

Extraordinary measures adopted in the procedural field and, especially, in the insolvency proceedings during the validity of the state of alarm declared due to COVID-19.

On March 14, by virtue of Royal Decree 463/2020, the state of alarm was declared for the management of health crisis caused by the COVID-19 in whose second additional provision it was agreed to suspend all the terms and deadlines provided for in the procedural laws in all jurisdictional orders, with the exception of those actions and procedures declared urgent (specified in paragraph 2. and 3. of said second additional provision) or those actions or procedures whose continuity was expressly agreed by the competent judge or court in order to avoid irreparable damages to the rights and legitimate interests of the parties in the process.

Furthermore, the fourth additional provision foresees the suspension of prescription and expiration periods of actions and rights during the validity of the state of alarm.

The period of duration of the suspension is linked to the effectiveness of the state of alarm, which was initially declared for fifteen natural days and which, in all probability, will be extended for a further fifteen natural days, i.e. up to 11 April 2020.

Meanwhile, on the same date, 14 March, the Permanent Commission of the General Council of the Judicial Body agreed to suspend, and therefore postpone, all previously scheduled judicial actions, except those declared urgent.

Therefore, as of today, all judicial activities, except for those declared urgent, whether legally or expressly considered so by the courts or tribunals, are suspended while the state of alarm remains in effect.

These measures have a direct effect in the field of insolvency proceedings, as they are applicable to all the insolvency proceedings in progress and the legal actions to be carried out therein.

Subsequently, by Royal Decree Law 8/2020 of 17 March, on urgent extraordinary measures to deal with the economic and social impact of COVID-19, specifically Article 43, the following specific measures have been established in relation to insolvency proceedings:

- **Suspension of the duty to apply for tender.**

The duty of the debtor who is in a state of insolvency (whether current or imminent) to apply for voluntary insolvency proceedings within the two-month period established in Article 5 of the Insolvency Law is suspended for the duration of the current state of alarm.

- **Necessary insolvency proceedings**

Applications for the necessary competition will not be admitted during the state of alarm. Such applications will only be accepted after two months have elapsed since the end of the alarm state. If an application for voluntary competition has been submitted during this period, the application for voluntary competition shall be accepted in preference to the application for the necessary competition.

- **Pre-competition through the communication provided in Article 5 bis of the Insolvency Law.**

During the period of validity of the state of alarm, the obligation to apply for bankruptcy is also suspended for those individuals or legal entities that have presented the communication regulated in Article 5 bis of the Insolvency Law (the so-called pre-insolvency), even if the legal period established in said Article 5 bis of the Insolvency Law expires.

These measures are complemented by the agreement adopted by the General Council of the Judiciary, on 18 March, which establishes that during the state of alarm only procedural documents linked to urgent legal proceedings may be filed and always through LexNET. Therefore, it is agreed to extend the scope of the suspension of procedural deadlines declared by RD 463/2020, in general, to those deadlines legally established for the compliance of legal obligations with procedural projection and, in particular, to those applicable to the presentation of a tender application, as declared in article 43.1 of RDL 8/2020.