

PETERKA PARTNERS

THE CEE LAW FIRM

Covid-19 and Force Majeure

With the Covid-19 epidemic spreading throughout the world, and the perfect storm on the global markets, it is the proper time for businesses to consider certain legal aspects relevant for their contractual relations in this context.

A major issue, in particular, is the concept of force majeure and its application in the light of recent events, i.e., how the outbreak of the virus and related government actions affect the legal position of each company in its business relationships, whether as a client or a supplier, and to what extent companies may be liable or exempt from liability depending on the specific circumstances in the inevitable economic disruptions.

A number of elements should be taken into consideration in such assessment, among others, these are:

- the law governing the contract; what is the level of detail of the relevant provisions of the governing law and to what extent are such provisions imperative or do they allow companies to deviate in their contracts from the statutory concepts;
- the existence of a force majeure clause in the respective contract and the language used in this respect, whether the clause is broader or narrower;
- whether an event is a force majeure event, and what precisely could actually qualify as a force majeure event;
- evidencing of force majeure events, whether certificates are issued to this end by certain authorities or organizations, and what their value in the particular legal relationship is;
- which contractual obligations are affected by the force majeure, in other words what failure to perform contractual obligations is exonerated as a result of the force majeure;
- the conduct of the parties to the contract – whether they have taken or they should take certain steps in view of the force majeure provisions/clauses, whether they have taken action to mitigate any related damages, etc.;
- for how long the effect of the force majeure lasts and whether at some stage the contract should be considered terminated or could be terminated by one or both parties and what the consequences of such a development are.

The answers to these and other questions may have major economic implications for businesses and it is recommendable to address them in a timely manner in order to mitigate the effects of the undergoing turmoil.

Please feel free to contact us at covidhelpdesk@peterkapartners.com for further assistance on the matter above and any other COVID-19 related matters.