

What does the Covid-19 crisis mean for victims of fraud?

Guatemala

1. THE MOST CRITICAL PHASE OF THE CRISIS

As long as measures to prevent the spread of Covid-19 restrict freedom of movement: What are the effects of the Covid-19 crisis on civil justice?

- Is there special legislation on the effects of the crisis on civil justice?
 - On March 17, 2020 the Supreme Court of Justice (SCJ) issued instructions ordering the suspension of activities for most jurisdictional and administrative organs and the suspension of deadlines. By means of Presidential orders regarding Covid -19 crisis and statements of the SCJ, only certain criminal and constitutional matters will be attended during the crisis.
- Does the crisis have an effect on court hearings?
 - Do court hearings take place during the crisis?
 - The Supreme Court of Justice instructed that all public acts were suspended immediately during the crisis and stated that the only hearings taking place would be the ones scheduled in specific criminal procedures, at discretion of each court and the constitutional urgent hearings.
 - Do court hearings take place in form of video conferences?
 - Each court has at its discretion the ability to have hearings through electronic means. Procedural law allows court technology to be implemented in several cases already (i.e. high risk, witness testimony, distance, etc.).
- Does the crisis have an effect on deadlines (of procedural and substantive law)?
 - Are deadlines of ongoing proceedings affected?
 - Given the instructions of the Supreme Court of Justice, with exception of criminal procedures and constitutional actions, all deadlines are being deferred. The days in which the courts are closed are not considered

business days, hence, not taken into consideration for the calculation of deadlines.

- Are deadlines for bringing actions affected (limitation periods)?
 - The deferral includes the deadlines for bringing actions.
- Does the crisis have an effect on enforcement?
 - Are enforcement orders issued?
 - Civil courts are not issuing enforcement orders while they are closed, as instructed by the Supreme Court of Justice.
 - Are there any effects on deadlines?
 - All deadlines are being deferred.
 - Can enforcement acts be postponed due to the crisis?
 - Since the courts are closed, most enforcement acts were postponed until further notice.
- How do courts work during the crisis?
 - Are courts closed?
 - Only certain urgent criminal and constitutional matters are being attended. With exception of criminal courts, courts on duty and constitutional courts, the courts are closed. Courts on duty are attending civil, labor and family procedures but restricted to matters that represent a contingency below US\$ 6,500.00 (approximately).
 - Can courts / judges be contacted?
 - Courts and judges can only be contacted on criminal and constitutional matters.
 - Are documents served?
 - Currently there are no documents being served by court officials.
- How are particularly urgent matters handled, in particular requests for interim measures such as injunctions and freeze orders?
 - Courts on duty are attending interim measures in procedures that represent a contingency below US\$6,500.00. First Instance Courts are not attending injunctions and freeze orders. Also, the interim measures

already served are not being reviewed, increased, decreased or removed during the crisis.

- How do lawyers work during the crisis?
 - Lawyers are adapting their business model to the current situation. Home office and tools for working remotely are already implemented among the law firms. Law firms are using several virtual platforms to keep on business and to attend meetings and webinars discussing the legal implications regarding the crisis are constantly in motion.
 - Before the courthouse most proceedings are in standby since the courts are closed. In fact, most public institutions are closed and only limited online services are still available.
 - Entities such as the Attorney General's Office, Superintendence of Banks, and Tax Administration are operating with a limited schedule on specific urgent matters.
- How do banks work during the crisis?
 - On March 25th, 2020, the Monetary Board of Guatemala, issued several measures relief measures, including flexibility for bank lending, deferrals with debtors, among others.
 - According to the Presidential Guidelines issued on April 12, 2020, banks are allowed to operate, taking into consideration the governmental sanitary measures; business hours are restricted from 9:00 to 13:00 hours. Most banks offer e-services.
- Does the crisis have an effect on insolvency law?
 - There is no specific insolvency law in force in Guatemala, but it is likely that this will be an opportunity for Congress to revisit the draft bills at Congress and enact a new legal insolvency law.
- Are there any further effects not addressed in the questions above?
 - No.

2. FORECAST: AFTER THE CRISIS AND LONG-TERM EFFECTS

What are the consequences of the Covid-19 pandemic once the pandemic has abated, in the gradual return to a new normality and what are the long-term effects?

- Which measures introduced during the crisis will be withdrawn immediately?
 - Operations in the public and private sectors will likely be resumed gradually, this depends on the level of contagion and impact. An important delay in all procedures is foreseen. Public transportations will operate under social distancing and other sanitary measures.
- Which measures will remain in place?
 - Without a vaccine against COVID-19 approved, or flattening of the curve is evidenced, the use of medical masks and other hygienic measures will continue to be mandatory.
 - Exclusive emergency rooms or hospitals should remain open and prepared for a possible second wave of the pandemic.
 - Restrictions to senior citizens and other potentially vulnerable age groups will remain in place and revised from time to time.
- Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources?
 - The lack of financial resources shouldn't weaken the authorities' enforcement of economic crime. Public institutions involved in the justice system should resume operations gradually in the same conditions and capacity, implementing new virtual tools and online services that could expedite cases. A delay in all procedures and hearings it is expected.
 - Changes to the budget of institutions and passing of laws authorizing loans to the State of Guatemala may be a risk for further corrupt activities in the public and/or private sector.
- Do you expect a rise of new anti-corruption prosecutions after the crisis?
 - Due to the amount of the public debt that the government has requested, it is probable that several anti-corruption prosecutions could

arise to inspect and investigate possible procurement fraud, bribery, trading in influence and embezzlements during the crisis.

- Also, the agreements with the government regarding the acquisition of medical supplies, equipment and tools in relation with the crisis are expected to be closely inspected.
- Will the ratio of third party funded matter rise?
 - Yes, it is likely that alternative financing for legal matters will start to develop.

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