

## EXECUTIVE NOTICE ABOUT THE MAIN PROCEDURAL UPDATES

The most relevant measures within the procedural framework are described in Royal Spanish Decree 463/2020, of 14 March, establishing the state of alarm (**‘RD 463/2020’**) and in the resolutions issued by the Standing Committee of the General Council of the Judiciary (**‘GCJ’**).

This document discusses the content of such measures, and briefly refers to other measures adopted by multiple Spanish and Community jurisdictional bodies, as well as by the most representative arbitration courts.

To sum up, the most remarkable features of the said measures are as follows:

1. All procedural time limits are suspended for as long as the state of alarm is in force. They will be resumed (not restarted<sup>1</sup>) once the state of alarm is suspended<sup>2</sup>.
  - a) This does not affect proceedings which are considered as ‘essential’, which according to the instructions of the GCJ<sup>3</sup> are as follows:
    - Legal proceedings which could cause irreparable damage in case they did not take place.
    - Urgent detentions according to section 763 of the Spanish Civil Procedure Act, and the implementation of interim measures or other urgent proceedings, such as those on the protection of minors defined in section 158 of the Spanish Civil Code.
    - Courts of violence against women will provide the corresponding duty court services.
    - The Register Office will provide permanent service during opening hours.
    - All proceedings with prisoners or detainees and other urgent proceedings.
    - Critical actions in terms of prison surveillance.

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<sup>1</sup> See Report of the Deputy Directorate General for Advisory Services of the Spanish Government Attorney's Office of 20 March 2020, about the interpretation of 3<sup>rd</sup> Additional Provision, section 1, of RD 463/2020, of 14 March, establishing the state of alarm.

<sup>2</sup> See Resolution of the Standing Committee of the GCJ of 13 and 14 March 2020, and 2<sup>nd</sup> Additional Provision of RD 463/2020.

<sup>3</sup> See Resolution of the Standing Committee of the GCJ of 13 and 16 March 2020.

- Within the contentious-administrative jurisdictional framework, the urgent authorizations of health interventions, fundamental rights the resolution of which is critical, urgent interim and precautionary measures, and contentious-electoral remedies.
  - In labor courts, the celebration of trials and preferential interim measures which are declared urgent by law, as well as Redundancy and Temporary Redundancy processes.
  - In general, processes alleging the violation of fundamental rights which are urgent and preferential (those which would prevent or make the claimed judicial protection very burdensome in case they were postponed).
- b) The suspension also applies to the time limits legally established for the fulfillment of legal obligations with procedural projection, particularly those governing the submission of insolvency proceedings<sup>4</sup>.
2. As for the submission of documents, the GCJ<sup>5</sup> has established the following major assumptions:
- a) The submission of documents in person will not be admitted in any case.
  - b) Only those deemed ‘urgent’ (according to the aforementioned crucial actions) may be submitted telematically (LexNET).
  - c) Ignoring these prohibitions is contrary to the purpose of the declaration of the state of alarm.
3. The suspension of all proceedings results in the suspension of all hearings within Spain for as long as the state of alarm is in force, except for those relating to the ‘essential’ proceedings described above.
4. Time limits to carry out procedural or administrative actions before the Spanish Constitutional Court for as long as the state of alarm is in force are suspended. However, appeals may still be filed, and other documents affecting constitutional or

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<sup>4</sup> See Notice of the Standing Committee of the GCJ of 18 March 2020.

<sup>5</sup> See Notice of the Standing Committee of the GCJ of 18 March 2020.

administrative proceedings may still be submitted. The Spanish Constitutional Court will still be able to issue decisions and the necessary interim measures in the corresponding constitutional proceedings, to guarantee the constitutional system and the fundamental rights and civil liberties<sup>6</sup>.

5. The Court of Justice of the European Union and the General Court of the European Union have published a series of notices on their website as a result of the Covid-19 crisis:

- a) As for the Court of Justice of the European Union, (i) judicial activity continues, giving priority to those cases that are particularly urgent (urgent proceedings, expedited proceedings and interim proceedings); (ii) procedural time limits for instituting proceedings and lodging appeals continue to run and parties are required to comply with those time limits, without prejudice to the allegation of unforeseeable or force majeure circumstances; (iii) time limits prescribed in ongoing proceedings (with the exception of the abovementioned proceedings that are particularly urgent) are extended by one month as of 19 March 2020; (iv) time limits established as of 19 March 2020 shall be also extended by one month, and (v) hearings are listed until 30 April 2020 are adjourned until a later date<sup>7</sup>.
- b) As for the General Court, (i) hearings established until 30 April 2020 have been adjourned, and only cases that are particularly urgent are being processed; (ii) time limits for lodging appeals continue to run and parties are required to comply with those time limits, without prejudice to the allegation of unforeseeable or force majeure circumstances, and (iii) time limits established as of 19 March 2020 shall be adapted to the context of the sanitary crisis<sup>8</sup>.

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<sup>6</sup> See Resolution of 16 March 2020, of the Spanish Constitutional Court in Plenary Session, regarding the suspension of procedural and administrative time limits for as long as RD 463/2020, of 14 March, is in force.

<sup>7</sup> See [https://curia.europa.eu/jcms/jcms/P\\_97552/en/](https://curia.europa.eu/jcms/jcms/P_97552/en/)

<sup>8</sup> See [https://curia.europa.eu/jcms/jcms/P\\_97552/en/](https://curia.europa.eu/jcms/jcms/P_97552/en/)

6. As for arbitration, each court is taking measures on a case-by-case basis. The Civil and Commercial Arbitration Court has sent a notice which suspends all time limits of ongoing proceedings. However, this Court offers the possibility for the parties and the Court to hold in-person proceedings via conference call<sup>9</sup>. The Court of Arbitration of Barcelona has decided to suspend all proceedings until 12 April 2020, regardless of the stage of the proceedings, establishing that all notices should be given by telephone or email<sup>10</sup>. Other institutions, such as the Spanish Court of Arbitration, has published a statement on its website establishing the general suspension of time limits in all ongoing arbitration proceedings as of 16 March<sup>11</sup>.
7. Even if this is not a purely procedural issue, though a substantive one, it should be noted that the 4<sup>th</sup> Additional Provision of RD 463/2020 also establishes the suspension of limitation and expiration periods of any proceedings and rights, which will be resumed (not restarted) once the state of alarm is suspended.



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<sup>9</sup> <http://arbitrajecima.com/wp-content/uploads/2020/03/MEDIDAS-ADOPTADAS-POR-CIMA-ESTADO-DE-ALARMA.pdf>

<sup>10</sup> See Resolutions of the Governing Board of 15 and 30 March 2020.

<sup>11</sup> <https://www.camara.es/suspension-plazos-arbitrajes-corte-espanola-arbitraje>