

1 Covid-19 impact on civil proceedings

1.1 Time limits in civil proceedings

Time limits for exercising judicial acts within civil proceedings were initially suspended for the period 9/03 to 22/03 (then postponed to 15/04).

Decree Law No 23 of 8 April 2020 extended the postponement of hearings and the suspension of procedural deadlines until 11 May 2020.

Where a time limit would normally begin during the period of suspension, the starting point is delayed until the end of the latter period.

Exceptions: adoption of children, unaccompanied minors, foster care, proceedings relating to the protection of minors and maintenance proceedings when there is prejudice for the protection of essential needs; compulsory health treatment, VTP, provisional enforceability, electoral proceedings & all matters entailing a risk of serious prejudice to the parties.

1.2 Judicial organization and Judiciary

Most **civil hearings** scheduled between the day following the entry into force of the decree (9 March 2020) and 22/03 (then 15/04, and finally 11 May) will not take place due to a mandatory postponement.

All hearings scheduled during the crisis period will be postponed (except urgent case).

Local courts can adopt their own organizational measures (restricted access to buildings, office closed).

In particular, for non-suspended activities (those that have been declared urgent on a case by case basis or those considered by the law as top priority), civil hearings that require the presence of lawyers or parties only, subject to the respect of the adversarial process and the effective participation of the parties, may be held through remote connections. For this purpose, a decision by the Heads of the judicial offices is necessary, after hearing the advice of the Bar Association.

For the period between 11 May and 31 July 2020, the Heads of the judicial offices are than expected to take a series of organisational measures in order to avoid close gatherings and contacts between people within each office space.

These measures may include:

the carrying out of civil hearings by means of remote connections that require the presence only of lawyers, or the parties or the auxiliary figures of the judge, subject to the respect of the adversarial process and the effective participation of the parties, provided that the judge is physically present in the court office;

the postponement of hearings after 31 July 2020;

the holding of civil hearings that require the participation only of the defendants through written procedure.

1.3 EU Judicial Cooperation

A significant part of case Ministry of Justice staff members are working from home.

The judicial cooperation in civil matters will be affected for an unpredictable period of time. Electronic communication of requests of judicial cooperation (including request for information on foreign law under the London 1968 Convention). The documents sent in hard copy may be processed with a significant delay.

All communications to be sent to ufficio2.dgcivile.dag@giustizia.it

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)

Bankruptcy and, in general, insolvency proceedings too are included in the general provisions on postponement, without prejudice to the possibility to establish on a case by case basis what cannot be deferred in order to meet the parties' protection requirements.

Specific insolvency measures have been adopted by Article 10 of Decree Law No 23 of 8 April 2020:

all appeals for insolvency proceedings filed in the period between 9 March and 30 June 2020 are inadmissible, except for those filed by the Public Prosecutor if precautionary or conservative measures are requested to protect the assets or the company, by the entrepreneur himself, when insolvency is not a consequence of the COVID-19 epidemic and by anyone pursuant to specific provisions in the arrangement with creditors proceeding (Articles 162, second paragraph, 173, second and third paragraphs, and 180, seventh paragraph, of Italian Insolvency Law).

when the declaration of non-admissibility is followed by the declaration of bankruptcy, the period of non-admissibility is not counted within the time limits laid down in Articles 10 and 69 bis of the Bankruptcy Law, which concern respectively the annual period within which the bankruptcy of the company deleted from the register of companies must be declared and the time limit for revocation actions.

2.1.1.2 Protection of debtors about insolvency filing from creditors

See left, 1.1.A. column.

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

Time limits for the accomplishment of any act related to civil and criminal proceedings, including the enforcement proceedings of civil decisions, have been initially suspended from 9 March to 15 April, then to 11 May 2020.

During this period, hearings in civil proceedings, and therefore also those relating to enforcement proceedings, are automatically postponed to a date subsequent to 11 May 2020 and, until that date, the expiration of the time limits for the completion of any act in civil proceedings is also suspended.

With reference to enforcement, it should be noted that the request for suspension of the enforceability or enforcement of an appealed judgment (art. 283 of the Italian Code of Civil Procedure) and the request for suspension of enforcement of a judgment against which an appeal has been lodged for cassation (art. 373 of the Italian Code of Civil Procedure), as well as proceedings whose delayed handling may cause serious harm to the parties, may be handled during the emergency period. In the latter case, a declaration of urgency is made by the Head of the judicial office or his delegate and, for cases that have already

begun, by order of the judge or of the chairperson of the panel. In order to contain the negative effects of the epidemiological emergency from COVID-19, throughout the national territory is suspended until 31 December 2020 any enforcement procedure for real estate foreclosure which concerns the main residence of the debtor.

Until 31 December 2020 the enforcement proceedings relating to the loans granted in favour of the victims of usury crimes are also suspended.

2.1.2.2 Suspension of contract termination (general / specific contracts)

According to the general provision contained in Article 3, paragraph 6 bis, of Law no. 6 of 2020, compliance with the containment measures is always assessed for the purpose of excluding the debtor's liability, also with regard to the application of any forfeiture or penalties connected with delayed or omitted performance.

In disputes relating to contractual obligations, in which compliance with the containment measures, or in any case with measures adopted during the epidemiological emergency from COVID-19, can be assessed pursuant to paragraph 6-bis, the mediation procedure is a condition of admissibility of any application to the court.

In relation to particular contracts, Article 56, paragraph 2, letters b) and c) of Decree-Law No. 18 of 2020, provides for the extension until 30 September 2020, without any formality, of the maturities for non- instalment loans, as well as the suspension until 30 September 2020 of the payment of instalments of loans or lease payments and the deferral of the repayment plan for the instalments or lease payments subject to suspension.

For the year 2020, the mortgage payments, granted in favour of the victims of usury crime, are suspended.

2.2 Civil, including insolvency courts suspension and procedural suspensions

All proceedings (including Insolvency) have been initially postponed ex officio up to 15-04, or 30-06 if it has been so decided by the heads of office, except those that have been declared urgent by the judge on a case by case basis or those considered by the law as top priority.

Procedural time limits (including enforcement proceedings) have been initially suspended from 09-03 to 15-04, than to 11-05

In the case of non-suspended activities, civil hearings that require the presence of lawyers or parties only, subject to the respect of the adversarial process and the effective participation of the parties, may be held by means of remote connections.

For the period between 11 May and 30 June 2020, the Heads of the judicial offices are expected to take a series of organisational measures in order to avoid close gatherings and contacts between people within each office space.

These measures may include:

the carrying out of civil hearings by means of remote connections that require the presence only of lawyers or the parties, subject to the respect of the adversarial process and the effective participation of the parties;

the postponement of hearings after 30 June 2020;

the holding of civil hearings that require the participation only of the defendants through written procedure.

Pursuant to article 221 of Law Decree n. 34 of 2020 (Decreto Rilancio), the judge can order that civil hearings that do not require the presence of persons other than the defenders of the parties are replaced by the electronic filing of written notes containing only instances and conclusions. Participation in civil hearings of one or more parties or of one or more defenders can also take place, at the request of the interested party, through videoconference. These provisions have been extended until 31 December 2020.

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

During the period in which declarations of insolvency are inadmissible, the time limits for revocation actions do not start to run.

Article 9 of Decree-Law No. 23 of 2020 also provides for the extension by six months of the deadlines for the fulfilment of prior agreements and approved restructuring agreements expiring after 23 February 2020.

In the current proceedings for the approval of the composition agreements, the debtor has been allowed to submit, until the hearing set for the approval, an application for the granting of a deadline, not exceeding ninety days, for the submission of a new plan and a new proposal or a new restructuring agreement. Article 9 also provides that the debtor may submit requests for the granting of new time limits or for further extensions of time limits already granted.

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

Decree Law No. 18 of 2020 provided for a series of measures specifically aimed at supporting liquidity through the banking system (Title III) and supporting the liquidity of households and businesses (Title IV).

Among the first of these, the financial support measures for micro, small and medium-sized enterprises provided for in Article 56 are worth mentioning, including the prohibition of revocation of the amounts granted for credit facilities subject to revocation and for loans granted against advances on loans; the extension 31 January 2021, without any formality, of contracts for non- instalment loans with contractual maturity before 31 January 2021; the suspension until 31 January 2021 of the payment of instalments of loans and other instalment loans or leasing instalments and the deferral of the repayment plan for instalments or instalments subject to suspension.

Among the latter, mention should be made of the remittance in terms of payment to public administrations, including those relating to social security and welfare contributions and premiums for compulsory insurance, the suspension of payments of withholding taxes, social security and welfare contributions and premiums for compulsory insurance and the terms of tax and contribution obligations and payments.

Article 11 of Decree-Law No. 23 of 2020 provided for the suspension of the expiration terms of debt securities falling within the period from 9 March to 30 April 2020, later extended to 31 August 2020.

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