

LEGAL ALERT · SPAIN

# State of Emergency declared in Spain

## Immediate legal consequences

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March 2020

#coronavirus #litigation #stateofemergency

On the 14 March 2020 entered into force the Royal Decree 463/2020 (the ‘Royal Decree’) that declares the state of emergency (“*estado de alarma*” in Spanish language) to manage the health crisis situation caused by the COVID-19 in Spain (Official Spanish Gazette of 14 March 2020). Amongst other relevant aspects that affect the perceived normal daily life in Spain, the Government's exceptional decision impacts upon the regulation of general time limitations and prescription periods, and court proceedings that are currently in progress.

Similarly, the Decision of the Permanent Commission of the Spanish Judiciary (“the Agreement”) and the Resolution of the Secretary of State for Justice (“the Resolution”), on essential services in the administration of justice, approved on the same date, establishes the suspension of legal proceedings and procedural time limits throughout the Spanish national territory, guaranteeing essential services.

In view of the exceptional nature of these measures, and their scope within the dispute procedures that may be currently underway or may be initiated in the future, at Galvez Pascual we have deemed it necessary to issue the following Legal Alert covering the essential legal aspects to be taken into account.

### 1. Suspension of general deadlines and expiry periods

According to the Additional layout fourth of the Royal Decree (“*Disposición adicional cuarta*”), **all limitation periods and expiry of any actions and rights will be suspended for the term of the state of emergency**, i.e. 15 days initially and, where appropriate, extensions to be adopted.

Consequently, this suspension affects the calculation of civil, commercial, labour or administrative time limitation periods regarding actions and rights initially since the entry into force of the Royal Decree on March 14 up until March 29, 2020. However, the Royal Decree also foresees additional suspension periods if this is expressly established in its extensions.

It is pertinent to mention that the Royal Decree establishes that **the deadlines are "suspended" but not interrupted**, so the time that was suspended on 14 March 2020 will continue to count after the state of emergency from the same moment prior to the declaration. This distinction is important, as we will see in the next section.

## 2. Suspension and/or interruption of court procedural activities, including deadlines, time limits and hearings

As a general rule, the Royal Decree set **the suspension of time limitation (“*términos*”) and the suspension and interruption of the deadlines (“*plazos*”) established in the procedural laws<sup>1</sup>** for all the jurisdictional orders. Thus, according to the Royal Decree (Second additional provision) from now on, the time limits or deadlines set in the regulations governing judicial proceedings for all kinds of issues such as allegations, evidence or appeals, will not be counted.

The calculation of deadlines will be resumed at the moment that the Royal Decree loses its validity. However there are **certain exceptions in criminal matters and in the rest of the jurisdictions** according to the Additional layout second of the Royal Decree (“*Disposición adicional segunda*”).

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<sup>1</sup> According to the Spanish procedural regulations, **time limitation (“*términos*”) and deadlines (“*plazos*”) are not synonymous concepts**. The time limitation (“*término*”) refers to a specific time, i.e. the specific day when a legal action is to be verified. On the contrary, the deadline (“*plazo*”) refers to the period or lapse of time within a procedural act must be performed.

## 2.1. Criminal courts jurisdiction

In the criminal courts jurisdiction, **the suspension and interruption** shall not apply to:

- *Habeas corpus* proceedings;
- Tasks assigned to the duty courts;
- Proceedings related to detainees and protection orders;
- Urgent actions in the area of prison surveillance;
- Any precautionary measures in the field of violence against women or minors.

Likewise, the Royal Decree foresees that, during the criminal investigation phase, the competent judge or court may agree to conduct those proceedings which, because of their urgent nature, cannot be postponed.

## 2.2. Other court jurisdictions

The **interruption** contained in the Royal Decree shall not apply to other jurisdictions where the judicial procedure affects:

- **Individual fundamental rights** according to the procedure for the protection of the fundamental rights of person provided for in Articles 114 et seq. of Law 29/1998 of 13 July, of the Contentious-Administrative Jurisdiction, nor to the processing of judicial authorizations or confirmations provided for in article 8.6 of the above-mentioned law;
- **Procedures for collective labour disputes and the protection of fundamental rights and public freedoms** regulated by Law 36/2011 of 10 October, regulatory of the social jurisdiction;
- **Court authorisation for non-voluntary detention on the grounds of mental disorder** according to article 763 of the Code of Civil Procedure;

- **The adoption of measures or arrangements for the protection of minors**, provided for in the Article 158 of the Civil Code.

Accordingly, the Royal Decree establishes that the court or judge may agree to conduct those judicial proceedings considered necessary to avoid irreparable damage to the rights and legitimate interests of the parties.

### 3. Basic services for the administration of justice

On the other hand, the Agreement Spanish Judiciary of 14 March 2020 specifically stipulates the suspension of all scheduled court proceedings and the procedural deadlines that such a decision entails, except in cases of essential services.

Consequently, the Resolution of the Secretary of State for Justice sets out these **essential services for the administration of justice** as follows:

- Any court decision which, if not taken, could cause irreparable damage;
- Urgent internments of article 763 of the Code of Civil Procedure (non-voluntary internments due to mental disorder);
- The adoption of precautionary measures or other actions that cannot be postponed, such as the measures for the protection of minors in article 158 of the Civil Code;
- The courts of violence against women will provide the appropriate on-duty services. In particular, ensuring that protection orders and any precautionary measures are taken with regard to violence against women and minors;
- The Civil Registry will provide permanent attention during opening hours. In particular, they shall ensure the issuance of burial permits, birth registrations within the peremptory time limit and the celebration of marriages under article 52 of the Civil Code;

- Proceedings with detainees, and others, that cannot be postponed, such as urgent precautionary measures, removal of dead bodies after judicial inspection, entries and search warrants, etc.;
- Any court decision to be adopted regarding inmates or detainees;
- Urgent action on prison surveillance;
- In the contentious-administrative jurisdiction, health entry authorizations, which are urgent and cannot be postponed, fundamental rights whose resolution is urgent, precautionary and preventive measures that are urgent, and contentious-electoral appeals;
- In the social jurisdictional order, hearings declared urgent by law and urgent and preferential precautionary measures, as well as the Regulation of Employment and Temporary Regulation of Employment procedures;
- In general, processes in which a violation of fundamental rights is alleged and which are urgent and preferential (those whose postponement would impede or make very burdensome the judicial protection requested).

#### 4. Suspension and interruption of administrative deadlines or time limitations

Finally, the Royal Decree in its Additional layout third (*“Disposición adicional tercera”*) establishes that in procedures by the public sector entities, **time limitations are suspended** and **deadlines are interrupted**. Thus, the time calculation will be resumed at the moment that the Royal Decree, or if applicable, its extensions, becomes invalid

#### 5. Related documentation:

[Royal Decree 463/2020 on March 14, declaring the state of emergency for the management of the health crisis situation caused by COVID-19.](#)

[Decision of the Permanent Commission of the Spanish Judiciary on March 14, 2020, for the suspension of legal proceedings and procedural deadlines throughout the national territory, guaranteeing essential services.](#)

[Resolution of the Secretary of State for Justice on essential services in the administration of justice of 14 March 2020.](#)

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