

June 12, 2020

ASSISTING FRAUD VICTIMS IN THE DOMINICAN REPUBLIC IN TIMES OF COVID-19

Country: DOMINICAN REPUBLIC

1. MOST CRITICAL PHASE OF THE CRISIS

- **What are the effects of the Covid-19 crisis on civil justice? Does the crisis have an effect on court hearings and deadlines?**

The Dominican Republic declared the state of emergency on March 19, 2020, to prevent the spread of Covid-19, which has been extended until June 27, 2020

Civil justice was suspended on March 19, 2020. Civil courts were closed, and judges are not available for the public. In June 2020, the courts are re-opening in phases.

The deadlines are suspended while the courts remain closed and until three working days after the state of emergency ceases, which is currently scheduled for July 1st, 2020.

Court hearings are still suspended, and documents cannot be served via bailiff, except for urgent matters. Enforcement acts and interim measures such as injunctions and freeze orders are suspended as well. Hearings of the continuous criminal service courts, those related to minors, urgent civil right lawsuits and habeas corpus are taking place in the form of video conferences.

- **How do banks work during the crisis?**

Banks or financial intermediation entities have implemented their contingency and continuity plans, in order to guarantee their ability to operate continuously and minimize losses in the event of a severe business interruption.

In addition, banks have taken measures to mitigate the spread of the coronavirus (COVID-19), following the recommendations and protocol established by national and international health authorities, to include: (i) continuous cleaning and disinfection of workspaces and customer service; (ii) masks shall be used at all times when at the Bank; (iii) reduced working hours, and with fewer commercial offices operating and limited personnel in their facilities. Remote work is possible and advisable.

- **Does the crisis have an effect on insolvency law?**

The Covid-19 crisis is critically affecting the economy and the operation of businesses and individuals. The Dominican Republic Restructuring and Liquidation of Companies and Businesspersons No. 141-15 entered in effect in 2017. Therefore, we expect that the insolvency law will be applied to more cases in the near future.

Law 141-15 provides that a debtor could be subject to a restructuring proceeding, voluntary or not, if one of these conditions are met: (i) Failure to pay a payment obligation, which are due and payable, for over 90 days, after formal notice; (ii) when the debtor's current liabilities exceed the current assets for over six months, among other conditions; (iii) when there are active embargoes, judgments or execution proceedings that affect or could affect more than 50% of its total assets; among other conditions. Corporations and businesspersons with imminent financial difficulties after the crisis could submit a prior agreement to the restructuring court before initiation a restructuring process.

The debtor may request the court its judicial liquidation at any time. For involuntary liquidations, Law 141-15 establishes the obligation to attempt the debtor's reorganization before initiating the liquidation proceedings. However, the person verifying the debtor's financial situation and the conciliator of the reorganization may recommend the immediate liquidation under specific circumstances.

2. **FORECAST: AFTER THE CRISIS AND LONG-TERM EFFECTS**

- **Which measures introduced during the crisis will be withdrawn immediately?** The Dominican Republic has not implemented the electronic justice systems, except for urgent criminal matters. The measures introduced during the crisis may be withdrawn immediately after the Covid-19 crisis.
- **Which measures will remain in place?** All measures adopted in response to the crisis are of temporary nature. Most measures are related to labor and tax regulations.
- **Will prosecution and punishment of economic crime, including corruption matters, be weakened?** The prosecution of corruption matters and enforcement of economic could be weakened due to the lack of financial resources and personnel. In addition, the presidential elections are taking place in July 2020 which may lead to delays in investigations and prosecutions. However, we hope there would be a rise of new anti-corruption prosecutions of people who intended to fraudulently benefit due to the crisis.

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