



Panama, Republic of Panama
Since 2002

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

Country: *Panama*

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?

Executive Decree No. 507 of 24 March 2020 imposed an indefinite 24-hour general curfew on the entire population, subject to limited exceptions. Prior to that, the Judicial Branch ordered the suspension of most judicial terms and rulings for two weeks starting on 16 March 2020 (Supreme Court Accord No. 147) which suspension has been subsequently extended through other Supreme Court Accords until 30 April 2020, including the close of all non-essential judiciary offices. Other than emergency motions and essential criminal proceedings the judicial system is at a halt.

- Does the crisis have an effect on court hearings? **Generally Yes, See previous answer.**
 - Do court hearings take place during the crisis?
Only emergency motions and certain family and criminal matters. All hearings programmed during the curfew must be rescheduled within the 12 months following the curfew order.
 - Do court hearings take place in form of video conferences?
Generally not, except in certain emergency criminal matters.
- Does the crisis have an effect on deadlines (of procedural and substantive law)?
 - Are deadlines of ongoing proceedings affected?

Deadlines are suspended by virtue of Article 513 (1) of the Judicial Code in connection with the curfew and Judicial Branch Regulations. Article 513 (1) reads: “Terms do not accrue in a specific matter: 1. When the proceeding is suspended due to a request of the parties or a legal disposition...”

- Are deadlines for bringing actions affected (limitation periods)?

Article 1698 of Panama's Civil Code states: "Actions run out by the mere running of time fixed by the law." The Commercial Code states: "Terms fixed for the filing of actions stemming from trade, shall be fatal and unextendable..." It thus appears that there are no exceptions. This however raises a valid question: If claimants do not have access to courts, how can they bring an action to toll the running of the statute of limitations? This appears to be a constitutional due process issue which will likely be the subject of a ruling by the Supreme Court in the short term or the enactment of enabling legislation.

- Does the crisis have an effect on enforcement?

- Are enforcement orders issued?

It is highly unlikely that enforcement actions will be filed, handled or pursued while the curfew is still in place.

- Are there any effects on deadlines?

Legislation has been enacted which is pending presidential approval which would extend deadlines to pay certain obligations due to creditors.

- Can enforcement acts be postponed due to the crisis?

Since no actions can be brought due to the court closures enforcement is also postponed by operation of law.

- How do courts work during the crisis?

- Are courts closed?

Most courts are closed subject to the exceptions outlined above, except the Supreme Court and only emergency type relief is being reviewed.

- Can courts / judges be contacted?

The Supreme Court requested that courts keep contact with users. Some courts have provided phone numbers or e-mails to facilitate this.

- Are documents served?

Generally not except for certain limited actions.

- How are particularly urgent matters handled, in particular requests for interim measures such as injunctions and freeze orders?

Only emergency motions for relief (cautionary measures) are being considered by the civil courts as all civil courts are virtually shut down. One maritime court remains open to handle emergency matters as is the case in certain criminal courts and the Supreme Court itself.

- How do lawyers work during the crisis?

Lawyers are working remotely subject to the limitations set by the general curfew and the limited availability of judicial resources. Certain administrative bodies and administrative tribunals have facilitated virtual filings and electronic petitions and resolutions.

- How do banks work during the crisis?

They have implemented limited office hours and many are working remotely through electronic banking.

- Does the crisis have an effect on insolvency law?

We expect an increase in insolvency filings and requests for insolvency although the system is not properly set up to handle them since the New Insolvency Law (2017) created specialized insolvency courts which have yet to be implemented. As during prior crises (i.e. US Invasion of Panama) we must expect more out of court informal restructurings than those under court supervision.

- Are there any further effects not addressed in the questions above? Generally not.

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?

We expect a gradual relaxation of the curfew and confinement status followed by the execution of economic stimulus measures. Repayment of unpaid rents, taxes, invoices, will take some time and there will likely be a significant impact upon the workforce as many businesses will have to permanently lay off workers.

- Which measures will remain in place?

Certain extended obligations (rents, utilities, interest) will be prorated for months under the law which is pending presidential approval.

- Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources?

We do not expect that to happen, although there will be some prioritizing of resources.

- Do you expect a rise of new anti-corruption prosecutions after the crisis?

COVID-crisis related corruption will be heightened although the Attorney General has assured the public that ongoing pre crisis corruption probes will be retaken as soon as the situation regularizes.

- Will the ratio of third party funded matter rise?

Although not commonly used, many litigants will not have any alternative other than seeking outside funding to pursue claims, given the general economic downturn expected.

Contact details: *David M. Mizrachi, Senior Partner MDU Legal:*
david@mdulegal.com +507-6674-4722 (Mobile) +507-263-0604 (Office)