

FOLLOW-UP COMMISSION COVID-19 FBE

MEASURES PROPOSED BY THE BAR ASSOCIATION OF MURCIA-SPAIN

1. INTRODUCTION

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.

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.

2. MEASURES ADOPTED IN RELATION TO THE PROVISION OF ESSENTIAL SERVICES IN THE ADMINISTRATION OF JUSTICE AND THE SUSPENSION OF TIME LIMITS

2.1 Essential services:

They are established as essential services:

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.

2.2 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.

3. MEASURES TO BE ADOPTED IN THE FUTURE. MEASURES IN THE FIELD OF THE ADMINISTRATION OF JUSTICE AND ECONOMIC MEASURES. EVENTUAL PROPOSALS

3.1 Measures in the field of the Administration of Justice.

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.

3.2 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).

3.3 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.

3.4 Economic measures in response to the COVID crisis 19.

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:**

- **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.
- **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.
- **Access to financial credits** or subsidies without interest and making access to them more flexible
- **Interest-free financing for clients** so that they can pay their outstanding fees to their lawyers.
- **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.
- **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.