

22 April 2020

What does the Covid-19 crisis mean for victims of Fraud in Denmark?

The most critical phase of the crisis - What are the effects of the Covid-19 crisis on civil justice?

On 11 March 2020, the Danish Government closed several parts of the Danish society including the Courts of Denmark. The courts are therefore in a state of emergency response which means that only critical tasks will be conducted such as constitutional hearings, extensions of time, criminal proceedings with custodians that cannot be postponed due to the principle of proportionality or the extent of the case, court cases that cannot be postponed, registration cases and particularly urgent bankruptcy cases.

It should be noted that approximately 90 percent of the employees working within the Danish court system are working from home and that the Danish judicial system within civil law primarily is digital, which means that documents are delivered and shared on the online platform www.minretssag.dk.

a) Special Legislation.

There is no special legislation regarding the effects of the crisis on civil justice, but the crisis has influenced the court hearings due to The Danish Government's executive order on banning public assemblies of more than 10 people.

b) Effect on Deadlines and Court Hearing.

As of now no deadlines are affected but the judges can choose to extend the deadline by request or ex officio, which means that all deadlines including limitation periods are not affected. However, this does not include enforcement acts since these are not postponed in general due to the crisis.

All Danish courts have postponed all non-urgent hearings until 10 May 2020 or until further notice. It is possible for a court hearing to take place as a video conference; however, this solution is only used to a small extent.

In particularly urgent matters it is possible to contact the Danish courts by e-mail or telephone. The emergency contact information can be found on the different courts' homepage.

c) How lawyers and banks work during the crisis

The Danish Government has not imposed but only encouraged the private sector to work from home. Therefore, banks as well as law firms can continue business as usual as long as the necessary precautions issued by the government are followed e.g. keeping the employees' workstations at least two meters apart.

d) The crisis' effect on insolvency law

Bankruptcy cases are handled the same way as other cases in Denmark right now. This means that it is up to the specific court to decide whether the case is critical or not and therefore needs to be taken care of. The bankruptcy courts are still issuing new bankruptcy orders but only in a limited extent.

Forecast: After the crisis and long-term effects

a) Which measures during the crisis will be withdrawn immediately

As of present date the suspension of court hearings is expected to be withdrawn on 10 May 2020.

b) Which measures will remain in place?

There are no indications that any measures will remain in place.

c) Will prosecution and punishment of economic crime, including corruption matters, be weakened?

Due to the suspensions of court hearings it is expected that the courts will be pressured by the accumulation of non-urgent ongoing cases, which may cause a bottleneck in regard to completion of ongoing and new cases.

d) Will the ratio of third party funded matter rise?

As of now litigation funding is not heavily used, but there may be an effect in investigation funding as third parties may not have the same solid cash equivalents to participate in an investigation funding.

Reopening of the courthouses:

As of 17 April 2020, the Danish Courts announced a gradual reopening from 27 April 2020 by recommendation from the Danish Government and health authority. In the first instance the

courts' focus will be on resumption of criminal court cases and civil law cases. Thereafter, the courts will focus on resuming the rest of the proceedings as it can be done in a sound manner. The individual courts organize the process and will be considering local conditions and will have to make detailed plans for local reopens in the coming days. The courts estimate that 75 % of cases can be completed.

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