

COVID19 – Spain

**How the declared State of Alarm is
affecting Cross Border Litigation?**

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CREMADES & CALVO-SOTELO
ABOGADOS

The World is in crisis and most countries are being obliged to provide dynamic and rapid responses. The decisions about the most effective measures are not homogenous nor are the impact and the complexity of the scenario in each country.

China, Italy, Iran, The United States and Spain are some of the most devastated countries by the Covid19. The number of confirmed cases and deaths caused by the virus are growing exponentially.

As a result, on the 14th March 2020 the Spanish Government approved the Royal Decree 463/2020 of the same date in order to try to avoid the collapse of the Spanish Health System and reduce the number of increasing COVID19 diagnosed cases.

The Royal Decree declared the State of Alarm and put the whole country under a lockdown. Travelling and walking in the street is prohibited. The Spanish borders have been closed up, any social public or private events have been cancelled or postponed, limitations have been imposed to the attendance to religious ceremonies and schools, cinemas, theatres, exhibitions centres, universities and any shop which is not considered of basic need have been forced to temporarily close down.

Exceptions to leave one's home have been reduced to buy basic products such as food and medicines, as well as caring for the elderly, minors and vulnerable people. The post offices and banks remain open but they must necessarily comply with the security measures set by the World Health Organisation. Labour activities are only allowed for services/products considered "basic" for the subsistence.

The referred measures came into force on the 15th March and have been extended up to the 26th April for the time being. The answer about when people will be allowed to return to their normal activities remains the big question.

In the meantime, all judicial activity has also been temporarily suspended. The practical consequence of this is that filing new claims as well as any writs of allegation on existing claims would not be admitted until the State

of Alarm is deactivated. The Hearings scheduled from the 16th March up to the 26th April have been postponed and Judgments are not being issued.

A closed list of proceedings considered as priority proceedings to which the mentioned restrictions would not be of application was included in the Royal Decree. Family proceedings, Orders of Protection for Women or minors, proceedings concerning Human Rights or judicial authorizations which may be required by workers of the Health System would, on this basis, be excluded from the described restrictions.

Interruption of the limitation period

The Royal Decree established the suspension of limitation periods to exercise any action as well as those applying to specific procedural activities in on-going judicial proceedings.

The limitation periods applicable to proceedings involving public administrations such as claims against Public Hospitals or Local Authorities have also been suspended.

Service of Foreign Proceedings

The Service in Spain of foreign proceedings through judicial conduct would not be admitted unless the proceedings in the country of origin relate to those referred in the "*numerus clausus*" to which the Royal Decree attributed priority.

However, at the same time, the service of proceedings to be effected using the services of a Notary Public may still be possible if justifying the urgency of the

service by the time limits established under the foreign Civil Procedure Rules governing the procedure.

Enforcement of Foreign Court Decisions

The enforcement of foreign court decisions is also affected by the above restrictions.

However, the **lifting** of any statute of limitations for the exercise of actions, including those affecting the enforcement of a foreign judgment, protects Claimants from seeing their claims time barred until the suspension affecting limitation periods is lifted.

Temporary restrictions to access copies of criminal proceedings, police reports and medical records

The access to copies of criminal proceedings, police reports and medical records is also affected by the restrictions. The temporary closure of the Courts includes the Criminal Courts except for cases involving persons deprived of their liberty.

Regarding police reports and medical records, the restrictions are the result of the health emergency itself which requires that the police officers and the health services focus on mitigating the consequences of the pandemic.

Reports on Spanish Law

Legal services are not being affected by any restriction where the professionals can work from home.

From our side, we continue working on a daily basis for our national and international clients.

The end of the lockdown seems to be closer now and as a result, the members of the Spanish Judiciary General Counsel are already working on a strategic planning to mitigate the inevitable consequences of the unexpected judicial break for probably more than 45 days. Different proposals are now on the table but it remains an uncertain scenario.

The off-heard words *“Health comes first”* make more sense than ever and the pandemic represents a big challenge for the entire world, particularly in terms of flexibility at work, technology, consumption and leisure but mainly in human relationships, solidarity and cooperation.

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