

## SUSPENSION OF PROCEDURAL DEADLINES IN SPAIN - COVID 19 PANDEMIC

One of the consequences of the extraordinary measures imposed by the Spanish Government through its Royal Decree 463/2020 of 14th March, caused by the Covid-19 pandemic, by which the Alarm Status was declared in Spain, is that the procedural deadlines have been suspended.

### Introduction

The Government was unclear as to whether the term to be suspended is to be considered a term or a period, and whether the suspension of the term should be interpreted as suspension or interruption. The difference according to Spanish law is quite important since a “term” refers to a specific date whereas a “period” refers to a range of 2 dates and “suspension” means that a deadline is placed in standstill which period resumes counting when such standstill disappears whereas a “interruption” means that the clock to comply with a deadline or bring an action starts from the first date of the period provided when such interruption takes place. Accordingly, the Abogacia General del Estado published a clarification note on 20th March clarifying that the interpretation of the government’s regulation in this particular is that all terms and period are to be considered suspended and not interrupted and accordingly, once the Alarm Status disappears, the clock will resume counting for the period left when it got into standstill.

Having made the above preliminary clarification, please note the following measures established in this regard:

### Court Orders

Terms are suspended and time limits provided for in procedural laws are suspended and interrupted for all court orders. The calculation of time limits shall be resumed at the time when this Royal Decree or, as the case may be, any extensions thereof become ineffective.

### Criminal Jurisdiction

In the criminal jurisdiction, suspension and interruption shall not apply to habeas corpus proceedings, proceedings entrusted to the guard services, proceedings with detainees, protection orders, urgent prison surveillance proceedings and any precautionary measures relating to violence against women or minors. Likewise, in the investigation phase, the competent judge or court may agree to conduct those proceedings which, because of their urgent nature, cannot be postponed.

### Exceptions made to the rest of jurisdictions

With regard to the rest of the jurisdictional orders, the interruption referred to in the first paragraph shall not be applicable to the following cases:

- ✓ The procedure for the protection of the fundamental rights of the person foreseen in articles 114 and following of Law 29/1998, of 13 July, regulating the Contentious-Administrative Jurisdiction, nor to the processing of the judicial authorizations or ratifications foreseen in article 8.6 of the mentioned law.
- ✓ The procedures for collective conflict and for the protection of fundamental rights and public freedoms regulated by Law 36/2011, of 10 October, which regulates social jurisdiction.
- ✓ Judicial authorization for non-voluntary internment on grounds of mental illness, as provided for in Article 763 of Law 1/2000 of 7 January on Civil Procedure.
- ✓ The adoption of measures or provisions for the protection of minors as provided for in article 158 of the Civil Code.

Notwithstanding the provisions of the preceding paragraphs, the judge or court may agree to take any legal action that is necessary to avoid irreparable damage to the rights and legitimate interests of the parties to the proceedings.

### Suspension of administrative deadlines

- ✓ Terms and time limits for the processing of procedures by public sector entities are suspended. The calculation of the time limits will be resumed at the moment that the present royal decree or, if applicable, its extensions, becomes invalid.

- ✓ The suspension of terms of deadlines will be applied to the entire public sector as defined in Law 39/2015, of 1 October, on the Common Administrative Procedure of Public Administrations.
- ✓ Notwithstanding the above, the competent body may, by means of a reasoned decision, agree to the measures of organisation and instruction strictly necessary to avoid serious damage to the rights and interests of the interested party in the procedure and provided that the interested party agrees, or when the interested party agrees that the time limit should not be suspended.
- ✓ This provision shall not affect the procedures and decisions referred to in paragraph 1 where these concern situations closely linked to the facts justifying the state of alert.

### Suspension of limitation and prescription periods

The periods of limitation and expiry of any actions and rights shall be suspended during the period of validity of the state of alert and, where appropriate, any extensions thereto.

Written by Antonio Arenas.

Managing Partner

e-mail: [antonio.arenas@scornik.com](mailto:antonio.arenas@scornik.com)

Direct Dial: 0044 2039629920

Mobile: 0044 7540667073