.

UKRAINE



Currently, specific legislative measures in the area of financing are mostly focused on protecting borrowers under consumer loans. For corporate loans, Ukrainian authorities have been using a softer approach of non-binding nature. There are certain initiatives relating to insolvency regime, but these are at a very early stage.

LOANS

Moratorium on increasing loan interest rates

- Ukrainian banks and other financial institutions are prohibited to increase interest rates under all loans extended by them.
- This prohibition is effective from 2 April 2020 and until the end of quarantine measures in Ukraine.

Corporate debt restructurings

- Ukrainian central bank (the “NBU”) recommends that Ukrainian banks restructure loans of corporate borrowers affected by the pandemic.
- While the recommendation does not have a binding nature, in order to encourage banks to follow the recommendation, the NBU adjusted the regulations governing the loan provisions to avoid adverse effect of restructurings. In particular, banks are temporary allowed not to treat the loans restructured in line with the NBU recommendations as defaulted loans. Hence, no additional provisioning will be required due to such restructurings.

- Restructuring is available for borrowers under loans which were not in default as of 1 March 2020.
- The borrower should provide the bank with evidence of its short-term drastic decrease in revenues or its temporary shutdown.
- The affected loans should be restructured by the end of September 2020.
- Typical terms of restructurings suggested by the NBU:
 - deferral of principal repayments for as long as quarantine measures are effective; and
 - in case of severe impact on the borrower – deferral and capitalization of interest.
- The NBU discourages banks from worsening the position of the borrower, increasing effective interest rates or charging any fees as part of the restructuring.

Consumer loans

- With the introduction of amendments into the consumer loans legislation, Ukrainian banks and other financial institutions are prohibited to increase consumer loan interest rates other than floating rates during the period from 1 March 2020 to 31 May 2020.
- Consumers are exempted from any sanctions for the non-performance under loans for the period from 1 March 2020 to 30 April 2020.

Currency transfer restrictions

- No currency transfer restrictions have been imposed or are planned to be introduced (according to public announcements of the NBU).

INSOLVENCY RELATED MATTERS

There are legislative initiatives to introduce insolvency moratorium

- A draft law has been submitted to Ukrainian Parliament which proposes to introduce moratorium on the commencement of insolvency proceedings.
- If this law is adopted, creditors will be precluded from filing insolvency petitions under claims, which arose beginning from 1 February 2020.
- It is proposed that this insolvency moratorium will be effective for as long as the quarantine measures are in place and 90 days after their revocation.
- The draft law is at early stages of internal review by the parliamentary committees and it remains unclear whether and how it will progress through the Parliament.



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ANTON KOROBENNIKOV



OLEXANDER DROUG



DENIS NAKONECHNYI

SOUTHEASTERN EUROPE



BOSNIA AND HERZEGOVINA

LOANS

- The Banking Agencies in the Federation of Bosnia and Herzegovina (“**FBH**”) and Republika Srpska (“**RS**”) enacted the Decisions on temporary measures of banks/microcredit organizations to mitigate negative economic consequences caused by COVID-19 spread (the “**Decisions**”).
- Effective as of 20 March 2020 in FBH and as of 27 March 2020 in RS.

Effects of the Decisions

Banks are instructed to offer to their clients relief measures such as:

- Moratorium, e.g. postponement of loan repayments.
- Grace period for repayment of the principal of a loan which is being repaid in installments for a maximum period of 6 months.
- Extension of the maturity for repayment of annuity loans.
- Extension of the maturity of one-off loans, for a maximum period of 6 months.
- Approval of an additional amount of microcredit to overcome current liquidity difficulties.
- Other measures aimed at facilitating the settlement of the client’s credit obligations and maintaining the client’s business operations – lenders can offer to their clients measures that they deem necessary and effective for the purpose of mitigating negative economic consequences of COVID-19 outbreak.

Protection Period

- Contracting period for the aforementioned measures is for a maximum period of 6 months, while the Decisions are of temporary nature and are to be implemented until revoked by the Agencies.

Eligible Loans

- The lender shall not approve special measures for the borrower for whom no changes in solvency have occurred.
- FBH Decision stipulates that the lender shall not approve special measures to borrowers defaulting over 90 days (at the moment when the Decisions were enacted) with debt settlement in a materially significant amount.

Application

- The lender may implement special measures on the basis of a written request by the borrower, or initiate their implementation at its own within the regular process of monitoring of credit obligations, considering the adverse economic consequences (direct and/or indirect) caused by the occurrence of the COVID-19 spread.
- Prior to the approval of the special measures, the lender is obliged to inform the borrower about the possibilities of using the same, all conditions and effects of the measures (offers), and the borrowers are obliged to submit a written statement of acceptance of the offer.



AMINA DJUGUM



ALEXANDER POELS





Payment of Interest and Costs

- During the moratorium, the lender shall not calculate default interest (even related to the past due receivables);
- When arranging special measures, the lender shall not charge fees for additional services, e.g. fees related to the exposure modification.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- On 6 April 2020 a Decree which prescribes that deadlines in court proceedings are suspended during the

state of emergency has been adopted in RS which, among other, includes suspension of deadlines in insolvency and enforcements proceedings. An exemption is foreseen for urgent court proceedings e.g. procedure for protection against discrimination, family law procedure, registration of business entities before Court registry, interim measure procedure, custody procedure. Effective as of 7 April 2020 in RS.

- The Government of FBH prepared the draft and started the parliamentary procedure for the enactment of the Law on Court Deadlines and Court Procedure. If adopted, the said law will suspend court proceedings during declared state of natural and other disaster with an exemption related to the urgent proceedings.

- On the state level, a draft Law on Temporary Measures related to the Work of Judicial Bodies in Bosnia and Herzegovina is expected to be adopted at the following session of Parliamentary Assembly of Bosnia and Herzegovina. In case the draft Law is adopted it will suspend procedural deadlines during declared state of natural or other disaster with an exception related to the urgent cases, on the entire territory of Bosnia and Herzegovina.

Key elements

- Suspension of the debtor's obligation to file an insolvency petition.

Suspension of the debtor's obligation to file an insolvency petition

- The obligation is suspended during the declared state of emergency

Duration

- On 17 March 2020 state of natural or other disaster was declared in BH.
- On 16 March 2020 state of disaster was declared in FBH.
- On 3 April 2020 state of emergency was declared in RS.
- There are no clear indications when the declared state of emergency disaster will end.



BULGARIA

RESTRICTIONS ON CALLING DEFAULTS, ACCELERATION OR TERMINATION

Public Measures

- Bulgarian Parliament declared a state of emergency related to the COVID-19 pandemic for the period from 13 March 2020 to 13 May 2020. On 24 March 2020, Bulgarian Parliament adopted a special law for measures related to the COVID-19 state of emergency (the “**State of Emergency Measures Law**”).
- The State of Emergency Measures Law imposed restrictions on banks and financial institutions in relation to payment obligations under credit facilities or other types of financing as well as under financial lease agreements.
- In case of payment delay by individual or other non-public debtors during the state of emergency such creditors cannot:
 - charge default interest or penalty;
 - accelerate the outstanding debt;
 - rescind or terminate the transaction due to default; and
 - forfeit assets.
- The same restrictions apply to any third party, which has acquired the credit position from banks or other financial institutions.
- However, the above restrictions do not apply to creditors who are not banks or financial institutions,

or their respective transferees. The restrictions also do not apply to creditors under commercial contracts and other non-financial agreements.

Private Measures (Banking Sector)

- On 10 April 2020 the Bulgarian National Bank approved rules for deferral of principal and interest payments for a period of up to 6 months, but not extending beyond 31 December 2020 (the “**Loans Deferral Mechanism**”).
- The Loans Deferral Mechanism was proposed by the Association of Banks in Bulgaria and it is based on the Guidelines of the European Banking Authority on treatment of public and private moratoria in light of COVID-19 measures.
- The mechanism does not apply automatically. A borrower (other than a bank) who faces or is expected to face difficulties in payment of its liabilities and chooses to benefit from the Loans Deferral Mechanism should submit an application to its financing bank no later than on 22 June 2020.
- It is important to note that other than payment defaults, the Loans Deferral Mechanism does not address potential breaches of covenants arising directly from the Covid-19 pandemic and its consequences. This is especially relevant for corporate borrowers. Therefore, regardless of whether a borrower chooses to opt-in to the Loans Deferral Mechanism or not, parties to financing transactions should consider how financial reporting and statements are used for covenants tests. It is worth considering early on



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what the potential impact of the pandemic is on the financial performance and future reporting of the borrower and whether a potential future breach of financial covenants would be treated as a breach of contract or would be treated as an incidental breach of temporary nature not related to continuing solvency or liquidity of the borrower.

RESTRICTIONS ON CREDITOR ACTION (ENFORCEMENT PROCEEDINGS)

The State of Emergency Measures Law provides for temporary restrictions on certain enforcement actions:

Suspension of Sales and Handovers of Forfeited Assets by Bailiffs

- During the state of emergency period, all enforcement proceedings managed by bailiffs with respect to the sale of assets or handover of forfeited assets are suspended.
- These proceedings can be restarted when the state of emergency is lifted without additional costs for the restarted enforcement actions.

Suspension of Security Measures with respect to Assets of Individuals or Assets of Medical Institutions

- Until the state of emergency is lifted, there are restrictions on enforcement actions with respect to bank

accounts, movable assets or real estate assets of individuals or medical institutions. There are a few exceptions related to enforcement actions for recovering of alimony, salaries or damages resulting from tort.

- An important exception to the above enforcement restrictions is the private foreclosure by a creditor secured with a registered pledge established under the Bulgarian law on Registered Pledges. This is a specific security instrument where the pledgor is a company or other business establishment. The registered pledge is a standard security instrument in corporate lending, including in financing of small and medium-sized enterprises.

Restrictions on creditor action (insolvency filings)?

- No measures have been taken, nor are being considered by the Government or Parliament, to safeguard businesses, which face liquidity issues as a result of the Covid 19 pandemic, against aggressive creditor actions and insolvency filings

Impact on director/company insolvency filing duties?

- No measures have been taken, nor are being considered by the Government or Parliament, to temporarily suspend or amend the rules on liability of company directors in relation to insolvency filings.



LOANS

- The Republic of Croatia did not introduce any legislation or measures directly affecting commercial banks' credit placements. Instead, the Croatian government recommended the banks to implement stand-still arrangements for the borrowers affected by the COVID-19 outbreak.
- All major Croatian commercial banks introduced such stand-still arrangements which include extension concerning repayment of principal and contractual interest for the period of up to 6 months.

Eligible Loans

- Each commercial bank individually determines its conditions for approving the stand-still arrangement.
- However, the following ground conditions are foreseen by all major commercial banks in Croatia, in relation to both consumers and legal entities:
 - the borrower had been duly repaying the loan until 31 March 2020; and
 - the borrower is commercially affected by the COVID-19 outbreak (e.g. decrease in revenues, termination of employment etc.).

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The Republic of Croatia introduced the Law on intervention measures in enforcement and insolvency procedures during special circumstances (the "**Intervention Measures Act**").

- The Intervention Measures Act foresees specific measures related to enforcement and bankruptcy procedures for duration of the specific circumstances.
- The Intervention Measures Act is effective as of 1 May 2020.

Key elements in relation to enforcement

- Suspension of all enforcement proceedings during the period of special circumstances (as described below).
- Default legal interest is not calculated during the period of special circumstances.

Key elements in relation to insolvency

- Bankruptcy causes (i.e. insolvency, indebtedness), which occurred during the period of special circumstances, are not deemed as causes for initiation of the insolvency procedure over the debtor.
- As exception, proposals for initiation of the bankruptcy procedure may be filed only for protection of the homeland security, public health, environment etc.
- Even though not explicitly determined, it stems from the Intervention Measures Act that the company's management is not obliged to file for insolvency if the bankruptcy cause occurred during the period of special circumstances.

Duration

- Special circumstances are in force until 2 August 2020, with the possibility of prolongation for additional 3 months by the Croatian government.



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No legislative changes occurred in Montenegro. Instead, all adopted mechanisms serving to ease negative financial effects of Covid-19 have been introduced through Orders and Measures issued by the Government.

LOANS

- The Central Bank of Montenegro has introduced a moratorium on payments of loan obligations, through Decision on provisional measures to mitigate the adverse effects of the new coronavirus on the financial system (the “COVID Decision on Moratorium”).
- Effective as of 23 March 2020.

Effects of the COVID Decision on Moratorium

- Temporary interruption (up to 90 days) of principal instalments repayment.
- Applicable to both natural and legal persons.
- Moratorium is on voluntary basis in terms of applications, while the opposite party is obliged to accept it.
- The loan repayment period will be extended up to 90 days, depending on the request.

Protection Period

- Up to 90 days starting from the day of positive decision on the request for moratorium is delivered to the lender. No deadline for requesting the moratorium has been set yet.

Eligible Loans

- Loans contracted before 23 March 2020 are eligible
- COVID Decision on Moratorium does not regulate whether is it possible to request a moratorium for loans contracted and realized after 23 March 2020, but the practice shows that it is possible
- Applicable to loans provided by business banks and micro-credit institutions, as well as leasing institutions.

Application

- The borrower must notify the lender of its intention to use the so-called moratorium, in written form or via email. The protection period will commence on the day of the positive decision on the request for moratorium.
- The bank, micro-credit institution or leasing institution has to enact positive decision on moratorium request within five working days as of the day of filing the request.

Payment of Interest and Costs

- Interest payments are postponed along with repayment of the principal, during period of moratorium.
- The interest during period of moratorium will be charged after the end of moratorium period, and it is calculated based on the principal loan agreement terms. Total interest calculation will be paid monthly on a pro-rata basis, until the end of loan agreement.
- Save for the interest charged after the moratorium period, the lender cannot claim any special remuneration for acts related to the use of the protection period.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- Save for the specific regime of work for the courts (postponement of hearings which are not of urgent nature, forbidding physical access to the courts etc.), Montenegro did not introduce any act related to insolvency and debts enforcement, therefore this rests under usual conditions.
- Montenegrin Tax Administration published a statement that it will refrain from filing petitions for insolvency proceedings as creditor, due to tax and social contributions debt, as long as COVID-19 pandemic lasts.

Duration

- Epidemic of infectious disease COVID-19 has been declared on 26 March 2020, while Tax Administration published the statement that it will refrain from filing petitions for insolvency proceedings as creditor on 27 March 2020. The Tax Administration did not clarify further how long exactly will refrain from filing insolvency petitions.
- Possible official end of above mentioned refrain is 25 May 2020, when the courts of Montenegro should start to normalize their working regime, as the Supreme Court of Montenegro stated.



STEFAN LUČIĆ



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NORTH MACEDONIA

LOANS AND OTHER INDEBTEDNESS

- Amendment of credit risk management regulation and introduction of eased rules for amending loan agreements based on:
 - Decision on amending and supplementing the Decision on the methodology for credit risk management; and
 - Decree on the method of amendment of contractual terms of credit exposures with banks and savings houses.
- Restrictions on finance leasing and loans from financing companies based on:
 - Decree on the implementation of the Law on Financing companies during a state of emergency;
 - Decree on the implementation of the Law on Leasing during a state of emergency.
- Lower interest rates and limitations on chargeable fees by creditors.
- The adopted measures are effective as of 1 April 2020.

Effects on Bank Loans

- The National Bank introduced certain measures to facilitate the position of citizens and businesses in servicing debts, such as:
 - increasing the default period for classifying a loan as nonperforming from 90 to 150 days;

- allowing certain activities without classifying them as restructuring of credit exposure (e.g. prolongation of the maturity period, reduction of the interest rate, approving new or prolonging the existing grace period or reduction of credit exposure through security);
- allowing the banks to approve new credit exposures for closing an existing credit exposure, without previous restrictions.

- In addition, the Government introduced a new manner for communicating the offers from banks for changes of active loans, without imposing any direct obligations on the banks regarding the exact changes.
- Almost all banks offered amendments to loan arrangements with individuals and left the option to agree on amended terms with legal entities on case-by-case basis.
- The offers from the banks for changing the loan terms generally include:
 - grace period from three to six months;
 - extension of the maturity date depending on the duration of the grace period.
 - extension of the time period for using the allowed overdraft on bank accounts until 30 September 2020.

Effects on Consumer Credits & Finance Leasing

- Finance companies and finance leasing providers (the “**Financial Institutions**”) were obliged to adopt internal rulebooks for implementing the new governmental decrees under which:



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- individuals will pay 30% or less of their monthly instalments and no fees, expenses, commissions and/or penalty interests between 1 April and 30 June 2020 for all agreements signed with Financial Institutions before 31 March 2020.
 - the payment of the remaining 70% should be postponed or proportionally included in due monthly instalments after 30 June 2020;
 - deadline for payment of monthly instalments is extended for at least 90 days;
 - upon request from the client, agreements signed between 1 April 2020 and 30 June 2020 can have a grace period of three months; during this grace period, the Financial Institutions can calculate only contractual interest;
 - between 1 April and 30 June 2020, terms of existing agreements can only be amended in favour of the clients;
 - amended terms should be communicated either by publishing them on respective institution's website or directly to each client
 - ◆ clients have the option to opt-out from the offered changes to the loans;
 - ◆ in particular, with respect to contracts with individuals, the offer is accepted if the respective person did not oppose the offer within the deadline of 10 days; opposite to this, legal entities have 10 days to accept the proposed terms, otherwise it would be considered that the offer is rejected.
- Creditors cannot charge expenses not included in the calculation of the annual percentage rate of charge which exceed 30% of the approved credit amount.

Other Relevant Matters

- The statutory penalty interests are reduced on half during the declared state of emergency.
- State of emergency was initially declared on 18 March 2020 for a duration of 30 days. Starting from 17 April the country is under additional 30 days state of emergency (until 16 May 2020).
- The Development Bank of North Macedonia shall grant interest-free loans to micro, small and medium-sized enterprises affected by COVID-19 in order to enable them working capital (the “**DBNM Loans Measure**”).
- The DBNM Loans Measure can be applied for until 13 May 2020, and the repayment period is three years.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- To mitigate the potential solvency issues due to the COVID-19 pandemic, the Government of North Macedonia adopted decrees on the implementation of:
 - the Bankruptcy Act, effective as of 24 March 2020; and
 - the Enforcement Act, effective as of 1 April 2020, with amendments effective as of 16 April 2020.





Key elements

- Stay on opening bankruptcy proceedings.
- Suspension of enforcement procedures.

Stay on opening bankruptcy proceedings

- The courts will not open bankruptcy nor assessment proceedings for the conditions for opening bankruptcy until the lapse of 3 months as of the end of the declared state of emergency (initially until 16 August 2020).
- All initiated assessment proceedings and proceedings for opening bankruptcy are postponed during the same period.

Suspension of enforcement procedures

- Until 30 June 2020, enforcement agents must cease all enforcement actions, except with respect to:
 - claims arising from statute;
 - distribution of funds received on their separate accounts if the legal conditions have been met;
 - actions which follow after debt collection, successful public bidding or sales with direct settlement;
 - receiving and publishing requests for enforcement and electronic recording of the same in the Registry on received requests for enforcement;
 - preparing data and information requests for

assessing the economic state of the debtors and electronic delivery to institutions;

- preparing orders for enforcement over real estate and electronic submission to the Cadastre for recording such orders;
- preparing orders for prohibiting disposal and encumbrance of securities and electronic submission to the Central Securities Depository;
- commenced enforcement procedures prior to 31 March 2020 concerning claims against available funds on bank accounts of individuals and legal entities;
- submission of a conclusion for termination of enforcement from accounts of individual or legal entities if the debtor paid the debt.

- During the same period, the list of exempted incomes from enforcement is broadened with funds, such as: family pension for children; compensation for damages due to reduced or lost ability to work; etc.
- Entities obliged to act in accordance with the issued orders from the enforcement agents, such as employers of the debtors or the National Bank, must cease their actions related to the issued enforcement orders until 30 June 2020.



All decisions, decrees and other acts introduce the measures related to the COVID-19 outbreak and were rendered during the state of emergency declared by Serbian Government, President and President of the Assembly on 15 March 2020. State of emergency may last up to 90 days (with possibility of extension for additional 90 days).

LOAN AND LEASING DECISIONS

- The National Bank of Serbia has introduced a Decision on temporary measures for protection of stability of financial system and a Decision on temporary measures for leasing providers with the aim to protect the stability of financial system (the “**Loan and Leasing Decisions**”).
- Effective as of 18 March 2020.

Moratorium

- Local banks/leasing providers were obliged to offer moratorium to all categories of their debtors (individuals, farmers, entrepreneurs and companies) at the latest on 21 March 2020 in relation to all loan (and other receivables with credit nature) and leasing receivables.

Effects of the Loan and Leasing Decisions

- Moratorium orders prolongation of maturity for at least 90 days (or while state of emergency is in force).
- The loan and leasing repayment period will be extended for at least 90 days.

- Banks/leasing providers cannot initiate enforcement during the state of emergency.

Protection Period

- As of (at the latest) 1 April 2020 within next at least 90 days counting from the commencement of moratorium, e.g. no less than the duration of the state of emergency.

Application

- Moratorium is voluntary for debtors.
- The banks and leasing providers were obliged until 21 March 2020 to publish on their websites a notice on offering of repayment delay to their clients. This publication gave legal effect of a notice to each individual client. If the client did not reject the offer within 10 days, it is considered that the offer was accepted.
- Moratorium started to apply 10 days after the publication of the banks’/leasing providers’ offer.

Payment of Interest and Costs

- Regular interest continues to accrue during moratorium period and shall be added to instalments of the principal after the moratorium ends.
- Banks/leasing providers are prohibited to charge default interest during the state of emergency.
- Banks/leasing providers are not allowed to charge any costs from the clients related to implementation of these measures.

LOAN AND OTHER DEBTS TOWARDS PUBLIC AGENCIES AND FUNDS

Moratorium

- Serbian Export Credit and Insurance Agency (“**Agency**”) introduced a moratorium on all its financial receivables until the end of the year 2020.
- The Development Fund (“**Fund**”) introduced a moratorium on its performing loans due in 2020 from the Fund’s own resources and loans of the Republic of Serbia’s resources.



MAJA JOVANČEVIĆ



MARIJA VIČIĆ



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Effects

- Moratorium offers prolongation of maturity unless the debtor explicitly states that it does not want the moratorium to apply.
- The Agency/Fund will not undertake enforcement, will not calculate default interest and will unblock the accounts of debtors under certain conditions.

Protection Period

- With respect to moratorium introduced by the Agency, until the end of 2020.
- With respect to moratorium introduced by the Fund, until 30 September 2020.

Application

- With respect to the moratorium introduced by the Agency, it applies to all debtors except those subject to consensual financial restructuring, bankruptcy, liquidation, or those borrowers for which the Executive Board of the Agency issued a decision on commencement of judicial enforcement before 31 March 2020.
- With respect to the Fund's moratorium, it applies to all debtors without exceptions.
- Moratorium of debts towards the Agency/Fund applies automatically, unless the debtor opted out of the moratorium by the written statement.

Payment of Interest and Costs

- Default interests shall not be calculated, and new repayment/amortisation schedules will be delivered after moratorium ends.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- The Serbian Government introduced a Decree relating to the effects of the COVID-19 pandemic on the deadlines in court proceedings, effective as of 20 March 2020.
- The Serbian Government introduced a Decree relating to the effects of the COVID-19 pandemic on the deadlines in administrative proceedings, effective as of 24 March 2020 (as amended on 27 March 2020).
- Different recommendations and guidelines issued by relevant bodies (e.g. public bailiffs' chamber, notaries' chamber, high court council, etc.).

Key elements

- Courts, public bailiffs, notaries and other relevant bodies operate under a special regime during the state of emergency.
- Deadlines for filing lawsuits and other petitions in court, extra-judicial, enforcement, administrative and other procedures stop to run during the state of emergency.
- Public bailiffs were instructed not to decide on

motions for enforcement or perform any enforcement actions until the end of the state of emergency.

- There are no specific measures related to insolvency proceedings; however the general measures related to court procedures effectively will prolong the insolvency processes after the end of the state of emergency.

Suspension of the creditor's right to file an insolvency petition

Creditors may initiate court proceedings in general (including insolvency and enforcement procedures), but the hearings will not be held during the state of emergency (apart from urgent ones). Procedural deadlines are also postponed for a 30-days period after the state of emergency in administrative proceedings and until the end of the state of emergency in court proceedings.

OTHER MEASURES

Tax obligations

Certain types of tax obligations (such as tax obligations delayed earlier on the basis of the resolution of the Tax Administration) were postponed automatically until the end of the state of emergency. Within the package of the state support economic measures, tax obligors in business sector are entitled to request postponement of the salary tax and social contributions, as well as income tax, subject to certain conditions.

LOANS

- The Slovenian government introduced the Intervention Measure Act on Deferred Payments of Borrowers' Obligations (the "**Deferred Payment Act**") and later amended and expanded measures with the Act Determining the Intervention Measures to Contain the COVID-19 Epidemic and Mitigate its Consequences for Citizens and the Economy (the "**Anti-Corona Act**").
- The Deferred Payment Act is in force as of 29 March 2020, while the Anti-Corona Act is in effect as of 11 April 2020.

Effects of the Deferred Payment Act as amended by the Anti-Corona Act

- Moratorium on all payment obligations under the loan agreement until the end of moratorium period with moratorium period starting on the day on which the request of the borrower is approved and ending 12 months from this date.
- The final maturity date shall be extended for the duration of moratorium and the maturity of all security agreements shall be extended together with the extension of the maturity of the loan.
- After the expiry of moratorium, the next first instalment shall become due and payable in accordance with terms and conditions of the loan agreement.
- The State shall provide sureties for financial obligations of borrowers granted with deferral ((i) up to 50% if the borrowers are natural persons or were temporary prohibited to offer or sale goods and

services by municipal or governmental ordinance or (ii) up to 25% in all other cases).

Protection Period

- During a period of 6 months up to the end of the COVID-19 pandemic, which will be defined by a government decree, borrowers can request for the deferral. This also applies to loans that were taken during the pandemic.
- The deferral lasts 12 months as of its approval, provided that obligations under the loan agreement have not yet become due and payable until the declaration of COVID-19 pandemic.

Eligible Loans

- All loans that have been granted by local banks or subsidiaries of EU banks that have their seat in Slovenia, the repayment of which has fallen due on or after 13 March 2020 and which were granted to:
 - companies having their seat in Slovenia and incorporated under Slovenian law;
 - natural persons, who employ employees pursuant to the Slovenian Employment Relationships Act and have their residence in Slovenia;
 - self-employed persons who reside in Slovenia;
 - undertakers of agricultural activities;
 - natural persons who are Slovenian citizens and have permanent residence in Slovenia; and
 - cooperatives, associations, institutions.



ŽIVA NUČIČ



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Application

- The borrower and the bank must conclude an amendment to the loan agreement on borrower's request.
- Borrower has to provide a statement (this does not apply to natural persons) that as of 31 December 2019 he settled all mandatory contributions, taxes, charges and prove that he will be unable to repay loan obligations due to the COVID-19 spread consequences.
- Large companies will in addition have to substantiate that the payment of loan liabilities could lead to insolvency.
- The borrowers are also obliged to report monthly to the bank on their implementation plan to restore liquidity and other changes to their business position. The bank may suspend or shorten the moratorium period if certain prerequisites (e.g. if the borrower does not report regularly in cases when the bank determines that the

shortening or suspension is justifiable on the basis of reports filed by the borrower) are fulfilled.

Payment of Interest and Costs

- During the 12-months moratorium interest shall be charged at the same rate as agreed upon the conclusion of the loan agreement (unless the bank and the borrower agree otherwise).
- Moratorium shall not affect the calculation of each instalment amount, unless the bank and the borrower agree otherwise.

INSOLVENCY AND ENFORCEMENT PROCEEDINGS

- Insolvency proceedings and enforcement are also governed by the Anti-Corona Act which is in effect as of 11 April 2020.

Key elements

- All monies received pursuant to the Anti-Corona Act are exempt from enforcement proceedings and do not form insolvency assets in a personal bankruptcy proceeding.
- Presumption of insolvency for companies that receive assistance funds for wages and social contributions but do not pay them out to workers and institutions.
- If the company is considered insolvent the management is obligated to file a report on financial

restructuring measures to the supervisory board (or to the general meeting, if the company does not have a supervisory board) within one month from the occurrence of insolvency. If, in the report on financial restructuring measures, the management adopts an opinion that it is not likely to successfully restructure the company so as to achieve liquidity and solvency, the management has to file a proposal for start of bankruptcy proceedings.

- Extension of deadlines for the court's decision on the start of bankruptcy proceedings.
- Extension of deadlines for the debtor's obligation to provide justification for the request to delay the start of bankruptcy proceedings once the creditor filed an insolvency petition.
- Suspension of obligation of the debtor's management to file for insolvency.

Presumption of insolvency

- The Anti-Corona Act provides for the irrevocable presumption of insolvency in cases where the recipient of assistance funds from intervention measures is more than a month late with payment of wages and social contributions (valid for 4 months after the end of the measures).

Extension of deadlines

- If a creditor files for insolvency, the court can suspend its decision on the start of insolvency proceedings for up to 4 months.





- If a creditor files for insolvency and the debtor requests a suspension of the start of the bankruptcy proceedings, the debtor's deadline to substantiate its request is extended to 4 months.
- Both measures apply only in cases where the creditor's insolvency petition was filed no later than 2 months after the end of pandemic and only to debtors that became insolvent because of the pandemic (it is presumed that the insolvency was caused by the pandemic if the debtor was temporary prohibited to offer or sale goods and services by municipal or governmental ordinance).

Suspension of the debtor's obligation to file an insolvency petition

- Management's obligation to file a motion to initiate insolvency proceedings is suspended with suspension period ending 3-months after the end of the pandemic or if the insolvency is a result of the declared pandemic (it is presumed that the insolvency was caused by the pandemic if the debtor was temporary prohibited to offer or sale goods and services by municipal or governmental ordinance).

The President of the Supreme Court of the Republic of Slovenia also adopted the Order on special measures due to conditions referred to in the first paragraph of Article 83a of the Courts Act, by which he declared that as of 31 March 2020, urgent cases (with effect until 1 July 2020 or until the President of the Supreme Court of the Republic of Slovenia issues an order on the continuation

of these proceedings, whichever comes first) do not include compulsory settlement and bankruptcy proceedings. This means that the courts should not carry out procedural actions in these proceedings, and the procedural deadlines are suspended. Since the entry into force of the Order, the courts have stopped issuing decisions on the opening of insolvency proceedings, and the decision making on other matters has decreased considerably.

As of 1 May 2020, courts may issue decisions in non-urgent matters, however, all deadlines are still suspended until the President of the Supreme Court of the Republic of Slovenia issues the aforementioned order or until 1 July 2020, whichever comes first.



SOME TERMS USED

Micro-enterprise = Enterprise which employs fewer than 10 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 2 million.

Small enterprise = Enterprise which employs fewer than 50 persons and whose annual turnover and/or annual balance sheet total does not exceed EUR 10 million.

Medium enterprise = Enterprise which employs fewer than 250 persons, whose annual turnover does not exceed EUR 50 million and/or an annual balance sheet does not exceed EUR 43 million.

Large enterprise = Any entrepreneur other than a micro-, small or medium enterprise.



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