

WHAT THE COVID-19 CRISIS MEANS FOR VICTIMS OF FRAUD

Lebanon

17 April 2020

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?**

As at the drafting of this report, no “legislation” per se has been enacted yet concerning the effects of the crisis. However, there are many decisions issued by various authorities and Parliament has been convened to meet on April 21st 2020, to legislate on various matters including inter alia matters related to the corona crisis.

On 3 March 2020, the Ministry of Justice in coordination with the High Judicial Council issued a decision suspending hearings until 6 March 2020. This decision was later extended until 26 April 2020.

Also various judges took the initiative to organize the work within their departments. For example, on 9 March 2020, the Executive Bureau of Beirut posted a circular restricting its activity until 13 March 2020 solely to (i) constituting new case files for enforcement measures, provisional seizure and challenging enforcements, (ii) filing requests entailing time limits and (iii) enforcing decisions of alimony, travel ban, travel approval, “parental visits” and provisional seizures.

On 10 March 2020, the Head of Appeal Courts of Beirut issued a letter limiting the activity of Beirut civil courts to (i) submitting new files (ii) receiving applications and objections which are subject to foreclosure periods (iii) receiving urgent measures requests.

On 15 March 2020, the Lebanese Council of Ministers declared the state of Health Emergency/General Mobilization from 15 March 2020 until 29 March 2020 (at midnight). This entailed that all administrations and public institutions were to be locked down, with a list of exceptions including banks, financial institutions and exchange establishments.

On 16 March 2020, the General Prosecutor of the Court of Cassation issued a circular applicable during the period of 16 to 29 March 2020 (renewable), stating that prisoners and detainees shall not be driven to judicial departments and that Requests for Release shall be submitted by way of a letter or a telephone call.

On 17 March 2020 the Council of Ministers met again and approved a “draft” law on suspension of time limits from 18 October 2019 until 30 June 2020. This draft does not come into force until approved and enacted by Parliament. Aside from listed exceptions, the foreseen suspension of time limits would be applicable to legal, judicial and contractual periods, granted to private and public persons concerning the exercise of all rights.

The suspension extends to administrative, civil, commercial and criminal matters. The provisions of the said “draft” law provide that these periods will start running again upon the expiry of the suspension period.

The peculiar early suspension date, 18 October 2019, is in fact due to what is now known as the “October Revolution” that erupted on 17 October 2019. The demonstrations lasted many months and brought hundreds of thousands of Lebanese to the streets, paralyzing at times the country’s transportation and banking system for several weeks.

On 30 March 2020 a joint letter was issued by the Ministry of Justice and the High Judicial Council, where it was mainly decided that (i) the suspension of court hearings is extended until 12 April 2020 in all courts and judicial departments and (ii) the competent civil judicial authorities shall continue to take urgent measures where necessary, and (iii) the administrative work in the clerical offices shall be guaranteed but running with minimal staff through the presence of one employee on a rotation basis.

On 9 April 2020 the Council of Ministers extended the state of Health Emergency/General Mobilization until 26 April 2020.

On 14 April 2020 the Ministry of Justice and the High Judicial Council issued another decision extending the suspension of court hearings until 26 April 2020 and confirming that civil judicial authorities will continue looking into urgent matters and administrative work at the various courts will still be secured by employees on a rotation basis.

A Parliamentary session has been called upon that is expected to be open on April 21st including on its agenda, the enactment of the “draft” law on suspension of time limits from 18 October 2019 until 30 June 2020.

- **Does the crisis have an effect on court hearings?**
 - **Do court hearings take place in form of video conferences?**

Court hearings have been successively suspended until 26 April 2020; however, criminal courts and judges continue to decide on Requests for Release with a major innovation: On 23 March 2020 the General Prosecutor of the Court of Cassation issued a circular stating that interrogations be made electronically through video conferences.

On 27 March 2020 a circular was issued by the High Judicial Council whereby it was decided that video conferences will be adopted for the interrogations and such until the end of the current corona virus related circumstances. The circular sets out the details of the proceedings, notably with respect to the conduct of the hearing and record keeping.

- **Do court hearings take place during the crisis?**

As mentioned above, court hearings in all courts and judicial departments were suspended until 26 April 2020, with an exception regarding criminal judicial departments concerning requests for release of detainees, with interrogations to be conducted –for the first time– via video conferences. In very exceptional cases some court hearings in criminal cases are being held in court.

- **Does the crisis have an effect on deadlines (of procedural and substantive law)?**

- **Are deadlines of ongoing proceedings affected?**

Yes. On-going proceedings deadlines are affected. Hearings are suspended. Only submission of applications entailing time limits is authorized. It is fair to assume that where the existing law already provides the judge looking into the proceedings, with the right to extend and set the procedural deadlines (such as pleadings exchange etc...), these will be extended by the relevant judge. For limitation deadlines, please refer to the next question.

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

In addition to receiving urgent measures applications, Courts are accepting the submission of new files and applications and objections which are subject to statutes of limitation or foreclosure periods. Because these limitation periods are usually stipulated by law, the enactment of a new law is necessary. This matter will be further regulated once the above referenced draft Law on suspension of time limits is passed in Parliament.

- **Does the crisis have an effect on enforcement?**

- **Are enforcement orders issued?**

Enforcement judges in Beirut (executive bureau judges) are not issuing enforcement orders but only conservatory measures where there is proven urgency (such as orders related to alimony).

- **Are there any effects on deadlines?**

The parliament is expected to meet on 21 April 2020 and to ratify the draft law on suspension of time limits from 18 October 2019 until 30 June 2020.

- **Can enforcement acts be postponed due to the crisis?**

Enforcement acts (such as public auction sale and other acts) are postponed *de facto*. The judges in Beirut are not issuing decisions relating to enforcement (except for orders related to alimony and “parental visits”).

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

- **Are courts closed?**

Courts are not closed. However, and as mentioned above, judicial activity is significantly reduced.

- **Can courts / judges be contacted?**

Yes, courts can be contacted either through the clerical offices or on the private number of the court’s clerk. Moreover, if the matter is urgent, clerks can directly contact judges for instructions. In some cases, files are physically taken to the judge’s house.

- **Are documents served?**

Submitting a new case file is accepted; however serving submissions in an existing file is not being processed unless the application is subject to foreclosure period.

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

Concerning the Executive Bureau of Beirut, judges are taking interim measures in emergency matters.

For courts of “Urgent Matters”, new files can be submitted and if the case is of high urgency the file is being taken to the judge’s house to issue the appropriate decision.

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

Most if not all lawyers are working remotely since early March 2020.

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

Lebanon has been witnessing a disruption in the banking sector’s activity since October 2020 due to the spark of what is now known as “the October revolution”. Banks have been (and still are) applying a *de facto* capital control and taking strict measures when it comes to any foreign currency. The corona crisis only aggravated the situation. Banks are now operating to the necessary minimum extent to secure the workflow. Only essential bank branches remain open; most banks are requesting prior appointments to deal with pressing and urgent requests of their clients. Only a limited number of clients can enter the bank at one time. Hence, client queues at bank doors has become a daily scenary.

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

Up to the date of drafting this document, no specific regulation had been enacted concerning insolvency laws.

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? Which measures will remain in place?**

All measures adopted by the relevant Lebanese authorities regarding court hearings and court activities have a fixed limited period of time. However, it is possible that some of the proceedings' innovations introduced during this crisis continue to apply given their practical aspect such as the use of video conference by the judges.

- **Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources? Do you expect a rise of new anti-corruption prosecutions after the crisis?**

We expect a rise of new anti-corruption prosecutions after the crisis. In fact, the current pandemic has only aggravated the pre-existing financial and political crisis. It comes at a time when the Lebanese Government has, for the first time in Lebanon's history, declared a default on sovereign debt. The quasi-totality of the population believes and the Government has stated that this payment default is due to Lebanon's inability to pay as a result of mismanagement of the State's affairs and finances. It is a general belief that the salvation and rising of the country will pass by pursuing the corrupt regardless of the cost and consequences.

- **Will the ratio of third party funded matter rise?**

Third party funding has not yet developed in Lebanon; however, the aggravated cash constraints following the Covid-19 crisis might lead to the flourishing of such litigation funding.

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