

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

Country: *Monaco*

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?

A decree was adopted on March 26, suspending the period for appeal and for proceedings before the Supreme Court as part of the measures taken to combat the COVID 19 virus pandemic.

All administrative and litigation and procedural deadlines are suspended for two months from March 16, and may be extended further by the Director of Judicial Services Order if circumstances require it.

The deadlines for constitutional remedies, appeals (against the decisions of administrative courts, budgetary issues, interpretation) are also suspended.

The Monaco courts were closed from March 16 and until further notice. The procedural schedules originally set have been cancelled and all the hearings have been postponed to further dates (mostly in June). All pending decisions have been postponed, verdicts will be given in May or June during rescheduled hearings.

However, during this period, it remains possible to summon or send request to the President of the Tribunal in case of emergency. Emergency is evaluated at the discretion of the President of the Tribunal. On a practical level, requests for seizures of assets are continuing in some cases to be considered and decisions rendered.

Only urgent cases result in hearings. These include mostly domestic violence, protection of minors, crimes requiring immediate prosecution ("flagrant delits"), emergencies related to release of persons being held in detention.

In the Court of Appeal, judgments are extended up to 45 days after the originally scheduled date. All oral argument hearings have been postponed to later dates, probably in May or June. In case of detention, hearings are scheduled on a case by case basis in accordance with the application of legal deadlines.

Most of the judges are working from home – (in Monaco this is called “travail à distance”) and a very reduced clerk’s service and the presence of judges are provided deal with these emergencies.

Most lawyers are also working from home, but the Bar ensures a presence for emergencies, consultations by phone or email, new files and files in progress. Lawyers continue to work with the jurisdictions for interim measures (e.g. injunctions and freeze orders). Lawyers continue to assist their clients insofar as possible.

Banks services are reduced and most of the staff are working “ at a distance” but banks ensure the continuation of their activity. The volatility in the financial markets has created emergency situations with clients, particularly those who have had margin calls.

Bailiffs (responsible for enforcing decisions and service of process) and notaries (responsible for real property closings and inheritances) continue their activity, although as regards notaries, they have adapted to complete transactions without the clients being present, in order to respect self-distancing rules. The Bailiffs are instructed by the Director of Judicial Services to serve only essential documents, and not documents creating a time limit to reply for local proceedings.

Concerning insolvency law, while this has not been specifically addressed the normal insolvency deadline (that a declaration of insolvency must be made within 15 days of the day readily claimable debts are greater than readily disposable assets) is likely to be extended to be covered by the March 16 Decree.

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?

The Principality expects to begin a return to normality by 3 May, with the reopening of schools on 11 May. This will depend to a great extent on the measures taken in France with which Monaco has an open border, Many employees in Monaco live in France and Italy and commute every day.

Nothing suggests that there will be any particular difficulty in the immediate resumption of judicial and commercial activities and, more generally, in the end of restrictions on movement within the principality. However, because the Monaco economy largely depends on tourism, conventions and “events” (such as the Grand Prix and other sports events, which have been cancelled) the economic impact is likely to be important and long-lasting.

There is currently no publicly available statistical data on actual activity during containment, nor are there any business surveys on the impact of government containment decisions.



The economy has been supported by government measures. These include in certain cases guarantees of loans from banking establishments, exceptional minimum wage, aid to small companies, rent abatement for government owned premises, unemployment benefits reimbursed up to 70 per cent for those employees unable to work from home.

The return to normality will depend on how the tourism and hospitality industries are affected in the long-term: whether people will want to resume traveling as before, vacationing, participating in events and conventions with multitudes of people, taking cruises (many cruise ships dock in Monaco).

On a micro-economic level (and Monaco is after all a micro-state), local businesses, restaurants, luxury boutiques, will be affected, and it is likely that some shops and businesses will not reopen.

Real property, which is the other mainstay of the Monaco economy, may be unaffected as the wealthy patrons seek geographical places and investments “of refuge.”

And according to the Montaigne Institute:

"From this point of view, the measures decided by the government (deferral of taxes and charges, compensation for short-time working, bank guarantees, etc.) and which could be summarized by "no bankruptcies", are the right ones. However, they still need to be implemented without delay and without bureaucratic obstacles".

Because of its size prosperity and budgetary surplus (the state of Monaco has no debt and a considerable reserve, Monaco is in a favored position to implement “without delay.”

As regards the judicial system, the adjournment of practically all hearings and judgments will further delay outcomes of procedures without resulting in innovative measures, such as video hearings, adopted in other countries to face the crisis, or electronic court filing systems.

Monaco had recently, before the crisis added a third investigating magistrate to deal with criminal investigations. In Monaco most criminal investigations deal with financial crime: fraud, abuse of confidence, and money laundering. The crisis may allow the investigating magistrates, who have continued to work, to reduce what had become an serious backlog of cases.

Since the investigating magistrate’s role is to decide whether to refer the case to trial or to close the matter, it is quite plausible to envisage an increase in prosecutions after the crisis.

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