

CORONAVIRUS AND COMPENSATION OF DAMAGE FOR ENTREPRENEURS

Questions and Answers

I had to close down my business premises as a result of an emergency measure. Am I entitled to compensation of damage from the state?

- If damage that is causally linked to emergency measures ensues for a legal entity or a natural person, the state is obliged to compensate for the damage.
- The conditions for the liability of the state for damage to arise:
 - 1) an emergency measure being carried out,
 - 2) damage incurred,
 - 3) causal link between the damage incurred and the emergency measure (e.g. ban on retail and sale of services according to an emergency measure of the government).
- The state may discharge that liability for damage, in case of proving the aggrieved party has brought on the damage itself. The burden of proof lies on the state in such a case, however.

Can I also claim compensation for loss of profit as part of my claim for compensation?

- According to our opinion, it is possible to claim compensation for actual damage as well as compensation for loss of profit, because both of those terms come under the general term “damage”.

From what authority and within what deadline do I need to claim the compensation of damage?

- Entitlement to compensation of damage needs to be applied at the respective emergency management authority, which ordered the respective emergency measure, whereby the damage incurred. In most cases, this will be the Government of the Czech Republic, which issued the respective resolution; nevertheless this question will always require closer examination.
- It will be possible to claim compensation of damage within 6 months from the moment, when the aggrieved party found out about the damage (the so-called subjective deadline), but within 5 years from the time the damage incurred (the so-called objective deadline) at maximum.
- If entitlement to damage is not applied within the above-mentioned deadline, it shall lapse – for reasons worth special consideration it may be granted later as well.

How to proceed in practice when claiming compensation of damage?

- Compensation of damage must be claimed in the form of a written request.
- It is necessary to analyse carefully, to whom the request is to be submitted.
- The request must contain especially the following essentials:
 - 1) specification of the injured party (applicant),

- 2) the reason why entitlement to compensation of damage arose,
- 3) quantification of damage,
- 4) specification of the evidence proving that damage incurred, the causal link between the damage and the emergency measure and the amount of damage,
- 5) facts proving compliance with the subjective six-month deadline for claiming compensation for damage and the objective five-year deadline,
- 6) date and signature of the applicant.

How should I prove the emergence and the sum of damage?

- ➔ The following can serve as evidence, for example:
 - 1) accounting or other records,
 - 2) email or other correspondence,
 - 3) photographs,
 - 4) delivery notes from suppliers,
 - 5) contracts with suppliers,
 - 6) an expertise.
- ➔ The more evidence you have, the greater your chance of succeeding.



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