

CORONAVIRUS OVERCOMING THE DIFFICULTIES

CORONAVIRUS ARRIVED IN GERMANY. FREEDOM OF MOVEMENT AND ASSEMBLY, AND HOW POLITICS FACE A GLOBAL HEALTH EMERGENCY

DE BERTI JACCHIA FRANCHINI FORLANI
STUDIO LEGALE

After the restrictive measures taken by numerous countries in the fight against the spread of Coronavirus, also Germany introduced a bundle of measures to that end.¹

Decisions came quite fast. Everything started on March 10, with the cancellation of events with over one thousand participants and the recommendation to cancel other events with over one hundred people. This immediately affected football matches of the 1. and 2. Bundesliga.

With cases of infection increasing across the country, the Bavarian Prime Minister Markus Söder was the first to adopt a more rigorous approach, which was followed by the Federal Government immediately thereafter. He went even further and declared a state of emergency.

A peculiarity of the German system lies in the subdivision of the country into several federal sub-systems, where every Land has its own powers on some subject-matters where the central Government is not supposed to intervene except in certain special instances.

An agreement between the central Government and the Federal States was reached in order to limit the free movement of persons and almost shut down social life. This included the closing of German borders with every neighbouring country on March 15.

Starting from March 17, schools, nursery schools, universities, shops, bars, gyms, swimming pools, as well as all sports establishments, clubs, theatres, museums, cinemas, zoos and playgrounds are closed. Furthermore, every assembly of people in clubs, sporting facilities and churches is prohibited.

Starting from March 18, restaurants are allowed to open only from 06:00 AM to 03:00 PM. The owners of the businesses can apply for compensation of the damages suffered due to the implementation of this measure. Yet, it is uncertain how and when they might effectively obtain compensation, and for what amount.

¹ See: <https://www.bundesregierung.de/breg-de/themen/coronavirus/coronavirus-1725960>;
<https://www.tagesschau.de/newsticker/liveblog-coronavirus-121.html#Was-Reisende-zur-Rueckholaktion-der-Bundesregierung-wissen-muessen>

On the other hand, a limited number of facilities that are necessary to permit people to conduct their lives remain open: amongst them, pharmacies, supermarkets (which extended their opening hours until 10:00 PM, and until 6:00 PM on Sunday), every facility and activity related to the food supply chain, weekly markets, delivery services, drugstores, banks, post offices and petrol stations. An increasing number of people whose activities permit them to do so already started to work from remote, but the majority still needs to go out to reach their physical workplace.

On March 18, a huge repatriation of holidaymakers was put into motion, for which the Federal State made fifty million Euros immediately available. Under all the circumstances, Federal Chancellor Angela Merkel (now herself quarantined) strongly recommended to avoid any travelling inside as well as outside the country.

However, it is feared that the above will not be the entire package, and citizens have been warned that tougher measures will follow if they do not strictly comply with those already taken. Last week, as a further measure to enforce the restrictions, the detection of individuals' movement by cellular phones was authorized (the tracking of personal data by a proposed amendment of the Infection Protection Act, was though stopped at the Bundestag).²

At the beginning, these measures were supposed to remain in force for fourteen days, but on March 22 they were already tightened and extended.

Even though there is no general curfew for the time being within the Federal Republic of Germany, unlike in five other Member States, German politicians made an agreement for a "9-points-plan" including the following.

1. Citizens should stop and avoid social contacts as much as possible.
2. 1.50 m is the minimum distance among people in public spaces.
3. Staying outside in public is only allowed for one person alone or with another single person, whether or not belonging to one's own household.
4. Going to work, attending necessary appointments and exams, visits to the doctor, going to the supermarket, engaging in individual sports and outdoor exercise are still allowed.
5. Celebrations attended by a crowd are prohibited, even within private premises.
6. Food and beverage premises remains closed; only take-aways are permitted.
7. Undertakings rendering services in the body care sector are closed, except if their services are rendered by medical prescription.
8. Companies are obliged to strictly adhere to hygiene prescriptions and implement effective measures of protection.
9. The measures will have a period of validity of a minimum of two weeks.

Infringements can be punished with an administrative fine up to Euro 25,000.³

On the strength of the federal system, Bavaria alone did not follow this general plan, and already on March 20 introduced more rigorous rules. Starting from March 21, stricter constraints were placed upon exits from home valid for two weeks, until April 3, whereby Bavarians are only allowed to leave their houses for demonstrated valid reasons. The exceptions to such constraint are similar

² See: <https://www.tagesschau.de/inland/corona-handydaten-101.html>

³ See: <https://www.tagesschau.de/inland/kontaktverbot-coronavirus-105.html>; <https://www.zdf.de/nachrichten/politik/coronavirus-ausgangsbeschaenkung-verschaerfung-ueberblick-100.html>

to those planned at national level, but in Bavaria staying outside in public is only allowed for one person alone.⁴

Germany is possibly a few weeks behind other European countries, such as Italy, France and Spain, in facing the Coronavirus threat. In these countries, yet more rigorous measures were put in place, as the public health systems and the response capability of hospitals is increasingly placed under enormous stress. It is, therefore, to be expected that in the whole of Germany too one will witness an upscaling and upgrading of restrictions in the coming weeks.

26 March 2020

I nostri contributi di informazione e aggiornamento sulla crisi del Covid-19 e sulle sue implicazioni sono uno sforzo collettivo dello Studio ed una iniziativa di servizio. Per sottolinearlo, gli autori hanno rinunciato ad indicare il proprio nome in calce ai singoli lavori. Il presente articolo ha esclusivamente finalità informative e non costituisce parere legale.

Our contributions of information and update on the Covid-19 crisis and its implications constitute a collective effort of the Firm and an initiative of service. For such reason, the authors decided not to sign individually their works and articles. This article is exclusively for information purposes, and should not be considered as legal advice.

MILANO

Via San Paolo, 7 · 20121 Milano, Italia
T. +39 02 72554.1 · F. +39 02 72554.400
milan@dejalex.com

ROMA

Via Vincenzo Bellini, 24 · 00198 Roma, Italia
T. +39 06 809154.1 · F. +39 06 809154.44
rome@dejalex.com

BRUXELLES

Chaussée de La Hulpe 187 · 1170 Bruxelles, Belgique
T. +32 (0)26455670 · F. +32 (0)27420138
brussels@dejalex.com

MOSCOW

Ulitsa Bolshaya Ordynka 37/4 · 119017, Moscow, Russia
T. +7 495 792 54 92 · F. +7 495 792 54 93
moscow@dejalex.com

⁴ Further details: <https://www.bayern.de/service/informationen-zum-coronavirus/vorlaeufige-ausgangsbeschraenkung-anlaesslich-der-corona-pandemie/>