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VANREDNIM STANJEM PROGLAŠENIM USLED EPIDEMIJE
ZARAZNE BOLESTI COVID-19**

**MISDEMEANORS DURING AND RELATED TO THE STATE OF
EMERGENCY PROCLAIMED DUE TO THE EPIDEMIC OF THE
INFECTIOUS DISEASE COVID19**

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I nadležni organi Republike Srbije (u daljem tekstu: Republika), kao što je to učinjeno i u mnogim drugim državama Evrope i sveta, Odlukom o proglašenju vanrednog stanja, koja je doneta i koja je stupila na snagu 15. marta 2020. godine, i Naredbom o proglašenju epidemije zarazne bolesti COVID-19, koja je doneta 19. marta 2020. godine i koja je, takođe, istog dana stupila na snagu (u daljem tekstu: Naredba o epidemiji), proglasili su vanredno stanje u Republici (u daljem tekstu: Vanredno stanje) i epidemiju od većeg epidemiološkog značaja zarazne bolesti COVID-19 (u daljem tekstu: Epidemija) na celoj teritoriji Republike.

U vezi sa proglašenim Vanrednim stanjem usled Epidemije, nadležni organi Republike su, pored pomenutih, doneli više uredbi, odluka, zaključaka i naredbi. Neki od tih normativnih akata se pozivaju ili su doneti na osnovu ili u vezi sa Zakonom o zaštiti stanovništva od zaraznih bolesti (u daljem tekstu: Zakon o zaštiti stanovništva), a neki od njih, predviđaju i posebne prekršaje za određena ponašanja koja predstavljaju kršenje, odnosno, nepostupanje po njihovim odredbama.

Za razliku od prekršaja propisanih Zakonom o zaštiti stanovništva, prekršaji propisani određenim opštim aktima koji su doneti za vreme i vezi sa Vanrednim stanjem se odnose samo deliktna ponašanja izvršena u toku i u vezi sa Vanrednim stanjem i Epidemijom, nakon njihovog ukidanja, izvršenje tih prekršaja, odnosno, ponašanja koja su propisana kao takva, više neće biti kažnjiva kao prekršaj.

Mišljenja smo da je korisno da na jednom mestu damo prikaz svih prekršaja predviđenih normativnim aktima donetim u vezi sa Vanrednim stanjem i Epidemijom i jednog broja prekršaja predviđenih Zakonom o zaštiti stanovništva čije izvršenje je, po našem shvatanju, kao najtipičnije ili najpredvidljivije, moguće u toku ili u vezi sa Vanrednim stanjem.

Like many other states throughout the World, the Republic of Serbia (henceforth: the Republic) has proclaimed the state of emergency due to the epidemic of the infectious disease COVID-19 on the whole territory of the Republic (henceforth: the State of Emergency) by rendering the Decision on Proclamation of the State of Emergency. This decision was rendered on 15 March 2020 and entered into force on the same day. Further, on 19 March 2020 the authorities rendered the Order on Proclamation of the Epidemic of the disease COVID-19 which also entered into force on the same day and in accordance with which the epidemic of major importance has been proclaimed (henceforth: the Epidemic).

In relation to the State of Emergency and due to the Epidemic, the competent authorities of the Republic have rendered several relevant regulations, decisions, conclusions and orders. Some of the mentioned acts are rendered on the basis or in relation to the Law on Protection of People from Infectious Diseases, whereas the others prescribe special misdemeanors for certain behaviors, i.e. for breaking the rules prescribed in them or not acting in accordance with them.

Unlike the misdemeanors prescribed in the Law on Protection of People from Infectious Diseases, the ones which are prescribed in general acts rendered during and in relation to the State of Emergency apply only to the delinquent behavior during and in relation to the State of Emergency and Epidemic. After the Epidemic and the State of Emergency is revoked, the behavior in question will not be punishable.

We believe that it is useful to present misdemeanors which are, in accordance with our opinion, likely to be committed during and in relation to the State of Emergency, i.e. both the ones prescribed in the acts rendered in relation to the Epidemic and the State of Emergency, as well as the relevant misdemeanors prescribed in the Law on Protection of People from Infectious Diseases.

Posebni prekršaji propisani opštim aktima donetim u vreme i u vezi sa Vanrednim stanjem i Epidemijom

Vlada Republike Srbije je, uz supotpis predsednika Republike, dana 15. marta 2020. godine donela Uredbu o merama za vreme vanrednog stanja (u daljem tekstu: Uredba o merama), koja je stupila na snagu istog dana i koja je dopunjena putna uredbama o njenim dopunama od 19, 20, 21, 27. i 28. marta 2020. godine, a kojom su, kako to stoji u njenom članu 1, propisane mere koje se odnose na Vanredno stanje kojima se odstupa od Ustavom zajemčenih ljudskih i manjinskih prava za vreme vanrednog stanja.

Pored ostalih mera, članom 4a Uredbe o merama je propisano to da se, radi zaštite od unošenja i širenja zaraznih bolesti na teritoriji Republike, zabranjuje sletanje na aerodrome i poletanje sa aerodroma u Republici svim vazduhoplovima koji vrše prevoz putnika u međunarodnom vazdušnom saobraćaju. Predviđeno je da se zabrana ne odnosi na letove za prevoz robe i pošte i za traganje i spasavanje, na letove koji se obavljaju u humanitarne svrhe i hitan medicinski tretman, na tehničko sletanje i pozicioniranje vazduhoplova upisanih u Registar vazduhoplova Republike Srbije, na sletanje vazduhoplova u slučaju nužde i na državne vazduhoplove i letove posebne namene.

Članom 4v Uredbe o merama je propisan prekršaj za pravno lice i odgovorno lice u pravnom licu ako, suprotno citiranoj odredbi člana 4a Uredbe o merama, dozvole ili izvrše sletanje na aerodrome ili poletanje sa aerodroma u Republici vazduhoplova koji vrše prevoz putnika u međunarodnom vazdušnom saobraćaju i za ovaj prekršaj je za pravno lice predviđena novčana kazna u iznosu od EUR 1.500.000 do 2.000.000 u dinarskoj protivvrednosti, dok je za odgovorno lice u pravnom licu predviđena novčana kazna u iznosu od EUR 50.000 do 150.000, takođe, u dinarskoj protivvrednosti.

Posebno je, u vezi sa ovim prekršajem, propisano to da kazna koja je izrečena za njegovo izvršenje ne utiče na visinu odštetnog zahteva koji Republika, preko nadležnih organa u oblasti vazdušnog saobraćaja, može, zbog pričinjene štete ili neizvršene obaveze ili drugih troškova nastalih usled izvršenog prekršaja, zahtevati od pravnog lica koje je učinilac ovog prekršaja.

Special Misdemeanors prescribed in the general acts rendered during and in relation to the Epidemic and the State of Emergency

On 15 March 2020, the Government has rendered and the President countersigned the Regulation on the Measures during the State of Emergency (henceforth: the Regulation on Measures) which entered into force on the same day. The said regulation has been amended several times, namely on 19, 20, 21, 27 and 28 March 2020. Article 1 of the Regulation on Measures prescribes special measures related to deviation from human rights and the rights of minorities prescribed in the Constitution during the State of Emergency.

Among other measures, the article 2a of the Regulation on Measures stipulates that takeoff and landing is forbidden on all airports on the territory of the Republic to all aircrafts conducting international transport of passengers for the purpose of preventing the import and spread of the infectious diseases. The Regulation on Measures further stipulates that the ban in question does not apply to the aircrafts transporting cargo and posts, search and rescue aircrafts, flights conducted for humanitarian purposes and emergency medical treatment, technical landing of the aircrafts registered in the Serbian Aircraft Registry, emergency landing, state aircrafts and special purpose aircrafts.

The article 4v of the Regulation on Measures prescribes the special misdemeanor for the legal person and the responsible person in the legal person if they execute or allow takeoff or landing of the aircraft conducting international transport of passengers contrary to the article 4a of the said regulation. The Regulation on Measures prescribes the penalty ranging from EUR 1,000,000.00 to EUR 2,000,000.00 in the RSD countervalue for the legal person and from EUR 50,000.00 to EUR 150,000.00 in the RSD countervalue for the responsible person in the legal person.

The Regulation on Measures further prescribes that the imposed sentence does not affect the compensation that the Republic, through its air traffic authorities, may claim from the legal person who commits this misdemeanor.

Više mera koje se odnose na saobraćaj predviđeno je članom 4b Uredbe o merama. Njime je, između ostalog, propisano I to da se, radi zaštite od širenja zaraznih bolesti, na teritoriji Republike zabranjuje, prvo, obavljanje javnog prevoza putnika u dramskom saobraćaju autobusima, osim posebnog linijskog prevoza koji će privredni subjekti obavljati isključivo radi realizacije radnih zadataka zaposlenih, drugo, obavljanje međunarodnog i unutrašnjeg železničkog saobraćaja za prevoz putnika i, treće, obavljanje međunarodnog i domaćeg vodnog saobraćaja za prevoz putnika.

U vezi sa navedenim zabranama iz člana 4b Uredbe o merama, njenim članom 4g je predviđen prekršaj za pravno lice i za odgovorno lice u pravnom licu ako, suprotno odredbi člana 4b Uredbe o merama, obavljaju međumesni prevoz putnika autobusima, ili obavljaju međunarodni i unutrašnji železnički saobraćaj za prevoz putnika ili obavljaju međunarodni i domaći vodni saobraćaj za prevoz putnika.

Za ovaj prekršaj je za pravno lice predviđena novčana kazna u iznosu od RSD 1.500.000 do 2.000.000, dok je za odgovorno lice u pravnom licu predviđena novčana kazna u iznosu od RSD 50.000 do 150.000. Posebni prekršaji su predviđeni za fizičko lice i preduzetnike ako, suprotno članu 4b Uredbe o merama, obavljaju međunarodni i domaći vodni saobraćaj za prevoz putnika i kazna koja je, kao novčana, predviđena za fizičko lice koje je učinilac ovog prekršaja propisana je u rasponu od RSD 50.000 do 150.000, dok je za preduzetnika propisana novčana kazna u rasponu od RSD 300.000 do 1.000.000.

Vlada Republike Srbije je 22. marta 2020. godine donela i Uredbu o ograničavanju maloprodajne cene zaštitnih sredstava za vreme vanrednog stanja nastalog usled bolesti COVID-19 izazvane virusom SARS-CoV-2 (u daljem tekstu: Uredba o cenama zaštitnih sredstava) kojom su ograničene maloprodajne cene zaštitne opreme – maski (u daljem tekstu: Zaštitna sredstva) za vreme Vanrednog stanja.

Ova Uredba o cenama zaštitnih sredstava se odnosi na Zaštitna sredstva koje Republički fond za zdravstveno osiguranje distribuira privrednim subjektima u cilju blagovremenog i ravnomernog snabdevanja tržišta.

In article 4b the Regulation on Measures stipulates several measures related to ground traffic. Namely, it prescribes that for the purpose of prevention of spread of infectious diseases the public transportation of passengers in buses is forbidden, with exception to the special transportation organized by the businesses solely for the purpose of the execution of work tasks by the employees. Further, the Regulation on Measures prescribed the ban on all international and domestic rail and water traffic for passenger transport.

The article 4g of the Regulation on Measures prescribes the special misdemeanor for the legal person and the responsible person in the legal person if they conduct intercity transport of passengers in buses, i.e. if they conduct international or domestic railway or water traffic for the purpose of passenger transport.

The Regulation on Measures prescribes the penalty ranging from RSD 1,000,000.00 to RSD 2,000,000.00 for the legal person and from RSD 50,000.00 to RSD 150,000.00 for the responsible person in the legal person. Special misdemeanor is also prescribed for the natural persons or entrepreneurs who conduct international or domestic transport of passengers by water. The Regulation on Measures prescribes the penalty for this misdemeanor ranging from RSD 50,000.00 to RSD 150,000.00 for a natural person and from RSD 300,000.00 to RSD 1,000,000.00 for an entrepreneur.

On 22 March 2020 the Government of the Republic of Serbia has rendered the Regulation on limiting the retail price of protective equipment during the state of emergency due to the disease Covid-19 caused by the virus SARS-CoV-2 (henceforth: the Regulation on Prices of Protective Equipment).

This regulation limits the retail prices of the protective equipment – masks (henceforth: the Protective Equipment) during the State of Emergency and is related to the Protective Equipment distributed by the Republic Health Insurance Fund to the business entities for the purpose of timely and equal market supply.

Shodno članu 2 Uredbe o cenama zaštitnih sredstava, Republički fond za zdravstveno osiguranje, na osnovu zahteva, odnosno, dostavljene narudžbenice, pravnim licima koja se bave distribucijom Zaštitnih sredstava, isporučuje Zaštitna sredstva u količini od najmanje 50.000 komada.

Pravna lica koja se bave distribucijom zaštitnih sredstava, uz pomenutu narudžbenicu traženih Zaštitnih sredstava, shodno stavu 2 člana 2 Uredbe o cenama zaštitnih sredstava, u obavezi su i da dostave spisak privrednih subjekata koji se bave maloprodajom Zaštitnih sredstava.

Ako podaci iz stava 2 člana 2 Uredbe o cenama zaštitnih sredstava koji se, uz narudžbenicu, prilažu Republičkom fondu za zdravstveno osiguranje nisu istiniti, član 5 Uredbe o cenama zaštitnih sredstava predviđa prekršaj za pravno lice i odgovorno lice u pravnom licu za koji je propisana novčana kazna u iznosu od RSD 300.000 do 2.000.000 za pravno i od RSD 50.000 do 150.000 za odgovorno lice u pravnom licu.

Dalje, Uredba o cenama zaštitnih sredstava u članu 3 propisuje i to da maloprodajna cena Zaštitnih sredstava koja su nabavljena u skladu sa ovom Uredbom o cenama zaštitnih sredstava može iznositi maksimalno RSD 120 po komadu, sa uračunatim PDV-om,

U članu 4 propisuje to da privredni subjekti koji se bave maloprodajom Zaštitnih sredstava za vreme Vanrednog stanja fizičkom licu, koje je krajnji kupac, po jednoj kupoprodaji, mogu isporučiti najviše deset komada Zaštitnih sredstava, bez obzira na to da li fizičko lice – krajnji kupac Zaštitna sredstva nabavlja za sebe ili za potrebe nekog pravnog lica.

Postupanje suprotno citiranim odredbama članova 3 i 4 Uredbe o cenama zaštitnih sredstava predviđeno je kao prekršaj za koji mogu odgovarati i pravno lice, i odgovorno lice u pravnom licu, i preduzetnik i fizičko lice.

Zaprećene kazne su novčane i, u zavisnosti od toga ko je učinilac ovog prekršaja, propisane su u rasponu od RSD 300.000 do 2.000.000 za pravno lice, od RSD 200.000 do 500.000 za preduzetnika i u rasponu od RSD 50.000 do 150.000 za odgovorno lice u pravnom licu i fizičko lice.

In accordance with the article 2 of the Regulation on Prices of the Protective Equipment, after receiving an order from an entity that conducts distribution of the Protective Equipment, the Republic Health Insurance Fund provides the said entity with at least 50,000.00 pieces of the Protective Equipment.

In accordance with the article 2 paragraph 2 of the Regulation on Prices of Protective Equipment, the legal entity that conducts distribution is obliged to provide the Republic Health Insurance Fund with the list of retail stores that sell the Protective Equipment and to whom it plans to distribute the Protective Equipment.

If the information presented in accordance with the article 2 paragraph 2 of the Regulation on Prices of Protective Equipment is false, in accordance with the article 5 of the said regulation the legal entity will be penalized in the amount ranging from RSD 300,000.00 to RSD 2,000,000.00, whereas the responsible person within the legal entity will be penalized in the amount ranging from RSD 50,000.00 to RSD 150,000.00.

In accordance with the article 3 of the Regulation on Prices of the Protective Equipment, the maximum price for the Protective Equipment acquired under this regulation is RSD 120.00 per piece, including VAT.

Further, the article 4 of the same regulation prescribes that entities conducting retail sale of the Protective Equipment may sell up to 10 pieces of the Protective Equipment to a single person-the final customer during one purchase, notwithstanding whether this person acquires the Protective Equipment for himself/herself or for a legal entity.

The Regulation on Prices of the Protective Equipment prescribes the penalties for acting in violation of its articles 3 and 4 for natural persons, entrepreneurs, legal entities and responsible persons within legal entities.

The prescribed penalty for a legal entity ranges from RSD 300,000.00 to RSD 2,000,000.00, for entrepreneurs from RSD 300,000.00 to RSD 2,000,000.00 and for natural persons and responsible persons in legal entities from RSD 50,000.00 to RSD 150,000.00.

U vezi sa svakodnevnim životom pojedinaca, kao najznačajnije, ili mere koja izazivaju najviše medijske pažnje u vreme Vanrednog stanja, jesu mere koje je, dana 18. marta 2020. godine, doneo Ministar unutrašnjih poslova, uz saglasnost ministra zdravlja, Naredbom o ograničenju i zabrani kretanja lica na teritoriji Republike Srbije (u daljem tekstu: Naredba). Ova Naredba je stupila na snagu istog dana kada je i doneta i dva puta je menjana i dopunjavana naredbama o njenim izmenama i dopunama od 21. i 22. marta 2020. godine. Mere koje se odnose na ograničenje i zabranu kretanja na teritoriji Republike predviđene ovom Naredbom donete su radi suzbijanja i sprečavanja širenja zarazne bolesti COVID-19 i zaštite stanovništva od te bolesti.

Tako je tačkom 1 Naredbe, osim nedeljom u periodu od 03 do 08 časova, zabranjeno kretanje na javnim mestima, odnosno, kretanje van stanova, prostorija i objekata za stanovanje u stambenim zgradama i izvan domaćinstava (okućnica).

- licima sa navršениh 65 i više godina – u naseljenim mestima preko 5.000 stanovnika i
- licima sa navršениh 70 i više godina života – u naseljenim mestima do 5.000 stanovnika.

Tačkom 2 Naredbe je svim licima zabranjen izlazak van stanova, prostorija i objekata za stanovanje u stambenim zgradama i izvan domaćinstava (okućnica) u vremenu od 17 do 05 časova, osim subotom, kada zabrana traje u periodu od 17 od 03 časova, i nedeljom, kada zabrana važi u periodu od 17 do 05 časova.

Naredbom su predviđeni i izuzeci od zabrana propisanih njenim tačkama 1 i 2 i oni se odnose na zdravstvene radnike sa licencom, pripadnike Ministarstva unutrašnjih poslova, pripadnike Ministarstva odbrane i pripadnike službi bezbednosti i Vojske Srbije koji su na zadatku, lica kojima je Ministarstvo unutrašnjih poslova izdalo dozvolu za kretanje, domaće i strane državljane koji su članovi posada teretnih motornih vozila, posada teretnih brodova, vozopratno osoblje železničkih vozila i članovi posada i kabinskog osoblja vazduhoplova kojima se obavlja međunarodni prevoz u drumskom, železničkom, vodnom i vazdušnom saobraćaju i fizička lica kojima je neodložno potrebna zdravstvena pomoć i najviše još dva lica u pratnji tog lica.

Tačkom 5 Naredbe je predviđeno da će se nepoštovanje zabrana iz njenih citiranih tačaka 1 i 2 kazniti za krivično delo u skladu sa Krivičnim zakonikom,

When it comes to everyday life, the measures that attract most attention from the media are the ones imposed in the Order on Restriction and Prohibition of Movement of Persons on the Territory of the Republic of Serbia which was rendered by the Minister of Interior with consent of the Minister of Health on 18 March 2020 (henceforth: the Order). This order entered into force on the same day and has been amended twice, namely on 21 and 22 March 2020. The measures related to the restriction and prohibition of movement are imposed for the purpose of suppression and prevention of spread of COVID-19 and protection of the people from this infectious disease.

The article 1 of the Order prescribes the prohibition of movement in public places, i.e. outside apartments, spaces and objects for living, spaces for living within the apartment buildings and outside household (yards) to:

- All persons older than 65 years in settlements with more than 5,000 residents;
- All persons older than 70 years in settlements with up to 5,000 residents.

Article 2 of the Order prescribes prohibition to all persons to leave the apartments, spaces and objects for living, spaces for living within the apartment buildings and households (yards) from 5 PM to 5 AM on working days. On Saturdays the said prohibition lasts from 5 PM to 3 AM and on Sundays from 3 PM to 5 AM.

The described prohibitions do not apply to licensed healthcare workers, Ministry of Interior, Ministry of Defense, state security services and Serbian Army officers on duty, persons with the special movement certificate issued by the Ministry of Interior, Serbian and foreign crew members of the vehicles, cargo ships, trains and aircrafts which are conducting international and domestic land, water and air transport and, finally, persons who are in urgent need of medical care with maximum two persons in escort.

The article 5 of the Order prescribes that non-compliance with the cited provisions implies criminal responsibility in accordance with the Criminal Law,

a za prekršaj u skladu sa Uredbom o prekršaju za kršenje naredbe ministra unutrašnjih poslova o ograničenju i zabrani kretanja lica na teritoriji Republike Srbije (u daljem tekstu: Uredba o prekršaju) koju je donela Vlada Republike dana 21. marta 2020. godine i koja je toga dana i stupila na snagu.

Uredbom o prekršaju je, njenim članom 1, propisano da će se novčanom kaznom u rasponu od RSD 50.000 do 150.000 kazniti za prekršaj lice koje prekrši zabranu iz tačkaka 1. 2 Naredbe, a posebno je, njenim članom 2, propisano to da se postupak za ovaj prekršaj može pokrenuti i dovršiti i u slučaju kada je protiv njegovog učinioca pokrenut ili je u toku i krivični postupak za krivično delo koje obuhvata obeležja ovog prekršaja bez obzira na zabranu iz člana 8 stav 3 Zakona o prekršajima. Pomenutim članom 8 stav 3 Zakona o prekršajima je propisano to da se protiv učinioca prekršaja koji je u krivičnom postupku pravnosnažno oglašen krivim za krivično delo koje obuhvata i obeležja prekršaja ne može za taj prekršaj pokrenuti prekršajni postupak, a ako je pokrenut ili je u toku, ne može se nastaviti i dovršiti.

Navedena odredba člana 2 Uredbe o prekršaju predstavlja jasan primer odstupanja od Ustavom zagwarantovanih ljudskih i manjinskih prava koje je, shodno članu 200 Ustava, dopušteno u uslovima proglašenog Vanrednog stanja. Konkretno odstupanje se odnosi na pravo na pravnu sigurnost predviđeno u članu 34 Ustava, koji, pored ostalog, u svom stavu 4, a čiju konkretizaciju u odnosu na prekršajni postupak predstavlja citirana odredba člana 8 Zakona o prekršajima, propisuje to da niko ne može biti gonjen ni kažnjen za krivično delo za koje je pravnosnažnom presudom oslobođen ili osuđen ili za koje je optužba pravnosnažno odbijena ili postupak pravnosnažno obustavljen, niti sudska odluka može biti izmenjena na štetu okrivljenog u postupku po vanrednom pravnom leku. Istim zabranama podleže vođenje postupka za neko drugo kažnjivo delo.

Dakle, u slučaju prekršaja iz Uredbe o prekršaju, mogu se paralelno pokrenuti ili voditi, kao i okončati i prekršajni postupak za navedeni prekršaj i krivični postupak za krivično delo koje obuhvata elemente ovog prekršaja.

as well as responsibility for misdemeanor in accordance with the Regulation on Misdemeanor for Violating the Order on Restriction and Prohibition of Movement of Persons on the Territory of the Republic of Serbia Rendered by the Minister of Interior (henceforth: the Regulation on Misdemeanor). The Regulation on Misdemeanor was rendered on 21 March 2020 and entered into force on the same day.

It is stipulated in the article 1 of the Regulation on Misdemeanor that the person who violates the prohibition prescribed in the articles 1 and 2 of the Order shall be penalized in the amount of RSD 50,000.00 to RSD 150,000.00. Further, the article 2 of the said regulation prescribes that misdemeanor proceedings can be initiated and finalized even if the criminal procedure for the same violation has been initiated or is in progress, notwithstanding the limitation from the article 8 paragraph 3 of the Law on Misdemeanors. The abovementioned article 8 paragraph 3 of the Law on Misdemeanors stipulates that the misdemeanor procedure cannot be initiated if the perpetrator has been found guilty for the same illegal act in the criminal procedure. Further the cited article prescribes that if such procedure has already been initiated, it cannot be continued or finalized.

The cited article 2 of the Regulation on Misdemeanor represents a clear example of deviation from the human rights granted by the Constitution. Such deviation is allowed during the proclaimed State of Emergency in accordance with the article 200 of the Constitution. The deviation in question is related to the right granted in the article 34 paragraph 4 of the Constitution, which stipulates that no person may be prosecuted or sentenced for a criminal offence for which he has been acquitted or convicted by a final judgement, for which the charges have been rejected or criminal proceedings dismissed by final judgement, nor may court ruling be altered to the detriment of a person charged with criminal offence by extraordinary legal remedy. The same prohibition is applicable to all other proceedings conducted for any other act punishable by law.

Therefore, if a person commits the misdemeanor prescribed in the Regulation on Misdemeanor, he/she can be prosecuted and sentenced both in criminal and in the misdemeanor proceeding for the violation prescribed in the said regulation.

Neki od prekršaja propisanih Zakonom o zaštiti stanovništva od zaraznih bolesti

Kao što smo već rekli, Zakon o zaštiti stanovništva, takođe, propisuje više prekršaja u vezi sa kršenjem ili nepostupanjem po njegovim odredbama, a mi ćemo, na ovom mestu, zbog njihove brojnosti i raznolikosti, kao i zbog većeg broja varijanti u odnosu na to ko može biti njihov mogući učinilac, pokušati da navedemo svega nekoliko od njih, čije nam izvršenje deluje kao najrealnije moguće u uslovima Vanrednog stanja i proglašene Epidemije.

Putem medija smo informisani da pojedinci krše zabranu mere karantina koja je uvedena Naredbom o organizovanju i sprovođenju mere karantina (u daljem tekstu: Naredba o karantinu) donetom dana 16. marta od strane ministra zdravlja, a koja je na snagu stupila narednog dana, a koja je u direktnoj vezi sa Odlukom Vlade o proglašenju bolesti COVID-19 izazvane virusom SARS-CoV-2 zaraznom bolešću koja je doneta 10. marta 2020, godine, kada je stupila i na snagu (u daljem tekstu: Odluka o zaraznoj bolesti COVID-19), i koja je menjana i dopunjavana odlukama Vlade o njenoj izmeni i dopuni od 11, 13, 14, 15, 16, 18, 19, 20, 21, 27. i 28. marta 2020. godine.

Naredbom o karantinu je predviđeno to da se njome naređuje organizovanje i sprovođenje mere karantina radi sprečavanja pojave, širenja i suzbijanja zarazne bolesti COVID-19, pored ostalog, i ograničenjem slobode kretanja i obaveznim zdravstvenim pregledima lica koja su bila ili za koja postoji sumnja da su bila u kontaktu sa licima obolelim od zarazne bolesti COVID-19 u vremenu trajanja maksimalne inkubacije. Stavovima 3, 4 i 5 Odluke o zaraznoj bolesti COVID-19 je propisano da se lica koja su obolela od ove bolesti, kao i lica kod kojih je testiranjem utvrđeno prisustvo virusa SARS-CoV-2, izoluju i leče u objektima, koji su posebno određeni i pripremljeni za njihovu izolaciju, odnosno, lečenje i da su ova lica dužna da prihvate izolaciju u za to određenim objektima i da se pridržavaju mera i uputstava koje naredi nadležni doktor medicine, specijalista epidemiologije.

Predviđeno je i to da će se ova lica, ukoliko se ne pridržavaju naloga doktora medicine o izolaciji i lečenju u posebno određenim objektima, prinudno izolovati u prisustvu predstavnika organa uprave nadležnog za unutrašnje poslove.

Some of the Misdemeanors Prescribed in the Law on Protection of People from Infectious Diseases

As it was already said in the beginning, the Law on Protection of People from Infectious Diseases also prescribes several misdemeanors for violations, i.e. for not acting in accordance with this law. Since the law in question prescribes various types of misdemeanors, we will hereby describe only the ones which we believe to be the most likely to be committed during the State of Emergency and Epidemic.

We have all been informed by the media that certain individuals are violating quarantine imposed in accordance with the Order on Organizing and Implementation of Quarantine (henceforth: the Order on Quarantine) which was rendered on 16 March 2020 by the Minister of Health and entered into force on the next day. The Order on Quarantine is directly related to the Decision on Declaring the Disease COVID-19 Caused by the Virus SARS-CoV-2, an Infectious Disease (henceforth: the Decision on COVID-19) which was rendered by the Government on 10 March 2020, entered into force on the same day and amended on 11, 13, 14, 15, 16, 18, 19, 20, 21, 27 and 28 March 2020.

The order on quarantine orders the organization and implementation of quarantine for the purpose of suppression and preventing the spread of COVID-19. The quarantine measures include, inter alia, restriction of movement and mandatory medical examinations during the maximum incubation period to persons who have (likely) been exposed to COVID-19. The paras. 3, 4 and 5 of the Decision on COVID-19 prescribe that the persons who are infected with COVID-19/the persons with established presence of the virus SARS-CoV-2 must be isolated and treated in specially prepared objects, i.e. they are obliged to accept the isolation and treatment, as well as to act in accordance with the measures and instructions given by the competent doctor-epidemiologist.

It is further prescribed that if the infected person fails to act in accordance with everything said above, they will be forcibly isolated in the presence of the Ministry of Interior officer.

U vezi sa ovim, Zakon o zaštiti stanovništva je u svom članu 85 stav 1 tačka 5 predvideo prekršaj za koji je propisana novčana kazna u iznosu od RSD 30.000 do 150.000 za fizičko lice koje se ne pridržava mera karantina.

Vezano za meru karantina, za pravna lica, preduzetnike i odgovorna lica u pravnim licima, od značaja je, kako smatramo, odredba člana 81 stav 1 tačka 5 Zakona o zaštiti stanovništva koja propisuje prekršaj za pravno lice koje privremeno ne ustupi svoj objekat na korišćenje radi suzbijanja zarazne bolesti, odnosno, epidemije te zarazne bolesti u slučaju kada je taj objekat aktom Vlade određen za karantin. Novčane kazne koje su predviđene za ovaj prekršaj kreću se u rasponima od RSD 50.000 do 500.000 za pravno lice, od RSD 30.000 do 150.000 za odgovorno lice u pravnom licu i od RSD 30.000 do 150.000 za preduzetnika.

Takođe, putem medija smo informisani i o tome da pojedinci kriju ili prikrivaju simptome svoje bolesti, a da nastavljaju da se kreću i funkcionišu u društvu, čime opasnosti od zaraze i samoj zarazi izlažu veći broj ljudi.

U vezi sa ovim, pomenutim članom 85 stav 1 Zakona o zaštiti stanovništva, njegovim tačkama 1 i 9, predviđena su kao prekršaj i kažnjiva su istom novčanom kaznom i takva ponašanja fizičkog lica koje, ili u postupku epidemiološkog ispitivanja ne govori istinu i ne daje tačne i potpune podatke od značaja za otkrivanje načina i izvora i načina prenošenja zarazne bolesti, odnosno, za otkrivanje, sprečavanje i suzbijanje epidemije te zarazne bolesti ili koje se, po potrebi, ne podvrgne određenim medicinskim ispitivanjima, ili koje je obolelo od zarazne bolesti ili je nosilac uzročnika zarazne bolesti, a ne daje istinite podatke i ne pridržava se određenih mera i uputstava zdravstvene ustanove ili naloga doktora medicine, naročito u pogledu sprečavanja prenošenja zarazne bolesti.

Na kraju, za pojedince, pravna lica i odgovorna lica u njima i preduzetnike, kako smatramo, važno je da budu upoznati sa svojom obavezom predviđenom odredbom člana 53 stav 1 tačka 4 Zakona o zaštiti stanovništva koja propisuje obavezno učešće svih pravnih lica, preduzetnika i građana u suzbijanju zarazne bolesti i korišćenje određenih objekata, opreme i prevoznih sredstava radi suzbijanja zarazne bolesti.

In relation to this, in the article 85 paragraph 1 item 5 the Law on Protection of People from Infectious Diseases prescribes penalty ranging from RSD 30,000.00 to RSD 150,000.00 for the persons not abiding by the measures related to quarantine.

Further in relation to quarantine, the same law prescribes misdemeanor for the failure to put the object at disposal for the purpose of suppression of infectious disease if that object has been determined as quarantine by the Government. The prescribed penalties for the said misdemeanors range from RSD 50,000.00 to RSD 500,000.00 for legal entities, from RSD 30,000.00 to RSD 150,000.00 for the responsible persons in legal entities and from RSD 30,000.00 to RSD 150,000.00 for entrepreneurs.

We have also been informed by the media that certain individuals are hiding the symptoms of the disease and continue to engage in regular activities, by which actions they are endangering significant number of people.

In relation to this, the previously cited article, in its items 1 and 9, prescribes the same penalty for failure to tell true and to give complete and accurate information during the epidemiologic examination, when such information is relevant for discovering the source of the disease and the ways of its transmission, i.e. for discovering, prevention and suppression of epidemic of such disease. Same penalty is prescribed for the person who fails to undertake medical examination if such examination is necessary, or is infected with the disease or is its carrier, but fails to provide correct information or does not abide by the measures or instructions given by the competent institution or orders given by the doctor, especially in relation to prevention of spreading the disease.

Finally, we consider that it is of importance for some individuals, legal entities and their responsible persons to be informed about their duty under the article 53 paragraph 1 item 4 of the Law on Protection of People from Infectious Diseases, which stipulates the obligatory participation of all legal entities, entrepreneurs and citizens in suppression of an infectious disease, which encompasses the use of objects, equipment and vehicles for this purpose.

Nepostupanje po naređenim merama za suzbijanje zarazne bolesti i neuzimanje obaveznog učešća u njenom suzbijanju propisano je kao prekršaj odredbom člana 77 stav 1 tačka 3 Zakona o zaštiti stanovništva za čije izvršenje je propisana novčana kazna u rasponu od RSD 50.000 do 2.000.000 za pravno lice, od RSD 30.000 do 150.000 za odgovorno lice u pravnom licu, od RSD 50.000 do 500.000 za preduzetnika i u rasponu od RSD 20.000 do 150.000 za fizička lica.

Nadamo se da će vam ove informacije koje smo pokušali da vam sažeto izložimo biti od koristi u toku rada i života u vanrednom stanju uopšte i da smo uspjeli da vam donekle pojasnimo koja sve to ponašanja mogu biti kažnjiva kao prekršaji učinjeni u toku ili u vezi sa Vanrednim stanjem i proglašenom Epidemijom i šta, u smislu poštovanja određenih propisa, predstavlja obavezu svih nas.

Verujemo da znate, i koristimo priliku i da vam ponovimo, da smo tu za vas i ovim vremenima, da sve vreme i dalje radimo za svoje klijente i da vam stojimo na raspolaganju za svaku pomoć i eventualnu konsultaciju ukoliko vam budu bile potrebne.

Failure to act in accordance with the measures and failure to participate in infectious disease suppression is qualified as misdemeanor under the article 77 para 1 item 3 of the same law. The prescribed penalty ranges from RSD 50,000.00 to RSD 2,000,000.00 for legal entities, from RSD 30,000.00 to RSD 150,000.00 for responsible person in legal entity, from RSD 50,000.00 to RSD 500,000.00 for entrepreneurs and from RSD 20,000.00 to RSD 150,000.00 for natural persons.

We hope that this information, which we tried to present in briefest form, will be of use to you in your work and life in general during the state of emergency. We hope that we managed to clarify which actions may be punishable as misdemeanors during the State of Emergency and the Epidemic, as well as the duties of each and every one of us during this troubled period.

We believe that you already know, but we will use this opportunity to repeat that we remain at your disposal at these difficult times. We continue working for our clients and are available if you need any assistance or consultation.



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