

PETERKA PARTNERS

THE CEE LAW FIRM

23/4/2020: Insolvencies, Executions, Litigations – Legislative Changes Due to COVID-19

Act No. 62/2020 Coll. adopted in connection to certain extraordinary measures related to the spreading of COVID-19, introduced various changes related to justice effective from 27 March 2020:

SUSPENSION OF TIME LIMITS IN PRIVATE LAW AND DEADLINES FOR PROCEDURAL ACTIONS

Statutory time limits in private law for exercising or defending rights in court the expiry of which would lead to the limitation or termination of those rights are not in effect from 27 March 2020 to 30 April 2020. Further, the time limits that expired from 13 March 2020 to 27 March 2020 shall end no earlier than 30 days after 27 March 2020. The intention of this is to give natural persons and legal entities the assurance that they are not about to undertake necessarily the steps to claim their rights during the time of pandemic and their rights remain.

The above is applicable also to the time limits laid down by law or determined by the court for the performance of a procedural act in proceedings before the court by the participants in proceedings and the parties in proceedings. Exceptions apply for criminal proceedings or in case of danger to life, health, safety, considerable damage, etc.

COURT HEARINGS

Public hearings at courts will only take place if necessary (e.g., custody or care of minors). Such restriction applies during an extraordinary situation or state of emergency declared by the Slovak Government. The public may be excluded from hearings due to health precautions. These measures along with the suspension of deadlines for procedural actions should lower the workload of the courts and safeguard their continuous functioning as well as minimize the contact among people.

EXECUTION (ENFORCEMENT)

No auctions, exercise of liens (including enforcement by sale at an auction), and sale of debtor's real estate in execution (enforcement) proceedings aimed at debt recovery can be performed until 30 April 2020.

Also, please see the bankruptcy protection effects below.

PROTECTION OF TENANTS

Temporary measures aimed at stabilising the system have been extended with protection of tenants – **inhabitants as well as entrepreneurs** – against termination of the lease relationships due to delay in payment of the rent and payments for services supplied with the lease by the landlord (electricity etc.).

The landlord **is forbidden to unilaterally terminate** the lease of the property (including the lease of an apartment or non-residential space) on the grounds of the **tenant's delay** in paying the rent or payments for services which are **due in the period from 1 April 2020 to 30 June 2020**. The protection is conditioned on the fact that the delay is caused by circumstances originating in the spread of the COVID-19. This reason for the delay must be sufficiently evidenced by the tenant. The protection does not cover other reasons for terminating of the lease by the landlord (e.g. for other breach of the contract by the tenant).

The ban on terminating the lease applies until 31 December 2020.

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INSOLVENCY

The standard period within which a debtor which is overindebted is obliged to file for bankruptcy is 30 days since it learned it was overindebted. According to Act No. 62/2020 Coll., the period is extended to 60 days in cases when the debtor became overindebted from 12 March 2020 to 30 April 2020.

TEMPORARY PROTECTION

Debtors-entrepreneurs may seek temporary bankruptcy protection against bankruptcy applications filed by their creditors. The regulation should enter into effect on 12 May 2020 with the following main features:

- A. Eligible person:** an entrepreneur with its registered office or place of business in the territory of the Slovak Republic whose business licence was established before 12 March 2020, and which was not insolvent as of 12 March 2020. Not banks, etc.
- B. Protection effects:**
- Proceedings on a creditor's petition for bankruptcy filed after 12 March 2020 and during temporary protection are suspended;
 - An entrepreneur under temporary protection shall not be obliged to file a petition for bankruptcy for the duration of temporary protection; this also applies to persons obliged to file for bankruptcy on their behalf – executives, liquidators, etc;
 - Enforcement proceedings (execution) initiated after 12 March 2020 against an entrepreneur under temporary protection shall be suspended for the duration of the temporary protection;
 - Exercising of a lien pertaining to an enterprise, item or right or other asset belonging to the enterprise may not be commenced against an entrepreneur under temporary protection;
 - the other party is not entitled to terminate or withhold the performance of a contract concluded with an entrepreneur under temporary protection for their delay in performance occurring between 12 March 2020 and 12 May 2020 caused by COVID-19;
 - the entrepreneur under temporary protection is to settle as a priority the liabilities related to the enterprise and occurring after being granted the protection;
- C. Protection period:** until 1 October 2020 at the latest (may be extended by Government until 31 December 2020).

Bankruptcy protection would be granted without undue delay on the basis of an application filed by the entrepreneur at the competent court, accompanied with an affidavit on the substantial facts (e.g., no insolvency by 12 March 2020).

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This summary is for informational purposes only and may not be considered a legal opinion or advice on how to proceed in a particular case. The summary reflects the status as of 23 April 2020.

*For any legal matters arising in these special circumstances, please do not hesitate to contact our **COVID-19 Help desk** at: covidhelpdesk@peterkapartners.com.*