

## 1 Covid-19 impact on civil proceedings

### 1.1 Time limits in civil proceedings

**All terms are suspended, and time limits provided for in the procedural laws for all jurisdictional orders are suspended and discontinued.** The calculation of the time limits will be resumed at the moment that the extensions of Royal Decree 463/2020 become invalid.

Suspension of procedural deadline don't apply to a number of specific proceedings, including the protection of children.

The judge or court may agree to conduct any judicial proceedings that are necessary to avoid irreparable damage to the rights and legitimate interests of the parties to the proceedings.

For updates on the measures taken by the Spanish authorities to prevent the spread of the virus the Spanish General Council for Judiciary has published on its website a dedicated section entitled: *General information COVID-19*, available under the [following link](#).

That website provides complete information including general Information, guides and protocols, agreements of the Permanent Committee (from 11th Mars 2020 to 5th May 2020), Case Law, Information from the Ministry of Justice and General State Prosecutor's Office, Information from Ministry of Health, Head of State, and the High Courts of Justice Monitoring Committee.

### 1.2 Judicial organization and Judiciary

The work within judicial premises has been significantly reduced. I.T. solutions and communication tools have been provided or reinforced, in order to facilitate teleworking of judges, prosecutors, and other legal actors.

Public Notaries and Public Registries are considered as an essential public service and they are guaranteed.

### 1.3 EU Judicial Cooperation

Spanish central authority cannot guarantee normal processing of incoming requests (especially paper requests). Requests must be sent by electronic means. Taking of evidence (art 3 of Regulation 1206/2001: Serious and urgent requests will be processed, requests must be sent to [rogatoriascivil@mjusticia.es](mailto:rogatoriascivil@mjusticia.es). All the rest must follow the usual procedure by sending them directly to the competent Spanish Court in paper.

Child abduction and maintenance recovery : Processing of requests can only be guaranteed when received by email. Enforcement shall be subject to urgency, taking into account the limitation of movement imposed on citizens. ([sustraccionmenores@mjusticia.es](mailto:sustraccionmenores@mjusticia.es)) ([SGCJIAImentos@mjusticia.es](mailto:SGCJIAImentos@mjusticia.es))

## 2 Insolvency related measures adopted or planned for adoption in member states after the outbreak of the pandemic

### 2.1 Substantive insolvency measures and related contracts affecting measure

#### 2.1.1 Insolvency suspension

##### 2.1.1.1 Suspension of duty to file for insolvency (debtors)

A stay on the duty for filing for insolvency as long as the State of Alarm is in force (even if the debtor filed for the pre-insolvency mechanism provided in Article 5 bis of the Spanish Insolvency Act).

Article 5 bis of the Bankruptcy Law has been replaced by Articles 583 to 594 of the Consolidated Text of the Bankruptcy Law, published in the Official Gazette on 5 May 2020 and coming into force on 1 September 2020.

Article 6.3 of Law 3/2020, of 18 September, states that "If, up to and including 31 December 2020, the debtor has notified the opening of negotiations with creditors to reach a refinancing agreement, an out-of-court settlement or accession to an early settlement.

##### 2.1.1.2 Protection of debtors about insolvency filing from creditors

For a two month period after the end of the State of Alarm, the insolvency courts will not admit any filings for necessary insolvency proceedings which have been submitted by creditors/third parties during the State of Alarm or during such two month period.

During the post State of Alarm two month period, the debtor's filing for insolvency proceedings will be admitted by the court with priority.

Article 6 of Law 3/2020, of 18 September, established that "Until 31 December 2020 inclusive, judges will not admit any filings for necessary insolvency proceedings which have been submitted by creditors/third parties since 14 March 2020. If up to 31 December 2020 inclusive the debtor has submitted an application for voluntary bankruptcy, this will be admitted for processing with preference, even if it is later than the application for the necessary bankruptcy". Royal Decree-Law 34/2020 of 17 November has extended this moratorium until 14 March 2021.

##### 2.1.2 Claim enforcement suspension and contract termination suspension

###### 2.1.2.1 General / specific moratoria on claims enforcement / certain types of claims enforcement

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###### 2.1.2.2 Suspension of contract termination (general / specific contracts)

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### 2.2 Civil, including insolvency courts suspension and procedural suspensions

General suspension of procedural deadlines. Court Hearings can be hold in urgent cases.

The suspension of proceedings ceased at the end of June. Given the situation of collapse in the field of commercial justice, aggravated by the pandemic, Law 3/2020, of 18 September, established the preferential processing of certain urgent cases within the insolvency procedure (Article 9).

### 2.3 Other insolvency measures (those relating to avoidance actions, reorganization plans, informal agreements, and others if appropriate)

In addition, Royal Decree Law of 31 March, which adopts urgent complementary measures in the social and economic sphere to deal with COVID-19, has set out the possibility that insolvent companies may also file temporary employment regulation proceedings ("ERTEs") on the basis of force majeure or for organisational, technical, economic and production reasons due to the COVID-19 crisis:

The purpose of this measure is to prevent the economic crisis caused by the Covid-19 from constituting an additional obstacle to the viability of the insolvent, which could hinder them to execute or comply with a creditors' agreement, leading to their liquidation, or making it difficult to sell a viable business unit.

Request applications or communications must be made by the insolvent company with the authorisation of the insolvency receiver (practitioner), or by the insolvency receiver directly, depending whether the debtor is in possession or not.

Likewise, the insolvency receiver will be a party to the consultation period. If no agreement is reached during this period, the decision to apply the ERTE must have the authorization of the of the insolvency receiver, or decided by the insolvency receiver directly, depending whether the debtor is in possession or not.

In any case, the insolvency court must be informed immediately of the request, resolution and measures applied, by telematic means.

In the event that the labour authority does not find the existence of force majeure, the company may challenge such resolution before the social jurisdiction. It will be the insolvency court who will hear the challenges to the resolution for fraud, deceit, coercion or abuse of law, or if the workers challenge the company's decision or the labour authority's decision on the ERTE if they have wanted to obtain unduly benefits. Such challenges will follow the procedure of the insolvent incident in labour matters and the judgment will be appealable (suplicación).

Both Law 3/2020, of 18 September, and Royal Decree-Law 34/2020, of 17 November (D. F. 10, amending Law 3/2020, of 18 September, on procedural and organisational measures to deal with COVID-19 in the field of the Administration of Justice), contain measures to prevent the declaration of non-compliance with agreements or refinancing agreements and to allow, in both cases, the modification of the terms of such agreements.

#### **2.4 Related non-insolvency measures (payment deferrals, bank loans, social security, health insurance, business subsidies)**

The Spanish Government has approved measures leading to the temporary suspension of the contractual obligations arising from any mortgage loan contracted by an individual who is in a situation of economic vulnerability.

The mortgage debt moratorium only applies to:

the usual/ordinary dwellings (ie not including vacation or weekend homes);

properties linked to the economic activity developed by entrepreneurs and professionals; and

dwellings other than the usual one in a rental situation and for which the mortgage debtor, natural person, owner and lessor of these dwellings, has stopped receiving the rental income since the entry into force of the State of Alarm, or does not receive it within one month after the end of the State of Alarm.

The granting of the moratorium entails the suspension of the payment of the mortgage debt instalments (principal and interests) during the term of three months and the early repayment clause in the mortgage loans will not be applied either. No late payment interest will accrue either.

Economic vulnerable debtors are the ones that:

become unemployed or, if an entrepreneur or professional, suffers a substantial loss of income or decrease of sales (above 40%);

the total income of the family unit does not exceed in the month prior to the application of the moratorium x3 Monthly IPREM (ie EUR 537.84 x3). This calculation shall be increased in the case of children, persons over 65 years of age, disability, dependency or illness;

the mortgage loan instalments, plus the expenses and basic supplies, are higher than the 35% of the net income of the whole family unit; and

as a result of the COVID-19 emergency, the family unit has suffered a significant alteration in its economic circumstances in terms of the effort required to access housing (the ratio of mortgage charges over family income has been multiplied by 1.3).

The debtors can apply for the moratorium during a period of 15 days after the end of one month after the end of the State of Alarm (current deadline is 27 May). The lenders will have to implement such moratorium within a maximum of 15 days after the application and will have to report such moratorium to the Bank of Spain.

The application of the suspension will not require agreement between the parties, nor any contractual novation, to take effect, the extension of the term of the mortgage loan must be formalized in a public deed and registered in the Land Registry.

Last update: 22/10/2021

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