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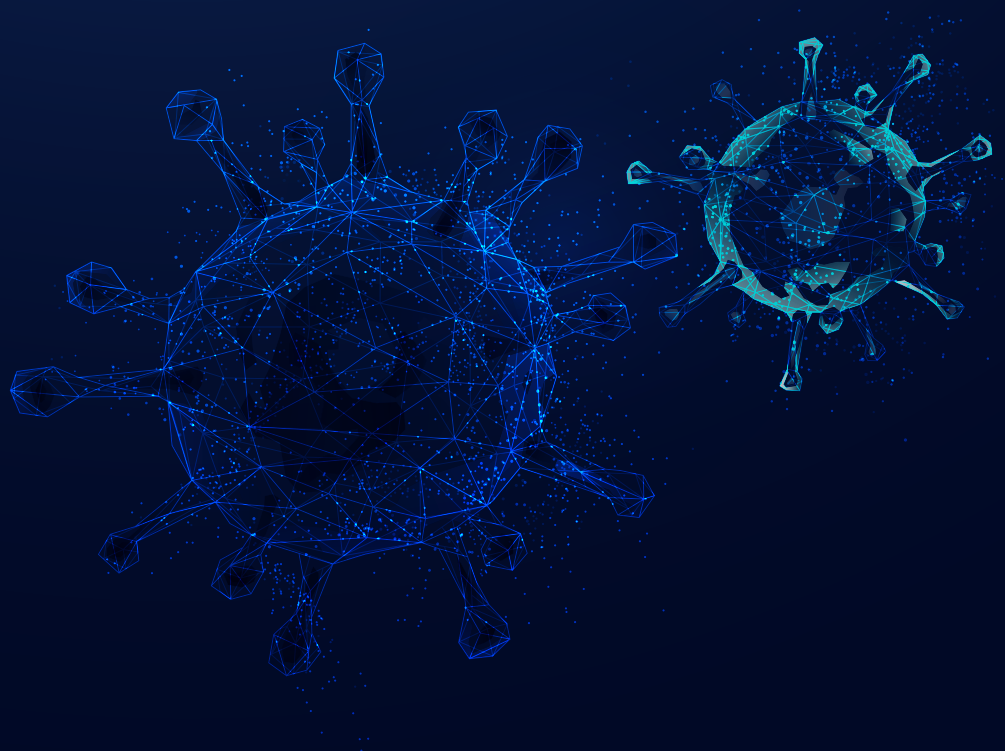
Covid-19 pandemic

# Impact of COVID-19 on Court Operations & Litigation Practice

IBA Litigation Committee

22 June 2020

Disclaimer: Please be advised that the information set forth in this report is intended only as a general overview of the impact of COVID-19 on court operations and litigation practice. This report is not intended to constitute legal advice, and no conclusions should be inferred from or implied by the statements or discussions contained herein. Readers requiring legal advice should not rely on this report as an alternative to the engagement of local counsel in the relevant jurisdictions. Please note that this report refers to laws and regulations in force on or before 8 June 2020 and is subject to change.



# Introduction

The spread of the coronavirus or COVID-19 has prompted governmental, judicial, and administrative bodies around the globe to adopt measures that respond not only to local safety directives, but to a generalized need for greater flexibility and remote connectivity.

In light of the magnitude of COVID-19, the IBA's Litigation Committee has prepared the enclosed Special Report that addresses the impact of the pandemic on the operation of courts and litigation practice in jurisdictions around the world. The contributors to this report were asked to address the following four questions:

1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?
2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?
3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?
4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?

Please note that the information contained in this report is current to **June 8, 2020**.

The IBA Litigation Committee would like to extend a sincere thanks to the many contributors who have made this publication possible.

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# Argentina

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### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

The Argentine judicial system is divided into federal and local courts. Federal courts are organized by the Federal Government and are composed of first-instance courts, appellate courts and the Argentina Supreme Court of Justice (hereinafter, "SCJ"). Local courts are organized by each province and the City of Buenos Aires. These courts are also integrated with lower courts, courts of appeal and local supreme courts. Federal courts have jurisdiction over cases in which the dispute concerns an issue ruled by the National Constitution, national law, federal law or an international treaty. Local courts enforce local laws and ordinary or non-federal laws.

Amid the outbreak of COVID-19 and in line with the measures of social isolation established by the Argentine Executive, the Argentine Courts have adopted regulations which temporarily suspend normal operations until further notice. In this regard, public audiences as well as in-person hearings have been suspended, and a series of measures have been adopted to enable a minimum indispensable provision of justice in order to deal with urgent matters, which admit no delay. This includes those related to criminal matters, urgent family issues, matters involving the protection of minors, gender violence matters and *Amparo* proceedings, especially those related to health issues (the *Amparo* proceeding is a special type of summary proceedings to guarantee constitutional rights).

The latest Agreement issued by the SCJ entrusted the National and Federal Courts to appoint the necessary judicial employees to deal with *as many matters as possible*. In this regard, it allows the court authorities of each jurisdiction to extend the matters to be considered to the following: *Amparo* proceedings and *Amparo* proceedings against particulars; labor claims; *habeas data* proceedings; tort proceedings; social security proceedings; proceedings for the regulation of professional fees; universal proceedings, such as inheritance or bankruptcy proceedings; preliminary injunctions and voluntary proceedings.

The SCJ has enabled the remote filing of briefs through electronic signature and developed a mechanism which allows the electronic filing of claims, appeals and complaints before all national and federal courts. Furthermore, the SCJ has regulated the electronic filing of written communications, reports or judicial files addressed to public offices, public notaries and private entities in the framework of requests for information ordered in judicial proceedings.

The provinces themselves have also ruled upon the activities of their own local courts. For instance, the Supreme Court of the Province of Buenos Aires (hereinafter, "SCBA") has enabled the courts to consider urgent matters. It has also enabled the electronic submission of briefs aimed at initiating proceedings that require urgent dispatch or in which the statute of limitation of the action is imminent before Peace Courts and civil, commercial, family, contentious-administrative and labor first instance courts. Additionally, complaints against the Courts of Appeal's resolutions, which deny or improperly grant appeals, can also be electronically filed.

It is not certain when all Argentine courts will resume their normal activities, especially Courts located in the City of Buenos Aires and its metropolitan area, where the majority of the COVID-19 cases are concentrated. However, the implementation of new technological mechanisms for the remote access to justice leads to the gradual functioning of courts through these means.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

In Argentina, it has not been the Federal Government but the Supreme Courts of each jurisdiction who have issued measures related to procedural deadlines.

At the beginning of the COVID-19 pandemic, the SCJ declared non-business days from March 16 to 31, 2020, notwithstanding the validity of the procedural acts that could effectively be carried out on said period. On March 20, 2020, due to the evolution of the health crisis and in line with the measures taken by the Argentine Executive, the SCJ declared an extraordinary recess, which would be extended until compulsory isolation measures last. In fact, the duration of the extraordinary recess has been successively and provisionally extended until June 7, 2020.

However, the SCJ has decided that magistrates are able to extend the matters to be considered during the extraordinary recess. They may order, at their own motion, that the extraordinary judicial recess is lifted in order to issue final or interlocutory resolutions, in the cases that are in conditions to be resolved.

Similar criteria have been adopted by local supreme courts – such as the SCBA – which have ruled upon the suspension of the procedural terms.

Accordingly, the social isolation measures have been relaxed in certain Argentine regions, where there are few or no coronavirus cases. In this regard, the local supreme courts of these regions have lifted the suspension of procedural terms and are gradually resuming their normal judicial activity.

In particular, the SCBA has clarified that the days declared as non-business will not be taken into account when calculating the abandonment of lawsuit term for failure to prosecute. Furthermore, in one of its last resolutions, the SCBA has provided for the progressive resumption of the procedural terms, for courts to issue all pending resolutions, as well as for the filing of electronic briefs and procedural acts that are compatible with the current social isolation restrictions.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The SCJ has neither issued any particular ruling on enforcement of judgments proceedings (whether national or foreign) nor included this type of proceeding among the exceptions that allow a request for resuming of the procedural terms currently suspended.

Therefore, in accordance with the general provisions in force as of the start of the COVID-19 pandemic, a party willing to initiate or resume an enforcement proceeding should, in principle, prove that it refers to a matter which does not admit delays and request to the relevant court an exceptional lifting of the suspension provisions.

Furthermore, in light of the last provisions issued by the SCJ, when the federal or national courts of the City of Buenos Aires have jurisdiction over an enforcement judgment proceeding, the filing to initiate such proceeding could be made electronically.

There are also exceptional cases in which the enforcement of a judgment could be requested (i.e., when it orders payments for (a) alimony; (b) severance pay; (c) work accidents; (d) transportation accidents; and (e) professional fees, provided that they have been given in payment, the status of the process allows it and the relevant court finds it appropriate).

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Due to the National Executive legal provisions and the SCJ and provincial courts' rulings regarding the suspension of procedural terms and the limited activity of the courts, litigants mainly work from their homes through different virtual platforms. These platforms allow litigants to follow the procedural developments of dockets, hold team conferences and prepare briefs that must be filed in cases that do not admit delay as well as lawsuits falling under the jurisdiction of federal and national courts of the City of Buenos Aires.

The production of evidence to be carried out during a proceeding's evidentiary stage cannot be easily done through technological tools since some of them should be carried out before courts (such as the examination of witnesses) and others needs to be physically done in a determined place in the presence of the parties (e.g., acts of the expert before preparing an affidavit to be submitted to court).

According to Argentine procedural rules with respect to the examination of witnesses, a witness's deposition will be valid when it is taken before the Court. Therefore, this is an issue that will be virtually suspended until courts resume their activities. However, courts are entitled to decide upon taking a witness's deposition through video-conference when the case admits no delay and the parties' rights and guaranties are protected. Accordingly, the SCBA has reminded judges that those hearings that cannot be postponed may be held taking into account the use of available technological tools.

With respects to mediations, the Argentine Ministry of Justice has established that mediators, who intervene in mandatory mediation proceedings prior to the commencement of any judicial proceeding, may conduct hearings by electronic means, through video-conference or other equivalent means with voice or image transmission.



# Australia

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#### 1. **What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Australia has both federal and state (or territory) courts. Federal courts deal with matters delegated to them under federal legislation, while state courts have inherent jurisdiction to hear matters arising under common law, state legislation and in certain circumstances, federal legislation.

In response to COVID-19, Australian courts have generally sought to minimise in-person attendance at courts, especially for hearings prior to trial. New jury trials were suspended in the Supreme Courts of every state and territory, though jury trials are set to resume in June for some jurisdictions.

Australia's highest court (and final court of appeal for both federal and state courts), the High Court of Australia, did not sit in April or May, and will not sit in June. Future sittings will be reviewed in June. The High Court continues to deliver judgments and hear applications for special leave to appeal, and will hear any urgent matters by video-conference.

The Federal Court has vacated listings with in-person attendance up to 30 June 2020. It is seeking to deal with hearings which would ordinarily require up to half a day attendance on the papers, by telephone or both. Video-conference technology such as Microsoft Teams is being used for short hearings. Newly filed judge matters are being triaged by the National Operations Registrar for allocation of a judge and first return date. Federal Court Full Court matters and appeals are all proceeding as electronic appeals by video-conference or telephone.

Personal appearances have returned in the Supreme Court of New South Wales for some matters with limited attendees, but appearance by video-conference will continue for many matters. Additional clients and members of the legal teams may attend by audio-visual link.

In the Supreme Court of Queensland, personal appearances have resumed for applications requiring an oral hearing, but call-over hearings will be conducted by telephone.

There are limited personal appearances in the Supreme Court of Victoria, usually where exceptional circumstances exist and prior approval is granted. Otherwise, matters are proceeding by video-conference or telephone or, where appropriate, on the papers.

In the Supreme Court of Western Australia, civil trials have returned to in-person attendance, subject to social distancing of 1.5m. Contested chambers hearings and general division appeals will be conducted in person wherever possible, although attendance by telephone is possible by prior arrangement. Wherever possible, all directions hearings and case management conferences are conducted by telephone. In the Court of Appeal, counsel and one instructing solicitor, or self-represented parties, can appear in person at civil hearings subject to social distancing of 1.5m.

In the Supreme Court of South Australia, directions hearings and civil listing conferences before judges are proceeding by audio link, while all listing practices before Masters, including mediations, have returned to normal and will be heard in court unless other arrangements are made. Civil trials are proceeding in the ordinary way and new trials continue to be set down.

The Supreme Court of Tasmania is encouraging hearings by audio-visual link or telephone.

The Supreme Court of the Australian Capital Territory has resumed personal appearances for pre-trial civil applications, mediations and Registrar's lists. Civil trials are continuing as listed. Court of Appeal sittings will continue, with legal representatives and litigants able to attend personally or remotely.

In the Supreme Court of the Northern Territory, current trials will continue as listed. Pre-trial hearings, mentions and directions hearings have reverted to personal appearances.

The High Court, Federal Court and the Supreme Courts of Victoria and South Australia are accepting unsworn affidavits on certain conditions, including the understanding that sworn affidavits will be provided when circumstances permit.

In New South Wales, documents requiring witnessing, such as statutory declarations, affidavits, agreements and deeds may be witnessed by video rather than in person. Victoria has introduced temporary amendments to allow affidavits to be signed electronically and witnessed by audio-visual link. In Queensland, court documents can be signed electronically.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

In response to the COVID-19 pandemic, the Australian Government has temporarily amended Australia's insolvency laws. The most relevant in this context are that it has extended the time to comply with a bankruptcy notice, in the case of an individual,

or statutory demand, in the case of a company, from 21 days to 6 months and the minimum debt that must be owing to a creditor to issue either notice has been lifted to \$20,000.

There have not been any other major changes to substantive limitation periods.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

In Queensland, the execution of civil enforcement warrants by bailiffs and enforcement officers will resume from 18 June 2020. The Supreme Court of the Australian Capital Territory is not processing civil enforcement matters until further notice. Urgent enforcement matters can be emailed to the Registrar setting out the circumstances of urgency. The other major courts have not announced any similar measures.

Enforcement by statutory demand or bankruptcy notice has been affected by the temporary changes to insolvency laws, but other methods remain available.

As foreign judgment registration proceedings in Australia usually occur without the need for witness testimony and do not involve a jury, they have not been affected by the changes to court processes. Enforcement of a registered foreign judgment may be affected if the enforcement is in the Australian Capital Territory or through use of insolvency processes.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Yes. Most litigators have been working from home and conducting their practices virtually, though some are now returning to their offices. This has included conducting mediations, conciliations and hearings by telephone or video-conference.

Within the Australian litigation process, telephonic mediations have created the biggest challenge. The fact that they are not conducted in person means that all sides miss out on trying to interpret body language and it is more difficult for the mediator to build rapport. The process also becomes more interrupted as parties need to break from the call for private discussions.

# Austria

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#### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Since freedom of movement has been restricted, parliament has passed various laws responding to the effects of COVID-19 through restrictions upon interactions within the justice system (see in Federal Law Gazette 16/2020 and 24/2020). These laws regulate, among other things; deadlines, limitations of time to commence actions, oral hearings, service of court documents, enforcement and insolvency deadlines.

For several weeks, courts operated with severely reduced staff. Even now, a significant number of judges work from home.

Many oral hearings have been postponed during the past several weeks to July, and even later. Currently, we are receiving summonses for October and later and are preparing for a summer filled with many – previously postponed – court hearings. Only in cases where it has been necessary to avert danger to life and physical integrity or to prevent irreparable harm, court hearings have been scheduled at the normal pace during the COVID-19 lock down.

Laws have been introduced to foster court hearings to be conducted via video conference. However, this is only possible if all parties agree. In our experience, this has rarely been the case. Typically, at least one party requests a hearing in person. If such an agreement can be found, courts use the platform Zoom.

The public is allowed to attend the hearing – with social distancing – in the courthouse and with participants wearing nose-mouth-protection (“masks”). Many judges also require that counsel, parties and even witnesses keep the mask on even while speaking. Some courts do not allow transparent plastic masks. In this case, we recommend wearing the simple throw-away masks. In some court houses, temperature of all visitors, including counsel, will be taken at the courthouse entrance. Of course, all visitors are required to wear masks.

A special challenge is satisfying the requirement to keep distance between counsel and his/her own client. We recommend addressing the need for communication and the question how to achieve this in an effective and tolerable way, at the very beginning of the court hearing to avoid later disturbances.

Party appearances can be resumed on 1 July 2020 at the earliest. At present, they are limited to “the extent necessary to safeguard procedural and party rights”. File

inspection is permitted after filing by telephone, as are applications and submissions within the time limits.

Overall, it seems that Austria's court system is close to being back on track. Whether court hearings via video conference become a more popular tool in the future, remains to be seen.

2. **Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

#### **Substantive deadlines**

**Statutes of limitation:** Periods of limitation for bringing actions before the courts have been suspended. The period from 22 March 2020 to the end of 30 April 2020 is not included in the running of the period during which an action, application or statement is required to be brought before a court.

**Defaults on payment obligations:** If a contracting party whose economic performance is significantly affected by the COVID-19 crisis defaults on payment obligations that become due in the period from 1 April 2020 to 30 June 2020, this party will not be required to pay compensation for out-of-court collection measures carried out before 1 July 2020. Moreover, interest on arrears up to this date is limited to 4 percent per annum. This regulation applies to payment obligations arising from all contracts concluded before 1 April 2020, both for entrepreneur-consumer transactions and for other legal transactions.

#### **Procedural time limits**

Between March 22 and April 30, there was a suspension of all procedural deadlines in place. On May 1, all interrupted time limits again started to run.

Requests for interim injunctions and freeze orders are considered urgent proceedings which are handled as usual, and are not subject to the interruptions of deadlines and postponements of hearings.

The obligation of the debtor to file an insolvency petition in the event of over-indebtedness does not apply by way of exception, in the event of over-indebtedness occurring in the period from 1 March 2020 to 30 June 2020. If there is over-indebtedness at the end of this period, an insolvency petition must be filed within 60 days of 30 June 2020 or within 120 days of the occurrence of over-indebtedness, whichever period ends later.

3. **What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Like all other deadlines, the deadlines in enforcement proceedings have also been interrupted from March 22 to April 30, 2020.

The compulsory auction of a property must be postponed without the imposition of a security, if the obligated party has gotten into economic difficulties as a result of the Covid- 19 crisis and if the consequence of an enforcement would destroy such party's economic existence. In order to prevent people in the current situation from becoming homeless through eviction, it is possible to postpone the eviction of persons from their dwellings. This grace period will be lifted on June 30.

For other types of enforcement, the COVID-19 crisis does not constitute a reason for postponement.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

In Austria, lawyers are among the professionals that have been allowed to continue work in their offices, although home office (WFH) is strongly recommended. In practice, many law firms switched to WFH for several weeks and held their “meetings” with clients via video conferencing. We notice that video calls have started to prevail in numbers over simple audio calls. Whenever several parties are involved, it has become standard practice to invite a video call. We even have met new clients only in “Cyber Space”. Many clients are completely accustomed to communicating via video and prefer this form of communication. Unless very delicate issues have to be discussed, we believe that traveling for meetings in person will be continue to be significantly reduced, including as a cost-saving measure, as clients wish to avoid not only the expense but also the time spent.

# Belgium

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### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

By Royal Decree no. 2 enacted on 9 April 2020 (as amended by Royal Decree of 28 April 2020), the Belgian government adopted several measures which strongly impact civil court proceedings. For matters that are not regulated by Royal Decree no. 2, the specific measures relating to COVID-19 adopted by the Belgian courts need to be taken into account. The College of courts and tribunals ("*College van hoven en rechtbanken/ Collège des cours et tribunaux*") issued compulsory guidelines which applied to all courts in Belgium until 3 May 2020. These guidelines are not extended, but the College of courts and tribunals issued an "exit-strategy" starting from 18 May 2020 which includes several measures set out in such guidelines. Provided that the measures set out in the exit-strategy are general, each court has adopted different, more detailed measures to deal with the COVID-19 outbreak.

As regards the **court registries**: the court registries are still open, however, with a minimum of staff present, if need be. The exit-strategy issued by the College of courts and tribunals provides that submissions and other legal documents should be filed with the registry electronically.

In this respect, the Law of 20 May 2020 containing various provisions on justice in the context of the fight against the spread of the coronavirus COVID-19 ("**Law of 20 May 2020**") (retroactively) introduces the possibility that all documents aimed at initiating proceedings or filing an appeal, and all petitions and requests (and their annexes) addressed to the judge, can be filed with the registry through:

- i. E-mail by lawyers and bailiffs as from 18 March 2020 until 31 May 2020; and,
- ii. E-Deposit as from 18 March 2020 until 30 June 2020 (an end date which may possibly be extended by the Government in the future).

As regards **introductory hearings**: the guidelines issued by the College of courts and tribunals determined that no new cases could be introduced before 3 May 2020. This date has not been extended. In principle, new cases can thus be introduced. However, provided that each Belgian court has, during a certain time, adopted its own measures in this respect, it is recommended to contact the registry in order to verify whether the introductory hearing will be held and if this is the case, under which conditions (e.g. physically or not). Please note that this rule never applied to summary proceedings.

As regards **oral hearings for pleadings on the merits**: Royal Decree no. 2 provides that all proceedings in which an oral hearing for pleadings on the merits is scheduled between 11 April and 17 June 2020 inclusive, will in principle be dealt with in writing. This means that the judge will decide the case on the basis of the written submissions and the exhibits filed by the parties, without an oral hearing. Such cases will be dealt with without any delay. If some issues are not entirely clear for the judge on the basis of the written submissions, the judge may ask the parties for oral clarification, possibly by videoconference. The case can however only be dealt with in writing **if all parties have filed written submissions**.

Parties can, however, object to having their case be dealt with in writing, without oral pleadings. They should inform the court thereof in writing at least one week before the hearing is scheduled.

There are three options:

- i. If none of the parties object, the case will be dealt with in writing, but the court has the discretionary power to nonetheless postpone the hearing or maintain the oral hearing which was originally scheduled (either in court or through a videoconferencing system), unless the parties have expressly communicated their agreement to their case being dealt with in writing;
- ii. If all parties object, then the case will be postponed for pleadings at a later specific date or referred to the docket;
- iii. If only some of the parties (but not all) object, then the judge will decide how the case will be dealt with on the basis of the comments and exhibits received from the parties. The judge can (i) maintain the oral hearing which was originally scheduled (either in court or through a videoconferencing system), (ii) postpone the case for pleadings at a later specific date or refer the case to the docket or (iii) decide the case on the basis of the written submissions and exhibits filed by the parties, without an oral hearing. This decision of the judge cannot be appealed.

In principle, the above rule also applies for **summary proceedings**; i.e. the judge will in principle decide the case without an oral hearing if all parties filed written submissions. The judge can however take the urgency of the proceedings into account when deciding whether the case will be dealt with in writing or whether a hearing for pleadings needs to be held.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Royal Decree no. 2 provides for the automatic extension of all deadlines set for (i) limitation periods (ii) the administration of justice (such as deadlines for filing written submissions) and (iii) lodging an appeal.



**Limitation periods** and other time limits for bringing an action before a court which expired between 9 April 2020 and 17 May 2020 (an end date which has not been extended), have been automatically extended until 17 June 2020 inclusive.

**Deadlines for filing written submissions** that have expired between 9 April 2020 and 3 May 2020 (an end date which has not been extended by the Government) have been automatically extended until 3 June 2020 inclusive. This extension also impacts following filing deadlines, i.e. these deadlines will be “passed on”. For example, the defendant had to file submissions on 10 April 2020 and the claimant on 10 May 2020. If the defendant’s deadline to file written submissions is extended to 3 June 2020 and the claimant initially had to file its submissions one month after the defendant filed submissions, the claimant is now also given one month to file submissions. This means that the claimant now has to file his submissions on 3 July 2020.

If, however, a party argued that proceedings were urgent and that any delay would have jeopardized its effective result, it could request the judge to set aside the extension of the deadlines for filing submissions. This request could be made orally at the hearing or in writing – in the latter case, the other party had 8 days to provide his comments. After this term, the judge had to deal with the case in writing. The parties have been informed of the court’s decision – which could not be appealed – by letter.

If the extension and “passing on” of the filing deadlines has as a consequence that the last filing deadline expires less than one month before the hearing for pleadings on the merits is scheduled, this hearing will be postponed to the first possible date one month after expiry of the last filing deadline.

Finally, as regards **appeal deadlines** the same rule as regards deadlines for filing written submissions applied. Appeal deadlines that have expired between 9 April 2020 and 3 May 2020 (an end date which has not been extended), have been automatically extended until 3 June 2020 inclusive. As it was the case for the extension of filing deadlines, parties could request the judge to set aside the extension of appeal deadlines under the same conditions as required for the request to set aside the extension of filing deadlines.

### **3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The procedure for recognition and enforcement of foreign judgments which do not fall within the scope of the Brussels I Regulation Recast is, in principle, not affected by the COVID-19 measures and ex parte requests for enforcement will be treated by the court as this procedure is in writing. However, if the judge considers this necessary, he can schedule a hearing to ask the party requesting the enforcement of the foreign judgment to provide further clarifications. It can be assumed that, as a consequence of the COVID-19 measures, the judge will ask that these clarifications be provided in writing or organize the hearing through videoconference.

#### **Enforcement against enterprises**

As regards the concrete execution of Belgian judgments and judgments falling under the scope of Brussels I Regulation Recast or other foreign judgments that

would have been declared enforceable in Belgium, the Belgian Government adopted specific measures in order to ensure the business continuity of undertakings that are affected by the COVID-19 crisis by Royal Decree no. 15 enacted on 24 April 2020 (as amended by Royal Decree of 13 May 2020). This Royal Decree establishes a statutory moratorium from 24 April 2020 until and including 17 June 2020. This entails that, among other things, **no protective or executory attachment** may be granted, and no means of enforcement may be taken or continued on assets of the business (except for immovable goods).

In order to benefit from these measures, the following conditions need to be fulfilled:

1. The undertaking needs to be a business within the meaning of Book XX of the Belgian Code of Economic Law:
  - i. Natural persons independently exercising a professional activity;
  - ii. Legal persons (other than legal persons governed by public law which does not offer goods or services on a market); or
  - iii. Any organisation without legal personality, if it is of a profit-making nature or its objective to distribute profit to its members or, irrespective of its 'non-profit' character, because it actually distributes profits to its members or to persons exercising a decisive influence within the organisation.
2. The business continuity is threatened by the COVID-19 pandemic and its consequences. An undertaking should make a self-assessment as to whether this condition is fulfilled. With respect to this assessment, the criteria set out infra – in particular, the criteria listed in points i) to iii), can be taken into account.
3. The undertaking was not in a state of cessation of payments on 18 March 2020. This occurs when a business is no longer able to repay its due and payable debts. It is not necessary that it has stopped all payments, it is sufficient that some important debts remain unpaid, such as social security or tax liabilities.

Any interested party may, by writ of summons, request the president of the commercial court to decide that the undertaking concerned does not fulfil the conditions to benefit from the above suspension. In order to assess whether, in particular, the second condition is fulfilled, the preparatory works of the Royal Decree provide several criteria which the judge can take into account:

- i. the debtor's turnover or activity has decreased significantly as a result of the COVID-19 pandemic;
- ii. full or partial recourse has been made to economic unemployment;
- iii. the public authorities have ordered the closure of the debtor's undertaking;
- iv. attempts at negotiation between debtor and creditor;

- v. attempts to obtain new credits;
- vi. the consequences of the suspension for the creditor;
- vii. the overall level of indebtedness of the debtor and its chances of recovery;
- viii. the origin of the debt from contracts concluded after the start of the coronavirus pandemic, to the extent the debtor could have known the consequences of the coronavirus measures; and
- ix. fraud or abuse of rights on the part of the debtor.

The procedure should be introduced “as in summary proceedings” (“comme en référé/zoals in kort geding”), meaning, in conformity with the procedures and the short time limits of summary proceedings. The president must give priority to this request above all other proceedings.

### **Enforcement against natural persons**

Finally, the Law of 20 May 2020 introduced a **temporary suspension of protective and executory attachment** with respect to certain goods of **natural persons**. The suspension applies from 30 May 2020 until 17 June 2020. More specifically, (i) no (new) executory attachment can be granted unless with respect to immovable goods, other than those where the debtor has its domicile; (ii) the executory attachments granted before 30 May 2020, are suspended unless with respect to immovable goods, other than those where the debtor has its domicile; and (iii) no third-party protective or executory attachment can be granted for reasons of an outstanding monetary debt.

However, this rule does not apply:

- i. to attachments relating to maintenance obligations;
- ii. if the debtor agrees with the (new) attachment or the execution of attachments granted before 30 May 2020;
- iii. in the context of the recovery of any order imposing a fine in criminal proceedings, the confiscation of a sum of money establishing a claim against the assets of a convicted person, legal costs or a contribution, as well as any other obligation to pay a sum of money in criminal proceedings;
- iv. in the context of the recovery of all sums due in respect of taxes, withholding taxes, duties, surcharges, administrative and fiscal fines, late-payment interests and accessories, following a fiscal or social fraud; and,
- v. to certain notifications relating to tax obligations in the framework of drafting deeds of sale or mortgage use of a mortgaged property.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

In the framework of the measures taken by the Government relating to the COVID-19 outbreak, lawyers are encouraged to work from home as much as possible and to respect social distancing rules. Therefore, meetings with clients are held through video-conference platforms such as Microsoft Teams and LoopUp.

# Brazil

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#### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

In the beginning, in the absence of a general rule, the Courts were adopting different and gradually more restrictive measures as COVID-19 spread, following the guidelines of the national and state governments. Some Courts suspended deadlines and hearings; others suspended only hearings without interfering with deadlines, which began to cause some uncertainty.

On March 19<sup>th</sup>, 2020, the National Council of Justice, a public institution that develops judicial policies, issued a Resolution determining the adoption of an “extraordinary duty” suspending face-to-face work, but ensuring essential services. In-person services were also suspended and, whenever possible, work is to be done through technological means. It was established that each court is competent to decide on how to work remotely.

Subsequently, the National Council of Justice issued a new Resolution, stipulating that if the virtual sessions of Appellate and Superior Courts are held through video-conference, lawyers and parties may make verbal arguments if they so request at least 24 hours beforehand. A platform was also made available in which it is possible to create virtual rooms for judgment sessions, hearings or meetings.

It should be noted that the video-conference hearings will only take place if the participation of the parties and witnesses is ensured and attribution of liability to the lawyers and attorneys is prohibited. Regarding working hours, it was determined that employees and magistrates must observe regular hours.

Moreover, a law was enacted stating that virtual sessions may also be held in the Small Claims Appeals Groups and that if the defendant does not appear or refuses to participate in the conciliation attempt by remote means, the judge can issue a verdict.

In the Supreme Court, the judicial attendance of parties, lawyers, attorneys, defenders and interested parties will be by telephone or electronic means, maintaining the access to the public, including the physical filing of petitions, but exclusively for urgent non-electronic claims. It is also possible for attorneys, lawyers and defenders to send briefs during the virtual session, enabling the clarifications of facts – even when the trials are in progress.

Furthermore, the Superior Court of Justice also temporarily suspended the entry of the public to the building and the non-essential services, and directed that the essential services must be provided primarily by remote means. All sessions will be virtual at least until July 1<sup>st</sup>, 2020.

The National Council of Justice issued a new ruling on June 1<sup>st</sup> regarding the reestablishment of face-to-face activities determining that it should start at a preliminary stage. Face-to-face activities may take place from June 15<sup>th</sup>, 2020, if sanitary conditions and public health care that make it feasible are verified.

However, most of State Courts will remain working remotely until June 30<sup>th</sup>, and there is still not any estimate on when courts will reopen to the public.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

For the time being, there is no specific provision on limitation periods, only a draft bill to suspend the running of the limitation period until October 30<sup>th</sup>, 2020. There is still a debate as to whether limitation periods are suspended due to some particularities of the procedures, but no certainty on the matter.

There is great concern about the risk of lapse of time regarding the limitation periods in criminal cases with small penalties, which generated an interest of the Public Attorney's Office in preparing a draft bill to suspend the limitation periods in situations of public calamity, such as the current COVID-19 pandemic.

In the Resolution already mentioned, the National Council of Justice directed the suspension of the procedural deadlines from March 20<sup>th</sup>, 2020 to April 30<sup>th</sup>, 2020, except for cases of an urgent nature and those involving preservation of rights, such as *habeas corpus* and custody of minors.

Therefore, all deadlines, except those of the Supreme Court and the Electoral Justice, were resumed on May 4<sup>th</sup>, 2020. The procedural deadlines for physical records remain suspended due to the impossibility of carrying out the physical filing of petitions.

In the case of the Supreme Court, the deadlines for physical claims were suspended from March 24<sup>th</sup>, 2020 to May 15<sup>th</sup>, 2020, except for urgent cases. Regarding electronic claims, the deadlines have not been suspended.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Considering that procedural deadlines have been suspended for a long period across the country, compliance with judicial decisions has been severely affected. On the other hand, the national suspension does not cover any other deadlines determined by the judge (including in the period defined by the Resolution), which are not related to the practice of an act outside the scope of the claim. This is the case, for example, for court orders that direct the adoption of some conduct by the party within a certain period.

Specifically with respect to reorganization procedures, the National Council of Justice established ways of “facilitating” compliance with Judicial Reorganization Plans already approved by judges, since several companies under judicial reorganization were not able to continue paying their creditors.

Additionally, regarding civil imprisonment ordered for non-payment of alimony, the Superior Court of Justice directed the fulfillment of the decision through house arrest.

In the case of urgent warrants in situations with risk of contagion or difficulty in physically reaching the party, the State Appeals Court of Goiás authorized the summoning and notification of the party by the Court Official by means of messaging apps, such as WhatsApp. The State Appeals Court of São Paulo allowed the victim to be summoned through WhatsApp in cases of rejection of emergency protective measures based on the law dealing with domestic violence, as long as there is consent by the party.

The ratification of foreign judgments is the responsibility of the Superior Court of Justice and the enforcement takes place before the lower court of the Federal Justice. Thus, compliance with several claims may have been suspended, but the situation is gradually returning to normal, especially for claims related to electronic claims.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

In view of the fact that the majority of law firms suspended face-to-face activities in compliance with state orders, lawyers were forced to adapt their way of working to the remote format. As some hearings, mediations and conciliations are being postponed by Courts due to the lack of resources to enable access for all, there is not much news about the role of litigators in preparing for such procedures.

Generally, clients have many questions regarding appropriate behavior in the COVID-19 pandemic. In this sense, customer service is being carried out by video-conferencing platforms such as Google Hangouts Meet, Microsoft Teams and Skype, or via WhatsApp when the matter is simpler.

Lastly, as pointed out by the Brazilian Bar Association, the situation must be treated with the utmost care since thousands of legal professionals do not have computers with webcams, microphones or efficient internet connections to participate in virtual procedures. The situation of access to digital means of work is very different for lawyers around Brazil. There are a lot of lawyers who work at small firms with little

resources, especially in the more remote regions of Brazil. The issue of digital inclusion is deserving of greater debate, especially considering that there is no prediction about the end of the calamity we are facing.



# Canada

## Blake, Cassels & Graydon LLP

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### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

There are two parallel court systems in Canada – federal and provincial. Accordingly, in Canada’s ten provinces and three territories, there are both federal and provincial (or territorial) courts.

With the onset of the COVID-19 pandemic in March of this year, courts in several provinces (including Quebec, Ontario, Alberta and British Columbia) have temporarily suspended sittings subject to hearing urgent or time-sensitive matters by way of teleconference or videoconference. Courts are now on a path to more regular operations.

In Ontario, for example, appeals before the Court of Appeal for Ontario have been conducted by remote appearance or have been dealt with in writing. Regular operations of the Ontario Superior Court of Justice remain suspended subject to urgent and other time-sensitive matters being dealt with by way of virtual hearings. The Ontario Superior Court issued a consolidated notice on May 13, 2020, announcing that in-person hearings of court matters will not resume until July 6, 2020 at the earliest. That said, the Ontario Superior Court has been expanding the list of matters that can be dealt with by way of a virtual hearing. As well, in Toronto, Ontario, where there is a specialized bench that hears commercial disputes, the Court has been very accommodating in dealing with matters by teleconference or videoconference where there may be immediate and significant financial repercussions for the parties, including matters dealing with insolvencies, receiverships, plans of arrangement, and injunctions.

In Alberta, hearings have been restricted to emergency and urgent matters only until June 26, 2020 at the earliest, with criminal jury trials and selections to be adjourned until September 8, 2020. The Court of Appeal of Alberta announced on March 23, 2020 that appeals, applications, and motions would be heard electronically via teleconference or videoconference. The Provincial Court of Alberta, which also suspended normal operations, has begun to stage a resumption of court operations to be conducted from May 25 to July 3, 2020. The Court has implemented teleconferencing and videoconferencing technologies for civil, criminal, and family matters, including the use of the Cisco WebEx platform for remote hearings.

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<sup>1</sup> Jeff would like to thank Anju Xing of Blake, Cassels & Graydon LLP for her assistance in preparing this response

In British Columbia, the Supreme Court has suspended regular operations, including all trials, conferences, and chambers applications unless otherwise directed by the Court, with the exception of urgent and emergency matters. Recently, the Court has begun preparing to resume operations, with hearings and conferences to be conducted by teleconference, videoconference, or written submissions where available. As of June 8, 2020, trials have resumed in several courthouse locations. At the Court of Appeal, all appeal hearings, chambers applications, and other matters scheduled to be heard between March 18, 2020 and May 1, 2020, were adjourned unless designated by the Chief Justice as a matter to proceed. Beginning May 4, 2020, the Court of Appeal has been hearing appeals by videoconference and all chambers applications and Registrar's appointments by teleconference or in writing.

In Quebec, the Court of Appeal adjourned hearings that were scheduled to be heard between March 17 and May 15, 2020. As of May 25, 2020, the Court has begun to resume regular hearings of appeals and motions presentable before a panel via videoconference. Similarly, hearings had been adjourned in the Superior Court of Quebec, with the exception of urgent matters. The Court has begun a gradual resumption of services starting June 2020, with matters to be conducted primarily via teleconference and videoconference. Priority will be given to urgent matters, matters that can be heard remotely, cases for which witnesses are not required, and civil matters of short duration.

Currently, all general sittings of the Federal Court of Canada (Trial Division) and the Federal Court of Appeal remain adjourned except for urgent matters. Specifically, the Federal Court of Appeal has adjourned all hearings that were scheduled between March 16 and June 15, 2020, with the exception of urgent matters to be heard by teleconference and certain cases selected by the Court to progress by teleconference or videoconference. Hearings in the Federal Court of Canada previously scheduled to be heard between May 16 and July 12, 2020, are adjourned *sine die* subject to certain exceptions which are to proceed by teleconference. That said, both the Federal Court of Canada and the Federal Court of Appeal have been reviewing their lists of pending cases to determine which cases should progress depending on the nature of the case, its complexity, and the extent to which the record is or can be made electronic.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

For matters falling within provincial jurisdiction, some provinces (Ontario, Quebec, and British Columbia) have issued orders temporarily suspending the operation of all or certain limitation periods. Other provinces in Canada have made no changes to their limitation periods.

In Ontario, subject to limited exceptions, limitation periods have been suspended until September 11, 2020, retroactive to March 16, 2020. Similar suspensions of limitation periods/extinctive prescriptive periods (with limited exceptions) are currently in place in British Columbia and Quebec pending a declaration by the provincial government that

the state of emergency is no longer in effect. In Alberta, while there was a suspension of limitation periods retroactive to March 17, 2020, limitation periods have resumed in that province effective as of June 1, 2020.

There have been no changes to federal limitation periods (although for many claims in the Federal Court of Canada, the applicable limitation period flows from the province in which the cause of action arose).

Several provinces have also relaxed many of the procedural deadlines that apply to civil litigation. Ontario, for example, has issued an Order that any provision of any statute, regulation, rule, by-law, or order of the Government of Ontario establishing any period of time within which any step must be taken in any proceeding be suspended for the duration of the emergency (subject to the discretion of the relevant court or tribunal). This order applies retroactively to March 16, 2020 and will last until September 11, 2020, even if the state of emergency ends before that date.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

In those provinces where the courts have been temporarily closed, enforcement of judgments, including foreign judgments, has been more difficult, except for matters which can be characterized as urgent or time-sensitive. While writs of seizure and sale can still be obtained and accounts can still be garnished, execution of writs and the appointment of a receiver to enforce a judgment have been complicated in many jurisdictions during the current COVID-19 environment.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

As in many other jurisdictions around the world, COVID-19 has required many litigators across Canada to carry on their practice from home. While the temporary closure of the courts in various provinces has resulted in the adjournment of in-person court attendances, litigators are now conducting examinations, engaging in mediations, and participating in contested hearings virtually. It is clear that in a post-pandemic world, virtual hearings will continue to be used by courts across the country in some form.

# People's Republic of China

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

With the outbreak of COVID-19, Wuhan City announced formal lockdown on January 23, 2020, one day before the Chinese New Year's Eve. Consequently, the quarantine period, or the time when local shelter-in-place orders were effective, overlapped the entire Chinese New Year holiday from late January to early February, 2020. PRC courts were not supposed to be operating during this holiday period.

In practice, court operations did experience certain delays in February 2020. Since the middle of February, the Supreme People's Court ("**SPC**") issued certain judicial notices regarding online court procedures, which improved the shift from original on-site court procedures to online court procedures. Accordingly, PRC courts of different provinces issued relevant implementing rules to set up specific online systems covering online case filing, document service, evidence exchange, hearing, mediation, and adjudication.

Notwithstanding the foregoing, it is also noteworthy that not all cases are suitable for online court procedures, especially online hearings. SPC requires all levels of PRC courts to respect parties' own decisions on choice of online court procedures; and courts should not adopt online hearings if any party involved rejects so. Also, certain complicated cases with multiple parties and/or a large volume of evidence are not suitable for online hearings; and thus, parties are entitled to apply for the extension of case procedures.

Since March 2020, China has achieved great progress in fighting over COVID-19, PRC courts have thus gradually resumed on-site operations, including on-site hearings. With the pace of full-range work resumption, ordinary on-site court operations have already resumed in the past months.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Under the existing PRC legal regime, the interested party generally enjoys three years of limitation period (if not otherwise expressly stipulated in applicable laws/regulations) to request for judicial remedies since such party knows or should have known the damages.

Meanwhile, during the last 6 months of the limitation period, if the interested party can prove the situation of force majeure, the limitation period shall be suspended since then.

As such, many PRC courts published articles holding the view that if the interested party was unable to file a lawsuit because of the infection of COVID-19 or isolation measures taken on closely-linked contacts, such situation may amount to force majeure under certain circumstances, and suspension may take place on a case-by-case review basis. Upon the disappearance of such force majeure situation, the remaining limitation period shall be resumed (but not recalculated) to the interested party.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

As stated above, PRC courts did withhold on-site operations in mid-February 2020; and thus, certain enforcement procedures were more or less affected.

Even if that was the case, those enforcement operations that could be done online were barely affected at that time; such as enforcing/remitting bank deposits through online banking electronic systems.

Meanwhile, the interested party may similarly apply for suspending the enforcement period during enforcement procedures if such party is unable to apply for the enforcement because of the infection of COVID-19 or isolation measures taken on closely-linked contacts.

In addition, as PRC courts have gradually resumed on-site operations since March 2020, enforcement procedures have already resumed as well.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Litigators in China have been proactively conducting their practice through various sorts of video-conference platforms throughout the outbreak of COVID-19.

In particular, due to the quarantine measures adopted by clients and/or counterparties, litigators have been using WeChat Enterprise, DingTalk, Zoom, Cisco Webex, Microsoft Teams, and other online platforms much more often than before. Also, they have been exploring the wider use of various online platforms during their daily work.

As to the examination of witnesses in China, it was usually conducted before PRC courts. Under limited circumstances where such activities were led by litigators out of court, online platforms were also a practicable alternative during the quarantine period.

As to other practices such as mediation, support of negotiation and interviews, litigators have become increasingly familiar with remote practice via video-conference and/or other kinds of online platforms.

# Cyprus

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### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

The administration of justice has been adversely affected all around the world by COVID-19 including Cyprus. The Cyprus Government was forced to implement strict protective measures to contain the coronavirus' spread. In line with the said measures and following numerous requests by the Cyprus Bar Association, which was concerned about the well-being of the lawyers, who flocked on a daily basis to the Courts, the Supreme Court of Cyprus on 16 March 2020 issued regulations pursuant to which the operation of the Cyprus Courts in all instances were essentially suspended until 30 April 2020 or until further notice. The only exception made concerned matters that the relevant judge would consider as exceptionally urgent, in line with the guidance provided in the relevant regulations (for example for criminal cases when the accused was in custody or in relation to offences committed in breach of the legislation governing the spread of COVID-19) or where prior leave of the Court was obtained either for the filing or the hearing of a matter within the said period. Against this backdrop, all the cases scheduled for first appearances or directions or hearing on the merits, during this period, were by default adjourned, causing further delays.

Additionally, all deadlines for filings of court documents, irrespective of whether they arise from applicable rules or as a result of prior directions of the Court, were suspended with the exception of very urgent matters, e.g. an application for the issuance of a freezing order or to meet expiring limitation periods, provided prior leave of the Court was obtained. Furthermore, the Court Registrars only proceeded with the swearing of affidavits in urgent cases.

However, in line with a partial relaxation of the Government's protective measures on 30 April 2020, the Supreme Court of Cyprus issued updated regulations the same day that govern the Courts' operations from 4 May 2020 onwards. In essence, the operations of the Courts have resumed but under a special regime. The regulations of the Supreme Court of Cyprus were of a more general nature this time, leaving the decision on the specific details regarding the manner in which operations could resume to the Courts of each district and even to the individual judges handling cases, having in mind the safety for everyone involved (e.g. a minimum people to attend a Court room on the basis of how large the said court room is etc.).

Even though the Courts have resumed their main operations and lawyers can now proceed with the filing of new cases etc., we have not yet returned to normalcy.

Many cases are still adjourned; some Court Registries have asked lawyers to book appointments with them for the filing of documents to avoid overcrowding of the Court etc.

One very positive development as a result of COVID-19 is the Government's formal statement that the Deputy Minister of Research, Innovation and Digital Policy has been instructed to implement an electronic filing platform within 2 months from the end of April 2020. Such a platform has long been awaited and it will enable lawyers to file pleadings and other relevant documents without having to appear before the Court Registry and also pay any required stamp duties online, rather than having to affix them on the documents by hand.

The latest update is that the electronic filing platform will be operational in September or October 2020. The relevant committee recently had a teleconference with UK judges who shared valuable information and experiences on the practical application of the system for electronic justice.

Additionally, the Government announced at the end of April 2020, that a draft legislation was being prepared to authorise the swearing of affidavits of clients before lawyers without the need for the clients to appear before the Court Registry. This would again expedite the relevant procedures, assist in keeping the numbers of people that have to visit the Courts to a minimum and reduce the workload of the Court officials.

We are unaware whether this matter has progressed further, as there were no relevant announcements made in the press and the Parliament has so far neither discussed, nor voted on such a legislation.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspended or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Yes. On 30 April 2020, law 40(1)/2020 was published in the Official Gazette of the Cyprus Republic, amending the ordinary regime of calculation of applicable periods of limitation of actions or enforcement of judgments.

With the said amendment, when a law or regulation provides for:

- i. A time limit and/or limitation period for bringing any claim before any Court, or
- ii. A time limit and/or time for taking steps to enforce a court judgment, which time limit and/or limitation period expires within the period from 15 March to 30 June 2020, this is extended to 31 July 2020.

Additionally, on 30 April 2020 several amendments to regulations governing the procedures before the different Cyprus Courts were also published in the Official Gazette of the Cyprus Republic. The said amendments were issued by the Supreme Court of Cyprus on 28 April 2020 with retrospective effect from 16 March 2020. The retrospective nature of the regulations was required to bridge the gap from the

time that the Supreme Court had issued a policy document suspending applicable deadlines until the date that the Supreme Court issued an amendment to the applicable regulations. It was considered that the policy document might not be considered as having regulatory status and, therefore, risk being ineffective in suspending the relevant periods, without properly issued amendments to the applicable regulations.

The amendments provide that when time limits are provided for the filing of any pleadings or applications or any other documents or in general for the taking of any procedural step, in the applicable procedural regulation or by the directions of the Court, these are suspended due to the coronavirus pandemic and until the issuance of a new Procedural Regulation repealing the suspension provisions, unless the Court orders otherwise.

On 13 May 2020, the Supreme Court of Cyprus issued new regulations cancelling the previous amendments to regulations governing the procedures before the different Cyprus Courts that were published in the Official Gazette of the Cyprus Republic on 30 April 2020. The new regulations came into force on 5 June 2020. Therefore, the previous time limits which provided for the filing of any pleadings, or applications, or any other documents, or in general for the taking of any procedural step, are no longer suspended.

Additionally, the Civil Procedure Order regulation was amended on 20 May 2020, by the Supreme Court of Cyprus. The said amendment provides that for the year 2020, as a result of the coronavirus pandemic, the summer holidays are limited for the period of 1 August 2020 to 31 August 2020, both dates included. Ordinarily, the summer holidays are from 10 July to 10 September, but due to the prior closure of the Courts during the period 16 March to 30 April 2020, the Supreme Court decided to limit the summer holidays for this year.

### **3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

During the period from 16 March to 30 April 2020, when the Courts were essentially temporarily closed and did not accept filings of any new applications (unless applications were exceptionally urgent and only if special leave of the Court had been obtained), it was not possible to file a new application seeking the recognition and enforcement of a foreign judgment in Cyprus. In the cases where a freezing order was sought, the Applicant had to convince the Court that the matter was exceptionally urgent and obtain the Court's special leave for the recognition and enforcement application along with the ex-parte injunction application to be filed.

Where a foreign judgment had already been recognised, it was again very difficult to proceed with enforcement measures, if the requirement of exceptional urgency was not satisfied. As explained above, the Court Registries did not accept the filing of any new applications for specific enforcement measures.

Since 4 May 2020 and the partial relaxation of the government measures, applications for the recognition and enforcement of foreign judgments and any application for specific enforcement measures can be filed freely again.



**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Obviously due to COVID-19 and the implementation of the strict measures by the Cyprus Government to prevent its spreading, many law firms have banned face to face client meetings, some have ordered all or some of their lawyers and other employees to work remotely from their homes or to attend the office on some days only, on a rotational basis, to ensure that social distancing is respected and the risk of infection is minimised.

Unfortunately, there is no possibility to conduct virtual hearings in Cyprus. All oral hearings were postponed during the period from 16 March to 30 April 2020. Since 4 May 2020 some hearings are now taking place again.

Generally, lawyers resorted to virtual client meetings and conferences where necessary to prepare their cases and get instructions.

To a limited extent arbitrators have taken advantage of technology to conduct meetings among themselves and also with parties for the purpose of issuing directions but we are not aware of any hearings taking place with the use of technology.

# Denmark

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#### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Following a special address by the Danish PM on 11 March 2020, the Danish judicial system, along with the rest of Denmark's public sector, entered a temporary state of emergency staffing, where the majority of judicial workers were sent home. This period lasted until 27 April 2020, when the courts re-opened.

During the period of emergency staffing, the Danish judicial system employed various measures due to the limited staff and in order to reduce the risk of spreading COVID-19. The courts cancelled almost all court hearings, except for critical hearings which could not be postponed. These include, inter alia, constitutional guaranteed interrogation of suspects and hearings regarding extensions of custody of suspects. Almost all civil proceedings were suspended and postponed indefinitely.

Controversially, some courts decided to prohibit members of the public and the press from attending court hearings. The Danish constitution ("Grundloven") and the Danish Administration of Justice Act ("Retsplejeloven") state that all court hearings must be open to the public, and hearings may only be held behind "closed doors" if this is decided in the specific case. Prohibiting the public and the press from attending court hearings in general had no legal basis but was done in order to contain the spread of COVID-19.

When the courts re-opened on 27 April 2020, thousands of cases had been suspended and postponed, and the primary objective of the courts was to reopen cases which had been put on hold during the emergency staffing period. Initially, the focus was on criminal cases and cases pertaining to family law, however as of 12 May 2020, the courts have also resumed civil and commercial proceedings, including physical court hearings, with the necessary safety measures and hygienic precautions, e.g. protective screens, adequate distancing between parties and availability of disinfectants. Court hearings which include a large number of participants, can be held outside of the courtrooms, e.g. in hotel conference rooms, etc.

Until 8 June 2020, the Danish government had imposed a ban of gatherings of more than 10 people. As of 8 June 2020, this ban has been modified to allow gatherings of up to 50 people, and it is expected to be further amended to allow gatherings of up to

100 people by 8 July 2020. However, indoor gatherings are still limited to 1 person per 2 square meters. It is expected that the Danish courts will allow more persons in the courtrooms following this amendment of the ban on gatherings.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

The common Danish limitation periods (3 years from when the creditor's claim arose, 10 years if the claim has been acknowledged by the debtor) have not been suspended as a result of COVID-19.

This is likely due to the fact, that courts' capacity does not impact a creditor's ability to suspend the statute of limitation, since the limitation period is suspended on the date on which the creditor submits their writ of summons to the relevant court.

In this respect it should be noted that all filings in civil cases are done via a case portal meaning that it is not necessary to make a physical appearance in the court in order to file.

The Danish government has suspended few specific deadlines, which are not relevant in relation to litigation.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

There has been no formal impact on the enforcement of judgments in Denmark, due to the impact of COVID-19. However, due to understaffing and the court's increased workload following the temporary emergency staffing, parties looking to enforce judgments in Denmark, especially foreign judgments, should expect an extraordinarily long case processing time, especially considering the relatively expeditious case processing witnessed in the Danish judicial system, under normal circumstances.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

As a general rule, Danish arbitration institutions continue to conduct physical hearings, to the extent that these can be conducted in a safe and legally sound way. The institutions urge parties to limit the number of persons present at hearings and to make use of videoconference platforms when examining witnesses.

Privately, most meetings between litigators and clients, opposing counsel, colleagues, etc. are mostly held via teleconference and videoconference platforms.

As of early June 2020, there is a slight increase in the number of physical meetings between clients, colleagues, etc. However, people are still observing the necessary safety measures to avoid the spread of coronavirus.

# England and Wales

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## 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

The lockdown issued by the UK Government has resulted in a significant widespread change in the way the civil courts operate in this jurisdiction. There was a very swift response from the courts to the pandemic, with the Lord Chief Justice publishing an announcement on 19 March 2020 that the default position for hearings would be that they would be conducted remotely where possible. As such, the work of a large percentage of courts and tribunals was consolidated into fewer buildings, with some being temporarily closed.

The thrust of the message from the Lord Chief Justice has very much been to ensure fair access to justice for all is continued, and a desire to avoid adjournments of hearings wherever possible, as that would only add to the existing waiting list for hearings. Throughout lockdown, some courts have remained open and have held face to face meetings where it has been urgent, safe to do so, and where they could not take place remotely, although the vast majority of civil hearings have been held remotely (court and tribunal figures for April 2020 suggest 85-90%). This includes not only interim application hearings, but also substantive trials.

As the UK Government guidance on lockdown is updated, more courts are re-opening and face to face socially distant hearings are expected to start to increase. From 1 June 2020, we understand that the Commercial Court will introduce four kinds of hearing: fully remote hearings with the Judge at home; remote hearings with the Judge in their office or court; hybrid hearings with the Judge and some participants in court (with others joining remotely); and normal physical hearings in which all the participants attend in person. The decision as to the type of hearing to take place will be a judicial decision. Further guidance on this from the Commercial Court is anticipated.

As there will be a limited number of courts available that are suitable for hybrid or socially distant physical hearings, it is expected that the majority of hearings will continue to take place remotely (at least in the shorter term). The number of people permitted in a single court at any given time will be limited to ensure social distancing is possible. Practically, this is likely to affect how teams are able to communicate during a hearing, with electronic communication being most likely. In order to assist the traditional court buildings manage more cases, a working group has been established to start identifying suitable venues (such as civic centres and other public spaces) for “Nightingale” courts to open; these would hold socially distanced hearings or allow witnesses to attend hearings remotely.

In terms of commencing claims, while a number of courts are closed, most filings are made online in any event (pre-dating COVID-19) using the CE-file system without the need for a physical presence at a court. While the system may be slower (due to an increase in e-filings and reduced court staff to deal with them), there has not therefore been any real change here as a result of COVID-19.

While the Civil Procedure Rules that govern English court procedure are already fairly flexible in terms of how hearings can be held (with the ability to hold remote hearings always having been available to the courts), some procedural changes have nevertheless been necessary to allow this to happen on a widespread basis. The UK Government introduced the Coronavirus Act 2020, which includes, *inter alia*, measures to assist with the operation of remote hearings. In particular, it includes provisions to enable video and audio hearings to be broadcast to the public (in line with the principle of open justice), as well as for the court to direct that such proceedings be recorded and prohibiting the unauthorised recording or transmission of such proceedings.

Procedural changes have also occurred, with a number of new temporary practice directions being issued, including PD 51Y which enables the court to direct that hearings which would normally be held in public should be held in private to allow it to proceed remotely. A Protocol for Remote Hearings was also issued by the courts on 26 March 2020, setting out guidance as to the conduct of such hearings and making provision for electronic court bundles for hearings to be lodged. Guidance has also been issued by the courts as to how to join remote court hearings (via Skype for Business or Microsoft Teams) and how to upload electronic court bundles for use in such hearings.

There has also been a greater effort made to keep the public updated as to how the courts are operating. A new web page has been established ([here](#)); this provides a weekly operational summary on the workings of the courts and tribunals during the COVID-19 outbreak.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

There has not been a required change to any limitation periods, mainly due to the online CE-file system that was already operational prior to COVID-19. The closure of some court counters will not delay the issuing of claims, as they are issued as at the date they are received on the online system. As such, due to the delays that may occur as a result of COVID-19 in lawyers obtaining instructions from clients in order to issue proceedings in time, best practice has been simply to allow additional time to issue the claim.

In terms of extensions of time, Practice Direction 51ZA came into force as a temporary measure on 2 April 2020 (it will have effect until 30 October 2020); this extends the period by which parties can agree upon extensions of time without the court's permission from 28 to 56 days. For extensions beyond that period, an application to the court will still need to be made (and will generally be heard on paper).

More generally, the courts have shown a willingness to be flexible in terms of court deadlines, and an understanding of the issues parties may face as a result of COVID-19. That said, parties are still expected to comply with court deadlines, but the court will take into account the impact of COVID-19 when considering applications for extensions of time, the adjournment of hearings, and applications for relief from sanctions.

### **3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

As the courts are still operating (albeit remotely), enforcement of judgments and orders through the pre-COVID-19 procedures are still able to take place. There are, however, some key exceptions to this: possession proceedings have largely been stayed, and enforcement action taken by visits to residential premises have been temporarily suspended. Enforcement may also be more difficult due to COVID-19 due to issues with service of documents (e.g. if personal service is required), or problems in obtaining evidence etc.

Similarly, the enforcement of English judgments abroad may be affected by the impact of COVID-19. It is necessary to obtain local law advice as to any difficulties that may be encountered when seeking enforcement at a local level.

On a related point, the ability to serve English court documents outside the jurisdiction has also been affected by COVID-19. Aside from any delays in having an application for permission to serve out of the jurisdiction be heard by the court, the processing of requests for service of court documents out of the jurisdiction has been delayed following the previous closure (due to COVID-19) of the Foreign Process Section (FPS) at the Royal Courts of Justice. Service via the FPS is one of the main methods of serving proceedings abroad (and its involvement is necessary for certain countries which require service through foreign governments, judicial authorities or British Consular authorities); while the FPS was closed, parties had to attempt service without using the FPS (if permitted in the receiving jurisdiction), which caused delays to service. The FPS re-opened on 1 June 2020 with a skeleton staff and delays are expected as they work through the backlog of requests.

In terms of the taking of evidence abroad, urgent applications to be sent to foreign courts are still being processed, but the court has advised that they are unlikely to be dealt with by the requested court due to the impact of COVID-19 and parties should, if possible, wait until the current restrictions are lifted.

Similarly, requests from other contracting states to the UK for service under the Hague Convention have been suspended, and foreign requests for examination of witnesses have been suspended for a period of 90 days from 25 March 2020 (or until further notice). Urgent applications for evidence, however, where solicitors in this jurisdiction are instructed, can still take place and be heard in the usual way.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

The shift to remote hearings has also translated to the work of litigators who are also working from home due to the current restrictions. With many law firm offices closed, lawyers have quickly adapted to using technology and being flexible in order to carry out their work effectively during the pandemic. Confidentiality remains key, with lawyers adapting their home work environment to ensure discussions with clients and colleagues can take place on a confidential basis.

With the courts reluctant to adjourn hearings, directions for filings of evidence etc. still need to be met, with witness statements and other evidence being gathered on a virtual basis. Meetings with clients and forms of alternative dispute resolution are also able to be held remotely. While telephone meetings continue (as has always been the case when working with international parties), there has been a marked increase in the use of video conferencing and online document sharing, with a variety of different platforms being used, including (but not limited to and being mindful of security considerations) Skype for Business, Zoom, WebEx, Microsoft Teams, and BT MeetMe.

# Finland

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#### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

Despite the COVID-19 outbreak, the Finnish courts aim to operate as close to normal as possible. Urgent oral hearings have continued during the spring, but soon after the COVID-19 outbreak the courts were recommended to postpone non-urgent oral hearings in both civil and criminal cases. In the midst of May 2020, the courts were recommended to reactivate interrupted functions and many courts have already restarted the holding of non-urgent oral hearings.

In March 2020, the National Court Administration gave the courts non-binding instructions to continue handling cases with existing resources and to operate as close to normal as possible for as long as this can be done without exposing court personnel or customers to the virus. However, courts were recommended to postpone oral hearings if the hearings cannot be held by videoconference. Urgent hearings such as hearings concerning coercive measures and criminal cases in which the defendant is being held in custody were however recommended to be held.

The National Court Administration can only provide non-binding recommendations to the independent courts and judges. Thus, regardless of the instructions, it is up to each judge to decide how to tackle COVID-19 in their proceedings.

In March 2020, the Finnish Parliament declared an ongoing state of emergency and activated certain parts of the Emergency Powers Act to tackle the COVID-19 outbreak. The Act does not include any provisions or powers directly affecting court proceedings. Thus, as a starting point, oral hearings are also held as scheduled if not otherwise decided by the judge. The emergency measures taken do, however, indirectly affect courts through flexible procedural rules, e.g. the provisions enabling rescheduling and postponement of main hearings.

Not yet opened main hearings can be cancelled or rescheduled if there is an impediment for the matter to be taken up for a final decision, and already opened main hearings can be postponed if postponement is unavoidable due to an unforeseeable circumstance or other important reason. Many COVID-19 related issues and restrictions will satisfy the criterion for a sufficient impediment or an unforeseeable circumstance justifying the cancellation, rescheduling or postponement of the main hearing.

Our understanding is that during the spring, most of the non-urgent main hearings have been postponed because of the COVID-19 outbreak.



In the midst of May 2020, the National Court Administration published its exit plan for gradually returning to normality. According to the plan, it is recommended that interrupted functions can be reactivated when safe courses of actions are established. In the beginning of June 2020, most of the courts started holding non-urgent oral hearings again. If no setbacks occur, the courts will now gradually return to normal functioning.

Holding main hearings and preparatory hearings as remote sessions is allowed in Finland. The current recommendation is that all hearings suitable for remote sessions shall be held remotely. It is in the discretion of the judge to decide if a remote session is appropriate or if a party has to attend in person. The usage of remote sessions, however, requires the parties' consent. Our experience is that remote sessions have mostly been used for preparatory hearings.

The most significant restriction on the usage of remote sessions is the hearing of witnesses. There are strict prerequisites that have to be fulfilled before witnesses can be heard by video conference instead of in person. It is rare that witnesses are heard remotely even during the COVID-19 outbreak since the threshold for fulfilling the prerequisites is high.

Because of the postponements and rescheduling of hearings, backlogs are expected in the courts when the emergency is over. Even if there still is a risk of a second virus wave, the National Court Administration has emphasized the need to start clearing backlogs as soon as possible to ensure that at least some of the backlogs are already cleared if the restrictions later have to be restored.

The National Court Administration estimates that clearing the backlogs can take at least two years. When clearing the backlogs, the courts will prioritize urgent matters, while civil proceedings concerning monetary disputes will be at the bottom of the pile. This prioritizing particularly leads to delays in the solving of commercial disputes. Thus, the backlogs could lead to an increase in solving such disputes by arbitration and other alternative dispute resolution methods.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

COVID-19 has not led to amendments to legislation concerning the operation of statutory deadlines.

As mentioned before, the Finnish Emergency Powers Act does not include any provisions or powers directly affecting court proceedings. Thus, existing deadlines are binding until otherwise decided by the judge. There are, however, flexible procedural provisions enabling extensions of deadlines on application thus reducing the need for legislative amendments.

For instance, for special reasons an extension may be granted for filing written statements if the request for extension has been submitted before the deadline given.

Similarly, a person who, due to a valid excuse, was unable to lodge an appeal or to undertake another action in a trial before the deadline may, on an application, be granted a new deadline.

Consequently, if communicated within the applicable time limit, COVID-19 related issues and restrictions could be held as valid excuses justifying exceptions to the given deadlines. However, the assessment of the effects of COVID-19 is made on a case-by-case basis and the burden of proof is on the applicant.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Generally, COVID-19 does not affect the enforcement of judgments. The National Administrative Office for Enforcement has stated that the enforcement of judgments will continue despite the state of emergency but warned that the COVID-19 outbreak could lead to delays and prioritizing because of a potential lack of personnel resources.

However, some temporary amendments to the Finnish Enforcement Code have been enacted as a consequence of the COVID-19 pandemic. The amendments mostly concern temporary relief for private persons. Also, an explicit provision compelling the taking into account of the COVID-19 outbreak when executing judgments and setting deadlines for applicants and respondents has temporarily been added to the Act. The amendments will be in force until the end of October 2020.

When it comes to foreign judgments, the enforcement should not be affected by COVID-19. However, the enforcement of foreign arbitral awards and judgments can sometimes require the hearing of witnesses or a party in person, if the party against whom the award is invoked objects to the enforcement. Consequently, an objection and request for oral hearings could possibly delay the enforcement.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Finnish litigators have mostly been able to conduct their practices normally by working remotely and through videoconference platforms. A majority of the working tasks can be performed remotely.

Most meetings are now virtual videoconferences; for instance, Microsoft Teams is widely used. Also, the use of electronic signatures has significantly increased. It is likely that the increased usage of virtual meetings and electronic signatures is here to stay even after the end of the COVID-19 pandemic.

When it comes to arbitration, the Finnish Arbitration Institute has given guidelines for arbitration during the COVID-19 outbreak, including, for instance, instructions concerning virtual hearings. Already before the COVID-19 outbreak, it has been quite common to hold Case Management Conferences by phone. Now we have experienced that some main hearings are also being held by videoconferencing, when parties have consented to the usage of remote sessions.

# France

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#### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

In response to the coronavirus pandemic, the French government has introduced legislation enforcing the closing of law courts and the suspending of judicial proceedings.

During this period, courts remained opened exclusively to deal with “essential” matters such as: urgent criminal cases with incarceration issues, civil cases with familial and violence issues. Apart from these essential matters, hearings have been postponed.

To this end, few hearings have been taking place having regard to sanitary measures. Those measures include, in particular, rules on minimum physical distancing and the requirement to wear a protective mask, including inside the hearing room.

For “non-essential” matters, hearings have been postponed until further notice.

As the lockdown is progressively being lifted in France, national courts and tribunals are now looking at solutions, in particular technological ones, in order to ensure that hearings take place under optimal conditions.

#### 2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?

The French government has issued orders effectively suspending the operation of certain substantive deadlines and procedural time limits during a “*legally protected period*” defined as the period running between 12 March 2020 and one month after the end of the current state of public health emergency (the “**Legally Protected Period**”). As of 11 May 2020, the state of public health emergency is announced to end on 10 July 2020 – meaning that the Legally Protected Period would end on 10 August 2020 – but that date may change depending on the evolution of the COVID-19 pandemic.

In civil and commercial matters, as per Article 2 of Order 2020-306 of 25 March 2020 (as amended by Order 2020-427 of 15 April 2020), all “*acts, appeals, legal actions, formalities, registrations, declarations, notifications or publications*” which by law must be carried out within a certain time period expiring during the Legally Protected

Period “*shall be deemed to have been accomplished in time if it is done within a period which may not exceed, as from the end of the [Legally Protected Period], the time period legally prescribed for taking action, up to a limit of two months*”.

In practical terms, that means that both limitation periods and procedural time limits expiring during the Legally Protected Period will start again on the day following the end of the Legally Protected Period for a period of a maximum two months.

As illustrations, based on the assumption that the state of public health emergency will end on 10 July 2020:

- A five-year limitation period expiring on 20 March 2020 is extended until 11 October 2020 (i.e. 10 August 2020 (end of the Legally Protected Period) + 2 months from 11 August 2020);
- A two-year limitation period expiring on 9 August 2020 is extended until the same date (11 October 2020);
- A 15-day time limit to appeal a judgment expiring on 25 March 2020 is extended until 26 August 2020 (i.e. 10 August 2020 (end of the Legally Protected Period) + 15 days from 11 August 2020).

Order 2020-306 of 25 March 2020 as amended also has affected the operation of certain contractual provisions. In broad terms:

- the operation of penalty clauses and late payment penalty clauses that were triggered before 12 March 2020 is suspended up to the end of the Legally Protected Period;
- the operation of penalty clauses, late payment penalty clauses, termination clauses and forfeiture clauses, the purpose of which is to sanction non-performance of an obligation within a set timeframe, that were triggered during the Legally Protected Period is suspended until the end of the Legally Protected Period *plus* an additional time period corresponding to the period during which the debtor was supposed to perform its obligation during the Legally Protected Period.

Besides, French law generally allows parties to agree on the suspension or interruption of limitation periods. This can be done by way of tolling agreements.

### **3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

#### **Concerning domestic judgments**

In France, the enforcement of domestic judgments is carried out through bailiffs, who have authority to attach assets on the basis of an enforceable court decision.

During the lockdown which lasted between 17 March and 11 May 2020, the enforcement of judgments was more difficult in practice because of bailiffs' limited capacity and ability to perform enforcement acts. It is too early to say whether and for how long the enforcement of judgments will continue to be disrupted in practice, but it is safe to assume that it will remain so to some extent for a few months.

Compulsory time limits for a judgment creditor to perform certain enforcement acts, and for a judgment debtor to challenge such acts before the enforcement judge, have been suspended up to the end of the Legally Protected Period.

The activity of enforcement judges has been drastically reduced during lockdown. It will continue to be disrupted for some time. Throughout the Legally Protected Period, under certain conditions and by exception to the general rule, enforcement judges may hand down judgments solely based on the parties' written submissions, i.e. without holding a hearing.

### **Concerning foreign judgments**

In civil and commercial matters, the enforcement of judgments rendered in Member States of the European Union, the United Kingdom and Denmark does not require prior recognition by a French court. Enforcement is carried out through bailiffs directly, as for the enforcement of domestic judgments. The impact of COVID-19 on the enforcement of judgments rendered in those jurisdictions is therefore similar to the impact it has had on the enforcement of domestic judgments described above.

Concerning foreign judgments rendered by other jurisdictions, enforcement requires prior *exequatur*, which is obtained through legal proceedings whereby the enforcing party summons the judgment debtor to appear before the competent French court from which *exequatur* is sought.

The shutdown of courts during the lockdown period has effectively suspended most court proceedings, including *exequatur* proceedings. Substantial backlog and associated delays are to be expected when normal operations resume.

## **4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms**

In response to the coronavirus pandemic, the French government, as many other governments around the world, has introduced legislation enforcing the closing of law courts and the suspending of judicial proceedings. This led French litigators to carry on their practice from their homes, concerning the cases not frozen under the emergency rules.

Litigators have therefore conducted negotiation or mediation meetings with colleagues and clients by way of teleconference or videoconference, such as Zoom or Microsoft Teams.

The Paris Bar also launched several online platforms in order to support litigators' work before or outside the court system. So far, three platforms are now available: (i) two complementary platforms for mediation procedures and (ii) one platform aiming at supporting litigators' work during proceedings and enhancing dialogue between parties and the possibility to reach amicable resolution of issues.

Paris Place de Droit, an organization gathering the main actors of the legal industry in Paris, is launching a platform proposing amicable solutions to parties confronted with difficulties related to COVID-19. This platform offers the services of leading GC, judges, attorneys or academics willing to help companies to escape difficulties.

# Germany

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### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

The German courts have not been closed down and continue to conduct hearings. The focus is on hearings in criminal matters, and in particular on those where the accused is imprisoned, but judges continue to hear civil and commercial matters that are urgent, in particular applications for injunctive relief.

This having been said, the vast majority of hearings in standard matters have been re-scheduled or postponed. Under the Code of Civil Procedure (*Zivilprozessordnung*, ZPO) there are several techniques for judges to progress matters without a scheduling a hearing:

- Judges can request the parties' consent to conduct the litigation without a (further) hearing and render a judgment solely based on written submissions (Section 128 para. 2 Code of Civil Procedure, ZPO).
- Judges can issue interim orders setting out their assessment of the legal and factual situation (*Hinweisbeschluss*) and even suggest terms for a settlement. If the parties co-operate, a court-recorded settlement can be implemented in written proceedings.
- Finally, German procedural law allows civil and commercial litigation to be conducted remotely to a large extent, dispensing with the need for counsel, parties, witnesses and experts to physically attend a hearing at a courthouse. Even if video technology is used, the judge or judges must sit in a courtroom, and the public must have access to that courtroom, since hearings in civil and commercial matters as a general rule must be public (see this [post on my blog](#) for more details). Also, a party cannot be compelled to participate remotely, but always has the right to attend in person. Germany's approach to "Remote Courts" is more fully discussed in the Annex.

I am not aware of any statistics yet, but there is anecdotal evidence that all three techniques are being used, with some judges reporting that they have held dozens of remote hearings. Some judges complain that the parties are still too hesitant, in their view, to agree to written proceedings. Generally speaking, there is a – welcome and overdue – move towards a more proactive case management by judges, [as discussed in more detail in this blog post](#).

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Germany has not passed any COVID-19-related legislation amending the rules of civil procedure or the statute of limitation. When the legislation was discussed, suggestions were made to include a general stand-still for certain procedural time limits, but this concept did not even make it into the draft bill. Parliament decided to amend only the Code of Criminal Procedure and leave civil procedure untouched. Civil procedure is a matter of federal law, and hence, while the lower courts are managed and financed by the federal states, the applicable rules are the same throughout the country.

Public health and safety, on the other hand, falls within the legislative powers of the states or even the municipalities. The lock-down provisions affecting the practical operations of the courts and their work environment therefore differ from state to state and locally.

German procedural law distinguishes between deadlines imposed by statute that a judge cannot amend or extend (*Notfristen*), and deadlines set by the judges. The first set of deadlines have remained, as mentioned above, unchanged. As for the second group, the approaches vary from court to court, and often from judge to judge. Some courts published general policies on the extension of deadlines or the re-scheduling of hearings, and removed the need for individual applications, whereas others still require counsel to file requests for extensions of time etc.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

As the recognition and enforcement of foreign judgements is dealt with in written proceedings for the most part, there is little impact. To the extent that the enforcement concerns the attachment of bank accounts and similar assets, from anecdotal evidence it appears that these matters progress more or less as usual. Bailiffs still serve the respective attachment orders on banks and other financial institutions. To the extent, however, that physical assets are concerned, enforcement may be impacted.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Given the nature of German civil procedure, depositions, examination of witnesses, conferences with opposing counsel as well as mediation are of little to no relevance in domestic proceedings.

As far as mediation and, more particularly, arbitration are concerned, videoconferencing technology is being used in order to progress proceedings. There is some uncertainty whether arbitrators can compel the parties to conduct a hearing remotely, or whether such a hearing requires the parties' consent.



# Annex

## Remote Courts in Germany

The situation with respect to remote courts in Germany is ambivalent:

### Law in the Books

On the one hand, the Code of Civil Procedure (*Zivilprozessordnung*, ZPO) is fairly modern and forward-looking. As far back as 2002, legislation was introduced to allow the conduct of court hearings using videoconferencing technology. Originally, the provision required that both parties consent to the use of videoconferencing. Since 2013, the court can make an order pursuant to Section 128a ZPO allowing the use of videoconferencing technology without the parties' consent. There are, however, three caveats:

### Law in Action

First, the provision requires the judge or judges to sit in a courtroom that is accessible to the public. As a matter of principle, all court hearings in civil and commercial matters are open to the public. The failure to ensure public access is an absolute ground for the judgment to be set aside (*absoluter Revisionsgrund*; Section 547 no. 5 ZPO). The principle of public access to court hearings is of such a fundamental nature that courts can exclude the public only in very narrow and specific circumstances. The COVID-19 crisis has triggered a discussion whether it would be permissible to exclude the public based on a public health exception. It appears that the majority of commentators believe that COVID-19 is not sufficient to justify the exclusion on that basis ([see here](#) for a more detailed discussion). Courts in practice, therefore, must make sure that the courtrooms remain accessible to the public even if the hearings are held via remote access for counsel and parties.

Secondly, until the COVID-19 crisis, the provision allowing videoconferencing has been largely neglected and led the life of a sleeping beauty, waiting for a prince to wake it up. In the past, if counsel suggested to use the provision and allow a party to participate remotely or to hear a witness or expert via video link, these suggestions were often not taken up by the judges.

The third caveat concerns the availability of videoconferencing technology. Because the principle of public access must be observed, it does not suffice for the judge to sit in her office in front of her laptop linked to counsel and for the parties to sit in their respective offices. There must be IT equipment in place to broadcast the hearing into a courtroom, and hence, a computer screen and speakers would be required. The level to which individual courts are equipped to handle video conferences on a large scale varies widely, mostly along the lines of the various federal states, in part because of different levels of funding. What also varies from federal state to federal

state is the legal assessment of the various providers of videoconferencing services such as Zoom, Skype for Business and WebEx: some federal states have equipped all judges with Skype for Business on their notebooks, others deem the same service to be unacceptable from a data protection viewpoint (see here for an overview of the systems used in the individual states).

Summing up, it turns out that it is not a prince bringing Section 128a ZPO to life, but a beast: COVID-19 has brought the provision to the attention of both the legal community and the general public and has created huge momentum towards the use of video technology, including investment in hardware and software.

### Telephone Conferences and E-Filing

Section 128a ZPO requires that sound and image be broadcast into the court room, hence it is not an option to handle hearings by way of telephone conference only. A judge could, however, convene a telephone conference with counsel to discuss the status of the matter. It is acceptable from a legal point and also common practice for the judge to use such a conference call to provide her initial assessment of the case and initiate settlement discussions between the parties.

Germany recently introduced a secure system of e-communication between lawyers and courts (besonderes elektronisches Abwaltspostfach, or beA for short) that allows for e-filing of virtually all documents in civil and commercial matters.

### Legislation

So far, no new legislation has been implemented that would address the COVID-19 crisis and civil procedure.

Recently, draft legislation for the labour courts and the social security courts was initiated by the president of the Federal Labour Court (*Bundesarbeitsgericht*) that pushed for a fairly far-reaching reform, allowing the judges to exclude the public for as long as the COVID-19 crisis persists and to make videoconferences mandatory. It would have allowed judges to also join the hearing remotely. This was of particular importance since the labour courts, unlike the civil courts, sit with professional and lay judges. At the level of the Federal Labour Court and the labour appeal courts, lay judges will typically have to travel, and sometimes quite a distance, to attend the hearings.

However, the proposal likely will be implemented in a watered-down version only that neither allows the public to be excluded nor gives the judges the power to make videoconferences compulsory. The labour courts were not turned into a laboratory for procedural innovation.

# Hong Kong

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#### 1. **What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

With effect from 29 January 2020, the Hong Kong judiciary administration closed all courts and statutory tribunals until further notice. This period became known as the General Adjournment Period (“GAP”). During the GAP, only matters which were truly urgent proceeded in Court and all non-urgent hearings which had been fixed to take place in the GAP were postponed.

Subsequently, from 21 February 2020, the judiciary administration announced that parties and Judges would be encouraged to dispose of matters, where possible, on paper. Some Judges also took the initiative to hold directions hearings by telephone, which had not previously been done in Hong Kong.

After the initial wave of COVID-19 cases abated in Hong Kong, the Courts did re-open for a short period between 9 March 2020 and 22 March 2020. During that period, a handful of trials and other hearings did take place. However, the GAP was re-established when the second wave of COVID-19 cases hit Hong Kong.

With effect from 3 April 2020 the judiciary administration permitted certain hearings to take place remotely by video conference where so directed by the Judge. In those circumstances, the Judge sat in Court and the Court was open to the public (with a reduced capacity in the gallery) in order to maintain the spirit of open justice. However, the parties were themselves not present in Court. While this enabled hearings to take place which could not have taken place otherwise during the GAP, the Court's technology for providing video conferencing facilities is quite old, and incompatible with many modern video conferencing systems, so parties encountered practical difficulties in arranging remote hearings.

Since 3 May 2020, the GAP has been lifted in stages.

Hong Kong has not yet implemented e-filing for its Court systems so the closing of the Court Registries meant that new claims could not be filed during the GAP. This period of closure together with the deteriorating financial situation is likely to lead to a substantial backlog of commercial and debt claims being filed in the days and weeks following the re-opening of the Courts and the Court registries.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspended or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

The Hong Kong legislature has not passed legislation to suspend or extend limitation periods.

The judiciary has clarified that where time limitation was due to expire during the GAP, the filing of proceedings to protect time was to be treated as an urgent matter and therefore, such proceedings could be brought during the GAP.

Deadlines for filing documents in Court (other than originating processes) were extended because pleadings and other court documents could not actually be filed during the GAP.

Parties to litigation in Hong Kong are generally encouraged to agree extensions of time without resort to the Courts where such agreement would further the underlying objectives of the civil procedural rules. These are set out in Order 1A of the High Court Rules Cap 4A) as follows:

- i. To increase the cost-effectiveness of any practice and procedure to be followed in relation to proceedings before the Court;
- ii. To ensure that a case is dealt with as expeditiously as is reasonably practicable;
- iii. To promote a sense of reasonable proportion and procedural economy in the conduct of proceedings;
- iv. To ensure fairness between the parties;
- v. To facilitate the settlement of disputes; and
- vi. To ensure that the resources of the Court are distributed fairly.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

During the GAP, the enforcement of judgments including foreign judgments has not been able to proceed unless it could be shown that a matter was urgent. So, for example, where a judgment creditor has been able to mount a case for an urgent Mareva Injunction to freeze assets in aid of enforcement to protect its position, enforcement has been able to proceed.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Litigation and arbitration practitioners have been undertaking more interviews via video conferencing and telephone as face to face meetings have not been able to take place and cross-border travel has been impractical if not impossible.

The inability to travel outside Hong Kong, not least to the Mainland of the PRC, has had a particular impact on practitioners in Hong Kong given that it is a regional cross-border dispute resolution hub with a particular focus on China related disputes.

# India

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

The Supreme Court and the High Courts of various states have issued circulars requiring litigants to approach courts only for urgent matters and not otherwise, namely, only matters which require urgent remedies in the form of ad-interim relief will be heard. In a recent case, the Bombay High Court imposed costs of INR 25,000 on a party who approached the court claiming urgency, whereas the court did not find any.

In addition, the Supreme Court of India has embraced modern technology and issued a Standard Operating Procedure dated April 15, 2020, for filing and listing of urgent matters, and conducting hearings through video conferencing to overcome the lockdown.

Similarly, the High Courts of various Indian states have designated special courts for video conference hearings, and the court registry has permitted litigants to present extremely urgent matters directly to the court without filing the proceedings or even paying the appropriate court fees.

In respect of criminal matters, the Hon'ble High Courts of various states have instructed all subordinate courts in the state to entertain only urgent matters, as for example, bail and anticipatory bail applications, remand orders and orders for grants of stay. Having said that, the trial matters or cases, both on civil and criminal sides, which do not merit urgency are put on a backburner.

The principal district judges of the subordinate courts have also been given the discretion to control their own operation and functionality.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Yes, the Supreme Court of India, in exercise of its extraordinary powers under Article 142 read with Article 141 of the Constitution of India, has extended the period of limitation applicable to all Indian laws. This order is binding across all subordinate courts and tribunals in India.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Presently, the courts executing judgments, domestic or foreign, are primarily entertaining urgent matters which require the interference of the courts. Considering that the limitation period has been suspended by the Supreme Court, one cannot justify any urgency for filing the execution application as regards a foreign judgement. However, if the judgment creditor has strong reasons to believe that the judgment debtor is in the process of alienating its assets with an intention to defraud its creditors, or that the assets of the judgment debtor and/or its guarantor require immediate protection or repairs, the judgment creditor can approach the appropriate court to seek a restraining order or any other ad-interim relief.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

This was challenging during the initial period of lockdown, mainly, due to lack of expertise and practice of the learned arbitrators and the senior counsel (barristers) to conduct hearings through video conferencing. However, with the passage of time, the fraternity of arbitrators and litigators have familiarized themselves with conducting hearings via video conferencing. It has not been easy to conduct examination of witnesses as this requires a lot more diligence including to ensure that nobody prompts the witness during the examination. Moreover, the lower courts, presently, are not equipped with the expertise or sophistication to deal with such matters, hence, the hearings listed for examination of witnesses have practically been adjourned.

# Israel

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

There are three main instances in the Israeli court system – Magistrates' Courts, District Courts and the Supreme Court. At the end of March, the Minister of Justice issued emergency regulations that applied to all instances and to the Law Enforcement and Collection System Authority, applying a temporary recess until mid-April. During this recess, only emergency hearings were held (such as bail hearings, emergency petitions to the High Court of Justice, injunctions, etc.), and all other hearings were cancelled. The recess was then extended until mid-May. In late April, the list of matters that were to be heard during the recess was expanded to include preliminary hearings, urgent administrative petitions and appeals at the Supreme Court, among other things.

Such hearings were held while limiting the number of people in the audience, requiring temperature checks, wearing masks, social distancing, etc. Some were held via video conference.

At the beginning of May, when many other restrictions on the Israeli population were lifted, the Minister of Justice signed an order according to which the recess was further extended until May 17; however, most hearings were to be held as usual during this time. As a result, the court system is just now beginning to get up and running again as usual.

In mid-May, the Director of the Court Administration proposed that the Courts' summer recess be shortened as a result of the backlog that occurred as a result of the emergency recess. The proposal has yet to be accepted by the Minister of Justice.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Generally speaking, all deadlines for submissions were to be automatically postponed by the length of the recess (unless the judge's decision specified a



specific date). When most restrictions were lifted at the beginning of May, the automatic extension of submission deadlines was eliminated.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Judgements, including foreign judgements, generally were not enforced during this time.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Generally speaking, most practices were postponed, while few were held via video conference.

# Ireland

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Normal court sittings have been interrupted by COVID-19 and the operations of court offices were also restricted with limited opening hours and more business being conducted by post, etc.

Urgent hearings have continued and the courts have taken steps to conduct remote hearings where possible, particularly for procedural matters, appeals and other matters suitable for remote hearing.

Where matters do not require to be dealt with in open court, an increasing amount of court business is being dealt with on the papers, such as applications for leave for admission to the commercial division of the High Court.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspended or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

There have been directions issued by the court automatically extending Court stipulated deadlines by default. There have also been proposals to extend statutory limitation periods, but the latter have yet to be enacted.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The frequency of enforcement of judgments including foreign judgments has been impacted by COVID-19 – only urgent business has been transacted in the first few weeks and in most cases such enforcement would not be deemed urgent.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Yes, many virtual mediations have taken place with increasing frequency. Meetings with clients, witnesses etc. are taking place through video and audio conferencing platforms with increasing frequency.

# Italy

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### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

In the framework of general lockdown imposed by the COVID 19 emergency, several measures have been enacted in Italy, having an impact on the operation of courts and court hearings. In fact, the Italian government provided for an *ex officio* deferral of court hearings and for a suspension of procedural deadlines during the so called “**emergency period**”, which started on 9 March 2020 and ended on 11 May 2020.

In this respect, reference shall be made to Law-Decree no. 18 of 17 March 2020 (the so called “Decreto Cura Italia”), as amended by Law-Decree no. 23 of 8 April 2020 (the so called “Decreto Liquidità”).<sup>1</sup>

According to article 83, paragraph 1, of Decreto Cura Italia, as amended by Decreto Liquidità, “*the hearings of the civil and criminal proceedings pending in front of all judiciary offices are postponed ex officio*” from 9 March to 11 May 2020 (inclusive).

However, Article 83, paragraph 3, of Decreto Cura Italia provided for a number of cases in which the deferral of court hearings, as well as the suspension of deadlines, did not apply.

In general, the exceptions regarded urgent matters (urgency to be specifically acknowledged by the court, even, in case, upon specific request of the parties), that is to say any proceedings whose delay may be significantly detrimental to the parties. Furthermore, said Article 83, paragraph 3, provides for a list of cases for which deferrals and suspension do not apply.<sup>2</sup>

After the “emergency period”, Decreto Cura Italia also provides for a so called “buffering period”, **from 12 May 2020 up to 31 July 2020**,<sup>3</sup> during which “*the heads of the judicial offices ... adopt the organizational measures, including those concerning*

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1 Decreto Cura Italia, being an urgent law-decree, had to be confirmed by a Law (*rectius*, “converted into law”), as in fact it was, with amendments, by Law No. 27 of 24 April 2020. The original final term of the “emergency period” pursuant to Decreto Cura Italia was 15 April 2020, then extended up to 11 May 2020 by Decreto Liquidità.

2 Proceedings for which deferrals and suspension do not apply are those: (i) dealing with minors, (ii) regarding maintenance obligations; (iii) for cautionary measures dealing with the protection of fundamental human rights, (iv) for the adoption of measures on issues relating to tutorship, support administration, interdiction and incapacitation (provided that a motivated request is brought forward proving that “*the matter cannot be postponed, nor a provisional order may be issued*”); (v) regarding the compulsory health checks and treatments in hospitals caused by mental illness and judicial tutorship, (vi) regarding pregnancy interruption after the first 90 days, (vii) for the adoption of urgent protection orders against family abuses, (viii) for validation of expulsion, removal and detention of third country and EU nationals and (ix) regulated by articles 283, 351 and 373 of the Italian Code of Civil Procedure (i.e., proceedings regarding suspension of enforceability of first and second instance judgments).

3 By Law Decree 28/2020 the “buffering period” was extended up to 31 July 2020.

*the handling of judicial affairs, necessary to allow compliance with the hygienic-sanitary indications provided by the Ministry of Health”.*<sup>4</sup>

It is worth noting, in particular, as regards the **hearings** already scheduled in the “buffering period”, that the same can take place in two ways:

- i. by means of remote connections<sup>5</sup>, where the presence of persons other than the parties’ counsels, the parties themselves and the judge’s auxiliaries is not required (see Article 83, paragraph 7(f)): in this case, the judge<sup>6</sup> shall give the parties (and, when necessary, to the public prosecutor as well) adequate prior notice of the time and method of connection, and then record in the minutes of the hearing the method of ascertaining the identity of the subjects involved and, as to the parties in person, also their free consent, or
- ii. by means of written discussion (no oral hearing), where the presence of persons other than the parties’ counsels is not required (see Article 83, paragraph 7(h)); the “hearing” takes place only in writing, through the mere exchange between the parties’ counsels, and contemporaneous electronic filing, of written notes only containing the respective submissions and conclusions, with the subsequent out-of-court adoption of measures/orders by the judge.<sup>7</sup>

Where the two abovementioned methods of holding the hearing are not considered suitable to guarantee an effective dialectics and the immediacy of the discussion with

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- 4 Among the adoptable measures listed in Article 83, paragraph 7, of the Decreto Cura Italia are:
- a. the limitation of access of the public to the judiciary offices, while granting access to those who need to perform urgent activities;
  - b. the limitation of the opening hours of offices to the public or, on a residual basis and only for offices that do not provide urgent services, the closure to the public;
  - c. the organization of access to services, by the means of telephone or telematic reservations, so that users’ access is phased in for fixed hours;
  - d. the adoption of binding guidelines for the scheduling and conduct of hearings;
  - e. the holding of public civil hearings behind closed doors (as permitted in exceptional cases by Article 128 of the Italian Code of Civil Procedure);
  - f. the possibility of holding civil hearings that only require the presence of parties’ counsels, the parties themselves and judge’s auxiliaries (including hearings aimed at obtaining information from public administration), by means of remote connections, with modalities adequate to safeguard the due process and the effective participation of the parties;
  - g. the provision of the possible further deferral of hearings to a date after 30 June 2020 (with the exceptions above mentioned, as per paragraph 3 of same Article 83);
  - h. for civil hearings that do not require the presence of parties other than the parties’ counsels (therefore when the presence of the parties is not essential), the possibility (instead of having an oral hearing before the court) to proceed with the mere exchange between the parties’ counsels, and contemporaneous electronic filing, of written notes only containing the respective submissions and conclusions (the so-called “written discussion”), with the subsequent out-of-court adoption of measures/orders by the judge.
  - i. (h.bis) the possibility of carrying out the activity of the judge’s auxiliaries (i.e., court appointed experts) by means of remote connections, always provided that due process and effective participation of the parties are safeguarded.
- 5 On 20 March 2020, the General Director of Information and Automated Systems of the Ministry of Justice has identified in the programs “Skype for Business” and “Microsoft Teams” those through which the connection can be carried out remotely.
- 6 According to Law Decree 28/2020, also in case of hearing held by means of remote connections judges should hold hearings from their court office.
- 7 This kind of procedure may, in particular, be adopted for final hearings. In such cases, the parties’ lawyers electronically file their final submission within a deadline prior to the date of the hearing, as set by the heads of the judicial offices. Thereafter, on the day already scheduled for the hearing, the judge shall simply assign the usual deadlines for the respective parties’ final briefs and subsequent reply briefs. The judgment shall then be rendered, as usual, after such filings.

respect to the judging body, it is possible for the parties to submit a reasoned request to the judge asking to postpone the hearing to a date that allows, in compliance with the health safety of the participants, the oral discussion in the typical manner.

It is worth specifying that during the buffering period, the judge's auxiliaries (for instance, court appointed experts) may perform their activity and hold meetings with the parties by means of remote connections, provided the parties' debate and relevant effective participation through such means are properly safeguarded.

Furthermore, it was established that all filings of judicial deeds and documents can only be made by telematic means; in such manner, the evolution of the court filing system , which had already started some time ago and was already advanced, has accelerated.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspended or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

As indicated, according to Decreto Cura Italia the terms for the performance of any procedural acts in civil and criminal proceedings were **suspended** during the "emergency period". The suspension regarded **all procedural terms**, including the terms in proceedings where no hearings were scheduled or would take place, with the only exceptions for urgent matters, as indicated in the previous paragraph.

One consequence of such suspension of all procedural terms during the "emergency period" is also the **suspension of limitation and forfeiture periods**, the interruption of which is exclusively possible through the commencement of specific legal proceedings. Where, on the contrary, the interruption of the statute of limitations or forfeiture can occur out of court (e.g. by means of sending a formal notice), no suspension applies.

Therefore, and in summary, limitation and forfeiture periods for rights which can only be enforced through a judicial activity:

- are suspended during the "emergency period" (9 March-11 May 2020);
- may also be suspended at a later date, for as long as the organizational measures to contain the virus taken by Judicial Authorities continue to be in place, where such measures preclude the possibility of instituting the proceedings.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Since the above-mentioned suspension of terms and activities prevents the commencement of enforcement proceedings in general, the enforcement of judgments was also suspended and could not be pursued during the "emergency period". This also applied to the enforcement of foreign judgments, it being not possible to file the relevant applications with the competent courts during said period.

It is worth noting that, on a local basis, the presidents of the various districts of Italian courts of appeal have expressly suspended any services and enforcement activities to be made by bailiffs, who are the public officials in charge of performing enforcement acts in the Italian territory.

The situation is slowly returning to normal, since, starting from 3 June 2020, the bailiffs' offices have resumed accepting requests for services and enforcement activities even if the same are not strictly urgent. However, access to bailiffs' offices is still regulated with restrictive measures to avoid crowding. The resulting request activities are therefore slower than usual.

Furthermore, in cases requiring the enforcement of release orders for immovable property, the Italian government provided for a longer period of suspension. In particular, according to article 103, paragraph 6, of Decreto Cura Italia, "*the execution of orders to release real estates, including for non-residential use, is suspended until the 1<sup>st</sup> September 2020*". An additional longer suspension period was established for enforcement procedures involving a debtor's main residence, which are suspended **until 31 October 2020**.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

In the course of the lockdown due to COVID-19, the Italian government expressly acknowledged that, among the activities to be guaranteed to citizens – in cases of necessity and urgency – were legal and accounting activities and –therefore– law firms, notaries and accountant firms. This means that lawyers, notaries and chartered accountants had to guarantee the service to citizens, but they were (and still are) required to respect the prevention and protection measures imposed by the Authorities, i.e. the respect of accurate hygienic-sanitary rules, avoid handshakes and respect the safety distance of at least one meter with colleagues and clients. The office has therefore always remained a reference point in case of need, while for all other activities – if practically possible – smart work from home was to be preferred. Nowadays, meetings with clients and colleagues are mainly held through video-conference platforms and meetings in person take place rarely.

As for mediation, it should be considered that for certain matters<sup>8</sup> a previous compulsory attempt of mediation, the length of which should not be higher than three months, is a precondition for commencing judicial proceedings: for such mediations, the "*terms for the performance of any activity*" were suspended from 9 March to 11 May 2020. For mediations in other matters, meetings can be held via videoconferencing systems, provided that all the parties previously agree to use such systems. In such cases, the minutes that record the positive conclusion of the mediation, with the relevant settlement agreement, may be digitally underwritten by the mediator and the parties' lawyers.

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<sup>8</sup> Pursuant to Article 5, paragraph 1-bis, of Legislative Decree No. 28/2010, matters for which the mediation procedure is a mandatory pre-condition in order to commence judicial proceedings are: (i) condominium matters, (ii) disputes about rights *in rem*, (iii) disputes concerning the division of assets, (iv) disputes regarding inheritance, (v) disputes in the area of family agreements, (vi) disputes in respect of leases, loans or lease of business, (vii) disputes regarding compensation for medical or healthcare liability (viii) disputes on compensation for defamation, and (ix) disputes in the context of banking, insurance or financial contracts.

# Japan

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#### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

Note that until the government declared a state of emergency for large cities, such as Tokyo and Osaka, on April 7, and then expanded it to the entire nation on April 16, court hearings were held almost as scheduled.

Soon after that declaration (which was initially for the period from April 8 to May 6), courts in Japan minimized their functions.

It was up to each court as to what extent they limited functions, depending upon the degree of pandemic in each area.

For example, the Tokyo District Court cancelled all the court hearings of civil cases in the period between April 8 and May 6 except for cases of:

- provisional attachments;
- preliminary injunctions;
- domestic violence;
- personal protections;
- civil enforcements which need urgency; and
- bankruptcy issues of an urgent nature.

As regards criminal cases, trials under the lay judge system and related procedures were cancelled. Procedures which were of an urgent nature, such as bail, remained unchanged.

On May 4, the government extended the nation-wide state of emergency after May 7 until May 31, and courts continued to take basically the same approach. The Tokyo District Court cancelled all the civil court hearings, with some exceptions stated above, scheduled between May 7 and May 31.

On May 14, the government began to lift the state of emergency for the areas severely affected by the pandemic, and on May 25, it lifted it for all areas in Japan.

Currently, the courts in Japan are trying to resume normal functions. However, they are not doing so with any particular urgency. For example, at the Tokyo District Court,



for the time being, each division of civil cases will limit the number of court hearings held each day and hold the hearings every other week instead of every week, for the purpose of the social distancing. Thus, many cases whose hearing dates were cancelled during the state of emergency period remain unscheduled. All the divisions of civil cases plan to dispense with the three weeks off which they usually take in the summer season, in order to minimize further delay. However, it seems there is a long way to go before civil court functions return to normal completely.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

No special legislation has been made, nor has any order been issued to suspend the operation of substantive deadlines such as limitation periods. It is nothing related to COVID-19, but due to the amendments to the Civil Code coming into force on April 1, it has become possible for parties to agree to extension of the statutory limitation period.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

As stated above, in the case of the Tokyo District Court and many other courts in Japan, enforcement procedures were halted during the state of emergency period except for those of an urgent nature. After the lift of the state of emergency, the courts have been trying to resume normal functions also in relation to enforcement procedures.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

When it comes to IT and digitization in the realm of civil procedure, Japan is much less developed than other countries, but practitioners and (to a much lesser extent) the courts are in the process of catching up. In February 2020, the amendment to the Civil Procedures Act took effect, which enable parties to use video-conference platforms (Microsoft Teams) for court hearings. The number of civil cases which used the video-conference platforms more than doubled from February to March, which is considered to be due to increased attempts of social distancing among judges and attorneys. Although it has not been so frequently or so commonly used yet, the Japanese legal field is aware and convinced of the importance and usefulness of IT and digitization in the realm of civil procedure and of the need to adopt such alternative arrangements in the current COVID-19 environment.

# Republic of Korea

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#### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

In the Republic of Korea, the COVID-19 pandemic has caused suspension of most courts nationwide from the end of February 2020 for two to four weeks in accordance with the guidance of the National Court Administration. Unlike other countries, there was no shutdown order issued in Korea. After the courts reopened, procedures have been conducted flexibly at the discretion of each court. However, some time-sensitive court procedures continued during this time such as criminal cases with defendants in custody.

Specifically, the Seoul Central District Court, the largest court in Korea, adjourned almost all procedures for four weeks until the end of March with the exception of some urgent criminal cases. After the court resumed operations as the pandemic slowed down, strict guidelines were put in place to prevent large numbers of people from gathering in confined spaces. The individual benches were advised to summon parties in alternating schedules and non-parties were not permitted in the courtroom. Within the courtroom, attendees were instructed to sit leaving adjacent seats vacant to minimize the risk of mutual contact. In addition to the foregoing, transparent acrylic plates were installed in front of the judges to prevent the potential spread of infection between the bench and staff or litigators.

It was reported in the Korean media that a judge at the Jeju District Court postponed the arrest of some defendants while sentencing them to prison terms due to the concern of COVID-19 infection in a highly dense prison.

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<sup>2</sup> Partner and Head of International Arbitration & Litigation.

In addition, some judges in the Seoul High Court (Korea's appellate division), held preparatory hearings (similar to case management conferences in other jurisdictions) by remote video conferencing. Although this type of procedure is permitted under Article 70(5) of the Civil Procedure Rules, it was rarely used until recently. This COVID-19 pandemic has encouraged many courts to consider this option as an alternative to in-person preparatory hearings. So far, however, we understand that the Korean courts have not used video-conferencing platforms to conduct virtual substantive hearings or trials.

With regard to the court access control procedures, most courts allowed access only through the main gates. Thermal cameras were installed at the main entrance of the court buildings, and individuals entering were required to wear a mask.

Accordingly, the Korean courts quickly adapted to the COVID-19 pandemic by changing hearing schedules and practices, including implementing various safety measures to prevent the spread of the virus and protect the overall safety of their employees and patrons. We believe that certain procedures and practices will become the norm even after this pandemic subsides and is fully under control.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

No legislative action has been introduced regarding limitation periods or substantive deadlines for written submissions. At present, given that most civil and administrative courts have an electronic filing system in place, there was little need to take formal provisional actions for the difficulties brought on by the pandemic. Also, in criminal cases, no particular actions were taken for procedural steps because alternative procedural methods such as mail, was never suspended in Korea.

However, in practice, additional time to prepare and file submissions was provided to parties if such parties faced difficulty in fact-finding and collecting evidence due to the social distancing policy. In fact, courts have accepted nearly all requests for an extension of time to file submissions. Similarly, courts adjourned hearings for cause, including when a party reported to have common symptoms of COVID-19 or contact with an infected individual.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The inevitable delays to court proceedings caused by the court's adjournments have also influenced the stage of execution or enforcement. Given that the enforcement of foreign judgments requires a domestic court's ruling for recognition and execution, some delays have been unavoidable.

When it comes to dates for public auctions or allocations as a matter of enforcement of judgement, higher quarantine standards have been applied considering the size and duration of the gatherings.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Although there was a temporary suspension of court operations, most litigators in Korea continued their everyday jobs, including coming to the office and communicating with clients, particularly given that there was no shutdown order in Korea. However, instead of in-person meetings, the use of and demand for video conferencing platforms increased significantly in the legal community in Korea.

In fact, as in other countries, a significant part of ordinary legal practice such as client meetings, fact and evidence finding, examinations and negotiations with opposing counsel are now conducted by video using platforms like Zoom or Skype. And we believe that the use of these platforms will become the norm in Korea post COVID-19.

# Luxembourg

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Due to the COVID-19, the courts in Luxembourg have functioned at a reduced pace but have maintained a sufficient level of activity. Most of the hearings have been postponed and only the essential and urgent matters have been dealt with.

The Gouvernement adopted the Ministerial Decree of 16 March 2020 setting the hearings of the judicial courts during the period from 16 March 2020 to 3 April 2020 and the Ministerial Decree of 6 April 2020 amending the Ministerial Decree of 9 July 2019 setting the dates for judicial court hearings during the judicial year 2019-2020. These Ministerial Decrees provided information on the schedule of hearings held and the modes of communication with the courts. The jurisdictions and the Bar of Luxembourg have also issued circulars and communications related to the schedule of hearings and the modes of communication allowed.

Since May 4, 2020, as part of the deconfinement measures, the justice system has been gradually phasing out its reduced service. However, movement of the public to justice sites remain restricted to the absolute minimum and the protective measures provided for by the Grand-Ducal Regulation of 18 March 2020 as amended must be respected (i.e. masks, social distancing).

Since June 2, 2020 the justice system has returned to its normal operating rhythm, but because of the delays accumulated during the COVID-19 period, the end of the judicial year has been extended until 3 August 2020 (rather than 15 July).

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Due to the state of crisis, the Government Council adopted the Grand-Ducal Regulation of 25 March 2020 suspending time limits in jurisdictional matters and adapting certain other procedural modalities (which was amended by the Grand-Ducal Regulation of 1 April 2020, the Grand Ducal Regulation of 17 April 2020 and the Grand-Ducal Regulation of 29 April 2020) and the Grand-Ducal Regulation of 17 April 2020 on the holding of public hearings before the courts during the state of crisis in cases subject to

the written procedure.

Following the Grand-Ducal Regulation of 25 March 2020, the deadlines set for bringing proceedings before the Luxembourg judicial, administrative, military and constitutional courts are temporarily suspended during the state of crisis (which has been extended by the law of 24 March 2020 until 24 June 2020) or until its repeal by another Grand-Ducal regulation during the state of crisis. The Government filed a draft law 7605 repealing the law of 24 March 2020 extending the state of crisis declared by the Grand-Ducal regulation of 18 March 2020 introducing a series of measures in the fight against COVID-19. The state of crisis shall end on the day this law comes into force.

The deadlines that govern the course of proceedings such as the time limits for pre-trial proceedings and the deadlines, foreclosure or forfeiture, which govern the introduction of ordinary and extraordinary remedies against orders, judgments or rulings are also suspended.

The deadlines, whether statutory or conventional, governing the institution of proceedings at first instance before the judicial, administrative and military courts, including periods of extinctive prescription, preclusion, foreclosure or forfeiture and the time limits governing the introduction of informal appeal shall be extended as follows:

- Deadlines expiring during a state of crisis shall be extended by two months from the date of the end of the state of crisis;
- Deadlines falling due in the month following the end of the crisis state shall be extended by one month from their due date.

The suspension of delays does not apply to the proceedings listed in the Grand-Ducal Regulation of 25 March 2020 such as:

- Deadlines for appearance in all proceedings;
- Deadlines for appeals before the Administrative Tribunal, which rules as a judge of the merits in matters of free movement of persons and immigration for international and temporary protection;
- Deadlines for hospitalisation of persons suffering from mental disorders without their consent;
- Deadlines in relation to certain criminal procedures.

In cases of urgency and except in criminal matters, the courts may, exceptionally, at the request of a party, derogate from the suspension of deadlines thus provided for, by decision of the judicial administration after having requested the written or oral position of the other party or parties to the proceedings. The decision of the court shall not be subject to appeal. If, in the context of pending proceedings, the parties are represented by lawyers, or if the court so orders, communications and notifications shall be made by electronic means via the registry.

In civil and commercial matters, the following deadlines are also suspended:

- Eviction orders in matters of residential and commercial leases;

- The filing for bankruptcy within 1 month from the date of the cessation of payment;
- The deadline of five days for declaration of a child's birth with the civil register of a municipality;
- The deadline in matters of succession, outside of any legal proceedings;
- The deadline governing the procedure of seizure of properties.

The Grand-Ducal Regulation of 17 April 2020 provides that cases pending before judicial courts subject to the rules of written procedure and ready to be heard by the court do not need to be heard in a public hearing as long as the parties to the litigation agree to it. At least 48 hours before the date fixed for pleadings, counsels for the litigating parties will be informed by electronic means of the date of the hearing and of the composition of the seat. They have to inform the court within the same delay if they want to plead the case. If they want to plead the case, the court will notify the exact time of the hearing and the case will then be heard by one judge (instead of three). If they do not plead the case, they only need to provide the court with the original procedural file and they will be deemed to rely solely on their written submissions. Counsels will be informed in writing of the date on which the judgement will be rendered.

The Government filed a draft law 7587 to extend the measures concerning the holding of public hearings during a state of crisis before the courts in cases subject to the written procedure until December 31, 2020.

### **3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

As to avoid physical contact, the Grand-Ducal Regulation of 18 March 2020 provided that the bailiffs serve documents not on the addressee in person but at the address of the addressees only in their mailboxes.

On 13 March 2020, the President of the bar has issued a letter circular asking lawyers not to effect services subject to time limits during the state of crisis, except in case of urgency. Since 27 April 2020, this measure is no longer in force as the President of the bar has issued a new letter circular regarding the exit from the state of crisis allowing performance of services as usual.

### **4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Due to the COVID-19, many lawyers had to work from home and adapt their work by using virtual platforms to communicate with clients. Communication means with jurisdictions and clerks have also changed since all exchanges have had to be done electronically.

The courts have maintained a sufficient level of activity to process the essential and urgent matters. Nevertheless, the judicial administration has not implemented hearings, examinations of witnesses or mediations through video-conference platforms.



# Malta

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

The COVID-19 pandemic prompted the temporary closure of the Courts of Justice in Malta from 16 March 2020 until 5 June 2020. This closure affected the Superior and the Inferior courts as well as the appellate courts irrespective of their competence or jurisdiction. Tribunals, boards, administrative commissions, committees and other entities which operate from the building of the Courts of Justice were also affected.

The court registry was also temporarily closed from 16 March 2020, however, was reopened with effect from 4 May 2020.

The courts of justice in Malta have now been reopened with certain rules in place to minimize the number of people present in the building at any given time. Hearings now have a set appointment time and clients are encouraged not to attend unless absolutely necessary.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

The running of any legal and judicial times and of any other time limits including peremptory periods, both civil and commercial, were suspended with effect from 2 April 2020.

With regards to substantive or procedural time limits relating to any court operating from the building of the Courts of Justice, this suspension will last until seven (7) days following 5 June 2020, being the date of effect of the order lifting the suspension. If any time limit was set to lapse during the suspension, it will also remain suspended for a further seven (7) days following 5 June 2020.

For legal, judicial or administrative time limits for the filing of any acts before any court that does *not* operate from the building of the Courts of Justice, the suspension of time limits will last until twenty (20) days following 5 June 2020.

Any other time period established in any agreement (whether public or private), including any time period for the performance of any obligation, set out in such agreement, shall also be suspended until twenty (20) days following the 5 June 2020, ***if and to the extent*** that the closure of the Courts of Justice has a direct effect on the ability of any party to exercise its rights or to perform its obligations under that agreement.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Given the temporary closure of the courts, the enforcement of judgments, including foreign judgments, became more difficult. However, the reopening of the court registry facilitated the situation. In relation to local judgments, executive measures of enforcement could be filed in the court registry and executed without the need for a court hearing. In relation to foreign judgments from Member States of the European Union that fall within the scope of the Brussels Regulation 1215/2012, executive measures of enforcement could similarly be filed in the court registry and executed without the need to seek a Maltese judgment ordering such recognition and enforcement in Malta.

In relation to other foreign judgments, precautionary measures of enforcement could be filed in the court registry which must be accompanied by an application for recognition and enforcement within twenty (20) days.

Now that the courts have reopened, any necessary hearings can take place.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Many advocates in Malta, including those who practice in litigation and arbitration, have been forced to carry on their practices from home. However, there has been no formal mechanism put in place for the holding of virtual court hearings, arbitrations, mediations, or other dispute resolution fora.

Arbitration proceedings are largely not affected as they are conducted virtually through video-conference platforms.

# México

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#### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

On March 17, 2020, the Plenary of the Federal Judicial Council entered the Decree 4/2020, by means of which contingency measures were adopted due to COVID-19. This Decree provided a non-operational period for all the federal judiciary extending from May 18, 2020 to April 20, 2020.

However, the Decree 4/2020 assumed that the administration of justice is as an essential activity and, consequently, the federal courts shall remain operational to deal **only** with *urgent cases*, under the principles of strict social distancing and telecommunication. Consequently, the Federal Judicial Council created a list of courts and tribunal duties to hear urgent cases.

On April 27, 2020, the Federal Judicial Council entered the Decree 8/2020 by which the Council extends the non-operational lockdown until May 31, 2020. However, this deadline is not definitive and might be extended.

Under Decree 8/2020, federal courts shall only consider as “urgent cases”:

- i. In criminal matters: (i) criminal actions with a person in custody; (ii) criminal proceedings without a person in custody for offences that deserve informal pre-trial detention; (iii) processing official communications and letters rogatory; (iv) wire-tapping warrants; (v) injunctions related to pre-trial detention; (v) extradition proceedings; among others.
- ii. Criminal law *amparo*: claims involving the risk of deprivation of life, attacks on personal freedom outside judicial proceedings, uncommunicated detention, deportation, expulsion, exile, extradition, forced disappearance of persons, ill-treatment, psychological torture, segregation and other acts prohibited by article 22 of the Federal Code of Criminal Procedure, as well as those submitted for lack of specialized medical care for persons in detention centers.
- iii. Civil law *amparo*: (i) claims against injunctions in cases of domestic violence and women’s protection; (ii) claims against judicial orders regarding alimony; and (iii) claims regarding acts that affect the children’s best interests.

- iv. Injunctions in bankruptcy proceedings.
- v. Attempts to set aside a labor strike.
- vi. Forced incorporation to the Army, Navy or Air Force.

On May 25, 2020, the Plenary of the Federal Judiciary Council entered the Decree 10/2020 by means of which the Plenary set June 16th, 2020 as the new date for the judiciary's return to work. However, this date is not final and might be extended.

Also, on May 24, 2020, the Supreme Court of Justice entered a Decree providing that from June 2020, the Supreme Court will receive and hear constitutional claims online; however, the terms of the cases filed and processed prior to March 17, 2020 will still be suspended.

As for state courts, some states have been extending the period of inactivity by issuing several orders and decrees based on the Federal Judiciary's general. For instance, in Mexico City courts have not been active since March 18<sup>th</sup>, 2020 and will not be resuming work until June 15, 2020.

However, state courts and the state judiciary councils (administrative agencies that organize the judiciary's work) have been issuing orders in response to actual necessities. For example, by means of a May 12, 2020 decree, the protective measures provided in the Law on Women's Access to a Life Without Violence may now be granted by the jurisdictional agencies in criminal matters of the first instance through electronic media and telepresence.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

As stated, on March 17, 2020, the Plenary of the Federal Judicial Council entered the Decree 4/2020 implementing a non-operational period from May 18, 2020 to April 20, 2020. (See answer to question 1 above.)

On April 13, 2020, the Plenary of the Federal Judicial Council entered the Decree 6/2020, by which the Council adjusted previous Decrees in two matters: (i) broadening the description of the concept of *urgent* cases; and (ii) increasing the number of courts duties.

The Federal Judicial Council considered that the extension of the COVID-19 emergency period obliges to seek a new operating structure which prioritizes the health and integrity of all the parties involved in the Judiciary. For instance, since May 5, 2020, the Mexican Supreme Court and the Collegiate Courts are conducting online sessions.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Regarding urgent cases, enforcement will be possible, especially concerning criminal and *amparo* matters. However, in terms of new cases, either filed online or physically, no enforcement will be carried out, nor appealed, until the suspension period is over.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Lawyers continue serving their clients, however as mentioned before only the cases that were considered as urgent will be processed either physically or as online trials, depending on the circumstances.

# The Netherlands

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### 1. **What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Upon the initial restrictive measures of mid-March 2020, the courts decided to close access to court buildings and limit physical hearings to a minimum. No new hearings were being scheduled for the time being and hearings already scheduled were postponed to be dealt with at a later stage. However, written submissions still needed to be filed and judgments were to be handed down.

Over the subsequent weeks, the courts issued numerous temporary court rules for dealing with the restrictions whilst still maintaining a certain level of operation. These temporary rules were case type specific and dealt with alternative ways to file submissions, making the use of secure e-mail (Zivver) possible by way of exception. Also, hearings by audio and video conference call were being introduced (Skype for business), for substantive hearings as well as for case management hearings only.

As far as we can tell, these operate fairly well. Particularly, the Enterprise Chamber (section of the Amsterdam court of appeal) has been accommodating multiple video hearings in order to deal with urgent matters. Upon request, third parties (relevant bankers, accountants and the like) are allowed to use the link and participate in such hearings. In addition, judgments can also be rendered on the papers only, i.e. without a physical or online hearing, provided all parties agree. In early May 2020, with restrictions gradually but slowly being lifted, the courts are opening up again for physical hearings but initially only for certain types of cases, and without access for the general public or the press. The courts are currently implementing physical measures within the court buildings and court rooms to allow hearings to take place in observance of the 1.5 meter distance rule.

We should note that in criminal cases, there appears to be problems in allowing prisoners to attend their hearings. Health restrictions do not allow for the transportation of prisoners from the correctional facility to the court house, whilst correctional facilities in some cases allow for participation by video only for a limited period of time, i.e. an hour. This may negatively impact defendants' fundamental rights to be present at their hearing.

- 2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

No substantive rules have been changed or suspended and limitations periods still apply. However, since under Dutch law in civil matters limitation periods can be interrupted by issuing a letter without the need to initiate legal proceedings, there was no need to change or suspend these rules as the courts were not a part of this process anyway.

As to extensions of a procedural nature, the temporary court rules initially allowed for an automatic extension if a party failed to submit paper on the due date. However, after electronic filing and the like had been made available, the parties are now required to file on the due date.

- 3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

We are not aware of any meaningful impact in this area. Under the Brussels I Regulation (recast) no exequatur is required to enforce a judgment issued by a court of another member state of the EU anyway, so bailiffs could still readily enforce judgments originating from other member states. For judgments originating from other jurisdictions, it depends on the treaties in place.

At a national level in practice, certain enforcement measures have been postponed. The professional organization of bailiffs issued general guidelines during COVID-19 advising bailiffs to suspend evictions, seizure of household contents and other measures implying physical contact with debtors.

- 4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Yes, to the extent possible. Physical meetings are conducted only with due observance of the restrictions (1.5 m distance, no handshakes, stay away if you are not feeling well, etc.).

# New Zealand

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#### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

The New Zealand Government has implemented four alert levels for COVID-19, which have varying impacts on society, including the operation of the courts. The Chief Justice has confirmed that, at whatever alert level, the heads of each of the benches of court (the appellate courts, the High Court, and the District Courts) have resolved that the courts will function to the fullest extent they safely can.

##### **Alert Level 4**

From 25 March to 27 April 2020, New Zealand was at Alert Level 4 – the highest alert level. At Level 4, in which there was a nationwide ‘lockdown’, there was significant disruption to the operation of the courts. During this time, priority was given to urgent matters, being proceedings affecting the liberty of the individual or their personal safety and wellbeing, or proceedings that were time critical. Hearings that were heard during this time were predominantly conducted using remote participation (audio-visual link (AVL) or telephone), unless the circumstances otherwise required attendance in person.

##### **Alert Level 3**

From 27 April to 13 May 2020, New Zealand was at Alert Level 3. During this time, the courts at all levels expanded their scope of work to, as far as possible, continue to hear all cases (albeit, potentially via alternative means).

New Zealand’s appellate courts, the Supreme Court and Court of Appeal, recommenced hearing appeals, including for non-urgent matters. Urgent matters continued to have priority.

In the Supreme Court, hearings took place via AVL or telephone; in the Court of Appeal, participants could elect to attend in person or remotely and hearings could involve a mixture of in-person and remote attendance. The Court of Appeal noted that hearings with *viva voce* evidence or substantial documents may need to be heard in person.



Criminal jury trials were suspended in the High Court and civil fixtures involving witnesses prior to 25 May 2020 were not required to proceed. The High Court otherwise addressed other criminal matters and as much of its civil fixtures as it could safely support, generally by remote means. Any fixtures involving witness were to generally involve the judge and counsel attending in person, with the witness participating remotely.

The District Court resumed as much of its usual business as possible in the criminal and civil jurisdiction, with the exception of criminal jury trials, which remained suspended. Counsel could generally elect to appear in person, or via telephone or AVL.

### **Alert Level 2**

Since 13 May, New Zealand has been at Alert Level 2. This will end on 8 June 2020. During this time, the Supreme Court indicated it would hear all scheduled matters with hearings generally proceeding in person, although alternative arrangements can be made if counsel have a relevant health condition. The Court of Appeal also indicated it would hear all scheduled matters, generally in person, however participants could elect to join via AVL.

Criminal jury trials continue to be suspended in the High Court until 3 August 2020. The High Court otherwise has indicated it will carry out all of its scheduled work in permanent and circuit (non-permanent) courts that can be safely supported. Alternative arrangements will be made for participants with relevant health conditions. Since 25 May, scheduled hearings involving witnesses have recommenced. Cases not involving witnesses are being assessed for whether they can be heard via telephone or AVL.

The District Court has also suspended criminal jury trials until 3 August 2020. While the Court has indicated it will hear as many scheduled hearings as possible, workforce capacity levels and a requirement to observe physical distancing means the Court is still significantly constrained. Counsel are generally expected to proceed in person, unless they have a relevant health condition, or a Judge otherwise permits.

### **Alert Level 1**

New Zealand will be moving to Alert Level 1 on 9 June 2020. While the Courts have yet to announce the protocols for this level (and when they will take effect) we expect the operation of the courts to return essentially to normal, albeit with enhanced health and safety measures and a backlog of cases to work through.

2. **Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

The government has not passed legislation or issued orders suspending the operation of limitation periods. Procedural time limits for cases are also operating normally.

During Alert Levels 3 and 4, the courts responded with flexibility in filing procedures and varying flexibility/waiver of filing fees.

Under Alert Level 2, the Supreme Court, Court of Appeal and High Court will accept filing by email or post. The Court of Appeal and High Court also allow for filing in person. The District Court requires filing by post or in person. Filing fees are payable in all courts.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The Courts have not imposed any specific measures or restraints on enforcement of judgments. However, like with all non-urgent court business, COVID-19 made the enforcement of judgments more difficult, particularly during Alert Levels 3 and 4. Any enforcement matter would have needed to be deemed an urgent matter to be given priority during this time.

Under Alert Level 2, the High Court is carrying out all of its scheduled work, although a backlog may delay matters. However, enforcement in the District Court may continue to be impacted as that Court continues to be constrained by workforce capacity and physical distancing.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

New Zealand courts already utilized teleconferences (such as for case management matters) and AVL to conduct hearings (in limited circumstances). However, as in many other jurisdiction, COVID-19 has required many litigators in New Zealand to rapidly begin conducting their practices remotely. Mediations, court hearings, expert conferencing and taking of oaths for affidavits have all been taking place remotely.

This rapid switch to operating remotely has resulted in a need for lawyers to upskill quickly on features of the various technological platforms available. It has also required litigators to consider best practices for conducting matters remotely which would traditionally be carried out in person. For example, agreeing appropriate frameworks to ensure confidentiality is maintained during a mediation, and guidelines to taking oaths and declarations for affidavits remotely.

# Peru

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Because of the COVID-19 pandemic, courts have temporarily suspended normal operations. Some “emergency courts” are working in a limited way.

Nevertheless, criminal courts are attending urgent cases through video conference, family courts are attending injunction orders in domestic violence cases and some judges (especially Constitutional Tribunal Members and Supreme Judges) have held deliberations and hearings by video conference.

Next Wednesday June 17, courts will be gradually reopened. A strict protocol has been approved by the Supreme Court Executive Committee, establishing the way that courts will develop their role and how will they allow participation of lawyers and litigators. During the next weeks in June, judges will organize their offices in house with no public attention. Hearings will be hopefully programmed, starting in July.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

No law has been passed. Procedural time limits have been suspended by a Supreme Court Executive Committee decision.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

During these weeks of temporary suspension, no enforcement has been issued.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

During these weeks of temporary suspension, practices like the examination of witnesses, mediations, etc. were also suspended. Therefore, no practice has been conducted through video conference platforms.

In the next months, with the reopening of courts, and according to a Supreme Court Executive Committee resolution, hearings, examination of witnesses, and even meetings between judges, parties and lawyers will be held, as much as possible, through “Meet”, the Google Hangouts platform or Gmail.

# Poland

## Rö Radwan-Röhrenschef Petruczenko Tokarzewska Sp. k.

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### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

There are three types of court systems in Poland: general, administrative and military courts.

The operation of courts has not been suspended, despite the introduction of the COVID-19 “epidemic state” in Poland. However, almost all of the court sessions except for urgent matters have been cancelled since the middle of March. The scope of the cases defined as urgent is rather limited and includes mostly criminal and family matters and, in terms of administrative courts, matters regarding objections to administrative decisions. The courts shall be also operating during closed sessions in cases concerning proceedings to secure claims, writ of payment proceedings and payment order proceedings.

Access to the courts has been limited and some of them are even temporarily closed. In terms of the courts which have discontinued operating due to COVID-19, the president of the relevant court is authorized to refer the pending matter to another court. Some of the court's presidents have also issued orders which enable litigators to submit procedural documents electronically to the relevant courts. However, this is not a common practice and no regulations which undoubtedly allow electronic procedural document flow have been implemented.

In the middle of May the Polish Parliament passed the Special Law on COVID-19 which restored court sessions and hearings. Since then it is possible to participate in hearings if the courts adjust their buildings, in particular the courtrooms, to the required sanitary conditions and impose obligations to wear face masks on participants of hearings and to keep distance between them or, if the judge allows, to proceed with online hearings. The Special Law on COVID-19 introducing online hearings has been passed, however basic regulations such as a choice of Internet platform in order to conduct the online hearings appear not to have been thoroughly regulated. Therefore, it seems that in practice judges are unlikely to agree to conduct hearings online. It is also problematic due to a lack of uniform electronic system dedicated to online proceedings. Furthermore, given recent experience, there is a tendency to postpone the date of the hearing or to proceed in an adjusted courtroom than conducting an online hearing.

Access to the majority of courts is still limited to the participants in the proceedings. In others, such as the Supreme Court, the audience can participate in hearings in limited scope which depends on the size of the courtroom. Some courts have also decided to

quarantine the incoming correspondence for 24 hours. First hearings on-line however took place using Microsoft Teams usually.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Till mid-May the course of procedural and judicial time limits has been suspended, and the running of new procedural and court deadlines have not commenced while the COVID-19 epidemic state in Poland is in force. The suspension has covered, among others, the following proceedings: judicial, including administrative court proceedings, execution proceedings, criminal proceedings and fiscal penal proceedings. The time limits in urgent matters as well as time limits in cases of election or appointment of authorities whose terms are specified in the Polish Constitution, or time limits in proceedings involving applications and legal questions commenced but not completed before the Constitutional Tribunal, will not be suspended. However, the suspension refers to deadlines regarding, for example, lodging appeals, procedural writs or corrections of formal defects; litigators have been allowed and recommended to take these or other actions during the interim period.

According to the law passed on 15 May the procedural and judicial time limits have been resumed within 7 days since the implementation of the new regulations. Currently all of the procedural and court deadlines shall run normally.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The suspension of procedural and court deadlines as well as the limitation of trials and public hearings might most likely lead to a significant slowdown in the examination of cases. The recently passed regulations which enabled reopening the courts might have a positive impact on the enforcement of judgments, including foreign judgments, and bring the functioning of courts closer to the standards before the announcement of the epidemic state in Poland. The enforcement of judgments in urgent cases shall not be affected.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Litigators in Poland have implemented adjustments to their practice resembling those introduced by litigators around the world. The majority of lawyers in Poland work from home and are in contact with their clients or co-workers using digital measures. They have implemented into their everyday practice, in order to conduct remote examinations, mediations or other kinds of online meetings, video conferencing platforms such as Zoom, Microsoft Teams, GoToMeeting and Cisco Webex. Although

these platforms at first might have seemed a challenge, they have allowed litigators to conduct their work without further disruptions.

Due to the removal of most COVID-19 restrictions which have been recently introduced in Poland, some law firms reopened their offices in the new sanitary regime. It includes among others social distancing among co-workers and an obligation to wear face covering during working hours. However, the majority of lawyers are still working remotely from their homes. The situation is far from stabilizing as we have seen a drastic increase in the new cases of COVID-19 in the recent weeks.

# Portugal

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#### 1. **What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

The COVID-19 pandemic led to the enactment by Parliament of legislation suspending the activity of the courts, for an indefinite period of time and until the end of the exceptional situation, as determined by the health authorities and confirmed by statute to be issued by the Government.

Under the extraordinary measures to suspend the activity of the courts, all hearings were suspended with the exception of urgent proceedings, including those with fundamental rights at stake, such as criminal proceedings with defendants detained or in custody or cases involving minors at risk.

The suspension regime was intended to minimize the consequences of the pandemic within the limits of fundamental rights, with all hearings being carried out under tight containment measures, ensuring social distancing and appropriate protection measures, thus not jeopardizing the health of all the judicial agents involved (judges, court officials, lawyers and all other persons required to attend). Whenever it was possible to conduct hearings through computerized means, the courts gave preference to holding urgent hearings via teleconference or videoconference.

All non-urgent civil and commercial cases (including insolvencies and enforcement proceedings) had hearings suspended, most of which were rescheduled for the end of May and June 2020, when it is expected that court activity will be back to normal.

On 29 May legislation lifting the suspension of the activity of the courts was published, establishing a temporary and exceptional procedural regime for the next few weeks. This new legislation sets forth that all evidentiary hearings must, as a rule, be carried out in person, within the safety measures established by the health authorities (such as number of persons, distance between the same, use of masks, etc.). In those cases where such safety measures cannot be observed, the evidentiary hearings must be carried out through electronic means, such as teleconference or videoconference.

All non-evidentiary hearings and other procedural acts requiring presence of the parties and/or counsel or other persons will preferably take place by teleconference or videoconference, only being held in person when it is not possible to use alternative electronic means.



All persons – including lawyers – considered as persons at risk (such as, for example, all persons over 70 or with chronic conditions) may exercise their right not to be physically present, in which case their participation must be ensured through electronic means.

This new temporary regime will ensure that the courts adapt to the new reality of judicial activity, for at least one month, until the summer judicial recess period (15<sup>th</sup> July to 1 of September). It is expected that by 1 September all proceedings will return to normal.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

The legislation initially enacted by Parliament suspended all procedural deadlines within proceedings before judicial, administrative and fiscal courts, the Constitutional Court, the Court of Auditors and other jurisdictions, arbitral tribunals and other bodies for alternative dispute resolution and tax enforcement authorities. That legislation went beyond the regime of suspension of ongoing procedural deadlines, extending the suspension to limitation periods, ensuring that due to the closure of judicial courts and other jurisdictional bodies (including arbitral tribunals and alternative dispute resolution mechanisms) the legal deadlines for exercising certain rights would not be impaired.

With the approval of new legislation on 29 May, with the exception of enforcement and insolvency proceedings, all suspensions of procedural and substantive deadlines – such as limitation periods – were lifted.

All procedural deadlines now have to be recalculated in light of the entry into force of this new legislation. Also, all limitation periods were extended for the period of time in which the suspension was in force. This means that all limitation periods were extended for at least two months.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

Enforcement proceedings, including those related to enforcement of domestic or foreign judgments, were suspended by virtue of the initial legislation passed in March. The exception related to enforcement proceedings that could cause grave harm to the applicant, in which case an application to that effect had to be subject to prior decision from the court.

The new exceptional regime foresees that insolvency proceedings and all enforcement proceedings that could cause grave harm to the applicant remain suspended. Also, all limitation periods concerning insolvency proceedings and those enforcement proceedings remain suspended until further notice.

New enforcement applications will run their normal terms, unless the court considers that the new application considerably affects the applicant. In those cases, the court will determine the suspension of the proceedings.

The suspension of acts within ongoing enforcement proceedings – such as seizure and sale of assets – was also lifted. It is expected that all seizure and sale of assets that were already taking place at the time of the suspension will return to normal, with the exception of those proceedings that imply the sale of family homes or that significantly affect the subsistence of the party against whom enforcement is being sought. Additionally, as regards existing seizures over salaries and pensions in ongoing enforcement proceedings initiated by the tax and social security authorities, suspensions have also been lifted.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Litigators had to adapt to working from home. Meetings with colleagues and clients started to take place virtually, using available videoconferencing platforms (such as Zoom, Skype for Business or Microsoft Teams), without great practical difficulties. The closure of the courts had a significant impact on the volume of work, which allowed litigators to look at cases that were lagging behind as well as better prepare ongoing cases.

The lifting of the suspensions did not significantly change the new reality of litigators' activities. Most litigators successfully adapted to working from home with the use of electronic means. This new reality demonstrated that most activities can be done from home and most of the meetings with clients or colleagues are easily done by Zoom, Skype for Business or Microsoft Teams.

With the gradual restart of court activity, litigators have the necessary time to readjust to the new rules of court hearings but also to a new way of working. Court hearings are going to occur in a mixed system, where some will occur in person and others by electronic means, and in some situations with a mix of both. This new way of handling court hearings will force litigators to learn new ways to address the court, interrogate witnesses and prepare for hearings.

Outside of the court system, notably in arbitration, non-evidentiary hearings predictably will continue to occur either by teleconferencing or videoconferencing systems and probably some evidentiary hearings will continue to take place virtually.

# Romania

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#### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

The outbreak of the COVID-19 pandemic resulted in the enforcement of restrictive measures which affected the operation of courts in Romania. The state of emergency was decreed in Romania on 16 March 2020 under Decree No. 195 of 16 March 2020 issued by the President of Romania ("Decree 195"). This Decree established the suspension of court operations and hearings, except for extremely urgent cases, in accordance with Article 42 (6) and Article 43 (2) of the Decree. The state of emergency has been extended pursuant to Decree No. 240/2020 ("Decree 240") and is set to expire on 15 May 2020. The substantial provisions of Decree 195 are generally similar to the provisions of Decree 240.

Article 42 (1) of Decree 195 and Article 63 (1) of Decree 240 provided that the list of extremely urgent cases should be determined by each Court of Appeal and by the High Court of Cassation. In order to ensure a consistent determination of the cases considered as extremely urgent, the Superior Council of Magistracy – Judges Division issued a list of cases recommended to be deemed as extremely urgent by the courts.

The list of extremely urgent cases was very limited at the beginning of the state of emergency, but it was extended by the Superior Council of Magistracy on 30 April 2020.

During this period, hearings in urgent cases were conducted by the courts in the presence of the parties. In addition, there existed instances where hearings have been conducted by videoconference.

During the state of emergency, Romanian courts began to implement electronic means for serving documents, which had not been used prior to the pandemic. However, the operation of the courts has still been limited because court judgments have been served on the parties only to a limited extent.

Suspended court proceedings will be resumed *ex officio* after the end of the state of emergency. According to Article 42 (8) of Decree 195 and Article 63 (13) of Decree 240, within 10 days from the cessation of the state of emergency, courts of law shall take action to schedule hearings and summon the parties. However, hearings will probably be scheduled gradually, so as to prevent the spread of the virus. Therefore, for the moment, it remains uncertain when the Romanian courts are to become fully operational.

On 12 May 2020, the Superior Council of Magistracy – Judges Division adopted a decision recommending courts to take several measures in order to prevent the spread of the virus. Such measures include: scheduling specific hours for each case in order to ensure social distancing, refusing the access of parties and attorneys who show symptoms of COVID-19 and requiring parties and attorneys to wear protective equipment.

At the end of the state of emergency, on 18 May 2020, the Government adopted Decision no. 394/2020 which declared the state of alert in Romania for a new 30-day period. During the state of alert office work (including for lawyers) is allowed, subject to such measures as limiting the number of people present in the office on a given day, the mandatory use of masks within closed spaces or temperature checks when entering the office building. Work from home remained however the rule.

Since 18 May 2020, new hearings have been scheduled in the majority of litigation proceedings and courts are conducting daily hearings respecting the safety measures adopted by the Superior Council of Magistracy.

The suspension of proceedings did not concern arbitration. Those proceedings continued to unfold, being governed by specific rules issued by each arbitral institution and the relevant arbitral tribunals. Generally, the parties and the tribunals elected either to postpone the hearings for later dates, for which it was assumed that physical meetings would be possible, or hold the hearings by means of videoconference.

To conclude, the outbreak of the pandemic has had a significant impact on the state court operations in Romania, most of the court proceedings having been suspended, but less markedly so in respect of arbitration. Nevertheless, it forced the courts to make progress in digitizing the judicial system, by using digital means for the service of documents and videoconference.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

Both Decrees contain specific measures involving limitation periods and terms for appeal during the state of emergency.

Article 41 of Decree 195 and Article 62 of Decree 240 provide that, during the state of emergency, limitation periods shall not commence and, if they have already commenced, they shall be suspended. Moreover, while the state of emergency is in

effect, the terms for appeal in the suspended cases (which were pending when the state of emergency was declared) shall be discontinued, and new terms of the same length shall run after the cessation of the state of emergency.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The state of emergency impacted the enforcement of judgments. Even though the enforcement of judgments has not been suspended during the state of emergency, pursuant to Article 42 (5) of Decree 195 and Article 63 (9) of Decree 240, enforcement can be conducted only in compliance with the rules of health discipline imposed by the National Committee for Special Emergency Situations. Therefore, enforcement of judgments has been extremely difficult during the state of emergency.

Court proceedings involving motions for the recognition and enforcement of foreign judgments were not considered extremely urgent matters by the Romanian courts. Therefore, such cases have been suspended during the state of emergency and will only resume after the end of the state of emergency.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

The COVID-19 pandemic forced litigators to work remotely. In general, the documents drafted by litigators were filed with the courts via electronic means of communication.

Before the pandemic outbreak, videoconferencing was not used in the Romanian judicial system either for court hearings or for other practices such as examination of witnesses or mediations, except for criminal cases. Conducting court hearings or other practices through videoconferencing is not regulated by the Romanian Code of Civil Procedure.

The pandemic forced the actors of the judicial system to seek solutions in order to continue court proceedings during lockdown. Therefore, Article 42 (3) of Decree 195 and Article 63 (3) of Decree 240 authorized the courts to review extremely urgent matters through videoconference, if possible.

Many courts have not implemented such procedures and in extremely urgent matters the hearings continue to be conducted in the presence of the parties. However, the Bucharest Tribunal began, as of 13 April 2020, to conduct those hearings by videoconference via Skype.

Except for the urgent hearings conducted by videoconference before the Bucharest Tribunal, videoconference has not been generally used by litigators in civil proceedings, such as examination of witnesses or mediations.

The situation is somehow different in arbitration, where the conduct of the hearings and of the overall procedure by means of videoconference is entirely possible. However, the actual use of that option depends on the willingness of the tribunal and of the lawyers representing the parties to adopt alternative means of communication.

# Russia

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### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

In light of the COVID-19 pandemic the court system in Russia faced problems that it was not ready for, which led to certain confusion and disorganization. Although some steps were taken to amend the federal legislation, so far no amendments have been introduced to the procedural federal laws regulating the operation of courts.

The Presidium of the Supreme Court and the Presidium of the Judicial Council of the Russian Federation issued a Joint Resolution imposing certain limitations for the period from March 19, 2020 to May 11, 2020 in the operation of all arbitrazh (commercial) courts (considering economic disputes) and courts of general jurisdiction (considering all other disputes) in the territory of Russia:

The personal attendance of citizens at the courts was stopped; all documents could only be filed with the court through postal mail or electronically. However, the possibility to file documents electronically exists in Russia only in arbitrazh (commercial) courts.

The courts heard only the cases of urgent matters and the cases that could be considered without participation of the parties (e.g. summary procedure). However, the Joint Resolution was very vague and ambiguous regarding the categories of cases that are recognized as urgent; the list was non-exhaustive, which sometimes led to confusion. Some courts continued to hear some cases, while other courts stopped hearing even urgent cases and postponed all court hearings.

After May 12, 2020, the courts reopened despite the lockdown; however, different restrictions were implemented. In many courts, the number of attendees per hearing was limited – for example, no more than one representative per party was allowed; all participants must wear masks and gloves, fulfill social distance, etc.

The situation is complicated by the fact that in some regions of Russia there is an obligatory two-week quarantine for those who have arrived from other Russian regions or from Moscow and Saint-Petersburg. In other words, if lawyers from Moscow or Saint-Petersburg attend hearings in those regions, they may not be allowed to participate in the hearings and, moreover, will have to stay in those regions for two weeks.

This situation led to a necessity to conduct online hearings to a greater extent. For more details, please see paragraph 4 of this chapter.

**4. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

By the Decree of the President of the Russian Federation in light of the COVID-19 outbreak, the days from March 30, 2020 to May 11, 2020 were recognized as non-working. However, for a long period it was unclear what legal consequences this Decree would have. In connection with the Decree, the Supreme Court of the Russian Federation has recently issued two Reviews of court practice that regulate among other things the questions of procedural deadlines, due dates and limitation periods.

In particular, the Supreme Court of the Russian Federation clarified that, generally, the declaration of the days from March 30, 2020 to May 11, 2020 as non-working does not affect the running of the procedural periods or limitation periods and does not relieve debtors from fulfillment of due obligations.

However, under particular circumstances the court can decide that the procedural period or a limitation period should be extended (e.g. if the claimant was due to his age or other circumstances unable to file a claim in due time) or that the limitations imposed by the government are force majeure circumstances relieving the debtor from obligations. But these matters will ultimately be decided by the court in every particular case and could be rather difficult to prove.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The declaration of the days from March 30, 2020 to May 11, 2020 as non-working did not affect the operation of federal government bodies. Therefore, the federal bailiffs were still obliged to perform their duties of the enforcement of judgments.

However, in light of the COVID-19 outbreak, the Government of the Russian Federation introduced a 6-month moratorium for filing bankruptcy petitions against companies worst hit by the pandemic (e.g. in the sphere of aviation, culture, accommodation, catering etc.), systemic and strategic companies. During the moratorium, the enforcement proceedings against these companies are also suspended and it is not allowed to foreclose on mortgage property.

Moreover, it is now being discussed by the Federal Service of Court Bailiffs, the Ministry of Justice and other government bodies whether to introduce a half-year stop on the enforcement of debt of citizens, individual entrepreneurs, and small and medium-sized businesses. If this initiative is realized, it will be difficult to enforce judgments delivered against these categories of debtors.

As for foreign judgments, they are recognized and enforced in a court hearing with a summoning of the parties. Therefore, the possibility of enforcement of foreign judgments will depend on the further operation of courts.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

As the days from March 30, 2020 to May 11, 2020 were recognized as non-working, most litigators worked during this period from home. However, it was still possible to provide legal consultations via telephone or video conference and to prepare legal opinions and procedural documents. Some arbitrazh (commercial) courts provided the possibility to review the case materials electronically, which provided litigators the opportunity to analyze the case materials from home and to prepare legal strategy for the case.

Also, the courts were recommended to hear cases via video conference if technically capable. However, despite the fact that the opportunity to hear cases via video conference was introduced in Russian law a long time ago, the pandemic showed that most courts, especially the courts of general jurisdiction, do not have such capability at all or are just starting to introduce it. Some courts (the Supreme Court of the Russian Federation, the Arbitrazh Court of the Moscow District) announced that they have successfully heard a couple of cases via video conference. There was also news that one court considered a case via WhatsApp.

Recently, more Russian courts have announced the possibility to conduct hearings online using a special court platform and actually have performed such online hearings.

So far, the experience of lawyers who have participated in online hearings has differed from court to court. Overall, lawyers admit that it is useful to have an opportunity to participate in the hearing online without travelling to another region, however, Internet connection and technical means are not always perfect. From time to time, technical problems during a hearing have resulted in the hearing being adjourned.

In any case, the situation with COVID-19 has been a catalyst of new technical developments and it will be very interesting to see what happens next.



# Serbia

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**1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

On May 6th 2020 the National assembly of Serbia ended the state of emergency that was in force from March 15th 2020 and the restrictive measures related to the subject of this report were either significantly mitigated or revoked altogether.

Courts have resumed work in full capacity as of May 11th 2020 and all court hearings are held as scheduled from this date (during the state of emergency the majority of hearings were postponed). Due to the number of hearings that were postponed during the state of emergency, the hearings are scheduled at a later date than in ordinary circumstances. Therefore court proceedings will last longer as a consequence.

At the time of writing, there are still some measures in force in the courts to help prevent the spread of COVID-19. Namely, all employees, as well as the persons that are entering the court building, must wear protective masks, and it is also advisable to use gloves. Also, all persons entering the court building must disinfect their hands at the entrance. The hearing may be held in bigger court room if the judge makes that decision, depending on the number of persons that will be present at the hearing.

There are no more restrictions regarding the submission of briefs, and parties may submit their briefs in all matters.

The courts also started delivering writs, briefs, summons and other court mail as usual, however due to the number of briefs, writs and other documents that accumulated during the state of emergency the delivery to the parties is slower than in ordinary circumstances.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

The decree on deadlines in court proceedings for the duration of state of emergency enacted on March 15<sup>th</sup> 2020, which was issued by the Government of Republic of Serbia on March 20<sup>th</sup> 2020, was revoked when the state of emergency was ended on May 6th 2020.

From this date, all substantive and procedural deadlines that did not expire during the state of emergency continue to expire from this date.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

After the state of emergency ended on May 6<sup>th</sup> 2020, courts and public enforcement officers started issuing enforcement orders performing all of the enforcement acts as usual in all matters.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

No, during the state of emergency all procedures have stopped.

In general, in accordance with Article 245. of the Civil procedure code, witnesses, as a rule, give their statement before the court in person. However, the court may decide to read a written statement of the witness which contains allegations of relevant disputed facts, how are they known to him and his relationship with the parties in the proceedings. This written statement must be validated by the court or public notary. Also, the court may decide *ex officio* or at the proposal of the parties to hear the witness via conference link, by using audio or video recording devices.

In accordance with Article 88. of the Law on public notaries, a public notary may compile public notary minutes of a witness statement. While taking the witness statement, the public notary must apply the provisions of Civil procedure code related to witness statements. Before the statement is given, the public notary will take and record the witness's personal information, his relationship with the parties in the proceedings and must inform the witness of the following rights:

That the witness has the right to withhold his statement about the information the party in the proceedings entrusted to him while he was acting in the capacity of the party's attorney;

That the witness has the right to withhold his statement about the information the party in the proceedings or a third person entrusted to him while he was acting in the capacity of a religious confessor;

That the witness has the right to withhold his statement about the information he learned of as a lawyer, doctor or in the exercise of another profession, if he has an obligation to keep professional secrecy; and

That the witness may refuse to answer certain questions if there are justified reasons for this, and especially if he would expose himself to grave embarrassment, considerable property damage or criminal prosecution of himself or his blood relatives in a straight line to any degree, and in the sideline up to the third degree, his spouse or extra-marital partner, or relatives by in-law relationship up to the second degree, even after the marriage ended, as well as his guardian or ward, adopter or adopted.

After this, the witness would give his uninterrupted statement. When the witness finishes, the public notary would ask questions if they are needed to eliminate ambiguities in the statement and if all of the disputed facts are not covered by the given statement. The witness would be asked how the facts in the statement are known to him.

The public notary minutes are validated by the public notary and the witness statement taken in this manner may be used in the proceedings in accordance with Article 245. of the Civil procedure code.

# Spain

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#### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

On 14 March 2020, the state of alarm was declared by means of Royal Decree No. 463/2020 in order to manage the health crisis caused by COVID-19. As a result, hearings and legal proceedings were suspended (with several exceptions)<sup>1</sup>, a measure which affected both those proceedings already scheduled for a hearing, which were not held, and new proceedings, which were not called for hearing if applicable.

Nevertheless, in order to avoid the collapse of the justice system once the state of alarm is over, on 10 April 2020, the Ministry of Justice issued an order allowing submissions to be made electronically (via LexNET, the online system available to file motions and appeals and also to access decisions from courts), with no limitations. However, counsel and court agents were advised to exercise restraint in their written submissions in order to make distribution more feasible. In addition, according to this order, the courts could continue to conduct all proceedings, including hearings, if the courts had the infrastructure available to do so (i.e. electronic means, videoconferencing).

Following the start of the de-escalation phase of the various measures adopted as a result of the COVID-19 crisis, on 22 May 2020, the Spanish Government agreed to approve Royal Decree No. 537/2020, which, in addition to extending the state of alarm until midnight on 7 June, established a further series of procedural measures. The following are particularly noteworthy: (i) the lifting of the suspension of procedural terms and deadlines, with effect from 4 June 2020; (ii) the lifting of the suspension of administrative terms and deadlines, with effect from 1 June 2020; and (iii) the lifting of the suspension of the statute of limitations and expiration periods, with effect from 4 June 2020.

As a consequence of the above, although the Courts are operating with some delay due to the significant workload accumulated during these months, it is foreseeable that they will gradually return to normal activity as of next week.

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<sup>1</sup> In particular, in terms of civil and commercial courts, the following proceedings were not suspended: (i) involuntary detentions due to a mental disorder (Article 763 of the Civil Procedural Act); and (ii) the issuing of interim measures or other judicial proceedings which cannot be postponed (measures for the protection of children under Article 158 of the Spanish Civil Code is one of the express examples given). In practice, interim measures were requested and granted when it was shown that there was real urgency.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

According to Royal Decree No. 463/2020, all procedural terms and time limits were interrupted, and the statute of limitations and expiration periods of any actions and rights were suspended for the duration of the state of alarm.

In this regard, on 28 April 2020, a Royal Decree-law was adopted (Royal Decree-law No. 16/2020), by which the procedural time limits that were suspended by the application of the provisions of Royal Decree No. 463/2020 would start running as if from the beginning, on the next business day following that on which the suspension ceases to have effect. In addition, the time limits for appealing against court decisions were extended by a period equal to that provided for the filing of the appeal in the law.

As stated above, on 22 May 2020, the Spanish Government agreed to approve Royal Decree No. 537/2020, which, in addition to extending the state of alarm until midnight on 7 June, establishes a series of procedural measures that are complementary to those established in Royal Decree-law No. 16/2020. In particular, Royal Decree No. 537/2020 declares the lifting of the suspension of procedural terms and deadlines as well as the lifting of the suspension of the statute of limitations and expiration periods, all with effect from 4 June 2020.

In this regard, according to Royal Decree No. 537/2020 and Royal Decree-law No. 16/2020, the calculation of the procedural deadlines since the lifting of the suspension (i.e. 4 June 2020), must be carried out as follows:

- i. As of 4 June 2020, procedural deadlines must be recalculated from their commencement. The first day to be counted will therefore be the working day following 4 June 2020, i.e. 5 June 2020.
- ii. For judgments or court decisions which terminate the proceedings, and which were communicated: (i) during the period of suspension of procedural deadlines; or (ii) during the twenty working days following the lifting of the suspension, the period for the announcement, preparation or formalisation of the corresponding appeals will be extended by the same period of time as that foreseen for the announcement, preparation or formalisation of the appeal, in accordance with the law applicable in each case.
- iii. The above calculations will apply both to periods initiated before the declaration of the state of alarm, which were suspended – and which will be recalculated from their commencement – and the periods indicated during the application of the state of alarm. In both cases, the calculation started on 5 June 2020.

Moreover, the days from 11 to 31 August 2020 are declared to be working days for procedural purposes.

In addition to the foregoing, until 31 December 2020: (i) proceedings arising from the

lack of recognition by lending institutions of the legal moratorium on mortgages on habitual residences and on properties subject to economic activity; (ii) proceedings arising from any claims that may be made by the tenants for failure to apply the legally stipulated moratorium or mandatory extension of the contract; and (iii) insolvency proceedings of debtors who are natural persons and who do not have the status of entrepreneur, will be processed in a preferential manner.

The lifting of the suspension of the statute of limitations and expiration periods entails the resumption of the calculation of these periods. Insofar as 13 March 2020 was the last day to be counted as regards the statute of limitations and expiration periods, the next day to be counted in the period would be 4 June 2020. In other words, the period from 14 March 2020 to 3 June 2020 is not included in the calculation of the period. In the case of the statute of limitations, the above is without prejudice to the possibility of interrupting these periods.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

As explained above, although Royal Decree No. 463/2020 provides for the suspension of judicial proceedings (including enforcement proceedings and enforcement proceedings of foreign judgments), according to the order rendered by the Ministry of Justice on 10 April 2020, the courts have continued to conduct all proceedings electronically, provided that they were available to do so.

In this regard, although all procedural time limits were suspended, the courts could continue to issue decisions and/or judgments by electronic means. Nevertheless, in practice, in light of the situation, the courts were mainly conducting urgent proceedings or those which, if not carried out, could cause irreparable harm.

However, as stated above, as a consequence of the Royal Decree No. 537/2020, the suspension of procedural terms and deadlines of all proceedings (including enforcement proceedings) has been lifted since 4 June 2020.

Nevertheless, unless interim measures have been requested, since the enforcement proceedings of the judgement have not been considered urgent or preferential, these proceedings (including those relating to foreign judgments) have suffered certain delays as a consequence of the COVID-19 crisis.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

As is the case in many other jurisdictions around the world, COVID-19 has meant that many lawyers across Spain have had to continue to practise from their homes. While the temporary closure of the courts resulted in the adjournment of court hearings, counsel have become more and more focused on the need to provide their services by virtual means. The need to advise clients or attend meetings via teleconference or videoconference has meant that lawyers have had to become familiar with the advantages and disadvantages of the various virtual meeting platforms that are

available (i.e. Zoom, Microsoft Teams, GoToMeeting and Cisco Webex, to name a few).

Royal Decree-law No. 16/2020 provides a series of organisational and technological measures to be taken during the state of alarm and for three months after its conclusion, in order to reduce physical contact between professionals involved in the administration of justice. In particular, according to this Royal Decree-law, hearings, court deliberations and acts that take place in the public prosecutor's offices should take place virtually, provided that the courts have the necessary technical means at their disposal.

As the abovementioned Royal Decree-law entered into force on 30 April 2020, lawyers will have the opportunity to conduct remote examinations of witnesses and/or experts, participate in mediations and attend hearings and/or trials by way of teleconference or videoconference. This will be a rather practical issue, and will be dependent on the specific court having the technology in place and its willingness to conduct such practices using electronic platforms.

# Sweden

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#### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

The Swedish court system consists of the general and administrative courts. The general courts handle criminal matters and civil disputes, while administrative courts handle tax and other matters between persons and government authorities. All courts have remained open, although with remote working being recommended to the extent possible.

The proceedings before the administrative courts do not usually involve any hearings. The administrative courts have therefore been less affected by the COVID-19 pandemic than the general courts.

The COVID-19 pandemic initially resulted in several courts adjourning all non-essential matters, leaving priority to urgent matters regarding children, bankruptcy, and persons that are subject to pre-trial detention. In the period from early March until end of April there was an increase in adjourned hearings of up to almost 50% compared to the average in the last few years. The trend has however turned since then, with a decrease in adjourned hearings. Meanwhile there has been a rapid increase in the courts' use of video conferencing technology. As an example, a weekly average of around 2,900 instances of video conferences of various types were conducted in Swedish court rooms during May, compared to around 1,600 per week during the same period last year.

All court rooms in all courts in Sweden are equipped with audio and video conferencing capabilities (as a main rule, testimony at the district court level is recorded by video), which allow for digital court proceedings in all parts of the country. The final decision on whether the proceedings shall be handled digitally is made by the presiding judge.

#### **2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**



There has been no legislation passed having an impact on limitation periods.

For procedural time limits the courts are free to grant extensions upon a reasoned request from a party. Shorter extensions are normally granted by the court directly, whereas requests for more substantial extensions are not granted before the counterparty has been heard. Nonetheless, one can expect the courts to be more lenient under the current circumstances.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The Swedish Enforcement Authority (Sw. *Kronofogden*) remains open and operational and has announced that its operations will be conducted as usual, except in matters related to eviction of elderlies. However, delays in the management of individual matters can be expected, mainly due to a high workload and an increase in staff being on sick leave.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Like in many other jurisdictions, the COVID-19 pandemic has resulted in many litigators, especially in the Stockholm area, conducting their practice remotely working from home. Although law firms remain open, there is a strong recommendation from the authorities to work from home if possible, which is, in our experience, adhered to by law firms.

As mentioned above, a significant number of court hearings, of all types, are conducted remotely. There are however, no statistics available for arbitration hearings and it is therefore not possible to provide similar information for such proceedings. Nevertheless, our experience is that a significant part of hearings in arbitration are conducted virtually through video conferencing.

Here we may note that the Swedish Bar Association has published guidelines on client contacts, encouraging the use of technology. The Arbitration Institute of the Stockholm Chamber of Commerce (the SCC) has also provided guidance on how to conduct hearings remotely.

In addition, a joint initiative by several Swedish law firms and senior arbitrators has been launched which offers parties in ongoing litigations which are at risk of being delayed in the court system the opportunity to switch to arbitration at a late stage in the proceedings to enable a quick resolution of the dispute, and also to relieve the burden on the courts.

# Switzerland

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Zurich

### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

Switzerland is a federal state that is composed of 26 Cantons (member states). While the competence to issue legislation in civil and criminal matters lies with the federal State, the organization of the judiciary falls within the powers of the Cantons, with the exception of the Swiss Federal Supreme Court which is independent. In the current crisis, based on its constitutional power to take all necessary measures in case of threats to the public order, public health or security, the Swiss government has issued several emergency ordinances to mitigate the effects of the COVID-19 pandemic and to ensure the functioning of the judicial system. In particular:

- **Partial suspension of judiciary activities and deadlines:** In mid-March 2020, several cantonal courts as well as the Swiss Federal Supreme Court started suspending the holding of court hearings of their own motion except for essential hearings (e.g. cases involving detainees or interim measures). Shortly thereafter, on 21 March 2020, the Swiss government issued an Ordinance on the suspension of procedural deadlines in civil and administrative proceedings.<sup>1</sup> This Ordinance provided for an extraordinary court recess which predated the regular court recess around Easter (i.e. from 5 April to 19 April 2020) by two weeks. During periods of court recess, no court hearings in civil proceedings are held except in urgent cases. All debt collection proceedings were also suspended from 19 March until 19 April 2020.<sup>2</sup>
- **Video-conference:** On 16 April 2020, the Swiss government adopted the *Ordinance on measures in the field of the judiciary and procedural law relating to COVID-19*.<sup>3</sup> The Ordinance entered into force on 20 April 2020 and officially allows civil courts to use video-conferencing to conduct court hearings and the hearing of witnesses and expert witnesses, provided the parties consent to it or if good grounds justify it. To guarantee due process, the Ordinance requires that the transmission of sound and visuals between all persons involved takes place simultaneously. Moreover, in case of urgency the Ordinance also

<sup>1</sup> Ordinance on the suspension of procedural deadlines in civil and administrative proceedings is available here: <https://www.admin.ch/opc/de/classified-compilation/20200834/index.html>.

<sup>2</sup> The Ordinance on the stay of all debt collection proceedings is available here: <https://www.admin.ch/opc/de/classified-compilation/20200804/index.html>.

<sup>3</sup> The Ordinance on measures in the field of the judiciary and procedural law relating to COVID-19 proceedings is available here: <https://www.bj.admin.ch/dam/data/bj/aktuell/news/2020/2020-04-16/vo-covid19-justiz-d.pdf>.

allows civil courts to skip hearings entirely and conduct the proceedings in writing if a video-conference is not feasible. The Ordinance is currently scheduled to remain in force until 30 September 2020. It is now for the Cantons to make use of it. In Zurich, the Zurich Commercial Court started encouraging the parties to agree to hearings by video conference already in March. In Geneva, the judiciary is willing to resort to video-conference hearings, but the issue is more logistical, as for many Cantons, who did not have the necessary equipment beforehand. In addition to lack of know-how, budgetary reasons may slow down the implementation of this emergency legislation.

- **Social distancing measures:** In the meantime, many cantonal courts have resumed the holding of physical hearings while other courts will do so only at a later date. To protect the health of parties, counsel, judges, interpreters, court staff and the public, any physical hearings must, however, be conducted in strict compliance with the hygiene and social distancing guidelines of the Swiss Federal Office of Public Health (FOPH). In practice, many court rooms are too small to comply with social distancing guidelines, thus reducing the number of rooms available and likely to create a backlog of cases.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspended or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

No suspension of substantive limitation periods has been ordered by the Swiss government.

The ordinary regime already provided that if the debtor is domiciled in Switzerland, limitation periods in Swiss law can be interrupted by the creditor without resort to the courts by means of a simple request for payment summons to the competent Debt Collection Office. As a consequence of such a request, the limitation period starts running anew. Furthermore, the parties are in any event free to agree on a waiver of the statute of limitations.

Procedural time limits in civil proceedings were generally suspended until 19 April 2020 by the Swiss government. However, time limits in urgent matters such as requests for injunctions and freezing orders were not affected. Debt collection proceedings were also suspended within the same period. However, the suspension of procedural time limits did not apply to criminal proceedings.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

As a result of COVID-19, as mentioned above, certain procedural deadlines have been suspended and courts are operating on a slower pace and reduced staff.

Already on 19 March 2020, the Swiss government issued a stay of all debt collection proceedings which meant that no enforcement measures could be carried out from 19 March until 19 April 2020. The suspension affected the service of payment summons, the seizure and realization of assets as well as orders in enforcement-related court proceedings, most notably also the opening of bankruptcy proceedings. On 16 April 2020, the Swiss government passed measures to relax the current general insolvency regime applying to companies.<sup>4</sup> In particular, the relevant Ordinance provides for a suspension of the duty to notify the judge in case of over-indebtedness of a company, for a temporary COVID-19 moratorium for small and mid-size enterprises (SMEs) and for a softening of certain conditions that companies must fulfill in order to apply for a debt restructuring moratorium.

Enforcement proceedings will therefore likely progress at a slower pace and delays in the conduct of proceedings aiming at the enforcement judgments must be expected.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

As a consequence of the COVID-19 pandemic, law firms across Switzerland have moved their operations away from the regular offices and instructed their employees to work from home. For litigators, since filings are still predominantly made in hardcopy, this poses challenges, in particular since the general suspension of procedural time limits ended on 19 April 2020.

Furthermore, meetings with clients and other parties are more often conducted by telephone or video conference instead of face-to-face. Popular video conferencing software options include Zoom, Microsoft Teams (formerly Skype for Business) and Lifesize. While the switch to virtual communication has raised concerns about data privacy and cyber security, there are also advantages such as software features allowing users to share documents more easily with other meeting participants.

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<sup>4</sup> The Ordinance instituting measures in case of insolvability to overcome the coronavirus crisis is available here: <https://www.ejpd.admin.ch/dam/data/bj/aktuell/news/2020/2020-04-16/vo-covid19-insolvenz-d.pdf>.

# Turkey

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### **What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

The main impact of COVID-19 over the litigation process is the extension of the finalization periods of the cases due to the postponement of on-site examinations and hearings except for detained suspects and urgent matters as per the advisory general assembly decision of the Council of Judges and Prosecutors, which is not binding. However, for protection of the public health, courts complied with this decision within the outbreak. In light of this decision, there are postponements of hearings even up to seven months. On the other hand, paperwork for ongoing cases has continued to be executed since it is possible to submit pleadings and various types of petitions through the online National Judiciary Informatics System (UYAP). Even though judges, prosecutors and clerk officers have been working remotely or in shifts, it has become rather difficult to contact them and mostly there are no advancements in the processes of the cases. In other words, written proceedings that are performed by the judges have not been accelerated. For instance, most of the injunction applications have not been assessed, contrary to their nature of being urgent. Nonetheless, expert reports that do not require on-site examinations are being submitted especially in Labour, Commercial and Intellectual Property Rights' courts faster compared to the period before COVID-19.

It should also be noted that a limited number of judges and prosecutors, for the detained suspects and urgent matters, are on duty at the courthouses.

Within the scope of the authorization granted to the Council of Judges and Prosecutors, the Council has decided to postpone all on-site examinations and hearings before 16 June 2020 except for detained suspects and urgent matters.

Additionally, the Council of Judges and Prosecutors has decided that the annual leave requests of judges and prosecutors will not be supplied until 20 July 2020 to alleviate the accumulated workload.

As for the injunction applications, some courts rendered their decisions which are not executed via enforcement offices.

- 2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

With the Law on Amendment of Certain Laws No. 7226 published on the Official Gazette on 26 March 2020, procedural and material time periods/deadlines have been suspended from 13 March 2020 until 15 June 2020. Namely, these suspended periods/deadlines are time periods for filing a lawsuit, initiating a debt collection proceeding, application, complaint, objection, notification, notice, submission, and for statute of limitations, foreclosure periods and mandatory administrative application periods, including the time periods determined by laws and by judges, and time periods in mediations *except* for the time periods of the enforcement proceedings for alimony receivables.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

In Turkish Law, for the enforcement of foreign judgments, it is required to file recognition and enforcement lawsuits and these lawsuits are subject to the same operations as mentioned in the first question.

As per the Presidential Decree, execution and bankruptcy proceedings including all procedural and material time periods/deadlines of debt collection and bankruptcy proceedings are suspended. New execution and bankruptcy requests are not accepted except for the proceedings regarding alimony receivables. It is permissible to submit limited types of petitions through the online National Judiciary Informatics System (UYAP) to the Enforcement Offices. Similarly, as described in the first question, even though officers of the Enforcement Offices are working in turns, the petitions submitted through UYAP are not being processed and mostly it is not possible to provide contact with the relevant officers.

**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

Teleconferences and video conferences are being practiced successfully in mediation meetings. The Head of the Mediation Department suggested for the mediation processes initiated before the pandemic and those that are pending, that the mediation meetings should be held through teleconference, whereas for new mediation applications, meeting dates should be set close to the legislative time limit and meetings should be held through teleconference. Accordingly, mediation processes are being carried out effectively.

In lieu of the advisory general assembly decision of the Council of Judges and Prosecutors, hearings of criminal proceedings that concern suspects under arrest are being held. Accused/witness testimonies and statements are obtained through the Audio and Video Information System (SEGBIS).

SEGBIS is not being used for litigation other than criminal proceedings.

# Ukraine

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### **1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?**

Ukraine is a unitary state, which directly influences the way the court system is organized. The courts of civil, criminal, commercial and administrative jurisdictions operate in Ukraine. There is also the High Anti-Corruption Court, the separate chambers of which serve as the courts of first and appellate instance while considering criminal charges against top public officials. The Supreme Court is the highest court within the hierarchy of Ukrainian courts.

On March 11, 2020 the Ukrainian government declared a nationwide quarantine. No official restrictions were imposed on the operation of courts. Ukraine also chose not to introduce a state of emergency.

The Supreme Court has recommended on its Facebook page that parties to the case, if possible, take part in the court hearings by way of videoconference and make use of their electronic mail. Furthermore, the Supreme Court has postponed all public events unrelated to its procedural activities, including guided tours, roundtables, seminars, etc.

No unified approach to the operation of courts for the period of quarantine was ever proposed. Every court has established its own rules on the issues, dealing with the conduct of court hearings. In general, the courts relied on the Recommendations from March 17, 2020, approved by the Council of Judges of Ukraine, which is a judicial self-governance body.

The Council has recommended, for instance, to adjourn court hearings because of the imposition of the quarantine measures, employ videoconferencing technology, restrict access to the courtrooms to persons with symptoms of respiratory diseases, reduce the number of court hearings scheduled for the working day, consider cases based upon the written materials filed, etc.

Commercial and civil courts temporarily suspended the consideration of cases in open court sessions and have been reviewing cases based upon the written materials filed or sometimes by way of videoconference. Significant numbers of court hearings have been cancelled to prevent the spread of COVID-19.

Administrative courts primarily consider cases based on the written materials filed and, if court sessions are needed, recommend that the parties adjourn the court hearing.

Criminal courts and the High Anti-Corruption Court continue to consider urgent criminal matters in court hearings subject to requirements of wearing face masks and using disinfectants.

The Supreme Court considers cases based on the written materials filed and receives paperwork as usual.

The predominant majority of courts have generally recommended on their own websites that parties adjourn court hearings or refrain from talking part in the court hearings personally. Moreover, the courts have limited access to the court premises to persons who are not parties to the case.

The government has planned the gradual relaxation of quarantine measures beginning from May 12, 2020. The courts of all jurisdictions and instances have already begun to schedule court hearings for the second half of May and thereafter in those cases which have previously been adjourned.

**2. Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?**

The Ukrainian government passed legislation suspending limitation periods such as statutes of limitations or deadlines for recourse to court for the duration of quarantine.

The procedural time limits for filing applications and evidence, reviewing the case on the merits and initiating appellate proceedings and the consideration of appeals by the appellate court or the court of cassation have also been extended for the period of quarantine.

**3. What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?**

The State Enforcement Service and private enforcement officers are carrying out the enforcement of court decisions in Ukraine.

The court decisions can be presented for enforcement over a three-year period. A three-year period is also set for submitting foreign judgments for enforcement once the decision of the Ukrainian court to recognize and enforce such a decision is obtained.

Since a state of emergency was not declared in Ukraine, the state and private enforcement officers continued their activities. However, the Ministry of Justice of Ukraine recommended contacting them by mail or by means of electronic communication. Debtors were also advised to repay their debts online, using the QR-code which was provided by the enforcement officer in resolution on commencement of enforcement proceedings.



**4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

The criminal courts of Ukraine have long been using videoconferencing, in particular, when the party cannot personally participate in the court proceedings for a good reason or when it is necessary to ensure the safety of persons.

As for other courts, the judicial reform of 2017 envisaged the launch of a Single Judicial Information and Telecommunication System, which provides for the full implementation of the e-court system. Before the System was operational, the procedural law provided for a videoconference on the court premises. In commercial and administrative disputes, the parties sometimes took advantage of this opportunity to avoid long trips to other regions.

Since the beginning of the quarantine, some judges began to schedule court hearings by means of videoconference platforms such as Zoom and Skype.

Legislative changes at the beginning of April allowed the conducting of court hearings remotely by employing the technical means of the parties to the case where the court has technical means to carry out such a hearing and the party files a relevant motion. However, witnesses and experts may participate in the videoconference organized from the courtroom only. The videoconference is recorded by the court and the recording is kept in the case file.

The State Judicial Administration of Ukraine approved the relevant Rules and Technical Requirements. They have initially provided for the videoconference platform of EasyCon only. Further, the Rules were modified and the courts were allowed to use other publicly available videoconference platforms. For example, the Commercial Court of Kyiv decided to use Microsoft Teams.

The procedural law also provides for the possibility of mediation with the participation of a judge by way of videoconference.

# United States

## Chaffetz Lindsey

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#### 1. What has been the impact of COVID-19 on the operation of courts and court hearings in your jurisdiction?

Nearly every court in the United States has seen its operations impacted by the COVID-19 public health crisis—even the United States Supreme Court, which heard oral argument via teleconference for the first time in the Court's history on May 4, 2020. However, it is difficult to generalize given the federal structure of the American judiciary.

Each of the 50 U.S. states maintains its own independent state court system. These state court systems are free to adopt their own rules and procedures for dealing with the impact of COVID-19. In addition, a separate federal court system exists with 94 federal judicial districts (organized into 12 regional circuits), each with substantial organizational autonomy. It is therefore essential for litigants and counsel to consult the procedural rules (including any COVID-19 related adjustments) in effect in their particular jurisdiction. Our primary focus here will be on the New York state and federal courts.

For many years, all federal court filings have taken place electronically, and the federal courts in the Southern District of New York are accepting new cases (and new filings in existing cases) as usual on that basis. The federal court system as a whole has not implemented any mandatory changes in response to the COVID-19 pandemic. Each judicial district has discretion to implement its own guidelines, and individual judges may update their individual rules of practice. However, the Administrative Office of the U.S. Courts has issued a directive with recommendations for federal district courts, including permitting telework when practicable, postponing all courthouse proceedings with more than 10 people, or conducting audio or videoconferencing where possible. While none of the federal district courts have implemented mandatory audio or video conferencing,<sup>1</sup> many judges have updated their rules of practice to provide alternatives to in-person court appearance, and some have issued orders relating to public and employee safety.<sup>2</sup>

Compared with the federal courts, the impact of the COVID-19 pandemic on the New York State (“NYS”) court system has been more pronounced, and the response has been more centralized. As of March 22, 2020, all filings (both paper and electronic) of new non-essential matters were prohibited.<sup>3</sup> A very limited number of “essential”<sup>4</sup>

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1 Note that federal bankruptcy courts require mandatory telephonic or video conferencing.

2 [United States Courts Website](#), “Court Orders and Updates During COVID-19 Pandemic”.

3 [AO/78/20](#), March 22, 2020.

4 A [list of essential matters](#) is attached to [AO/78/20](#), and is subject to amendment. In addition to the case types specified on the list, judges may deem any individual matter to be “essential” as circumstances require.

proceedings (none of which were commercial) were handled virtually, with digitized exchanges of submissions, and judges, attorneys and most non-judicial staff participating remotely. Starting on April 13, NYS courts began taking steps to expand virtual access to existing nonessential cases.<sup>5</sup> Individual judges reviewed their dockets to identify cases where court conferences could help advance the proceedings and scheduled telephonic and audiovisual conferences with attorneys to expedite resolution.<sup>6</sup> Courts also addressed outstanding, fully submitted motions, and judges were available during normal court hours to handle discovery disputes and other ad hoc concerns by telephone or Skype.<sup>7</sup>

On May 4, courts began accepting a broader range of filings in existing cases (both essential and nonessential),<sup>8</sup> while also encouraging alternative dispute resolution where appropriate. The ban on filing new nonessential matters was finally lifted on May 18 in 48 upstate counties where restrictions on commercial activity have been eased.<sup>9</sup> A few days later, on May 25, downstate counties (including the counties that make up New York City) which, at that time, had not yet met the benchmarks to participate in “phase one” of the State’s reopening plan followed suit.<sup>10</sup>

Almost 4,000 cases were filed statewide between May 18 and May 25.<sup>11</sup> Upstate counties have also expanded in-person court operations but are limiting personal appearances to the filing of emergency applications and papers in essential matters.

The June session of the NYS Court of Appeals started on June 2 with six of the seven judges in attendance, and attorneys arguing two of the three cases virtually. As courts progressively increase courthouse foot traffic outside of New York City – while enforcing physical distancing and other safety measures – in select matters that require in-person appearance, remote hearings are likely to remain the norm in many cases for the immediate future.<sup>12</sup>

Has your government passed legislation or issued orders suspending the operation of substantive deadlines such as limitation periods? Have there been changes to procedural time limits which have either suspend or extended relevant time periods or otherwise permitted parties to agree to extensions of time without resort to the courts?

Many states have issued orders suspending or relaxing deadlines and tolling statutes of limitations until the states of emergency declared by their governors expire. In New York, Governor Andrew Cuomo first issued a broad Executive Order on March 20, 2020 effectively tolling all statutes of limitations for state law causes of action for 30 days (through April 19) and has since then extended the tolling through June 6.<sup>13</sup>

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5 AO/85/20, April 8, 2020. See R. Tarinello, “New York Court System Plans to Relax Coronavirus Restrictions”, Law.com, April 9, 2020.

6 AO/85/20, April 8, 2020. In the first four weeks of expanded virtual operations, the courts have conducted nearly 40,000 conferences and other court proceedings, settled more than a third of cases they conferenced, and issued over 9,000 written decisions on pending motions and other matters. See Message from Chief Judge Difiore, May 11, 2020.

7 See Memorandum, Lawrence K. Marks, April 7, 2020.

8 AO/87/20, May 1, 2020. Since May 4, courts are accepting filings of new motions and applications, additional filings in pending motions, filings of stipulations, notes of issue, and notices of appeal.

9 AO/111/20, May 15, 2020 and AO/114/20, May 20, 2020.

10 See Memorandum, Lawrence K. Marks, May 20, 2020 and AO/115/20, May 28, 2020.

11 See J. Wester, “Surge of New Lawsuits Filed in New York City as E-Filing Reopens to All Cases”, Law.com, May 26, 2020.

12 See T. McParland, “‘It Will Look Different’: SDNY’s Phased Reopening to Include ‘Physical Changes,’ Continued Remote Hearings”, Law.com, May 19, 2020.

13 EO No. 202.8, March 7, 2020; EO No. 202.14, April 7, 2020; and EO No. 202.28, May 7, 2020.

The federal courts have not halted proceedings or issued a generalized extension of federal statutes of limitations or deadlines. Most deadlines pursuant to the Federal Rules of Civil Procedure remain in effect. However, certain deadlines in criminal actions have been extended, and most district courts are granting adjournments liberally, suspending oral arguments, or conducting them telephonically.

What has been the impact of COVID-19 in terms of the enforcement of judgments, including foreign judgments?

NYS courts have jurisdiction over proceedings to enforce foreign judgments in New York. Depending on the identities of the parties (e.g., where a foreign creditor seeks to enforce a foreign judgment against a New York debtor), the federal courts may have jurisdiction as well. Finally, the federal courts have jurisdiction over proceedings to enforce foreign arbitral awards.

Our comments above regarding the federal and NYS courts also apply to judgment enforcement proceedings. The continued prohibition on the filing of new “non-essential” cases in NYS courts applies to judgment enforcement proceedings as well. But the federal courts, in cases where they have jurisdiction, continue to accept the filing of new judgment enforcement proceedings as normal.

For creditors whose proceedings have progressed further and resulted in a state or federal court judgment recognizing the foreign judgment, the next hurdle will be to collect on the judgment. Many U.S. jurisdictions have suspended, or are considering suspending, the execution of judgments in whole or in part. In New York City, proposed legislation has been introduced to cease “the taking and restitution of property and the execution of money judgments by the city sheriff and marshals due to the impacts of COVID-19.”<sup>14</sup> In Florida, each county has issued administrative orders suspending the service of writs of execution or possession: some have only suspended writs in connection with family courts, while others have suspended all judicial writs. In California, an executive order permitted local authorities to suspend the writ of possession. In Texas, courts have issued an order suspending execution of the writ of possession until after May 7, 2020.

#### **4. Outside of the court system, are litigators conducting their practices (examination of witnesses, mediations, etc.) virtually through video-conference platforms?**

As in many other jurisdictions around the world, the public health crisis has made it necessary for litigators across the United States to practice remotely. In the NYS court system, the closure of courthouses and restrictions that apply to matters deemed “non-essential” have resulted in adjournments of court appearances.

With state courts progressively shifting to virtual courtroom settings, litigators have become increasingly familiar with teleconference or videoconference platforms such as Microsoft Teams, Bluejeans, Zoom or CiscoWebex. Courts have installed (or are in the progress of installing) video sharing platform technology and are providing trainings to judges and court personnel, as well written guidelines and instructions for attorneys

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14 See Council of City of NY Intro No. 1912-2020.

and court reporters.<sup>15</sup> Many law firms are also developing guidelines and best practices to ensure that remote cross-examinations, and any other interactions, are effective.

Depositions (*i.e.*, sworn, pre-trial witness examinations outside the presence of the judge, recorded in a verbatim transcript and frequently by video) are a hallmark and mainstay of U.S. litigation. Pre-Covid, most depositions were conducted in person, typically in law firm conference rooms. But now litigators are routinely taking depositions remotely using a variety of platforms with attorneys, witnesses and court reporters joining from different locations.

On the other hand, jury trials (while comparatively rare) present unique challenges, as they generally cannot proceed virtually. The general practice has been to vacate and reschedule existing trial dates. Parties also may choose to waive their right to a jury trial.

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<sup>15</sup> E.g., see Southern District of New York, [Skype for Business Instruction Guide for Attorneys and Court Reporter Tele/Videoconferencing Best Practices](#).