

Romanian state of emergency - overview of measures

On 16 March 2020, the Romanian President declared a state of emergency for the next 30 days to limit the spread of COVID-19 and manage its effects. The Presidential Decree sets out certain emergency measures that become immediately applicable, as well as certain gradual/progressive measures, which may be taken in the future, depending on the developments.

Amongst the emergency measures with immediate application, we highlight the following:

(i) Economy

- Government may adopt measures to support operators in the most affected fields;
- manufacturing facilities/ equipment needed to fight COVID-19 may be requisitioned
- procurement of materials and equipment necessary in the fight against COVID-19 may be done through direct procurement (without a tender);
- beneficiaries of EU funds affected by the emergency measures may decide – jointly with the management authorities – to suspend the relevant financing agreements;
- the Ministry of Economy, Energy and Business Environment shall issue “emergency certificates” to operators whose activity has been affected by COVID-19;
- authorisations/licenses/other documents issued by public authorities which expire during the state of emergency shall continue to be valid for such period;
- prices for drugs and medical equipment, basic foods and utilities may be capped at the average price calculated over the preceding 3 months.

(ii) Healthcare

- procurement of medicine/drugs for treatment of COVID-19 patients may be done at prices exceeding the maximum prices regulated by the Ministry of Health;
- the value of the clawback tax for Q1 2020 shall be capped at the Q4 2019 value;
- prescription of “off-label” treatment for patients SARS-CoV-2 patients is authorised, subject to approval by the Drug Policy Commission of the respective medical unit.

(iii) Labour and social protection

- ⇒ the Government may support employers and employees affected by COVID-19 through exemptions/derogations from legal provisions in force;
- ⇒ public authorities and institutions, companies where the State owns a majority stake and private companies shall apply, insofar as possible, working from home or tele-working alternatives, by way of a unilateral act of the employer;
- ⇒ audits/controls by the Labour Inspectorates are suspended (except with respect to cases posing a high risk/threat, and with respect to labour accidents);
- ⇒ collective bargaining labour agreements remain valid during the period of the state of emergency;
- ⇒ strikes are prohibited in the following sectors: national energy system, nuclear, healthcare/social assistance, telecommunication, radio and public television, railway and other public transport, sewage, provision of utilities to the population.

(iv) Justice & the Judiciary

- ◆ statutes of limitations and peremptive terms shall not start to run (and if they have started to run, shall be

suspended) for the entire duration of the state of emergency;

- ◆ judiciary activity shall continue only in cases of significant emergency and where possible, hearings shall be held via video conference;
- ◆ hearings in such emergency cases may be postponed, upon request, if the interested party isolated, quarantined or hospitalized due to/in relation to COVID-19;
- ◆ hearings in civil cases are suspended automatically, by effect of the law, during the state of emergency;
- ◆ deadlines for filing challenges or appeals in civil cases, which have already started to run before the state of emergency, shall be interrupted;
- ◆ prosecutorial activity and the activity of freedoms and liberties' judges shall continue only where preventative or witness protection measures have been taken, where minors are involved or where a delay would endanger evidence or the apprehension of a suspect or defendant;
- ◆ pending criminal trials are automatically suspended during the state of emergency (except as provided above and, inter alia, except with respect to offences against national security or money laundering and terrorism offences);
- ◆ in criminal cases, it is presumed that parties have consented to electronic communication of procedural acts/deeds;
- ◆ all other statutory deadlines (for communication of resolutions, submitting and resolving complaints, filing a challenge/appeal in criminal cases etc) shall be interrupted and a new term will start to run after the end of the state of emergency;
- ◆ the statute of limitations for criminal liability is suspended during the state of emergency in those cases where no prosecutorial actions are performed, or the criminal trial is suspended as per the above;
- ◆ during the state of emergency, the Trade Registry shall operate electronically, on the basis of electronic submissions which have a qualified electronic signature attached.

(v) Other

- classes in all schools/kindergartens etc (whether private or public) shall be suspended during the state of emergency;
- the National Regulatory Authority in the Communications Sector ("ANCOM") may instruct providers of hosting services and content to immediately interrupt or block (with notice to the users), a transmission via an electronic network or the storage of, or access to, content promoting fake news on COVID-19 developments and preventative and protective measures;
- ANCOM may instruct providers of electronic communication networks for the public must immediately block access by Romanian users to content promoting fake news on COVID-19 developments and preventative and protective measures which is being transmitted over networks outside national jurisdiction;
- deadlines for responding to freedom of information requests and petitions filed during the state of emergency shall be doubled.

Depending on the evolution of the COVID-19 pandemic, additional (progressive) measures may be imposed such as isolation and quarantine; shutting down national borders; limitations of movement to/from critical areas; prohibition of road, railway, maritime or air travel; temporary shutting down of restaurants, hotels, casinos, pubs; requisition of stocks, manufacturing and distribution facilities, protection equipment, disinfectants and drugs used in COVID-19 treatment; limiting activity in public hospitals only to admitting and treating emergencies etc.

*For further information on the above, please contact **Cristina Popescu**, Senior Counsel CMS and Head of CEE Insurance Practice Group.*