The Measures and Actions during the State of Emergency Declared with a Decision of the National Assembly from 13 March 2020 Act, promulgated in State Gazette issue 28 from 24.03.2020, provides for a suspension of time limits and proceedings except criminal and other urgent proceedings. According to the law, for the period between 13 March 2020 and the date when the state of emergency is lifted the procedural time limits in all court, arbitral and enforcement proceedings, except criminal proceedings for imposing measures of procedural coercion under the Extradition and European Arrest Warrant Act, are suspended.

The time limits will continue to run only in those proceedings which remain ongoing as per the Decision of the Judicial Panel of the Supreme Judicial Council from 13 March 2020, amended 16 March 2020. During the state of emergency the civil and administrative proceedings listed below continue to be instituted, heard and decided, and the time limits in these proceedings continue to run.

Following amendments to the law from 9 April 2020, the list of cases in which time limits continue to run is now annexed to the law, as opposed to being listed in a Decision of the Judicial Panel of the Supreme Judicial Council as it was done previously. The annex includes more cases.

The civil cases which continue to be heard include the following:

– cases for child custody, only concerning interim measures;

– cases under the Domestic Violence Protection Act, only concerning an order for immediate protection or amendment thereof, as well as in cases of rejection of the request for protection;

– permissions for withdrawals from child deposits;

– cases for admission of a security for future and pending claims;

– cases for securing of evidence;

– requests under the Electronic Communications Act and requests for suspension of registry proceedings;

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– cases under Art. 62, para. 3 of the Credit Institutions Act. Most likely this refers to cases for disclosure of bank secrets by a decision of the court under Art. 62, para. 6 of the Act.

Applications for suspension of enforceable decisions of the appellate courts remain outside the scope of ongoing proceedings. It is possible that in cases where a cassation appeal has been lodged and a guarantee for suspension of the enforcement of the appellate decision has been presented, the application for suspension might nevertheless not be considered during the state of emergency, while at the same time enforcement proceedings might be instituted or enforcement actions in pending ones might continue (such as are not restricted by the law).

Civil disputes conducted under summary proceedings fall outside the scope of ongoing cases, and such disputes include claims for employment remuneration, recognition of dismissal as illegal and cancellation of dismissal, employee reinstatement, compensation for time during which the employee has lost his job due to dismissal, and rectifying the grounds for dismissal recorded in the employment record or other documents, as well as actions for establishing and termination of violation of rights under the Consumer Protection Act.

Claims for the emptying of rented and occupied premises are also summary proceedings. So are actions for establishing and ending of infringements of rights under the Copyright and Related Rights Act, the Patents and Utility Models Act, the Trademarks and Geographical Indications Act, the Industrial Design Act, the Integrated Circuits Topology Act and the Law for the Protection of New Varieties of Plants and Animal Breeds.

Even if a claim regarding a dispute from the ones listed above is filed, proceedings will not be initiated until the state of emergency is lifted, and at the same time not only will the claimant not receive speedy judicial protection of his rights, but may also suffer harm, for example not being able to compel a tenant whose contract has been terminated to leave the premises used.

Although applications for suspension of registry proceedings are still under consideration, no claims may be instituted on claims for annulment of decisions of general meetings of companies. The lack of instituted proceedings is a formal ground for refusing to grant the request, even though it is one of the cases explicitly provided for in the Decision of the

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Judicial Panel. The time discrepancy between the security proceedings for suspending the entry of the decision of the General Assembly and the claim for annulment of this decision as unlawful does not fully guarantee the right of defense as is the purpose of the law. *The Judicial Panel has supplemented its Decision to include filing for and receiving in person criminal record certificates.*

During the state of emergency, the courts will neither consider applications for enforcement orders, nor rule on applications for writs of execution, which in any case of unsecured receivable risks the debtor disposing of his property, insofar as no limitations to civil transactions have been placed during this period (including the repayment of other obligations such as giving instead of performing), nor limitations to the establishment of collaterals (promissory note) which do not require notary form or notary signature verification.

Comparing the law, which provides for the suspension of procedural time limits in civil cases, with the Decision of the Judicial Panel on the ongoing proceedings leads to the conclusion that there is a risk that a wide range of rights and legitimate interests may not be granted protection or that protection will be delayed, which for its part creates grounds for holding the State liable for compensation for the damage suffered.

As the legislator has re-created the list of civil cases which are considered during the state of emergency, the risk of suffering damages due to untimely protection remains. In its latest decision regarding cases under consideration, the Judicial Panel agreed that on the basis of documents submitted to the court cases will be instituted, and that issued court acts will be announced without being served to the parties, since the time limits do not run. Consistently, at the root of any change in the decision with measures regarding the judicial system, the Panel has aimed to ensure the functioning of the judicial system and the possibility of exercising the right of defense, and the latest decision instructed the administrative heads of individual courts to identify other cases with urgent character to be considered. After the list of cases subject to consideration was included in the law, this possibility is eliminated.

As concerns administrative cases, during the state of emergency the following will continue to be considered:

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– cases of appeals against orders for the preliminary execution of administrative acts, as well as the suspension of the execution of administrative acts under the Administrative Procedure Code;

– cases for disclosure of tax and social security information by the court and suspension of the execution of audit acts by the court under the Tax and Social Insurance Procedure Code;

– cases concerning complaints against the lawfulness of detention by police authorities under the Ministry of the Interior Act;

– cases for admission of a security for future and pending claims;

– cases for securing of evidence.

– cases of appeal of the disciplinary punishment isolation under the Execution of Sentences and Detention Act;

– cases of complaints against unfounded actions of the administration;

– cases under the Public Procurement Act;

– cases under the Concessions Act;

– cases under the European Structural and Investment Funds Management Act;

– cases under Chapter Three of the State Property Act and Chapter Three of the Municipal Property Act;

– cases under the Electoral Code;

– cases for challenging acts which establish public claims;

– cases under the Spatial Planning Act related to contesting acts for building permits issued and for approved and / or amended detailed development plans;

– cases concerning the appeal or protest of administrative acts issued in the event of or in connection with a state of emergency;

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– cases under Chapter Thirteen of the Administrative Procedure Code. Chapter Thirteen of the Code deals with the appeal of court determinations and orders, and since it is not an independent proceeding, it is likely referring to Chapter Fifteen, which appeared in the decision of the Judicial Panel and governs proceedings for damages by unlawful actions and inactions of administrative authorities.

The scope of the type of cases to be heard by the administrative courts during the state of emergency is extremely narrow. The limited activity of the administrative courts raises the question of whether the right to appeal against administrative acts issued by the executive authorities during the state of emergency is not thereby impeded. The length of time between filing a complaint and instituting proceedings is unknown, which is contrary to the speed pursued in administrative justice. Administrative acts are challenged through the body which issued them, and the body is obliged to send the appeal with the administrative file to the court within three days from the expiry of the term for challenging. At the moment, even if the appeal is sent to court, proceedings will not be initiated until the state of emergency is lifted, unless it concerns one of the exceptions. Also of interest is the issue of protection against unlawful acts in cases of failure to perform actions which the administrative body is obliged to perform by law. In this case, the existence of an effective remedy, which is not fully established during the state of emergency, is essential for the safeguarding of the legal interest, insofar as the administrative authorities continue to carry out their activities during this period and the judicial review of the legality of the acts, actions and inactions has been delayed over time. *The law now includes this type of cases in the list of proceedings subject to consideration during the state of emergency.*

Suspension of limitation periods

The law provides for suspension of all limitation periods set down in legislative acts, with the expiration of which rights are extinguished or terminated or obligations arise for individuals, with the exception of the time limits under the Penal Code and the Administrative Offenses and Sanctions Act. This provision includes negative and positive prescription periods, which creates a guarantee for legal entities that they will not lose subjective rights as a result of the declared state of emergency.

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The time limits for the implementation of criminal and administrative penal liability continue to run for the duration of the state of emergency, and the inaction of the competent authority concerned may result in extinguishing the liability. On the other hand, the time limits in the administrative criminal proceedings continue to run – for filing an objection to an act for establishing an administrative violation, as well as for appealing a criminal decision.

The law *used to provide* for suspension of the time limits for the implementation of instructions given by an administrative authority to parties or participants in the proceedings, with the exception of proceedings under the European Structural and Investment Funds Management Act. The provision *was* only applicable in administrative proceedings and not in administrative penal ones.

The original version of the law has been amended and no longer includes the suspension of the time limits for termination of rights of private entities, as well as the exception for the time limits under the Administrative Offenses and Sanctions Act and the Criminal Code.

The text that provided for the suspension of deadlines for the implementation of instructions given by an administrative authority to parties or participants in proceedings is also deleted. These deadlines will resume running on 17 April 2020 – 7 days after the promulgation of the law in the State Gazette. Actions conducted after the declaration of the state of emergency until the entry into force of amendments to the law shall remain valid.

During the state of emergency, the time limits for filing declarations (except for the declaration for the previous year) and carrying out inspections, establishing illegally acquired property, as well as imposing security measures and proceedings for seizure under the Anti-Corruption and Seizure of Illegally Acquired Property Act. Similarly, the time limit for filing declarations for property and interests filed under the Judiciary Act has been suspended.

Enforcement Cases and Public Sale

The law does not provide for a special rule for the activity of bailiffs. The continuation of enforcement cases should be subject to compliance with the provisions on suspension of time limits and public sale, as well as with the restrictions on the performance of certain enforcement actions in relation to individuals and medical establishments.

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All public sales and entries into possession announced by public and private bailiffs are suspended. After the state of emergency is lifted, the public sales and entries into possession shall be re-scheduled, with no new fees and charges being due, i.e. the deposit paid for submitted bids should not be lost. The provision applies to all public sales, regardless of whether the debtor is a natural or legal person.

The amendments to the law include an exception that the fulfillment of an obligation to transfer a child or the subsequent return of the child in accordance with the Civil Procedure Code is not suspended.

The legislator has opted for a different approach as concerns the imposition of attachments and performing inventories of movable and immovable property. The imposition of attachments on bank accounts of individuals, attachments on salaries and pensions, and the inventory of movable and immovable property owned by individuals, except for maintenance obligations, for damages and for claims against wages and salaries. The latter will only be applicable where the employer is a sole trader.

For legal entities, the identical exception is provided only for medical establishments – no attachments to their bank accounts or security measures may be imposed on medical apparatus and equipment.

Consequently, in enforcement cases the time limits are suspended, the public sales are suspended, but bailiffs can initiate new cases and impose security and enforcement measures, including attachments on bank accounts of legal entities, foreclosures on real estate owned by natural persons and legal entities, as well as to performing inventories on movable property and real estate owned by legal entities.

Security Proceedings

One of the few civil and administrative proceedings unaffected by the state of emergency are the proceedings for securing a future claim or a pending claim, as well as for securing evidence. These proceedings continue in accordance with the established procedures. Restrictions exist when imposing a security measure where the prospective debtor / defendant of the claim is a natural person and cannot be liable for attachment to his bank

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account, remuneration, pension, or inventory of movable and immovable property, except for the claims referred to above – for maintenance, damages and employment claims. However, there is no obstacle to the attachment of movable property and foreclosure of real estate. Where a security for a future claim is granted, the court will have to indicate to the applicant the time limit for bringing the claim, but no claim will be instituted on the petition filed until the state of emergency is lifted. However, this delay will not limit either the claimant's rights because of the security imposed or the rights of the respondent, since the court's act of granting the security is subject to appeal and the appeal will be dealt with regardless of the state of emergency.

Notary Activity

Notary proceedings are limited to urgent ones. The Notary Chamber has endured there are notaries on duty – at least one notary per 50,000 inhabitants for the respective area. This means that there are no obstacles to the execution of notarial transactions and actions, and the assessment of their urgency is left at the discretion of the notary. All proceedings which for objective reasons could not take place at a later time (e.g. due to the state of health of a notary party) should be considered urgent.

Extension of Time Limits by One Month

The law contains a general provision that extends by one month, starting from the moment the state of emergency is lifted, all time limits set by law (beyond those already listed that stop running) which expire during the state of emergency and which are related to the exercise of rights and performance of obligations of private entities.

The duration of the administrative acts which are limited in time and expire during the state of emergency shall also be extended by one month.

The provision also includes the limitation periods, whereby the legislator has provided for the suspension of all statutory time limits and those of administrative acts of importance for the exercise of rights and the fulfillment of obligations by private entities. In this way, a guarantee of their rights and legitimate interests is created to the maximum extent, since there is no right can be lost due to its non-exercise in time due to the state of emergency.

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The amendments to the law in this part include an exception to the already adopted text for extending the time limits by one month from the lifting of the state of emergency.

The exception to the rule is set for time limits which expire during the state of emergency and concern proceedings related to public procurement, concession procedures, proceedings under the European Structural and Investment Funds Management Act, compulsory alienation proceedings – private property for state or municipal needs, regulated by the State Property Act and the Municipal Property Act respectively, the proceedings under the Farmers Support Act, the Ownership and Use of Agricultural Land Act, the Forest Act, Act Implementing the Common Organization of the Agricultural Markets of the European Union, the Veterinary Medicine Act, the Spatial Planning Act and proceedings under the Protection of Competition Act. The time limits specified in the relevant by-laws related to the listed laws shall not be extended.

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