

Ukraine Enacts Anti-Coronavirus Legislation

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According to the official information as of 18 March 2020, Ukraine reported 14 confirmed cases of Coronavirus Disease 2019 ("COVID-19") with two lethal outcomes. COVID-19 is caused by the virus SARS-CoV-2 (the "Coronavirus").

Due to the worldwide spread of Coronavirus, the Cabinet of Ministers of Ukraine ("CMU") introduced a range of measures on 11 March 2020. Their aim is to prevent the further spread of the Coronavirus within Ukraine.

Earlier, on 25 February 2020, the Ukrainian Ministry of Healthcare recognized COVID-19 as an extremely dangerous germ disease.

Quarantine measures introduced by the CMU

Initially, due to the developing situation with the Coronavirus, on 11 March 2020, the CMU issued Resolution No. 211 On Preventing the Spread of Coronavirus COVID-19 in Ukraine, which introduced the national quarantine regime until 3 April 2020.

The interim quarantine measures proposed by this Resolution include:

- shutting down operation of entertainment establishments (restaurants, cafes, shopping malls, etc.) (restriction applies since 17 March 2020);
- prohibiting organisation of any events with participation of more than 10 persons (restriction applies since 17 March 2020);
- prohibiting attendance of educational establishments by students (restriction applies since 12 March 2020);
- prohibiting railway, subway and intercity bus travels (restrictions apply since 17 March (for subway) and 18 March 2020 (other means of transportation));
- city transport vehicles (buses, tramways, trolleys) may carry up to 10 passengers at the same time (restriction applies since 18 March 2020).

Further, the CMU by its Resolution, dated 16 March 2020 No. 290-p, effectively prohibited travels into and from Ukraine by air, railway and bus routes by closing respective border entry points for the period from 17 March until 3 April 2020.

Additionally, the CMU prohibited travels to Ukraine by foreigners for the period between 16 March and 3 April 2020. This prohibition does not apply to foreigners holding permanent residence permits in Ukraine, foreign spouses and children of Ukrainian citizens, diplomatic staff and employees of international organizations (as well as their family members), cargo vehicles drivers, as well as crew members of aircrafts and marine vessels.

Unless a foreigner falls under any of the above-mentioned categories, he/she can enter Ukraine only based on travel authorization, issued by the Ministry of Internal Affairs of Ukraine.

The above transportation restrictions generally do not apply to cargo transportation.

Anti-Coronavirus Legislation

On 17 March 2020, Verkhovna Rada (Ukraine's Parliament) adopted the following two laws:

1. the Law of Ukraine *On the Amendment of Certain Legislative Acts of Ukraine Aimed at the Prevention and Limiting Spread of the Coronavirus Disease (COVID-19)* (the "Anti-Coronavirus Law"); and
2. the Law of Ukraine *On Amending the Tax Code of Ukraine and Other Laws to Support Taxpayers for the Period of Measures to Prevent Occurrence and Spread of Coronavirus Disease (COVID-19)* (the "Taxpayer Support Law").

Both Laws have been published on 17 March 2020 and, thus, have already entered into effect (except for certain provisions).

The main objective of the Anti-Coronavirus Law is to prevent further dissemination of COVID-19 within Ukraine. This Law introduced changes to the Ukrainian legislation that will have significant bearing on the conduct of business in Ukraine.

Key implications that the adoption of the Anti-Coronavirus Law will entail are summarised below:

1. The Anti-Coronavirus Law introduces administrative liability for the violation of the quarantine regulations and, in certain cases, criminal liability for the breach of health and safety regulations and rules introduced to prevent the spread of infectious diseases (please see below Section *Legal liability for the violation of the quarantine regime* for more information).
2. Pharmaceuticals, medical products and/or medical equipment imported to Ukraine with the purpose of combatting the Coronavirus are exempted from import duties and VAT, and must be customs cleared on a priority basis.
3. Procurement of pharmaceuticals, medical products and/or medical equipment, that are necessary to fight COVID-19 by Ukrainian public authorities, state medical institutions and other public funds holders are exempted from the public procurement procedures set forth in the Law of Ukraine On the Public Procurement and may set a 100% advance payment;
4. The Anti-Coronavirus Law puts an end to the uncertainty as to whether the quarantine may constitute an event of force majeure as a matter of Ukrainian law. In particular, the said Law amended Article 14-1 of the Law of Ukraine *On the Chambers of Commerce and Industry* and included quarantine, introduced by the Cabinet of Ministers of Ukraine, to an open-ended illustrative list of force majeure events.
5. Employers will be able to instruct employees (this includes both state and municipal employees) to work remotely or, subject to the respective employee's consent to take vacation.
6. Hours of operation for entities, institutions and organisations may be changed at the discretion of their owner.
7. The Anti-Coronavirus Law, for the duration of the quarantine period, imposes a total ban on the exercise of the state supervision (control) over businesses by the state supervisory/controlling bodies. The Cabinet of Ministers of Ukraine will however exercise oversight over the prices on the medicines, health products and social goods.

In turn, key incentives for business provided by the Taxpayer Support Law include the following:

1. no penalties for breaches of tax legislation for the period between 1 March and 31 May 2020 (with certain exceptions, such as breaches related to administration and payment of VAT, excise tax and rent payment; alienation of property under tax pledge without tax authority's consent);
2. no penalties for breaches related to the accrual and payment of unified social contribution by employer between 1 March and 30 April 2020;
3. temporary moratorium on off-site as well as on-site tax audits between 18 March and 31 May 2020 (only minor exceptions retained);
4. temporary relief from land tax and land rent on plots used in business activity between 1 March and 30 April 2020;
5. temporary relief from real estate tax on non-residential property between 1 March and 30 April 2020; and
6. temporary moratorium on conducting most audits by state authorities until 31 May 2020 (with the exceptions for high-risk businesses enterprises, measures related to epidemic control and requirements on State regulated prices).

Legal liability for the violation of the quarantine regime

All companies must adhere to sanitary rules and regulations for prevention of infectious diseases and mass poisoning. As mentioned above, the Anti-Coronavirus Law introduces administrative and, in certain cases, criminal liability for the breach of quarantine restrictions.

Administrative liability

Violation of the quarantine regulations under the Law shall be an administrative offence punishable by the administrative fine in the range from UAH 17,000 (circa EUR 575) to UAH 34,000 (circa EUR 1,150); if the offender is a public servant or occupies a managerial position with a private company the amount of the administrative fine will vary from UAH 34,000 (circa EUR 1,150) to UAH 170,000 (circa EUR 5,750).

Criminal liability

According to the amendments to the Penal Code of Ukraine introduced by the Anti-Coronavirus Law, criminal sanctions can be imposed on a person who violates sanitary rules adopted for the prevention of epidemic diseases, infectious diseases and other diseases if such violation resulted or might have resulted in the spread of such diseases.

In such a case, the following penal sanctions may apply: (i) a penal fine between UAH 17,000 (circa EUR 575) and UAH 51,000 (circa EUR 1,700), (ii) an arrest for up to six months, (iii) deprivation of liberty for up to three years, or (iv) a prison sentence for up to three years. In the event the perpetrator caused a death of the victim, the former

may be sentenced to the prison term of between five to eight years.

Conclusion

Once the Anti-Coronavirus Law and Taxpayer Support Law enter into effect, they will not only amount to the legislative push to prevent the spread of COVID-19 but will also temporarily affect both the business and private lives of Ukrainians. Therefore, while that Law is perceived as an efficient tool to help sustaining the spread of the Coronavirus in Ukraine, we hope that its temporary measures will not be misused or abused on both sides – either by the businesses or by the Government.

As to the Taxpayer Support Law, it is expected that its adoption will lay down the proper starter point for the consecutive build-up of the effective and comprehensive mechanism to tackle the adverse implications of the Coronavirus outbreak.

Legislation:

1. *Draft Law of Ukraine No. 3219 On the Amendment to the Certain Legislative Acts of Ukraine Aimed at the Prevention and Limiting Spread of the Coronavirus Disease (COVID-19) dated 16 March 2020 (in Ukrainian); and*
2. *Draft Law of Ukraine No. 3220 On Amending the Tax Code of Ukraine and Other Laws to Support Taxpayers for the Period of Measures to Prevent Occurrence and Spread of Coronavirus Disease (COVID-19) dated 16 March 2020 (in Ukrainian).*

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