

What does the Covid-19 crisis mean for victims of fraud?

Country: Chile

1. THE MOST CRITICAL PHASE OF THE CRISIS

As long as measures to prevent the spread of Covid-19 restrict freedom of movement: What are the effects of the Covid-19 crisis on civil justice?

- Is there special legislation on the effects of the crisis on civil justice?

On April 2nd, the law N° 21.226 was published which established a new and exceptional regime for all judiciary processes because of the impact that COVID-19 has had in Chile, which prompted the authorities to declare, on May 19, a state of catastrophe in the country, which will last for 90 days.

According to the law, the Supreme Court must suspend all the hearings on all the courts during the state of catastrophe, except for urgent matters. Also, the law contemplates a prohibition to decree any legal proceedings or actions that may cause defenselessness (i.e. witness testimonies, documents exhibitions, etc.) and a suspension on all evidentiary terms that are currently running or that might start during the catastrophe state.

- Does the crisis have an effect on court hearings?
 - Do court hearings take place during the crisis?

The only hearings that are taking place are those regarding urgent matters, such as *habeas corpus*, domestic abuse, child abuse, alimony cases, if a person is in jail awaiting trial, etc. On all other matters, the hearings are suspended until the catastrophe state is lifted.

- Do court hearings take place in form of video conferences?

According to the new law, the courts must favor videoconference hearings. For that effect, the lawyers, two days before the hearings, must request the court that the hearings take place through videoconference and indicate their email address and phone numbers to facilitate the coordination. However, sometimes the speed of the process does not allow the lawyers to fulfill all these requirements, so the hearings end up taking place in person, with all the risks that entail. This is very common among the criminal procedures, particularly in *habeas corpus* cases.

- Does the crisis have an effect on deadlines (of procedural and substantive law)?
 - Are deadlines of ongoing proceedings affected?

All evidentiary terms that are currently running or that might start during the catastrophe state are suspended. Also, some deadlines on criminal procedures are suspended as well, which is the case for indictments or to enter a plea deal.

- Are deadlines for bringing actions affected (limitation periods)?

The new law established that, during the state of catastrophe, the statute of limitations for civil actions will be suspended only by filing the lawsuit, as long as it not declared inadmissible and it's legally served by the fiftieth working day after the catastrophe state is lifted or after the thirtieth working day after the lawsuit is declared admissible, whatever happens last. This rule does not apply to criminal or labor related lawsuits.

- Does the crisis have an effect on enforcement?

- Are enforcement orders issued?

Enforcement orders are being issued, but since they cannot be served nor registered to the correspondent authority, they are not effective.

- Are there any effects on deadlines?

The deadlines are suspended as explained above.

- Can enforcement acts be postponed due to the crisis?

Although enforcement orders are being issued, the execution of them is being postponed, taking place until after the crisis is passed and the catastrophe state is lifted.

- How do courts work during the crisis?

- Are courts closed?

The courts are physically close with most of the judiciary workers remote working, and the courts have established a shift system to attend inquiries from the public, but face-to-face attention is suspended.

- Can courts / judges be contacted?

Each court have published contact information, including emails and telephone numbers in which they can be contacted.

- Are documents served?

All serving procedures are suspended until the catastrophe state is lifted.

- How are particularly urgent matters handled, in particular requests for interim measures such as injunctions and freeze orders?

Urgent matters are being address and resolved by the courts at the same speed as before the crisis. However, since many of the publics services that intervене in an injunction, for example, are remote working, it can be very difficult to carry out the order.

- How do lawyers work during the crisis?

Luckily, a lawyer's work can be done mostly from home, so most legal offices in the country are remote working and meetings are being held through online platforms. All client's consultations are taking place through emails or phone calls.

- How do banks work during the crisis?

Most of the banks that are on quarantined areas have closed their branch offices and suspended their face-to-face consultations, addressing their customer's needs by phone or email.

- Does the crisis have an effect on insolvency law?

Insolvency claims can still be filed, and they will be resolved, however since the hearings that should take place during an insolvency process are suspended, the process is virtually paralyzed. However, on some cases, the hearings are taking place through videoconferences if all parties agree and the judges allows it, which allows the process to move forward. It is likely that because of the economic crisis that will follow the health crisis, more companies will file for bankruptcy, which will definitely have a negative effect on employment.

- Are there any further effects not addressed in the questions above?

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

What are the consequences of the Covid 19 pandemic once the pandemic has abated, in the gradual return to a new normality and what are the long-term effects?

- Which measures introduced during the crisis will be withdrawn immediately?

On a procedural and substantive law point of view, since the changes and measures taken are instructed to last until the catastrophe state is lifted, almost all the measures will be withdraw once the crisis is over. However, regarding the economic measures taken by the authorities during the crisis, such as low rate interest loans, those will remain.

- Which measures will remain in place?

On a procedural level, mostly those regarding remote work for judiciary workers and those regarding videoconference hearings. But the economics measures will likely remain in place.

- Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources?

Although it's hard to establish the effects that the crisis will have on different matters, we believe that the enforcements of economic crime won't be weakened by the financial crisis that might come after the pandemic has passed, especially considering that the fight against corruption and white collar crime has become a priority to the main authorities in the country.

- Do you expect a rise of new anti-corruption prosecutions after the crisis?

We do expect that new prosecutions regarding corruption cases will rise after the crisis, especially if we consider that the challenges that the crisis has brought requires a quick response by the authorities, so actions that might be considered as acts of corruption might have taken place to ensure a fast response to the crisis, which, if happened, is something that must be investigated and prosecuted accordingly.

- Will the ratio of third party funded matter rise?

Since the crisis is rather new in Chile, the first case of coronavirus was diagnosed about a month ago, it's still too early to tell whether the ratio of third party funded matter will rise. So far, the government has faced the crisis with public funds, which may as well change if the crises extend for longer than anticipated.

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