

LAW

ON EMERGENCY MEASURES IN ENFORCEMENT AND BANKRUPTCY
PROCEEDINGS FOR THE DURATION OF SPECIAL CIRCUMSTANCES

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BMWC

On 30 April 2020, the Law on Emergency Measures in Enforcement and Bankruptcy Proceedings for the duration of special circumstances (hereinafter referred to as "**the Emergency Measures Act**" or "**the Act**") was adopted. The Act shall enter into force on the first day of its publication in the Official Gazette, i.e. on 1 May 2020.

The purpose of the Emergency Measures Act is to enact measures aimed at facilitating the position of:

- natural persons to whom part of their remuneration is withheld for the purpose of enforcing foreclosure on a salary, pension or other permanent financial remuneration;
- economic operators threatened with bankruptcy;
- beneficiaries of grants for the implementation of projects financed by national funds and/or the budget of the European Union;
- beneficiaries of aid measures paid due to the special circumstances.

It is important to emphasise that the Emergency Measures Act only applies for the duration of the "special circumstances" that exist as a result of the COVID-19 disease pandemic caused by the SARS-CoV-2 virus and are defined as:

"... an event or a certain condition which could not have been predicted and could not be affected, which threatens the life and health of citizens, property of greater value, significantly damages the environment, disrupts economic activity or causes significant economic damage."

Consequently, we conclude that the intention of the lawmaker was to regulate only those measures during the duration of special circumstances caused solely by the coronavirus COVID-19 disease, and which derives from Article 1 of the Act, as well as from the explanation of the draft of the Act. Therefore, it is questionable whether also other (in the future uncertain, but possible) special circumstances caused by some other causative agents also fall under the application of this Act.

The duration of special circumstances is foreseen from the date of entry into force of the Emergency Measures Act until the expiration of 3 (three) months after it enters into force, or until July 31, 2020. The Act contains a provision authorising the Government of the Republic of Croatia to extend that decision for an additional 3 (three) months, respectively to extend the application of the Emergency Measures Act until 31 October 2020.

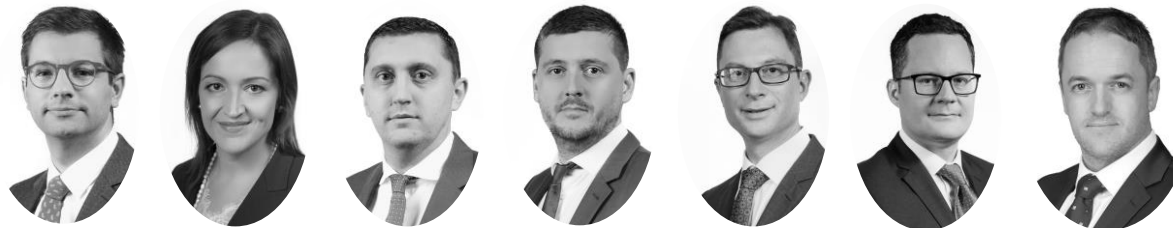
With regards to exemptions from the application, the Emergency Measures Act does not apply to the enforcement carried out in accordance with the provisions of the Law on Enforcement of Foreclosure on Monetary Funds (Official Gazette 68/18, 02/20, 46/20 and 47/20).

In the continuation of this article we give a brief overview of the intervention measures in the enforcement and bankruptcy proceedings covered by the aforementioned Act, and what situations fall outside the application of these measures.

	Description of the measure	Exception / Notes
1.	Stopping enforcement proceedings while special circumstances persist	<ul style="list-style-type: none"> • enforcement proceedings to settle a claim for legal child support, • other claims when enforcement is carried out to settle future instalments when due, • claims that are due, and on unpaid salaries, salary compensation or severance pay, • in the case of insurance measures from criminal proceedings. <p>REMARK:</p> <p>Enforcement proceedings may also be conducted during the special circumstances beyond the aforementioned cases, if the judge considers that, given the circumstances of each individual case, it is necessary to carry out the said procedures urgently, despite special circumstances. Such a decision shall be reasoned specifically by the judge.</p>
2.	The employer or other payer of permanent remuneration is obliged to stop the execution of the foreclosure on the salary or permanent remuneration, and will pay the entire salary to the employer or recipient of permanent remuneration	<ul style="list-style-type: none"> • if the enforcement is carried out to settle the claim for legal child support, • other claims when enforcement is carried out to settle future instalments when due, • claims on due but unpaid salaries, salary compensation or severance pay, • in the case of insurance measures from criminal proceedings. <p>REMARKS:</p> <p>The employer or other payer of permanent remuneration is obliged to receive new enforcement documents for the purpose of acquiring the priority right at settlement, but will not confiscate or transfer the remuneration to the enforcement creditor, except in the case of the above exceptions.</p> <p>If during the special circumstances the condition for transferring the funds confiscated before the occurrence of the special circumstances occurs, the</p>

		employer or other payer of permanent remuneration will transfer the confiscated amount to the enforcement creditor.
3.	Exempted from enforcement shall be funds paid for a specific purpose, intended for the implementation of projects through grants or support or financial instruments financed from national funds and/or the budget of the European Union	
4.	Exempted from enforcement are funds paid as a measure of assistance to legal and natural persons due to special circumstances	
5.	For the duration of special circumstances and within the meaning of the Act, no default interest is due	
6.	Bankruptcy reasons arising during special circumstances are not a prerequisite for filing bankruptcy proceedings	Exceptionally, the debtor may file a petition for bankruptcy, but the Financial Agency and the creditor can only file for the protection of the interests and security of the Republic of Croatia, nature, the human environment and human health.

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