

COVID-19

Armenia Legal Guidebook

Key issues to consider

3 April 2020



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Government's legal actions re COVID-19

Is COVID-19 an Epidemic?

- On 11 March 2020 the World Health Organization declared COVID-19 to be pandemic.
- Based on the Armenia Law of 12.12.1992 No. ZR-43 on Ensuring sanitary and epidemiologic safety of the population of the Republic of Armenia and the Order of the Armenian Government of 16.11.1992 No. H.N.-0732-I on Epidemiological Control of Influenza and Sars in the Republic of Armenia SK 3.1.1-021-10 on approval of Sanitary and Epidemiological Rules and Regulations, the Armenian Government declared State of Emergency for the period of 16 March 2020 – 14 April 2020.

What are the key restrictions effective in Armenia?

- The Government of Armenia adopted measures to prevent spread of Covid-19 continue in Armenia.
- The Spring vacation of educational establishments were shifted to earlier period: 2-6 March 2020.
- On 13 March 2020 the Government suspended all public, private schools, kindergartens, vocational schools and universities.
- Public events with the participation of more than 20 persons are banned.
- All sporting, cultural events have been suspended.
- On 16 March 2020 a special commandant's office was created which is led by the Prime Minister Tigran Avinyan.
- On 21 March a 24/7 hotline of special commandant's office was set: when calling from the territory of Armenia: 8141; when calling from abroad: +374 11208141; in case of health issues: 060 83 83 00; Ministry of Foreign affairs: 055620111.
- On 19 March the government has decided to restrict the export of a number of medical supplies from the Republic of Armenia. The export of medical supplies will be allowed by the State Revenue Committee only on the basis of a written consent by the Ministry of Health.
- On 22 and 24 March the Government banned certain types of economic activity, such as:
 1. Shopping centers, except for retail trade of food, beverages, alcoholic beverages, tobacco products, that is, i.e. all malls except for supermarkets inside the buildings;
 2. Activities of bars, nightclubs, dance clubs, cafes and restaurants;
 3. Screening of films,
 4. Casinos,
 5. Bookmaker and Gambling Service Offices.
- Any information on COVID19, including in the social networks spread by individuals or legal entities must be done only by citing official data.
- On 23 March the commandant prescribed Special Time Slots for Seniors – the supermarkets will serve only pensioners from 10 a.m. to 12 noon starting on March 24. The rest of the population is called to refrain from shopping at these hours to safeguard the health of the country's senior citizens.

- On 1 April the public transport operation, with the exception of railway transport, has been suspended.
- Yerevan Metro has been temporarily closed.
- The operation of taxis is still allowed with the restriction to have one driver and one adult passenger (the number of children in the car is not restricted)
- Restrictions on certain types of movement and economic activity have been extended until April 12 inclusive.
- Armenia President has signed package of laws giving the authorities access to citizen's cell phone data to track the contacts of COVID-19 patients. These restrictions shall be applied by the Government as exclusive measures and only during the period of the state of emergency.

The Government issued the following main recommendations:

- Do not go out if there is no urgent need.
- Cafes and restaurants should switch to only delivery mode.
- All public transportation is sanitized daily and it should not be overcrowded.
- Media Advocate Initiative starts monitoring of restriction cases of media activity and censorship conducted by the Commandant's Office.
- Updates and news about the regulations of the state of emergency are being published through the government's official channel "Armenian Unified Infocenter."
- A number of goods, including medicine and other products necessary in the current situation, will be imported to Armenia from the Eurasian Economic Union tax free.
- Some restrictions on cargo imported from Iran were lifted and that process is being regulated. The list of items allowed between Armenia and Iran include diesel oil, medical products, protective glasses, masks, single use chemicals, protective medical jumpsuits. Any merchandise that has medical use, needs the written consent of the Ministry of Health before it can be exported.

On 24 March 2020 the Commandant issued a Decree № 16 "On restrictions of movement of persons throughout the territory of the Republic of Armenia". Restriction on movement starts 23: 59, 16 March 2020 until 23: 59, 31 March 2020

Main provisions of the Decree on restrictions of movement:

- People can go and return to the workplace in accordance with the spheres established by the resolution of the Commandant, in the presence of a written application containing the information set out in the application and passport/ID.
- People can go to stores that sell food products, pharmacies, markets for agricultural products, hospitals and other medical institutions, if there is a written application and passport/ID.
- People can go out in the immediate vicinity of place of residence, only once a day, for the purpose of physical exercise or cycling, if there is a written application (see below) and passport/ID.
- No more than two passengers (including the driver) are allowed to be transferred by personal vehicle. It is also required to have written application and passport/ID.

The written application can be handwritten or via mobile APP and should contain the following:

- Date
- Full name
- Left place of residence at
- Address from where excited
- Address and name of the place visit
- Purposes of visit

- Expected return time
- Signature

Starting 1 April 23:59 the employees should have a Certificate from the employer stating the following:

- Date
- Name Surname of the Employee
- Name of the Company
- Passport/ID number of the Employee
- Position of the Employee
- Start and end of working hours
- Certificate is valid from/to
- Signature of the Employer

Is International travel restricted in Armenia?

- Foreign nationals who are citizens of the highly affected countries or in the last 14 days have been in those states are banned from entering the territory of Armenia (with the exception of representatives of diplomatic missions, consulates and international organizations, and their family members). Below is the list of countries: United States, Australia, European Union member states, Turkey, Israel, Iran, Canada, Korea, Japan, United Kingdom and Northern Ireland, Norway, Switzerland, China, Russia, Georgia
- All Armenian nationals arriving to Armenia from all foreign directions must self-quarantine for 14 days and in the event of developing symptoms immediately contact the hotline of Ministry of Health.
- On 23 March 2020 the citizens of Russia and several countries with an unfavorable epidemiological situation are banned from entering Armenia.

What sanctions apply for breach of Quarantine or Self-Isolation rules?

- 23 March 2020 the Armenian parliament adopted amendments to the Armenian Criminal Code and Code on Administrative Offences to toughen punishment for those breaching the rules of the state of emergency. Although Armenia did not introduce any strict rules for the quarantine, the government proposed to fine all those who would breach the demands of quarantine or self-isolation so that people could be held accountable for negligence. The government suggests that the fine has to be equal to minimum monthly wages multiplied by 100-250 times or an arrest with maximum one month.
- If a person intentionally infected other people, he will be punished by a fine equal to minimum wages multiplied by 400-800 or an arrest up to three months, or an imprisonment up to two years. The punishment will be tougher if the man infected two or more persons, an underage or a pregnant woman. In this case, the individual can be punished up to three years in prison.

Is there a specific plan for stimulating economy?

- The Government of Armenia is preparing the package to provide preferential loans to companies that will need support to pay salaries to their employees, carry out their tax duties, import raw materials, organize production, and make strategic investments.
- Banks may not be too keen on giving extensive loans to farmers under these programs. We have decided that the government should have some involvement.
- The Prime Minister noted that assistance will also be provided to those citizens who become unemployed due to coronavirus.
- As of 18 March:

- Deferral or suspension of tax audits.
- Interest is not to be assessed if an additional income tax or corporate income tax claim arises in the course of the assessment 2020 due to the reduction of advance payments.
- Deferral or instalment applications must be approved.
- Late payment surcharges can be reduced or not assessed upon request.
- Regulations regarding subsidized short time with an easier process are currently drafted and will be in place shortly.
- The Central Bank reduced the refinancing interest rate in Armenia to 5.25%.

Armenia develops business aid package for eliminating COVID19 consequences. Co-financing program for entrepreneurs operating in small, medium and family hotel industry

- For individuals who will be involved in the rural strategy programs we propose, the government will first zero the interests and finance up to 30% in the case of individuals. We expect that with these programs, all citizens with a good credit history will easily get loans.
- Any resident private commercial organization or entrepreneur (who has been active for at least the past one year in Armenia and has a good loan and tax history) in Armenia is covered by the measure (exceptions include banks, credit organizations, insurance companies and pawnbrokers).
- The support will be provided to the businesses in the form of co-financing, re-financing and interest rate subsidizing of targeted loans received by licensed banks or credit organizations active in Armenia.
- The central bank and the finance ministry will define the technical process of applying the tools.



Key Employment Matters

What are Employers' Key Health & Safety Obligations?

- Under the Labor Code of Armenia, employers have duty to ensure safe workplace conditions to safeguard health and safety of the employees. This implies taking reasonable steps to eliminate or minimise hazards and risks to health and safety in the workplace.
- It is advisable that the health and safety measures adopted by employers be in line with the action plan and recommendations adopted by the Government of Armenia, including the following:
- Armenian Government recommended the employees who are not required to physically be present at the workplace, including in the private sector, to work remotely. Working remotely should not interfere with company activity and should not affect employee's pay.

Is it a temporary disability if an Employee is infected with COVID-19?

Yes, the employee that is infected with Covid-19 is to be deemed as employee with temporary inability to work

- Under the Labor Code of Armenia, employee who has temporary inability to work the employee is in a long-term incapacity for work (in case the employee has failed to come to work, due to temporary incapacity for work, for more than 120 consecutive days or for more than 140 days during the last 12 months unless it is defined by law and other regulatory legal acts that the workplace and the position are preserved for a longer period in case of certain diseases), the employer shall have the right to rescind the employment contract.
- Employees who have temporarily lost their capacity for work in cases not provided for by part 1 of this Article, shall retain their workplace and position, where they have not come to work due to temporary incapacity for work not more than 120 successive days or for not more than 140 days within the last 12 months, unless laws and other regulatory legal acts define that in case of certain diseases the workplace and position shall be retained for a longer period.
- Annual leave may also be transferred, if the employee is temporarily incapable to work.

Does Quarantine or Self-isolation amount to temporary disability?

Under the Armenian law a person under quarantine in the medical institution is deemed temporarily disabled (temporarily incapable to work).

- Self-isolation is one of the measures of quarantine, which is undergone in non-medical environment, including in house. The person can continue work from home without breaching self-isolation.
- The person who is in quarantine in the medical institution is given temporary disability certificate. The employer shall have the right to rescind the employment contract both quarantine and self-isolation if a long-term incapacity for work occurs.
- The period in quarantine or self-isolation shall not be treated as annual leave.

Is an employer under duty to pay a salary to a person in quarantine or self-isolation?

If the person under quarantine is deemed temporary disabled (temporarily incapable to work), the Armenian law on Temporary disability benefits prescribes:

- The benefit is 80% of the insured's average monthly earnings in the last 12 months before the incapacity began (or in the total period of covered employment if less than 12 months) divided by 21 (by 25 for a six-day work week). The benefit is paid from the first day of incapacity until recovery or the award of a permanent disability pension.
- If the person in self-isolation continues to work remotely, he/she is treated as a full-time employee.

May an Employee refuse to perform his/her duties during COVID-19, because he/she is concerned to get infected?

- Under the Labor Code, for the period during which the employee has refused to work due to substantiated reasons, relating to presence of danger for safety assurance and health, not undergoing training for safe performance of work and lack of collective safety measures, the employee shall be paid his or her average salary, for the calculation of which the average hourly salary rate shall be accepted as a basis.

May an Employer terminate an employment contract on the grounds related to COVID-19?

- Due to COVID-19 many companies are reducing working hours or are suspending operations that in turn creates need to reduce the workforce.
- The Labour Code exhaustively lists the grounds for suspension of the employment contract. Epidemic or Pandemic is not within the listed grounds and therefore an employer may not suspend relations with reference to epidemic/pandemic unless long-term incapacity of the employee for work (more than 140 days).
- Termination of the employment contract is generally viewed as the last resort, and therefore the employers are advised to take all measures not to terminate the agreements. In this respect it is advisable to first talk to employees, review the employment arrangements, working hours, compensation, offer employees to use their paid and unpaid leave, etc.
- In the event an employee refuses to agree on changes in the employment contract, or take paid or unpaid leave, an employer may have right to terminate the employment agreement. In the context of COVID-19, the termination ground for an employment contract may be "in case of change of the essential conditions of employment" as provided under the Labor Code.
- The Ministry of Labor and Social Affairs has developed and urgently introduced a draft of amendments to the Labor Code which shall regulate:
 1. possibility to organize remote work and do not count employees as in period of idleness and keep the full salary. (Currently the Labour Code states: Payment during idleness. 1. Where during the period of idleness not due to the fault of the employee, the employee is not offered another job that complies with his or her profession, qualification and that he or she could have performed without causing harm to his or her health, the employee shall be paid two-thirds of his or her average hourly salary prior to idleness for every hour of idleness, but not less than the minimum hourly rate established by legislation. 6. The employee shall not be

paid for idleness for reasons considered as force majeure in the manner prescribed by the legislation of the Republic of Armenia, as well as for idleness due to the fault of the employee.).

2. The organization of remote work and changes in work and rest hours should not be considered a change in an essential condition of the employment contract, which will allow employers to be more flexible and not inform about these changes in advance.
3. In cases where an employer in the private sector, due to state of emergency, will not be able to continue working, including remotely, nevertheless, will continue to pay the employee's salary at the minimum hourly rate established by the law. The salary of organizations financed from the state and municipal budgets, as well as employees of the Central Bank of the Republic of Armenia shall be fully preserved.
4. In cases where an employee has unused leave and it is not possible to continue working during state of emergency, it is mandatory for the employer to provide the employee with their unused leave upon their request.
5. In cases where, due to state of emergency, the employee was objectively unable to show up for work or to show up for work late or part-time, prohibit the employer to terminate the employment contract on their own initiative or apply a disciplinary penalty. In these cases, the remuneration shall be provided at least in accordance with the actual time worked or the work performed.
6. In cases when an employee during an unplanned transfer or vacation provided for educational (including pre-school) institutions for the purpose of organizing child care came to work late or part-time, termination of the employment contract on the employer's initiative or apply a disciplinary penalty shall be forbidden. In these cases, full remuneration shall be provided.
7. Provision should be provided that during a state of emergency overtime work may be up to 8 hours instead of the current 4.
8. The transitional provisions also provide that the above regulations will apply to employers and employees starting from 16 March 2020, when the state of emergency was declared.



Employees' Personal Data Protection

What kind of personal data can be processed by an employer in the context of Covid-19?

- Due to the labour safety obligations, an employer must take all reasonable measures to prevent the spread of COVID-19 at the workplace. Therefore, for this purpose and in certain cases an employer may also process those personal data about an employee, which in ordinary circumstances would not be permissible under data protection requirements.
- Under the Law on Protection of Personal Data, data related to individual's health is a special category data. With respect to such personal data, the Law sets higher standard of protection and provides for the exhaustive list of the grounds for its processing. One of the grounds to process such data is for health protection purposes. In such case data processing is permitted without an employee's consent.
- Therefore, an employer may process information about the employee's recent travel history and presence of symptoms, in case the employee has symptoms – with whom and when he/she had contact at the workplace etc.
- An employer must not collect or process employee's personal data that is not objectively related to the prevention of the spread of COVID-19.

What security measures must an employer undertake to ensure the security of personal data?

- With respect to COVID-19, personal data from an employee shall be obtained only by the authorised person in the company (e.g. HC; TSL).
- The access to employee's personal data must be granted only to those individuals who per their official authority need such information in order to ensure the safety of the staff and prevention of the spread of the virus.
- If one of the employees' test is positive for COVID-19, it may be assumed that the employer is authorized to notify other employees about the fact, if this is necessary for the timely identification of other employees who may had contact with the infected colleague.
- An employer shall not disclose the employee's personal data to third parties, other than to the relevant state authorities.



Performance of Contractual Obligations

COVID-19: Force Majeure event?

- COVID-19 or circumstances arising from it, may be regarded as Force Majeure and thus exempt a party from liability due to failure to perform a contractual obligation.
- An event to be a Force Majeure, the following key preconditions must be met:
 - The event must directly cause non-performance of the contractual obligations** – notwithstanding the fact that COVID-19 is a large-scale event, a party must prove that performing one's obligations under a particular contract is impossible. A direct link between failure to perform the obligations and Force Majeure event must be proved.
 - The event must be unusual and must occur beyond a party's control** - by its very nature, COVID-19 is an unusual event and has occurred beyond parties' control. Though in each case, it is necessary to assess whether the circumstances directly impeding the performance of the obligation have occurred beyond a party's control.
 - It should be reasonably impossible to foresee and avoid the event.**
- It might be easier for a party to prove existence of Force Majeure if COVID-19 as the state of emergency is declared in Armenia for the period 16 March 2020 – 14 April 2020.

May a party indicate COVID-19 as an excuse for the failure to perform obligations when a contract does not provide for the Force Majeure clause?

- Force Majeure clauses in the contract make it easier to regulate the relations between the parties during the Force Majeure event.
- In this respect, specific clauses relating to Force Majeure must be analysed, including but not limited to - what is the time-limit to notify the counterparty? what are consequences of non-compliance with the notification procedure? what actions should a party take to mitigate potential damage caused? should a party seek alternative means to perform its obligation, etc.
- In cases where Force Majeure is not provided for by a contract, a party may still rely on the provisions of the Civil Code of Armenia and request exemption from liability. According to the general rule, a person who has not performed an obligation or has performed an obligation in an improper manner in the conduct of entrepreneurial activity shall bear liability unless it proves that proper performance became impossible due to force majeure (consequence of emergency and unpredictable circumstances in given conditions) unless otherwise provided for by law or contract. Such circumstances shall, in particular, not be the violation of obligations by counterparts of the debtor, the absence of required goods at market or of necessary monetary means with the debtor.

What impact can COVID-19 have on tourism agreements?

- Due to COVID-19 lots of countries including Armenia, have imposed restrictions on international flights. In order to avoid the widespread prevalence of COVID-19, further recommendations were made to refrain from traveling to certain countries. Armenian legislation establishes that in cases when impossibility of contract's performance has arisen due to circumstances for which none of the parties bears liability, the customer shall pay for actual expenses incurred by the executor, unless otherwise provided for by law or the contract.

How can the existence of Force Majeure be confirmed?

Force Majeure can be confirmed by different types of evidence, such as statutory acts made by state authorities, certificates issued by administrative bodies, media reports, etc.

Key recommended steps in-house counsel to undertake during Covid-19 in relation to contracts

1. Identify the contracts that can be affected by the COVID-19 pandemic and the obligations that cannot be normally performed.
2. Analyze the clauses that reference force majeure, and clauses referring to assuming the risk for such events.
3. Gather required documents to confirm force majeure event.
4. Notify counterparty of the event. Keep in mind that there may be specific deadlines in the contracts to do so. Keep close track of these deadlines.
5. Renegotiate contractual clauses to avoid litigation.
6. Keep records/evidence of situations created to prepare for any potential disputes.
7. Consider measures to mitigate the potential damage resulting from COVID-19 and alternative ways to fulfil obligations.



Time limits in administrative and legal proceedings

- The issue of limitation periods or time limits arises when a person intends to file a claim to the court or when a person is involved in administrative or legal proceedings. Failure to meet the statutory time frames may extinguish person's right to make a claim or to take certain procedural actions.

Is it possible to suspension of the running of the time period of limitation of actions?

- Under the Armenian Administrative Procedure Code, the running of the time period of limitation of actions shall be suspended if the filing of the action was prevented by an extraordinary circumstance unavoidable under the given conditions (force majeure). If, subject to certain preconditions, the event arising out of COVID-19 is deemed to be Force Majeure, the running of limitation period will be suspended.

Is it possible to restore a term in administrative proceedings?

- A term established by law or by an administrative authority shall be restored, if it is elapsed because of the good excuse. If, subject to certain preconditions, the event arising out of COVID-19 is deemed to be a good excuse, an interested party may request the administrative authority to restore the elapsed term.

Is it possible to extend or restore a procedural time limit?

- A procedural time limit can be established by law or by the court (e.g. if an appeal does not comply with the requirements provided by law, the court will give a party appropriate time to correct the deficiency).
- The court of first instance may extend the time limit set by it and not finished or set by the law (in cases established by the law) and not finished at the request of the party.
- The court may restore procedural time limit in if it finds that the procedural action was not performed due to an excusable cause (i.e., illness, etc.). The court may not restore the time limit in cases established by the law.



What legal actions can we undertake remotely?

Online Services of the National Agency of Public Registry

Remote Public Registry services can be accessed through the website - <https://www.e-gov.am/>.

Remote services include:

- [Electronic Tax Filing System](#)
- [Fill your intellectual property application](#)
- [Information Search System of the Intellectual Property Agency](#)
- [Get your entry visa](#)
- [Electronic auction system of the compulsory enforcement service](#)
- [Legal information system of the Republic of Armenia](#)
- [Unified website for publication of legal acts drafts](#)
- [State Electronic Payment System](#)
- [Electronic system of the Real Property Cadastre](#)
- [National Gallery of Armenia's Collection database](#)
- [Register business on-line](#)
- [Online notification portal](#)
- [Judicial information system.](#)

According to announcement of the Armenian High Judicial Board all courts according to the respective provisions of the Armenian Civil Procedural Code were provided with cameras and other necessary technical equipment in order to provide remote participation of the parties in a court proceeding. Moreover, it is decided that till 31 March 2020 all courts will work on-line (i.e., it is possible to send any document to courts via e-mails).

Unified portal for online requests

A person may use the website – e-request.am to:

- Submit application, request or complaint without visiting a state body (Office of the President, Prime Minister of the Republic of Armenia, all Ministries of the republic of Armenia, State Revenue Committee, etc.).
- Follow application, request or complaint process.
- Receive responses regarding submitted applications and requests on information.



What you need to know if there is State of Emergency declared?

What actions may Government undertake during the State of Emergency?

- During the State of Emergency, the Government may limit various constitutional rights as guaranteed under the Constitution of Armenia.
- Depending on the circumstance, the Government may *inter alia*:
 - introduce a special regime of the entry into and exit of citizens from the areas which are under the state of emergency;
 - if necessary, restrict the right of free movement of citizens and stateless persons and prohibit them from leaving their places of residence or other places of accommodation without an appropriate permit;
 - prohibit the arrangement of gatherings, meetings, street processions and demonstrations, as well as entertainment, sports and other mass actions;
 - make changes to the production, manufacturing, and delivery plans of state enterprises and organizations, and resolve other matters related to their economic activities;
 - introduce quarantines and carry out other mandatory sanitary and anti-epidemic measures;
 - establish control over the means of mass media as provided for by legislation;
 - introduce special rules for using communications facilities;
 - restrict the movement of vehicles and search them;
 - impose a curfew;
 - etc.



For further discussion on how
COVID-19 may affect your business
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