

LEGAL UPDATE

Coronavirus could constitute force majeure

Date: 6 March 2020

There are updates on the coronavirus in the news on a daily basis. The spread of the coronavirus will have an impact on commercial trade. Some companies are temporarily closing their doors, for instance, or are no longer being supplied, which means they in turn cannot deliver to their own customers. Parties that are not supplied on time due to the coronavirus or who are unable to make deliveries on time themselves will often be able to invoke - or be confronted with - force majeure. What does this mean?

The contract

The text of the contract or general terms and conditions declared applicable to it often provide for (1) when there is a situation of force majeure and (2) what the consequences of a force majeure situation will be.

Dutch law

In the absence of a specific force majeure clause, the parties to a contract governed by Dutch law fall back on Dutch law. Whether or not there is force majeure depends on the specific situation.

Questions that could play a role are, for example, 'To what extent has the government imposed measures?', 'Can a product be delivered via a different supplier?', 'Could the parties have known at the time the order was placed that it would not be possible to deliver because of the coronavirus?'

In any case, it must be clear that it is really no longer possible for the supplier to deliver and that the parties did not know at the time the delivery was agreed that this was going to happen.

Consequences

In the event of a force majeure situation, the supplier invoking force majeure will not owe any damages if it fails to deliver on time. However, the customer can dissolve the contract if the dissolution requirements have been met, because force majeure does not prevent dissolution.

If you are faced with a situation of force majeure due to the coronavirus, we would be happy to assist you. Feel free to contact us.

We would also like to draw your attention to our podcast 'Light on Legal Special'. In this special edition, our lawyer and partner Pieter Mantel discusses the coronavirus and the legal issues on the work floor. You can listen to the podcast (in Dutch only) via our [website](#), Spotify, Apple Podcasts or via your own favourite podcast app.

This is a Legal Update from Renske Verhoeff.

For more information:

Renske Verhoeff
+31 30 2595610
renskeverhoeff@vbk.nl