

*FEDERATION DES BARREAUX D'EUROPE
EUROPEAN BARS FEDERATION
VERBAND EUROPÄISCHER RECHTSANWALTSKAMMERN
FEDERACION DE LOS COLEGIOS DE ABOGADOS DE EUROPA
FEDERAZIONE DEGLI ORDINI FORENSI D'EUROPA*

ACCESS TO JUSTICE COMMISSION



The measures to combat COVID 19

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BULGARIA

Measures taken in the judicial system

Measures taken in the judicial system and the bar associations to ensure the normal functioning of the judicial system during the declared state of emergency to prevent the spread of COVID-19.

A number of measures have been taken during the declared state of emergency in order to continue the normal functioning of both the judicial authorities and the bar.

From March 13, 2020 until the end of the declared state of emergency, the proper time limits for court, arbitration and enforcement proceedings are suspended, but exceptions have been introduced by law and its amendment for 21 criminal, 7 civil and commercial and 16 administrative cases. It is within the discretion of the administrative heads of courts to decide whether other cases that are not matter of urgency can be administered, scheduled and revised.

The law establishes the possibility, during a state of emergency, that the court holds open proceedings undertaken remotely /e.g. at home or place of work/ after the parties have been duly notified.

The service of summons, any type of written notices and court papers in all cases was suspended, with exception for the mentioned 21 types of criminal, 7 types of civil and commercial and 16 types of administrative cases and those cases that are matter of urgency during the declared state of emergency. Summons and any type of other written notices for cases that are matter of urgency during a state of emergency shall be made by telephone or electronic means.

Access to court buildings is restricted for the purpose of protecting the lives and health of parties, experts, employees, magistrates and lawyers and all other type of persons, with exception for those who are summoned in the types of cases already initiated and scheduled for trial. Submission of any kind of documents shall be done by mail or transmitted in an electronic way.

Following the introduction of an initial prohibition on the opening of new proceedings, the ban on the entry of documents initiating court proceedings was later dropped.

Information about cases can be obtained only on the phones that are announced on the websites of the courts or electronically connecting through the email addresses they have published also there on the website.

Economical measures to support lawyers

The Supreme Bar Council and the Sofia Bar Association released the lawyers from the obligation to pay a monthly fee for a period of three months from 01.03.2020 to 31.05.2020. The regular sessions of the Sofia Bar Council are currently held in an electronic way, through conference and videoconference. The Advocacy Training Center continues its activities online by hosting various seminars broadcast live on its official website.

The Sofia Bar Council made a proposal to amend the tax legislation and alleviate the economic situation of the lawyers, deducting from the achieved income bigger amount of legal expenses – the percentage to increase from 25% to a 40%.

The Sofia Bar Council has adopted a decision to open a bank account to raise funds to help lawyers infected with the coronavirus infection.

The library areas of the Bar Councils are restricted for visitors. All seminars, conferences, and other forms of mass gatherings were abolished to avoid clustering. Recommendations were made by the Bar Councils, recommending remote counseling, providing a distance between attorneys, visitors and associates working in law firms, as well as providing a high level of hygiene.

ENGLAND & WALES

Measures taken in the judicial system

No text

Economical measures to support lawyers

No text.

FRANCE

Measures taken in the judicial system

No text

Economical measures to support lawyers

No text.

GERMANY

The social impact of Covid 19

On 22.03.2020, the Federal and State Governments agreed on the following restrictions on social contacts.

Discussion between the Federal Chancellor and the Heads of Government of the Länder The Federal Chancellor and the Heads of Government of the Länder take the following decision on 22 March 2020.

The rapid spread of the coronavirus (SARS-CoV-2) in Germany in recent days is worrying. We must do everything we can to prevent an uncontrolled increase in the number of cases and to keep our health system efficient. Reducing the number of contacts is crucial for this. The Federal Government and the Länder agree on an extension of the guidelines on the restriction of social contacts adopted on 12 March:

I. Citizens are urged to reduce contacts with other people outside the members of their own household to an absolutely necessary minimum.

II. In public, wherever possible, a minimum distance of at least 1.5 m must be maintained from persons other than those mentioned under I.

III. The stay in public space is only permitted alone, with another person not living in the household or in the circle of members of one's own household.

IV. The way to work, emergency care, shopping, visits to the doctor, participation in meetings, necessary appointments and examinations, help for other or individual sports and exercise in the fresh air as well as other necessary activities remain of course possible.

V. Groups of people celebrating in public places, in apartments and private facilities are unacceptable in view of the serious situation in our country. Violations of the contact restrictions should be monitored by the regulatory authorities and the police and sanctions should be imposed in case of violations.

VI. Catering establishments will be closed. This does not include the delivery and collection of take-away food for consumption at home.

VII. Personal hygiene service providers such as hairdressers, beauty salons, massage parlours, tattoo studios and similar establishments will be closed, as physical proximity is essential in this area. Medically necessary treatments remain possible.

VIII. In all establishments and especially those open to the public, it is important to comply with hygiene regulations and to implement effective protective measures for employees and visitors.

IX. These measures should have a period of validity of at least two weeks.

The Federal Government and the Länder cooperated closely in implementing these restrictions and in assessing their effectiveness. Further regulations based on regional peculiarities or epidemiological situations in the Länder or districts remain possible.

The Federal Government and the Länder were aware that these are very drastic measures.

However, they were necessary and proportionate with regard to the legal interest of public health to be protected.

The Federal Chancellor and the heads of the Länder governments would like to thank in particular those working in the health system, in the public service and in the industries that maintain daily life, as well as all citizens for their sense of responsibility and their willingness to abide by these rules in order to further slow down the spread of the coronavirus.

Measures taken in the judicial system

Lawyers are affected by the coronavirus both personally, in their function as an organ of the administration of justice, but also economically (e.g. own illness, illness of employees, lack of child care also for employees, attending court hearings (must or may attend), no new mandates, etc.)

The Federal Chamber of Lawyers (BRAK) provides up-to-date information on relevant topics on its website. Essentially, the regional bar associations therefore refer to the detailed service offer of the BRAK.

The information page of the BRAK could be found at <https://www.brak.de/die-brak/coronavirus/>

The topics are among others:

- corona and fiscal measures
- corona and a possible lockdown
- professional legal information
- corona and FAO training (specialist lawyers)
- corona and legislation
- corona and the judiciary
- labour law and economic effects
- corona and ALG II (unemployment benefit II)
- legal questions concerning official powers
- different regulations in the different federal states
- Corona and Europe
- information about the disease and protection against infection
- Telephone hotlines

The legal situation varies slightly from state to state due to the federal structure. Federation legislation.

- Infection Control Act;

- Federal Ordinance: Corona Reporting Ordinance;
- Draft law to mitigate the consequences of the COVID 19 pandemic in civil, insolvency and criminal procedure;
- Draft law on the protection of the population in the event of an epidemic situation of national importance;

Land regulations/laws and general decrees of the Länder

An overview of State regulations/ordinances and general decrees of the federal states can be found on the BRAK website with a link to the relevant regulations (<https://www.brak.de/die-brak/coronavirus/uebersicht-covid19vo-der-laender/>).

The state ministries of justice and, in some cases, individual courts have also published different announcements.

The BRAK has compiled these under <https://www.brak.de/die-brak/coronavirus/corona-und-die-justiz/> .

The justice system has been reduced to the bare minimum. It's hard to judge.

It is important to have up-to-date information on topics relevant to the profession.

This also means, however, that the relevant bodies, e.g. the judiciary, for their part, must pull together with the legal profession.

Different approaches can be observed with the latter.

There are currently still uncertainties in the context of emergency aid, as it is difficult for the legal profession to explain the conditions for obtaining emergency aid.

The same applies to the consideration of the legal profession in emergency childcare.

In a letter to the Federal Chancellor dated 31.03.2020, the BRAK therefore demands that the legal profession be classified as systemically relevant and must be given appropriate consideration in the Corona emergency aid.

ITALIA

The social impact of Covid 19

Italy is a nation that, due to its geographical position and its position in the European and Mediterranean economy, has a dense network of communications and commercial and personal exchanges.

This is probably one of the reasons for the exposure to the contagion just before other nations in Europe.

The first cases.

The first two cases of Coronavirus in Italy, a couple of Chinese tourists, were confirmed on January 30 by the Spallanzani Institute, where they have been in isolation since January 29.

On 26 February they were declared cured.

The first case of secondary transmission occurred in Codogno, Municipality of Lombardy in the province of Lodi, on 18 February 2020 (coming from a German citizen).

The distribution of sick people, even currently, is not homogeneous on the national territory, with great diffusion especially in two provinces (Bergamo and Brescia) of the Lombardy region where total block-down have been operated since February as soon as the first case occurred.

A surveillance network on the new coronavirus is active in Italy and controls and screening have been activated under the coordination of the ministerial task force.

What has been helpful for Italy is the (pretty) good level of public health service, which is managed at regional level.

On January 30, Italy blocked all flights to and from China for 90 days, in addition to those from Wuhan, already suspended by the Chinese authorities, with an Order of the Minister of Health.

On 31 January, the Italian government declared a state of emergency, allocated the first funds and appointed a Civil Protection Chief.

Medical situation

30 March 2020:

People currently positive 73880 (3906 in intensive care)

Deceased 10779 (Average age: ~78 years)

Healed 13030 (13,34%).

09 April 2020:

People currently positive 96877 (3605 in intensive care)

Deceased 18279 (Average age: ~78 years)

Healed 28470 (13,34%).

Containment measures

The Council of Ministers passed a decree law on 23 February 2020 prohibiting access and removal to municipalities where there are outbreaks and suspending demonstrations and events.

From March 22, 2020, it's not allowed for all natural persons moving or moving by public or private way of transport in common other than the one in which they are located, except for proven occupational needs, absolute urgency or for health reasons.

Finally, the Government has issued some measures, providing for the closure of non-core or strategic production activities.

Food stores, pharmacies, shops for basic necessities and essential services remain open.

The provisions take effect from 23 March 2020 and are effective until 3 April 2020 (but it has already been announced that the provisions will be proposed).

On 10 April the Prime Minister announced that the total containment measures will be extended until 3 May 2020 and then to 11 May.

What has been decided by the government has been accepted by the population and scrupulously respected.

What will be necessary or would be necessary is to guarantee to the industrial and commercial activities and also to those professions a sufficient liquidity to start again when the emergency will be overcome.

It will be a great gamble that will have to be faced and on which the future of the Union will be tested.

There is the awareness that the situation is global and there is a need for a global approach.

Management of Phase 2

For the management of Phase 2, a specific monitoring system on epidemiological data and response capacity of regional health services has been activated, introduced with the decree of the Ministry of Health of April 30, 2020. The monitoring is developed by a “control booth” consisting of the Ministry of Health, the Higher Institute of Health and the Regions.

Key points Covid-19 weekly monitoring, report of 14-20 September 2020

An analysis of the data for the period September 14-20, 2020 is provided below. Due to the time between exposure to the pathogen and the development of symptoms, and between these and the diagnosis and subsequent notification, many of the cases reported this week are likely to have become infected at the beginning of

September. Some of the cases identified by screening, however, may have contracted the infection in earlier periods.

The virus today is circulating throughout the country. An increase in new cases reported in Italy is confirmed for the eighth consecutive week, with a cumulative incidence (ISS flow data) in the last 14 days of 31.4 per 100,000 inhabitants (period 7/9-20/9) (it was 29.4 per 100,000 inhabitants in the period 31/8-13/9). While in the last three weeks an increase in the median age of the reported cases was observed, this week the median age is stable at 41 years.

Ten Regions/PPAA reported an increase in the number of diagnosed cases, compared to the previous week (ISS flow), which cannot be attributed solely to an increase in imported cases (from foreign state and/or other Region) or an increase in screening activity. The majority of cases reported (84.2%) continue to be contracted on our national territory, with a slight decrease in cases imported from abroad (8% of new cases diagnosed this week vs. 10.8% the previous week) and also cases imported from other Regions/PAs (3.3% in the current week vs. 5.5% the previous week). 27.6% of new cases diagnosed throughout the country were identified through screening activities, while 35.8% were identified through contact tracing activities. The remaining cases were identified as symptomatic (31.4%) or the reason for the diagnostic assessment is not reported (5.2%).

In the period September 3 – 16, 2020, the R_t calculated on symptomatic cases is 0.95 (95%CI: 0.88 - 1.05), below 1 in its average value for the second consecutive week. For details on how to calculate and interpret the R_t reported, please refer to the in-depth study available on the website of the Higher Institute of Health. However, the national transmission index must be interpreted with caution, at this time of the epidemic. In fact, R_t calculated on symptomatic cases, while remaining the most reliable indicator at regional level and comparable over time for monitoring transmissibility, could slightly underestimate the real transmission of the virus at national level. Therefore, the national R_t must always be interpreted also considering the incidence data.

A total of 2868 active outbreaks were reported, of which 832 are new (the adopted definition of an outbreak foresees the identification of 2 or more related positive cases), both increasing for the eighth consecutive week (in the previous week of monitoring, 2397 active outbreaks were reported, of which 698 new). Outbreaks were reported in almost all provinces (102/107). Despite the high number of active outbreaks, 28.7% of new cases are not associated with known transmission chains. The majority of outbreaks continue to occur at home/family level

(76.1% of all active outbreaks), with a slight increase in outbreaks associated with recreational activities (6.3%) and work (5.6%).

At national level, the occupancy rate of beds in the medical area increased from 4% to 5%, while the occupancy rate of beds in intensive care increased from 2% to 3%, with values above 10% in some Regions/PAs. Although there are still no signs of overburdening of the health care services, the observed trend could be reflected in increased efforts in the short term. Moreover, the important and growing commitment of our territorial services (Prevention Departments), ensuring that the current outbreaks are promptly identified and investigated, is confirmed.¹

Measures taken in the judicial system

Tribunals have been closed.

All legal and procedural deadlines have been suspended.

Hearings were postponed until after 11 May 2020, with the exception of hearings with prisoners and minors.

Each President of the Court is responsible for the best management of the emergency.

Some days later, the Ministry of Justice issued a decree for the ordinary conduct of hearings by videoconferencing under the direction of the judge.

This circumstance had a positive impact on the future administration of justice even when this emergency will be overcome.

Many Bars' offices are closed as well as lawyers' ones.

Economical measures to support lawyer

The pension plan for lawyers has suspended.

¹Data and text from Health Minister

The payment of contributions and the tax authorities have postponed the deadlines to 31 December 2020.

There is a great concern for the economic survival of many professional firms that are in debt for ongoing investments or new hiring.

Most of the Bars reduced to 50% the registration fee for the year 2020.

On national level, different types of support interventions have been designed:

- financing for lawyers € 600.00 per month (for three months) granted by the Cassa di Previdenza for those who in 2019 had an income below 35,000.00 or turnover below 50,000.00.

The applications submitted were 130,700 (out of a total of 234,000 lawyers).

Suspension of timelines for the payment of the proposals and contributions.

The suspension of the terms of the relative self-liquidation payments for the months of April and May is foreseen for persons engaged in business, art or profession: a) with revenues or compensation of more than € 50 million that have suffered a decrease in revenues or compensation of at least 33% in March and April 2020 compared to March and April 2019 (paragraph 1); b) with revenues or compensation of more than € 50 million that have suffered a decrease in revenues or compensation of 50% in March and April 2019 (paragraph 3).

All in force on the Decree 9 April 2020.

Measures to facilitate access to credit with the support of banking institutions.

The guarantee is issued until 31.12.2020 for loans with a maximum duration of 6 years with the possibility of a grace period of up to 24 months. As at 29.02.2020, there must be no impaired exposures in the banking system.

The maximum amount that may be granted shall be the greater of the following parameters:

25% of the company's annual turnover in 2019

Double the company's personnel costs in 2019

THE NEDERLAND

Measures taken in the judicial system

No text

Economical measures to support lawyers

No text.

SPAIN

The Social Impact of Covid 19

Since the Spanish Government declared a “state of emergency” on 14 March, a series of measures have been adopted that affect the population in all areas. We can highlight among them, the confinement and reduction of the business activity, being able to carry out only the activities that have been considered as essential by the Government.

Measures taken in the judicial system

However, in the area of Justice, as a result of the state of alarm, a series of measures have been agreed upon, among which we can highlight; the measures adopted in relation to the provision of essential services in the Administration of Justice and the suspension of deadlines.

Essential services:

They are established as essential services:

1. Any judicial action which, if not taken, could cause irreparable damage.
2. Urgent internments of article 763 of the Spanish Law of Civil Procedure (non-voluntary internments for reasons of psychological disorder).
3. 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 Spanish Civil Code.
4. The Courts of violence against women shall provide the corresponding on-call services. In particular, they shall ensure that protection orders are issued and any precautionary measures taken with regard to violence against women and minors.

5. The Civil Registry shall provide permanent attention during court hours. In particular, they shall ensure that burial permits are issued, that births are registered within the prescribed period and that marriages are performed in accordance with article 52 of the Civil Code.
6. Proceedings with detainees and others that cannot be postponed, such as urgent precautionary measures, removal of bodies, entries and searches, etc.
7. Any proceedings with prisoners or detainees.
8. Urgent actions in the area of prison surveillance.
9. In the contentious-administrative jurisdictional order, urgent entry permits, fundamental rights whose resolution is urgent, urgent precautionary and preventive measures, and contentious-electoral appeals.
10. In the social jurisdictional order, the holding of trials declared urgent by law and urgent and preferential precautionary measures, as well as the processes of Files for the Regulation of Employment and Files for the Temporary Regulation of Employment.
11. In general, the processes in which a violation of fundamental rights is alleged and which are urgent and preferential.

Suspension of deadlines.

With regard to the suspension of deadlines, the General Council of the Judiciary has agreed to adopt the provisions of Royal Decree 463/2020 of 14 March, which establishes the following:

- Procedural time limits: terms are suspended and the time limits provided for in the procedural laws for all jurisdictional orders are suspended and interrupted. The calculation of the terms will be resumed at the moment that the present royal decree or, in its case, the extensions of the same one lose validity.
- In the case of criminal jurisdiction, the suspension and interruption shall not apply to “habeas corpus proceedings”, proceedings entrusted to the guard services, proceedings with detainees, protection orders, urgent prison surveillance proceedings or any precautionary measures relating to violence against women or minors

- Administrative deadlines: Terms are suspended and deadlines for the processing of procedures by public sector entities are interrupted. The calculation of the terms will be resumed at the moment in which the present royal decree or, in its case, the extensions of the same one lose validity.
- Prescription and expiry periods: The prescription and expiry periods of any actions and rights shall be suspended during the period of validity of the state of alert and, where appropriate, any extensions adopted.

During the period of suspension of the procedural periods, the presentation of procedural documents in person will not be allowed under any circumstances, and the electronic form will be limited to those whose sole purpose is to carry out procedural actions declared urgent and cannot be postponed.

The “Consejo General de la Abogacía Española” has taken a series of measures to ensure that, as long as the current situation continues, justice is expedited and the process of paralysis does not continue almost

These measures include:

- That the Courts recover their activity between April 13th and 26th, but only giving continuity to the cases in progress, in order to update the processing of the files as much as possible.
- That certain notification of judgments (the ones that cannot be appealed against) (as long as there are no hearings), should proceed.
- From 12th May, if the “state of alarm” does not continue, the normal activity will start again, with hearings and trials.
- That the civil staff who participate in the jurisdictional tasks concentrate their vacations during the month of August, so that in the months of June, July and September all the jurisdictional organs are at full capacity.
- Reinforcement of the staff of officials and courts
- The use of "mediation" as an alternative option to try to decrease the amount of cases at the Courts.

Concrete measures for the exercise of the profession.

Since the beginning of the COVID 19 crisis in Spain, the legal profession, and specifically our Bar Association of Lawyers in Murcia, has been fighting daily for the full implementation of new technologies in the exercise of its profession, requesting the following measures:

- The detainee should be assisted online
- The use of "videoconference" systems in the Courts, as a standard system.
- If this is not possible, and it is necessary to physically assist the detainee, all security measures should be strictly complied with (minimum distance between people, use of screens, masks, gel and gloves).

Urgent measures to expedite the processing of COVID-19 legal aid applications.

That until December 31 of the present year, in an exceptional way, the processing and request of the online information of all the files of gratuitous justice is excused when the applicant, accredits to be in situation of unemployment, without benefit or with her - in this last case whenever the applicant accredits that the same one does not surpass the established limits - or accredits to have been object of special , procedure that will be replaced with a DECLARATION AFFIDAVIT, signed by the applicant, in which it will be stated that its income and patrimony allows him to be creditor of the right of gratuitous justice. In the case of self- employed, who have requested the cessation of activity, total or by reduction of income, and even those affected by the Coronavirus and as an exceptional measure, they will be automatically granted legal aid unless their external signs indicate that they should not have the right to legal aid.

Economic measures supporting lawyers.

In the face of the paralysis of the Administration of Justice, the lawyers are the main ones affected economically. Proceedings are paralyzed without being able to proceed to full collection, new proceedings cannot be initiated, it is impossible to relate to clients, many companies are not moving, etc. All of this leads us to find ourselves in a critical situation, which will surely continue in time with the consequent economic crisis resulting from the health crisis. For this reason, just as measures have been adopted by the Government, they are insufficient, and we request that they be modified or complemented with the following proposals:

- a) Exemption from contributions to both the Social Security (special regime for the self-employed) and the Mutual Society of Lawyers, while the state of emergency lasts. Until now, the Government has only granted an extraordinary benefit to self-employed workers who are in the Special Regime of Self-employed Workers, without taking into consideration the thousands of lawyers who are in an alternative system of affiliation such as the Mutual Society of Lawyers, not being able to access this extraordinary benefit.
- b) Tax deferral. Although it is true that taxes have been deferred by the Government, this deferral is for three months or six months with payment of interest. As the economic crisis will continue beyond the health crisis, it is requested that this deferral be extended until such time as previous turnover levels are not returned, or that the six-month deferral be maintained without interest payment.
- c) Access to financial credits or subsidies without interest and making access to them more flexible
- d) Interest-free financing for clients so that they can pay their outstanding fees to their lawyers.
- e) Deferral of fees by professional bodies. In this sense, the Bar Association of Murcia has acted as a pioneer in both the deferment and the fractioning of the association fees corresponding to the second quarter of 2020, as well as the exemption of the payment of the fee corresponding to the month of April.
- f) Coordination and joint action of all the Member States of the European Union, in order to reach agreed solutions that would be more effective overall, as well as having the mutual support of the countries when implementing these measures.

ROMANIA

Measures taken in the judicial system

No text

Economical measures to support lawyers

No text.