

Government Decree 48/2020 (19 March)

on the measures to be taken during the state of danger declared for the prevention of the human epidemic endangering life and property and causing massive disease outbreaks, for the elimination of its consequences, and for the protection of the health and lives of Hungarian citizens (IV)

The Government,
acting on the basis of authorisation by section 12 (1) *a*) and *b*) of Act CLXIV of 2005 on trade,
acting, with respect to subtitles 2 and 3, within its original legislative power laid down in Article 53 (2) of the Fundamental Law,
having regard, with respect to subtitle 3, to Article 15 (2) and (3) and Recital (41) of Directive 2014/24/EU,
acting within its function laid down in Article 15 (1) of the Fundamental Law,
orders as follows:

1. Rules on non-store commercial activities and mail-order trade during the period of state of danger

Section 1 (1) During the period of state of danger declared by Government Decree 40/2020 (11 March) on the declaration of state of danger (hereinafter “state of danger”) non-store commercial activities carried out for the purpose of supplying the population may be pursued without notification or registration on the basis of a contract entered into with a catering facility or a store selling everyday consumer products.

(2) Subject to the condition set out in paragraph (1), activities specified in that paragraph may also be pursued by the catering facility or the store selling everyday consumer products.

(3) During the period of state of danger, mail-order trade carried out for the purpose of supplying the population may be pursued without notification or registration.

(4) Within the framework of non-store commercial activities pursued without notification or registration under paragraph (1), organising trips or events to present products to customers shall be prohibited.

Section 2 (1) During the period of state of danger, for the purpose of supplying the population, food may also be distributed within the framework of non-store commercial activities.

(2) During the period of state of danger, only daily consumer products, and products sold in the context of a catering activity, may be distributed within the framework of a commercial activity pursued without notification or registration as set out in section 1 (1) to (3).

2. Financing of costs incurred in connection with the state of danger and found reasonable by the Operational Corps Responsible for the Containment of the Coronavirus Epidemic

Section 3 (1) With a view to financing of costs incurred in connection with the state of danger and found reasonable, and set out in writing, by the Member of the Government in charge of eliminating the state of danger, or by a person designated by him, on a proposal from the Operational Corps Responsible for the Containment of the Coronavirus Epidemic

established by Government Decision 1012/2020 (31 January) on the establishment of the Operational Corps Responsible for the Containment of the Coronavirus Epidemic, concerning essential commitments required to eliminate the danger, the rules on the financial management of budgetary organs within the central government subsector of the general government sector shall apply with the following derogations:

- a) commitments may be undertaken without prior financial counter-signing,
 - b) depending on the result of the review of the commitment, *ex post* financial counter-signing following the undertaking of a commitment, but not later than within 30 days after the end of the period of state of danger, shall be allowed,
 - c) if necessary with regard to the state of danger, commitments may be undertaken on the basis of a written instruction, including an instruction issued in an electronic form, by the person undertaking the commitment,
 - d) in the case under point c), the agreement or contract may be concluded orally, or by way of a juridical act between absent parties, however it shall be set in writing subsequently, but no later than within 30 days following the end of the period of state of danger,
 - e) reallocation of appropriations within a heading under the direction of the Government under section 33 (3) b) *ba*) and *bb*) of Act CXCV of 2011 on public finances (hereinafter “Áht.”) shall require informing the Minister responsible for public finances simultaneously,
 - f) fines set out in the Áht., in Government Decree 368/2011 (31 December) on the implementation of the Act on public finances or in Government Decree 4/2013 (11 January) on the accounting of public finances related to data provisions or notifications, especially if concerning commitments undertaken, and financial payments made during, the period of, and in connection with, the state of danger, shall not be imposed.
- (2) In the case under paragraph (1) a) and b), if the gross amount of a commitment reaches HUF 100 000 000, the person undertaking the commitment shall be obliged to notify the Minister responsible for public finances 1 working day before undertaking the commitment.

3. Rules on procurements related to the containment of the coronavirus

Section 4 (1) Based on an individual exemption granted by the Member of the Government in charge of eliminating the state of danger, a contracting authority within the meaning of sections 5 to 7 of Act CXLI of 2015 on public procurement (hereinafter “Kbt.”) shall be authorised to conduct procurements, that are directly related to the containment of the coronavirus or facilitate the efficient operation of state organs or groups directing the containment efforts (hereinafter “procurement related to the containment of the coronavirus”), in a way that departs from the rules on public procurements and procurements.

(2) The Member of the Government in charge of eliminating the state of danger shall decide on an application for exemption for a procurement related to the containment of the coronavirus as a matter of priority. The Member of the Government in charge of eliminating the state of danger may delegate his power to decide on an application for exemption for a procurement related to the containment of the coronavirus to another Member of the Government.

(3) On the basis of a derogation provided for under paragraph (1) and with the exception specified in paragraph (7), the contracting authority shall have the right to conduct,

obtaining three tenders if possible, a procurement related to the containment of the coronavirus reaching or exceeding the threshold set out in section 15 (1) *b*) of the Kbt. without conducting a public procurement or other procurement procedure.

(4) In the case of a procurement related to the containment of the coronavirus, the contracting authority shall examine in advance whether its procurement needs may be fulfilled, within the time frame necessitated by the extraordinary situation, by way of a framework agreement, or other framework contract, concluded as a result of a centralised purchasing procedure,

(5) If opting for procurement under paragraph (4), the contracting authority shall be exempt from the fee payable to the organisation authorised to request tenders.

(6) Framework agreements, or other framework contracts, suitable for the fulfilment of a procurement need under paragraph (4) related to the containment of the coronavirus may be modified to the extent, and using a method, required by the extraordinary situation without examining the conditions set out in section 141 (6) of the Kbt.

(7) In the case of exceptional urgency, a given economic operator may be directly invited to submit a tender without applying the above procedural rules.

(8) Provisions of Government Decision 1982/2013 (29 December) on equipment procurements of budgetary organs within the headings under the direction of the Government shall not apply to procurements related to the containment of the coronavirus.

(9) Regarding procurements related to the containment of the coronavirus, the Minister responsible for public finances shall verify compliance with the applicable rules subsequently.

Section 5 If EU development resources are used, the procurement procedure related to the containment of the coronavirus under section 4 shall not apply.

4. Final provisions

Section 6 This Decree shall enter into force on the day following its promulgation.

MINISTRY OF JUSTICE
HUNGARY