

# COVID-19: Labour rights under the state of emergency in Bulgaria

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*The COVID-19 crisis is raising important issues affecting the labour market in Bulgaria. The Law on Measures and Actions during a State of Emergency in Bulgaria was adopted on 23 March 2020, and introduces provisions amending a number of Labour Code rights and transferring 60% of social security-secured income for January 2020 to a limited range of employers meeting certain eligibility criteria. Although they include some favourable measures, there are concerns about whether the new legal provisions offer enough safeguards to protect employees' rights during the pandemic period, and whether they support employers to the extent needed to cope with the crisis.*

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## Description

A state of emergency was declared on 13 March 2020, and a Law on Measures and Actions during a State of Emergency was adopted by the National Assembly. The law contains provisions introducing amendments to the Labour Code, which are particularly important to citizens in the wake of a serious increase in unemployment reported by the Ministry of Labour and Social Policy. The law came into force immediately and will apply until the state of emergency is lifted.

The newly-adopted law allows employers to require their employees to take up to half of their paid annual leave, without their consent. Moreover, the employer is entitled to require them to take their full annual leave if, due to the state of emergency imposed or following an order from a public authority, the work of the whole enterprise or any part of it is suspended. This also applies to newly-hired workers, who normally have to work for a certain period of time before being able to take annual leave. The employer cannot refuse to grant paid or unpaid leave if it is requested by an employee who is pregnant, the mother or single father or an adoptive parent of a child up to 12 years old or a disabled child, a single parent, or a person with a permanent disability of 50% or more.

The employer has the power to issue an order compelling the employee to "work from home" and telework during a state of emergency, without the latter's consent. In this case, only the place of work is changed; the other conditions of the employment contract remain the

same. In addition, the employer has authority to issue an order which reduces the working hours and introduces part-time work at the company for the entire period of the declared emergency or for part of that period.

While the State Emergency Act is in force, but for no longer than three months, the National Social Security Institute will transfer 60% of the amount of the social security-secured income for January 2020 to employers who meet certain criteria determined by an act of the Council of Ministers. The employer must pay the employee his/her full salary.



## Outlook and commentary

The new approach to the taking of paid leave by order of the employer, contained in the Law on Measures and Actions during a State of Emergency, is contrary to the Labour Code; according to this code, annual paid leave can be taken by the employee at his/her request, with the written permission of the employer. However, the Labour Code also has a provision which states that the employer is entitled to require the worker or employee to take some of his/her annual paid leave, even without his/her consent, in cases of more than 5 days of idle time. The emergency legislation stipulates that time spent on leave should be recognised as length of service, but this is, in fact, a standard provision in the Labour Code.

Clearly, the idea behind these new provisions is to make it easier for

employers and employees to meet the requirements for social distancing, by organising work from home and limiting contacts within work teams. Provisions allow also for the temporary suspension of economic activities which are either unessential or have been disrupted by the looming economic stagnation. The Minister of Labour and Social Policy stated that as of 10 April, employers had already submitted 2016 applications under this measure, potentially affecting almost 30 thousand employees. Arguably, the amendments do not grant sufficient support to the employer, as coverage of 60% of social security-secured income for January 2020 for a range of

employers meeting certain eligibility criteria may not be enough to keep some important businesses afloat. The Confederation of independent trade unions of Bulgaria has released a statement supporting this measure but suggesting full coverage of the whole industrial sector and of employees who have not worked a full month due to poor health, unemployment or unpaid leave. The Bulgarian government seems hesitant to use all its available reserves and to issue new public debt, and will likely try to keep the stimulus package for the economy, including measures to support the labour market, to a minimum.

## Further reading

The Act on Actions during a State of Emergency, State Gazette, issue 28, 24 March 2020.

<https://dv.parliament.bg/DVWeb/showMaterialDV.jsp?idMat=147150>

Minister of Labour and Social Policy, Mrs. Denitsa Sacheva said 1,300 unemployed have registered within a day, 23 March 2020, BTV news, <https://btvnovinite.bg/predavani-a/tazi-sutrin/denica-sacheva.html>

Statement of the Confederation of independent trade unions of Bulgaria, 27 March 2020, <https://www.knsb-bg.org/index.php/%D0%BF%D1%80%D0%B5%D1%81-%D0%B7%D0%BE%D0%BD%D0%B0/covid-19/5317>

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