



JPM

JANKOVIĆ POPOVIĆ MITIĆ

CORONAVIRUS

**UREDBA O ROKOVIMA U SUDSKIM POSTUPCIMA
ZA VREME VANREDNOG STANJA**

**REGULATION ON DEADLINES IN COURT PROCEEDINGS
DURING A STATE OF EMERGENCY**

UREDBU O ROKOVIMA U SUDSKIM POSTUPCIMA ZA VREME VANREDNOG STANJA/
REGULATION ON DEADLINES IN COURT PROCEEDINGS DURING A STATE OF EMERGENCY

Publisher: JPM Janković Popović Mitić
NBGP Apartmani, Vladimira Popovića 6

www.jpm.rs

Autor: Jelena Milnovic Partner

Design and prepress: JPM Janković Popović Mitić

Copyright: © JPM Janković Popović Mitić 2020. All rights reserved.

Disclaimer:

The sole purpose of this publication is to provide information about specific topics.

It makes no claims to completeness and does not constitute legal advice.

The information it contains is no substitute for specific legal advice.

If you have any queries regarding the issues raised or other legal topics, please get in touch with your usual contact at JPM Jankovic Popovic Mitic.

Kako nas je istorija naučila da posle svih velikih tragedija, kakva je i ova koja je pogodila svet, dolazi vreme preporoda, a da i tokom samih vanrednih okolnosti, ma kako one teške bile, život nalazi svoje puteve, mi u JPM-u se trudimo da vreme provodimo u radu i da i naši i Vaš zajednički poslovi, u okviru restriktivnih mera koje su donele sve države, pa i Republika Srbija, ne pretrpe ni najmanju štetu ili da ona bude, koliko je to u našoj moći, minimalna.

U skladu sa ovim, mislimo da je dobro da vas obavestimo o nekim merama države koje se tiču postupanja pred državnim organima, pre svega sudovima, ali i drugima, koje bi vam mogle biti od koristi tokom vanrednog stanja koje je proglašeno u Republici Srbiji.

Pre svega, Vlada Republike Srbije je 20.03.2020. godine donela Uredbu o rokovima u sudskim postupcima za vreme vanrednog stanja proglašenog 15. marta 2020. godine kojom je odlučeno da za vreme trajanja vanrednog stanja (počev od 15. marta 2020. godine, pa do poslednjeg dana njegovog trajanja kada bude ukinuto) prestaju da teku rokovi za:

- a) podnošenje tužbi u parničnim postupcima, privatnih krivičnih tužbi u vanparničnim postupcima, predloga za pokretanje vanparničnih ili postupaka izvršenja ili obezbeđenja, tužbi u upravnim sporovima i ustavnih žalbi;
- b) izjavljivanje pravnih lekova, pravnih sredstava ili drugih procesnih radnji u postupcima navedenim u prethodnom pasusu označenom pod a) i
- c) izjavljivanje žalbi na odluke kojima se okončavaju krivični ili prekršajni postupci, kao i postupci privrednih prestupa i rokovi za izjavljivanje vanrednih pravnih sredstava u tima postupcima.

Naravno, kao što vidite, svi ovi rokovi će odmah nakon ukidanja vanrednog stanja početi ponovo da teku što bi značilo to da, na primer, ako se dogodi da vam od strane nekog suda bude dostavljena određena odluka u toku trajanja vanrednog stanja, rok za žalbu protiv takve odluke počinje da teče prvog dana nakon ukidanja ovog stanja, te bi bilo dobro da se, ukoliko ovih slučajeva bude, pripremite za podnošenje ovih žalbi u kratkim rokovima po okončanju vanrednog stanja ili da nas obavestite o, eventualnom, dostavljanju neke od takvih odluka u toku samog vanrednog stanja kako bismo tekstove žalbi blagovremeno pripremili.

History has taught us that after all great tragedies, such as the one affecting the World currently, the age of revival arrives, as well as that during the extraordinary circumstances, no matter how serious they are, life finds its path. We at JPM are trying to spend our time working and making efforts so that our common work and goals does not suffer any or suffer minimal damage during the time that the restrictive measures imposed by all governments are in force.

Having in mind everything said above, we believe that it is important and useful to inform you about some of the measures regarding the functioning of the state authorities, and above all courts, during the state of emergency which has been proclaimed in the Republic of Serbia.

First of all, on 20 March 2020 the Government of the Republic of Serbia has rendered the Regulation on deadlines in court proceedings during a state of emergency declared on 15 March 2020, which prescribes that the following deadlines will stop running from 15 March 2020 until the state of emergency ends:

- a) Submitting claims in litigation proceedings, submitting private criminal claims, deadlines in non-contentious proceedings, motions for initiating non-contentious, enforcement and security proceedings, claims in administrative disputes and constitutional appeals;
- b) Submission of legal remedies or other procedural actions in the proceedings listed above;
- c) Submission of appeals on the decisions on termination of criminal, misdemeanor and corporate offense proceedings, as well as extraordinary legal remedies in these proceedings.

As you can see, the above stated deadlines will start running as soon as the state of emergency ends. This means that, *exempli causa*, if the court delivers you a decision during the state of emergency, the deadline for appeal will start running on the first day after the state of emergency ends. Therefore, it would be good to prepare these appeals for submission shortly after the state of emergency ends or to inform us about the subject decision during the state of emergency, so that we could timely draft the respective appeals.

Ovo znači i to da bi, po našem mišljenju, ukoliko vam vreme to dozvoli, za vreme vanrednog stanja, možda, bilo korisno da prođete svoju dokumentaciju i proverite moguće sporne odnose koje imate sa poslovnim partnerima, a posebno rokove zastare za prinudnu naplatu tih potraživanja koji bi mogli isticati u kratkim rokovima nakon prestanka vanrednog stanja i da, sami, ili uz našu pomoć, iskoristite vreme vanrednog stanja za, na primer, pripremu opomena dužnicima pred utuženje, sastav predloga za izvršenje, tužbi ili sličnih inicijalnih pravnih akata, koji bi bili predavani odmah nakon prestanka vanredne situacije.

Druge dve važne odluke koje su donete, a tiču se vanrednog stanja i rada sudova u Republici Srbiji u ovakvim okolnostima jesu Preporuke Ministarstva pravde za rad sudova i javnih tužilaštava za vreme vanrednog stanja proglašenog 15. marta 2020. godine od 17.03.2020. godine i konkretizacija ovih preporuka doneta dana 18.03.2020. godine od strane Visokog saveta sudstva u Zaključku o održavanju suđenja koja ne trpe odlaganje. Shodno ovim odlukama, pred sudovima u Republici Srbiji će se, počev od dana 19.03.2020. godine i za sve vreme trajanja vanrednog stanja, u prvom stepenu, održavati samo sledeća suđenja:

a) u građanskoj materiji u predmetima:

- u kojima treba odlučiti o određivanju, produženju ili ukidanju privremene mere;
- u kojima se odlučuje o merama zaštite od nasilja u porodici;
- u kojima se odlučuje o zadržavanju u zdravstvenoj ustanovi koja obavlja delatnost u oblasti neuropsihijatrije i
- u kojima se izvršavaju izvršne isprave iz oblasti porodičnih odnosa.

b) u krivičnoj materiji u predmetima:

- u kojima je određen ili u kojima se traži određivanje pritvora;
- u kojima se odlučuje o zabrani rasturanja štampe i širenja informacija u sredstvima javnog informisanja;
- koji se odnose na nasilje u porodici;
- protiv maloletnih učinilaca krivičnih dela;
- u kojima se postupak vodi za krivična dela protiv polne slobode iz glave XVIII Krivičnog zakonika, a u kojima se, kao oštećeni, javlja maloletno lice;

Having in mind everything stated above, it is our opinion that, if time permits you, during the state of emergency it could be useful to review your documentation for potential disputed situations with your business partners, and especially the ones in which the statutory deadlines for enforced collection may expire shortly after the state of emergency ends. Therefore, during the state of emergency you could, by yourself or with our aid, prepare warning notes to the debtors, draft enforcement motions, claims or other initial acts which could be submitted shortly after the state of emergency.

Other important decisions related to the state of emergency and functioning of the courts in the Republic of Serbia are the Recommendations of the Ministry of Justice regarding the functioning of the courts and public prosecution offices during the state of emergency proclaimed on 15 March 2020 dated 17 March 2020. The issues from the Ministry's recommendations are further regulated in High Court Counsel's Conclusion on holding the hearings which must not be postponed dated 18 March 2020. In accordance with the said acts, starting from 19 March 2020 the hearings before the Serbian courts will be held only in:

a) civil proceedings:

- in which it shall be decided on rendering, prolongation or abolition of the temporary injunction;
- in which it shall be decided on measures of protection from domestic violence;
- in which it shall be decided on confinement in neuropsychiatric healthcare institution;
- enforcement of executive documents concerning family law relations.

b) criminal proceedings:

- in which detention has been determined or requested;
- for prohibition of the distribution of press and information dissemination in mass media;
- for domestic violence;
- against juvenile perpetrators and in which the damaged party is a juvenile;
- for sexual offenses from the part XVIII of the Criminal Code in which the damaged party is a juvenile;

- u kojima se postupak vodi za krivična dela nezgodljene trgovine iz člana 235 Krivičnog zakonika, nepostupanja po zdravstvenim propisima za vreme epidemije iz člana 248 Krivičnog zakonika i prenošenja zarazne bolesti iz člana 249 Krivičnog zakonika;
- koji se odnose na krivična dela izvršena za vreme vanrednog stanja i u vezi sa vanrednim stanjem i
- u kojima postoji opasnost od zastarelosti.

U svim drugim postupcima suđenja koja se vode u prvom stepenu će biti odložena do kraja vanrednog stanja, bez posebne odluke ili rešenja nadležnog suda koji o tom odlaganju nije u obavezi da posebno obavestava učesnike postupka.

U drugom stepenu, preporuka je da sudije nadležnih drugostepenih sudova rade od kuće, što podrazumeva izradu drugostepenih odluka. Ne očekujemo, mada i ne isključujemo mogućnost da bi drugostepene odluke, pa i one koje ne odnose na predmete koji su napred pobrojani, a za koje je odlučeno da ne trpe odlaganje, mogle učesnicima u postupku biti dostavljane i u toku vanrednog stanja. Ukoliko se nešto takvo dogodi, naš pravni savet je takav je da nas o tome obavestite kako bismo vas mogli posavetovati o tome da li je protiv takve odluke moguće izjavljivanje nekog vanrednog pravnog leka i, eventualno, pripremiti takvo pravno sredstvo koje bi bilo upotrebljeno nakon prestanka vanrednog stanja kada će rokovi za njegovo izjavljivanje odmah početi da teku.

Treća značajna odluka se ne tiče direktno sudova, kao državnih organa, ali se odnosi na ostale državne organe sa kojima dolazite u komunikaciju i za kojom komunikacijom se može ukazati potreba i u toku vanrednog stanja. To je Zaključak Vlade o obustavljanju rada sa strankama putem neposrednog kontakta donet dana 16.03.2020. godine.

U skladu sa ovim Zaključkom, do prestanka trajanja vanrednog stanja, obustavlja se rad sa strankama putem neposrednog kontakta (što podrazumeva rad na šalterima ili slično) u svim organima državne uprave, Autonomne pokrajine Vojvodine, lokalnim samoupravama, posebnim organizacijama, ustanovama, javnim preduzećima i drugim organizacijama čiji su osnivači ili većinski vlasnici Republika Srbija, autonomna pokrajina ili jedinica lokalne samouprave.

- for illegal trade from the article 235 of the Criminal Code and failure to act pursuant to health regulations during an epidemic and transmitting contagious disease from the article 248 of the Criminal Code;
- for crimes committed during the state of emergency or in relation to the state of emergency.
- In which there is risk of expiration of statutory deadline;

In all other proceedings, the hearings before the first instance courts are postponed until the end of the state of emergency without a particular decision of the competent court. The court is not obliged to inform the parties to the case about postponing of the hearing.

Further, it is recommended to the second instance judges to work from home, which means drafting second instance decisions. We do not expect that such decisions will be delivered to the parties during the state of emergency, including the decisions rendered in the cases not listed above, although such possibility cannot be excluded. If this happens, we advise you to inform us about such decision so that we can assess whether there is a possibility to submit an extraordinary legal remedy and, if this is the case, draft and submit such remedy after the state of emergency ends and the deadlines start running.

The third important decision is not directly related to the courts, but to other state authorities which you communicate with and might need to communicate during the state of emergency. The decision in question is the Conclusion on cessation of interaction with the parties through direct contact rendered by the Government on 16 March 2020.

In accordance with this conclusion all direct contact with the parties is suspended (ex. interaction with the public officials through counter windows), in all governmental authorities, authorities of the Autonomous Province of Vojvodina, local governments, special organizations, institutions, public enterprises and other organizations established by the Republic of Serbia, Autonomous Province of Vojvodina and local governments, , i.e. organizations in which the said entities have controlling interest.

Svi kontakti i rad sa strankama će se nastaviti putem pisane ili elektronske pošte ili telefonskim putem, a navedeni organi, ustanove i organizacije su dužni da na svojim elektronskim stranicama objave adrese elektronske pošte za podnošenje podnesaka.

Od navedene obustave rada putem neposrednog kontakta izuzeti su:

- Ministarstvo finansija – Uprava carina;
- Ministarstvo finansija – Poreska uprava;
- Ministarstvo finansija – Uprava za trezor;
- JP „Pošta Srbije“ i
- JP „Elektroprivreda Srbije“,

koji su dužni da istaknu obaveštenja koji njihovi šalteri će biti izuzeti od obustave neposrednog rada sa strankama.

Nadamo se da će vam ove informacije koje smo pokušali da vam damo u najkraćem obliku biti od koristi u toku rada i života u vanrednom stanju uopšte.

All contact and interaction with the parties shall be continued via post, e-mail and telephone. All listed authorities are obliged to publish e-mail addresses for submission of motions on their web pages.

The following authorities will not cease direct contact with the parties:

- Ministry of Finance – Customs Administration
- Ministry of Finance – Tax Administration
- Ministry of Finance – Treasury Administration
- Public Enterprise „Pošta Srbije“
- Public Enterprise „Elektroprivreda Srbije“

These entities are obliged to publish information which of their counter windows will be exempted from the suspension of direct contact.

We hope that this information, which we tried to present in the briefest form, will be of use to you in your work and life in general during the state of emergency.



JPM

JANKOVIĆ POPOVIĆ MITIĆ

Vladimira Popovića 6 | NBGP Apartmani
11070 Beograd | Srbija | tel: +381 11 207 6850
fax: +381/11/207-6899
www.jpm.rs