

# BERNITSAS briefing

---

Global Report Update Issue No 1 –30 March 2020

Covid-19: Special Edition

## Legislative Developments Relating to Covid-19 Pandemic as of 30 March 2020

Bernitsas Law has issued Briefings and a Global Report providing an overview of the legislative changes across a number of legal areas and industry sectors to assist our clients to prepare for their effect on themselves and their businesses.

You can view all these on the [Covid-19 Resources Center](#) on our [website](#). If you would like to discuss any of the issues raised in these Briefings, please get in touch with your usual contact at Bernitsas Law or email us at [bernitsas@bernitsaslaw.com](mailto:bernitsas@bernitsaslaw.com).

### EMPLOYMENT

2

- A. Suspension of Business Operations by Virtue of a Public Authority Order
- B. Suspension of Employment Contracts by the Employer
- C. Special Provisions for Employees Employed by Two Employers
- D. Support Measures to the Unemployed
- E. Social Security Facilitations to Employees

### EU, COMPETITION & ANTITRUST

4

- A. Establishment of Task Force
- B. HCC Q&As
- C. ECN Joint Statement
- D. Procedural Matters

### LITIGATION, ARBITRATION & DISPUTE RESOLUTION

7

- A. Suspension of the Operation of the Courts

### TAX

7

- A. Ministerial Decisions (MD) A.1062/2020 and A.1063/2020 Amending Ministerial Decisions A.1053/2020 and A.1054/2020 on the Suspension of Debt and VAT Payments
- B. Time Limit Extension for Specific Tax Returns

# BERNITSAS briefing

---

## Employment

### A. Suspension of Business Operations by Virtue of a Public Authority Order

1. The employment contracts of employees working in businesses whose operations have been suspended by virtue of a public authority order, are suspended. This suspension results in both the employer and the employee being exempted from the basic obligations arising from the contract. Therefore, the employee is not obliged to provide work and the employer is not obliged to pay remuneration.
2. Employees will receive the Special Purpose Compensation of €800 for 45 calendar days if they do not have an employment contract with another employer. The compensation includes universal social security coverage on the basis of the employees' salary.
3. Employers are obligated to submit an Analytical Periodical Declaration (APD).
4. Any unpaid leave that has been agreed prior to the business shutdown is terminated by law and employee contracts are thus deemed as suspended, with employees being entitled to the Special Purpose Compensation.
5. Fixed-term employment contracts with an agreed end date after the obligatory suspension period are suspended. After the lapse of the suspension period, the contract will continue for the remaining agreed time.
6. Employers shall submit a solemn declaration to the Information System ERGANI from 24 March 2020 to 31 March 2020 stating:
  - a. that their business has suspended its operation by virtue of the decision of a public authority;
  - b. the business lease details of the business premises they use for operations which have been suspended by a public authority order;
  - c. the names of the employees whose employment contracts have been suspended; and

- d. the names of the employees who have either resigned or been dismissed between 1 March 2020 and 20 March 2020.

7. Affected employees shall submit from 1 April 2020 to 10 April 2020 (depending on their Tax Identification Number), to the relevant e-platform of the Ministry of Labour (supportemployees.yeka.gr), a declaration stating:
  - a. the employer's solemn declaration protocol number (under 6 above);
  - b. their personal details;
  - c. their personal bank account number (IBAN);
  - d. the main residential lease contract and lessor details (if applicable), in order to be granted a rent reduction.

### B. Suspension of Employment Contracts by Employers

1. Seriously affected businesses which can make use of the measure of suspension are defined on the basis of business activity codes (KAD) related to their main or secondary business activity, depending on their gross income for the 2018 fiscal year.
2. The suspension period lasts 45 calendar days. This period is continuous and irrevocable. Businesses may suspend employment contracts of all or part of their employees.
3. Employers may implement this measure from 21 March 2020 to 20 April 2020.
4. Employers may suspend employment contracts at different points in time, eg on 27 March 2020 for half their employees and on 20 April 2020 for the rest of their employees.
5. For 45 days following the end of the suspension period, employers are obligated to maintain the same employees under the same employment terms as on 21 March 2020.
6. The employer's obligation under 6 above does not apply to employees:
  - a. who resign in order to retire;
  - b. who resign voluntarily; and

- c. that are under a fixed-term employment contract which ends after the end of the suspension period.
7. Fixed-term employment contracts which have not ended by 21 March 2020 may also be suspended, in which case the employees concerned are entitled to the Special Purpose Compensation. After the end of the suspension period, their employment contract will continue for the remaining agreed time.
8. The suspension measure may be also implemented together with the other available measures prescribed in the Act of Legislative Content dated 20 March 2020 ie operation of businesses with security personnel and/or the transfer (secondment) of employees to other companies of the same group.
9. The prohibition of dismissals is activated if an employer suspends the employment contract of even one employee.
10. If an employment contract is suspended, employers are not obliged to pay remuneration and employees are not obliged to provide work. However, employers are free to pay a voluntary amount to suspended employees, provided that this amount does not exceed the employee's gross remuneration. This voluntary payment must be included in the employer's Analytical Periodical Declaration (APD) and the employer is obliged to pay the respective social security contributions.
11. Employers may agree with suspended employees that they will provide services via remote work, in order to meet the business' temporary needs. Employers will pay a proportionate amount for these services, not exceeding the employee's gross remuneration after the reduction of the Special Purpose Compensation. In such cases, employers will have to pay the respective social security contributions, which will be included in the Analytical Periodical Declaration (APD). Prior to the commencement of remote work, employers must submit the relevant notification document to the ERGANI electronic system, otherwise a fine may be imposed.
12. Where employers have decided to suspend all or some of the employment contracts, they shall

submit a solemn declaration to the Information System ERGANI from 24 March 2020 to 20 April 2020, stating :

- a. that their business is severely affected by Covid-19;
- b. the names of the employees whose employment contracts have been suspended; and
- c. the names of the employees who have either resigned or been dismissed between 01 March 2020 and 20 March 2020.

Their employees shall submit a declaration to the relevant e-platform of the Ministry of Labour, from 1 April 2020 to 30 April 2020 stating:

- a. the protocol number of their employer's declaration under 12 above;
- b. their personal details; and
- c. their personal bank account number (IBAN).

#### **C. Special Provisions for Employees Employed by Two Employers**

1. Employees who are employed by two employers will receive the Special Purpose Compensation only once where:
  - a. both employers have been shut down by virtue of the decision of a public authority; or
  - b. one of the employers has suspended their business operations by virtue of a public authority order, and the other employer has suspended the employee's employment contract.

#### **D. Support Measures to the Unemployed**

1. Unemployed persons will be granted a two-month extension of their unemployment allowance, where such allowance expired in the first quarter of 2020. This extension shall be effective automatically.
2. Employees who were dismissed between 1 March 2020 and 20 March 2020 by seriously affected businesses (on the basis of KAD) or by businesses that were temporarily shut down by virtue of a public authority order, are entitled to the Special Leave Compensation, irrespective of whether they receive or are entitled to unemployment benefit.

**E. Social Security Facilitations to Employees**

1. The payment of any social security instalments, arrangements or partial payments which are:
  - a. due on 31.03.2020; and
  - b. payable by employees of affected businesses or businesses that have suspended their

operation by virtue of a public authority order;  
is extended for three months. This extension is free of any increases and accrued interest.

## **EU, Competition & Antitrust**

**A. Establishment of Task Force**

1. On 27 March 2020, the Hellenic Competition Commission (HCC) announced that it has set up a Task Force against anti-competitive practices due to Covid-19 (the Task Force).
2. The object of the Task Force is to inform undertakings and consumers - through Q&As and press releases - of the application of competition law rules, on HCC investigations in key business sectors and on procedural matters on the operation of the HCC under current conditions, as well as on the actions of other national competition authorities and of the European Commission.
3. The primary aim of the Task Force is to create a communication platform between the HCC and undertakings through which undertakings will be able to raise questions on the compatibility of their actions with competition law rules and the HCC will provide immediate feedback.
4. The set up follows the initiation of an investigation by the HCC on 20 March 2020 into price increases and output restrictions in healthcare materials and other products, following receipt of numerous consumer complaints and media reports on significant price increases and product shortcomings. The HCC has electronically sent questionnaires to 3,859 producers and retailers of healthcare products, in particular surgical masks and disposable gloves, as well as other products such as antiseptic wipes and solutions to investigate alleged anti-competitive price increases and availability shortages.

**B. HCC Q&As**

1. The HCC has published a set of 25 Q&As to guide consumers and undertakings on the application of competition law rules during the Covid-19 crisis. The HCC points out that:
  - a. Efficient competition between undertakings is essential even under current special socio-

- economic conditions, to ensure, in the short-term, the smooth supply of the market without illegal anticompetitive practices and to facilitate the reconstruction of the country's production capacity, both short and long term. In case of structural problems on the market in the medium-term, due to the special socio-economic conditions, the HCC may intervene and adopt regulatory measures of a behavioral or structural nature.
- b. The HCC may institute investigations into restrictive trade practices or dominance abuses, take interim measures, express opinions, undertake sector-specific investigations where prices give rise to concerns of distortion of competition and cooperate with other public authorities.
  - c. Cartels are strictly prohibited and the HCC will show no tolerance to companies taking advantage of the health crisis, in order to collude to raise prices or limit production.
  - d. Resale price-fixing is prohibited. Setting maximum resale prices or recommending resale prices (eg between wholesalers and retailers or between suppliers and wholesalers) is allowed. On the contrary, fixing resale prices may exceptionally be justified only short term where new products are introduced into the market (eg for promotional campaigns of 2 to 6 weeks). An internet platform or marketplace may set a maximum price limit for the products sold through it.
  - e. During the health crisis, cooperation agreements between undertakings in order to ensure the unimpeded supply and fair distribution of products in shortage to all consumers in Greece are not expected to result in the restriction of competition. Even if they temporarily limit competition, the HCC will assess the extent to which unimpeded supply and fair distribution is achieved, as well as the temporary nature of these agreements

and whether they are proportionate and absolutely necessary to achieve their purpose.

- f. Agreements between undertakings are not prohibited where:
  - i. they contribute to the improvement of production or distribution or to technical or economic progress;
  - ii. they ensure a fair share of the resulting benefit to consumers;
  - iii. they do not impose on the undertakings concerned unnecessary restrictions; and
  - iv. they do not allow them to abolish competition on the relevant market.

These may include agreements to exchange information, R&D, production, purchasing and commercialization agreements, as well as standardization agreements. Undertakings wishing to enter into such agreements with actual or potential competitors are encouraged to contact the HCC first.

- g. The exchange of strategic information between competitors may have restrictive competition effects as it reduces independent decision-making by the parties involved and diminishes their incentive to compete. The more historical the information and the more aggregate the nature of the data exchanged, the less likely these are to restrict competition.
- h. Exchange of information aimed at improving efficiency and fulfilling the conditions of point f. above are allowed. For example, information on costs may enable companies to increase efficiency if they compare their performance with best sector practices. Also, in certain situations, information exchange (eg on demand) may help companies allocate production towards high-demand markets. In this case, some forms of information exchange may allow substantial cost savings if they lead to the reduction of unnecessary inventories or allow the quickest delivery of perishable goods to areas with high demand and their reduction in areas with low demand. The public exchange of information may also benefit consumers by improving choice and reducing their search costs. Likewise, the public exchange of information on current input prices may lower the search costs for companies, normally benefiting consumers through lower final prices.
- i. Pure R&D agreements may only rarely restrict competition. If the R&D cooperation includes joint exploitation only by means of licensing to

third parties, restrictive effects, such as market foreclosure, are unlikely. If, however, the R&D cooperation includes joint production and/or marketing of the slightly improved products or technologies, then their effects on competition require closer examination.

- j. Commercialisation agreements involve co-operation between competitors in the selling, distribution or promotion of their substitute products. Not all reciprocal distribution agreements have as their object to restrict competition. The key issue is whether the agreement is objectively necessary for the parties to enter each other's markets. If it is, the agreement does not raise competition concerns of a horizontal nature. If, however, the joint commercialization represents no more than a sales agency without any investment, it is likely to be a disguised cartel.
- k. The over-pricing of products (such as masks, hygiene gloves) or services (medical, diagnostic tests) by dominant undertakings is prohibited where:
  - i. the price of the product is excessively high in relation to the supplier's actual cost; and
  - ii. in this case, the price charged is unfair in itself or unfair as compared to the price of competing products.
- l. State regulation in the form of imposition of maximum resale prices for consumer goods - in order to deal with high pricing of products that are in shortage in periods of crisis - should be applied exceptionally and in case of crisis management, where effective competition is objectively impossible to operate, regulation is justified on public interest grounds and no other less restrictive measure could produce the same results. Any such State price regulation must be very carefully planned.
- m. State regulation of maximum prices may produce the following adverse effects:
  - i. market shortages in imported products (if foreign producers consider it is more profitable for them to sell in other countries where prices are higher);
  - ii. long-term reduction of supply;
  - iii. inefficient allocation of resources;
  - iv. risk of reinforcing strong market players to the disadvantage of smaller Greek companies;
  - v. umbrella pricing (where the maximum prices are used as a point of reference by

resellers and are applied by all or most of them as fixed prices, meaning that the resale price of all similar products shall be close to the maximum price set, even for products whose price ranged at lower levels pre-State regulation);

- vi. emergence of grey or black-market phenomena (where the goods in shortage are sold at prices higher than the maximum price set by the State); and
- vii. impediment of structural changes on the market already scheduled by the government.
- n. To cause the minimum possible damage to the structure of the market, State measures regulating prices should have a small duration and be regularly reassessed. The power of the State to impose maximum prices on specific products or services should be clearly defined and it should be ensured that regulated entities have incentives to continue to operate efficiently, ensuring both that their profits are not excessive and that they remain viable.
- o. Alternative less intrusive measures to protect consumers include:
  - i. fixing the profit margin or the profit (in absolute figures) for specific goods or services at levels existing before the health crisis;
  - ii. limiting purchase volumes allowed per person or transaction;
  - iii. enabling the State to purchase the goods concerned and make them directly available to consumers as a social policy measure;
  - iv. enabling the State to produce these products and make them available to consumers as a way to strengthen competition on the market;
  - v. regularly publicizing a report on high prices or over-prices which shall include examples of goods or companies that sell at excessively high prices based on objective comparative data (naming and shaming); and
  - vi. generally providing financial incentives - as opposed to State regulation - to deal with external factors (including subsidies and tax waivers).
- p. To fight profiteering during the Covid-19 crisis, the Act of Legislative Content 68/2020 of 20 March 2020 prohibits agreeing upon or receiving financial advantages in relation to

the sale of any good or service which is necessary for the health, nutrition, transport or safety of consumers (in particular, pharmaceutical products, protective equipment and personal hygiene products, such as surgical masks, antiseptics and other disinfection materials), where these benefits exceed the value of the supply to an extent that the gross profit margin for these products or services is higher as compared to the period before 1 February 2020 (Article 21). The General Secretariat for Commerce and Consumer Protection of the Ministry of Development and Investments is competent to deal with these matters (<http://www.mindev.gov.gr>).

- q. As long as the Covid-19 crisis persists, a limit has been placed on the sale of disinfection, ethyl alcoholic and antiseptic products by the Act of Legislative Content 68/2020 (Article 17). These products may only be sold in individual packages. For other products, Greek Competition Law 3959/2011 applies. The HCC will immediately act upon any instance of restriction of the production or supply of products, where this is not objectively justified and is contrary to free competition law rules.

### **C. ECN Joint Statement**

1. On 23 March 2020, the European Competition Network (ECN) - of which the HCC is party - issued a joint statement on how to apply the European competition rules during the Covid-19 crisis, which was transmitted by the HCC on behalf of the European Commission and the ECN on the HCC's website.
2. Taking account that the current extraordinary circumstances may trigger the need for companies to cooperate to ensure the supply and fair distribution of products which are scarce to all consumers, the ECN has stated that it will not, under these circumstances, actively intervene against necessary and temporary measures put in place to avoid a shortage of supply. The ECN considers that under these conditions, such measures will not amount to a competition restriction or, in any event, will generate efficiencies that most likely outweigh any such restriction.
3. The joint statement nonetheless underlines the importance to ensure that products considered essential to protect the health of consumers (such

as face masks and sanitizing gel) remain available at competitive prices, noting that the ECN will not hesitate to take action against companies taking advantage of the current situation by cartelizing or abusing their dominant position.

4. The ECN points out that the existing rules allow manufacturers to set maximum prices for their products. This could prove useful to limit unjustified price increases at the distribution level. This is in line with the HCC's press release of 16 March 2020 on supply and distribution agreements amidst the Covid-19 crisis.

#### **D. Procedural Matters**

1. In the context of the Covid-19 crisis, the HCC has decided that from 24 March 2020 to 30 April 2020:
  - a. The HCC will work with only essential staffing.
  - b. The submission of documents by physical presence or post will no longer be possible and, until further notice, undertakings and citizens are required to communicate with the

HCC electronically or by phone. The same applies for the Directorate General during the same period.

- c. Most HCC staff will work remotely.
- d. Legally binding deadlines continue to apply to the HCC's work and the HCC will continue to exercise its functions, examine the cases brought before it (including mergers) and make decisions. At the same time, it will continue to check timelines and provide, where permissible, extension of deadlines. Any modifications will be notified to interested parties and will be posted on the HCC website.
- e. The HCC Plenary will hold meetings and conferences via teleconference.
- f. The HCC will continue to exercise its enforcement powers by conducting investigation measures (including on-site inspections), as may be necessary to safeguard public interest and effective competition.

## **Litigation, Arbitration & Dispute Resolution**

### **A. Suspension of the Operation of the Courts**

1. The operation of the Greek Courts, the Court of Audits and the Public Prosecutor offices, already temporarily suspended (with some exemptions) for the time period from 16 March 2020 until 27 March 2020, is further suspended until 10 April 2020 by Article 11 of the Act of Legislative

Content of 11 March 2020 and the Joint Ministerial Decision no. Δ1α/Γ.Π.οικ.21159/27.3.2020.

## **Tax**

### **A. Ministerial Decisions (MD) A. 1062/2020 and A. 1063/2020 Amending Ministerial Decisions A.1053/2020 and A.1054/2020 on the Suspension of Debt and VAT Payments**

1. Ministerial Decisions (MD) A.1053/2020 and A.1054/2020 pertaining to the extension of the time limit for the payment of established debts and VAT and the collection of debts and VAT, were amended by MD A.1062/2020 and A.1063/2020 to also include secondary activities. The extension of the time limit for the secondary activities applies only in the case that the gross revenues from such activities exceed those from the main activity (MD A.1053/2020 and A.1054/2020 are included in our Global Report in Tax Briefing Vol. 1).

### **B. Time Limit Extension for Specific Tax Returns**

1. By way of Ministerial Decision A.1064/28.3.2020, the time period limit of the following tax returns has been extended:
  - a. Capital Concentration Tax and Stamp Duty Returns with a time limit period of March and April 2020 - extension for two months starting from the end of the initial time limit period;
  - b. Environmental Duty on plastic bags - extension until 30 June 2020;
  - c. Stay Over Tax (for accommodation facilities) - for tax returns with a time limit period until 31 March 2020 - extension until 29 May 2020 and for tax returns with a time limit until 30 April 2020 - extension until 30 June 2020.

## **BERNITSAS briefing**

d. Gift, Parental Gift and Inheritance Tax - for tax returns with a time limit period ending in

March and April - extension until 29 May 2020.

---



## CONTACTS

### EMPLOYMENT



**Katia Papantonopoulou**  
Counsel  
E  
kpapantonopoulou@bernitsaslaw.com

### EU, COMPETITION & ANTITRUST



**Marina Androulakakis**  
Partner  
E mandroulakakis@bernitsaslaw.com



**Tania Patsalia**  
Senior Associate  
E tpatsalia@bernitsaslaw.com

### LITIGATION, ARBITRATION & DISPUTE RESOLUTION



**Dimitris Roussis**  
Partner  
E droussis@bernitsaslaw.com

### TAX



**Panayotis Bernitsas**  
Managing Partner  
E pbernitsas@bernitsaslaw.com



**Fotodotis Malamas**  
Counsel  
E fmalamas@bernitsaslaw.com

This Briefing is intended to provide general information and is not meant to constitute a comprehensive analysis of the matters set out herein or to be relied upon as legal advice. It is not meant to create a lawyer-client relationship. Legal and other professional advice should be sought before applying any of the information in this Briefing to a specific situation.

Bernitsas Law Firm is a partnership of attorneys regulated by Presidential Decree 81/2005, as currently in force, with its registered address at 5 Lykavittou Street, Athens 106 72, Greece.

# BERNITSAS

[www.bernitsaslaw.com](http://www.bernitsaslaw.com)

5 Lykavittou Street  
GR-106 72, Athens  
Greece

**Phone**

+30 210 339 2950 | +30 210 361 5395

**Fax**

+30 210 364 0805 | +30 210 361 8789

**Email**

[bernitsas@bernitsaslaw.com](mailto:bernitsas@bernitsaslaw.com)

---

Bernitsas Law Firm is a partnership of attorneys regulated by Presidential Decree 81/2005 and Law 4194/2013, as currently in force, with its registered address at 5 Lykavittou Street, Athens 106 72, Greece.

This material is for general information of our clients and other interested parties only and is not intended to provide legal advice. For further information, please speak with your usual contact at Bernitsas Law. For more information about Bernitsas Law, see <https://www.bernitsaslaw.com/>.

© 2020 Bernitsas Law