



SK Legal Alert

28 April 2020

Weinhold Legal

TEMPORARY PROTECTION OF ENTREPRENEURS AND OTHER SUPPORT

In this Legal Alert, we bring you a summary of laws that have been adopted to mitigate the negative impact of the Slovak Government's measures taken in the fight against COVID-19.

TEMPORARY PROTECTION

On 22 April 2020, the Slovak Parliament approved an amendment to Act No. 62/2020 Coll. on certain emergency measures in connection with the spread of COVID-19, with the judiciary and amending certain laws ("**Amendment**"), the main objective of which is to implement temporary protection for entrepreneurs influenced by the negative effects of the spread of COVID-19.

An entrepreneur with a registered office or place of business in the Slovak Republic will be able to apply for temporary protection due to a significant increase in the number of overdue claims or a significant decrease in turnover compared to the same period in 2019 (if the applicant did not operate during that period, February 2020 is considered as the comparable period), which significantly endanger the operation of the company if he/she meets the conditions set by the Amendment, in particular if:

- ▶ He/she had a valid business license prior to 12 March 2020;
- ▶ He/she was not insolvent on 12 March 2020;
- ▶ As of the date of submission of the application no grounds for the dissolution of the entrepreneur exist and neither was bankruptcy was declared nor was the entrepreneur permitted a restructuring ;
- ▶ He/she did not pay out profits or other own resources in 2020 or eliminated the consequences of such actions had they been taken;
- ▶ He/she did not take any measures in 2020 jeopardising his/her financial stability (with the exception of measures mitigating the consequences of COVID-19) or eliminated their consequences;
- ▶ He/she keeps proper accounting records and files financial statements in the Collection of Deeds in accordance with the Commercial Code.

Banks, insurance companies, health insurance companies, securities traders etc. cannot apply for temporary protection.

Temporary protection shall be provided to an entrepreneur based on a decision of a court¹ competent according to the registered office of the legal entity/ place of business of the natural person at the time of application submission ("**Court**"). An application submitted to an

¹ The jurisdiction for provision of temporary protection is as follows: District Court in Trnava for the district of the Regional Court in Trnava and Bratislava, the District Court in Žilina for the district of the Regional Court in Žilina and Trenčín, the District Court in Banská Bystrica for the district of the Regional Court in Banská Bystrica and

Nitra and the District Court in Prešov for district of the Regional Court in Prešov and Košice are competent for granting of temporary protection.



SK Legal Alert

28 April 2020

Weinhold Legal

incompetent court will not be considered. The application shall be filed on a form, a sample of which will be published by the Ministry of Justice of the Slovak Republic on its website. A legal entity shall submit the application electronically; a natural person may submit the application also in person or by post. If the application meets the requirements, the Court will immediately provide the entrepreneur with temporary protection and publish information about it in the Commercial Bulletin without delay. Temporary protection shall be deemed to have been granted on the day following the day of publication of the relevant information in the Commercial Bulletin. If the Court rejects the application (due to a failure to meet the requirements/submission to an incompetent court), it is possible to file objections within 15 days of its delivery on a form, a sample of which will be published by the Ministry of Justice of the Slovak Republic on its website.

The provision of temporary protection to an entrepreneur will have in particular the following effects for the period of its duration:

- ▶ **Bankruptcy:** (i) proceedings on a creditor's petition to declare bankruptcy against an entrepreneur's property filed after 12 March 2020 as well as on the bankruptcy proceedings in which no bankruptcy was declared, on a creditor's petition filed after 12 March 2020, are suspended, (ii) neither the entrepreneur (nor the persons obliged to file the petition on declaration of bankruptcy on his behalf) will be obliged to file a petition on declaration of bankruptcy on his/her property;
- ▶ **Enforcement proceedings** will be suspended if initiated after 12 March 2020 to satisfy a business claim;
- ▶ It will not be possible to start **the exercise of a pledge** of an enterprise, thing, right or other property belonging to the enterprise;
- ▶ **Setting off a claim** which arose against the entrepreneur before the provision of temporary protection, if it is a claim belonging to a person related to the entrepreneur under the Bankruptcy and Restructuring Act, will not be possible against a claim that arose to the entrepreneur after the granting of temporary protection;
- ▶ **Notice/withdrawal from contract/denial of performance due to the entrepreneur's delay, which occurred from 12 March 2020 until the effective date of the Amendment due to the spread of COVID-19**, will not be possible for the other party to a contract unless it would directly jeopardize the operation of his/her business (it does not apply to the period after the effectiveness of the Amendment);
- ▶ The entrepreneur and its statutory body will be obliged to make a sincere **effort to satisfy its creditors** and to give priority to the common interest of the creditors over his/her own interests (she/he must not pay out profits, refrain from disposing of its assets etc.) effective from the submission of the application;



SK Legal Alert

28 April 2020

Weinhold Legal

- ▶ The entrepreneur is **entitled to settle obligations directly related to the maintenance of operation of its enterprise**, which arose after the granting of temporary protection, **in preference** to the obligations previously due.

The temporary protection expires:

- ▶ **on 1 October 2020** unless its duration is extended by regulation of the Government of the Slovak Republic until 31 December 2020 at the latest),
- ▶ on the day following the day of publication of the information about the termination of temporary protection in the Commercial Bulletin by the court on the basis of:
 - a) the entrepreneur's application submitted on the form published by the Ministry of Justice of the Slovak Republic on its website or
 - b) a court decision based on its own initiative or on the basis of a qualified initiative, if the conditions for granting temporary protection have not been met/have expired or the entrepreneur has breached the obligations arising from temporary protection.

The Amendment further lays down a **ban on unilateral termination of leases of an immovable property by lessors until 31 December 2020**, including the lease of an apartment or non-residential premises, for the les-

see's delay in paying rent, including payment for services usually associated with rent, due in the period from 1 April 2020 to 30 June 2020, if the lessee's delay is due to circumstances originating in the spread of COVID-19. This reason for the delay must be sufficiently verified by the lessee. Other reasons for termination of the lease are not affected.

The Amendment also extended the period during which it is not possible to exercise a pledge, or to execute an auction or private enforcement by selling immovable property from 30 April to 31 May 2020.

The text of the Amendment approved by the National Council of the Slovak Republic is available on this [web page](#).

DEFERRAL OF CREDIT PAYMENT

The Act No. 75/2020 Coll. amending Act No. 67/2020 Coll., on certain emergency financial measures in connection with the spread of COVID-19 ("**Amendment 2**") was also published in the Collection of Laws of the Slovak Republic. Amendment 2 lays down the possibility of deferring the repayment of credits (principal, interest) provided by a bank or a person other than a bank to consumers, natural persons - entrepreneurs as well as small² and medium-sized enterprises if they employ less than 250 persons and their annual turnover and /

² According to the Commission Regulation (EU) No. 651/2014, a small

enterprise is an enterprise employing less than 50 persons with a total turnover not exceeding EUR 10 million.



SK Legal Alert

28 April 2020

Weinhold Legal

or total annual balance sheet does not exceed EUR 50 million.

A debtor may request a creditor (the person who offers and provides credits within the scope of his business) to defer the repayments of credit for the period specified in the application, but not more than:

- ▶ 9 months from the due date of the next outstanding credit instalment, the maturity of which occurred after the date of submission of the request for deferral in relation to **a bank/branch of a foreign bank**; the debtor cannot repeatedly request a deferral of the repayment of the same credit;
- ▶ 3 months from the due date of the next outstanding credit instalment, the maturity of which occurred after the date of submission of the request for deferral in relation to **a person other than a bank/branch of a foreign bank**; the debtor may request a deferral of the repayment of the same credit no more than twice during an extraordinary situation.

If the credit instalment, the due date of which occurred no more than 30 days before the date of submission of the request for deferral of credit repayment, is not repaid, the due date of this credit instalment is also deferred and the deferral period begins on the due date of this credit instalment. The debtor may request deferral of the credit repayment during an extraordinary situation in writing based on the form given in Annex No. 2 of Amendment 2.

The creditor is obliged to allow deferral of instalments

with the exception of the cases stipulated in Amendment 2, for example if the request for deferral of payments is not duly completed or if the debtor is in delay with the fulfillment of his/her payment obligations to the creditor to the extent specified in Amendment 2.

The creditor is obliged to inform the debtor who submitted the request for deferral of instalments about the assessment of his request within 30 days from the date of submission of the request.

Amendment 2 entered into force on 9 April 2020 and is available in the Collection of Laws of the Slovak Republic on this web [page](#).

The information contained in this bulletin is presented to the best of our knowledge and belief at the time of going to press. However, specific information related to the topics covered in this bulletin should be consulted before any decision is made. The information contained in this bulletin should not be construed as an exhaustive description of the relevant issues and any possible consequences, and should not be fully relied on in any decision-making processes or treated as a substitute for specific legal advice, which would be relevant to particular circumstances. Neither Weinhold Legal, v.o.s. advokátní kancelář nor any individual lawyer listed as an author of the information accepts any responsibility for any detriment which may arise from reliance on information published here. Furthermore, it should be noted that there may be various legal opinions on some of the issues raised in this bulletin due to the ambiguity of the relevant provisions and an interpretation other than the one we give us may prevail in the future.

For further information, please contact the partner / manager you are usually in touch with or the following Weinhold Legal lawyers:



Tomáš Čermák
Manager

tomas.cermak@weinholdlegal.com



Karin Konečná
Attorney at law

karin.konecna@weinholdlegal.com