

Justice Continuity Project



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Where theory meets practice

JUSTICE CONTINUITY PROJECT OF

The International Academy of Financial Crime Litigators

Fellows of The International Academy of Financial Crime Litigators have surveyed their respective jurisdictions to report how they are coping with the pandemic within the context of each particular situation.

This Justice Continuity Project is very much in keeping with The Academy's mission and goals. It was founded to gather, disseminate and preserve information vital to the operation of legal systems worldwide. The present crisis calls upon all litigators and their academic counterparts to apply their skills and knowledge toward obtaining a safe and just resolution.

Court systems included in the survey are as follows: Austria, Canada, England, France, Ireland, the Netherlands, North Macedonia, Slovakia, the (criminal) Courts of England and Wales, and the United States.





Gabriel Lansky

Situation overall

As of April 13th, 2020, in Austria there were around 13,999 of cases of Corona-infections and around 368 deaths.

Measures of the government

Like in many other countries, the Austrian Federal Government has imposed certain restrictions, which mainly limit the freedom of movement: People are allowed to leave their homes only if they need to avert an immediate danger to life, limb and property; in order to provide care and assistance to persons in need of support; in order to cover the basic needs of daily life and for occupational purposes (only if working remotely is not possible). People are also permitted to go out into public places (i.e. go for a walk) as long as they are alone, with persons who are living in the same household or in order to walk their pets.

In connection with all these restrictions there is also the specification to keep a distance of at least 1 meter from other persons, whenever people are outside. Also, for supermarkets and public transportation there is an obligation to wear protective mask.

Schools, hotels and restaurants remained closed until May 15th, 2020. Any violation of these regulations can be fined with up to EUR 3,600. These measures shall remain in force until the end of April.

Measures with regard to court activity

Administrative and civil proceedings

A lot of measures in this regard have been issued starting with March 22nd, 2020 (2. COVID-19-Act). The procedural deadlines in administrative proceedings (Article 16) and in civil proceedings (Article 21), whose triggering event falls on or after March 22nd, 2020, as well as procedural deadlines that expire either on or after March 22nd, shall be suspended until the end of April 30th, 2020. They shall commence again on May 1st, 2020.

However, the court or the administrative authority may declare that a procedural deadline shall not be suspended (i.e. for cases, where the continuation of the proceedings is absolutely necessary in order to avert a danger to life and limb, security and freedom or to avert substantial and irreparable

damage to a party, as long as the interests of a single party do not outweigh the public interest in preventing and combating the spread of COVID-19).

If it is absolutely necessary for the courts and administrative authorities to conduct oral hearings or witness interviews, they shall try to implement adequate video and telephone conferencing systems.

Through these measures the activity of civil and administrative proceedings has been vastly reduced, considering that also the judges are working from home as long as this is possible. This has of course complicated the communication of the lawyers with the courts.

There are some cases which are still being conducted in a normal manner such as injunctions, child support claims, and child kidnapping cases.

Criminal proceedings

Also for criminal proceedings there is a recommendation to postpone any case, where this is possible.

In the cases where this is not possible, the courts still function: The interviews of persons, who have been taken into in pre-trial detention shall be conducted via video and telephone conferencing systems. The same applies to pre-trial detention and oral hearings. However, if this is not possible, the courts may decide on the revocation or extension of pre-trial detention even without conducting a hearing – the courts have to observe that the respective conditions are fulfilled. The service of documents and summonses may be limited to cases where the accused is in custody.

Unlike the respective provisions for administrative and civil proceedings, it has been provided that not all criminal procedural deadlines, only some (such as the maximum duration of a preliminary investigation, the retrial for a postponed trial and the filing and execution of appeals), shall be suspended for the duration of the Corona-measures.

Also visits to detention centers shall be reduced to telephone calls, with the exception of visits by legal representatives – especially defense lawyers – or repetitive of public bodies and care institutions.

Next developments

In some areas the Austrian Federal Government has started to loosen up some of the restrictions: For instance, it is planned that starting with April 14th small customer-related businesses (such as shops, hardware and garden stores) with an area of maximum of 400 m² shall be allowed to resume their business activity. Of course, there still are some protective measures in place: employees with customer contact have to wear a protective mask and every person has to maintain the distance of 1 meter. Furthermore, the owners of the businesses have to ensure that each customer has an area of 20 m² of the entire shop at his or her disposal.

We are expecting that the economic activity in our society will be slowly resumed starting with May 1st, 2020. However, should the number of Corona-cases rise again – especially over the upcoming Easter holidays – it is not excluded that the Austrian Federal Government shall extend the measures or issue new ones.





Lincoln Caylor

Update from the Ontario Superior Court of Justice (SCJ) and Divisional Court

The SCJ's Chief Justice, in a conference call with the profession, stated that although the Court suspended in-court hearings, the Court will never stop operating.

As of March 17, 2020, the SCJ suspended all regular operations as a result of the COVID-19 pandemic. Since that time, SCJ hearings have been limited to "urgent matters". Although the courthouse remains open, these hearings have been conducted remotely by telephone, videoconference, or in writing. With respect to civil and commercial matters, "urgent matters" pertain to: i) urgent and time-sensitive motions and applications in civil and commercial list matters, where immediate and significant financial repercussions may result if there is no judicial hearing; and ii) outstanding warrants issued in relation to a Small Claims Court or Superior Court civil proceeding.

On April 6, 2020, the Court extended its operations to hear additional matters remotely. In addition to "urgent matters", with respect to civil and commercial matters, the SCJ will typically hear:

1. Pre-trial conferences that were cancelled between March 16 and May 31 due to the SCJ's suspension of regular operations. The objective of such pre-trials is settlement, and the parties must certify that the action is capable of settlement;
2. Motions or applications brought by or against parties with disabilities. It is a requirement that a person under a disability be represented by a litigation guardian; and
3. Motions in writing that are proceeding on consent of all parties.

With that said, matters to be heard during this time may vary between regions. For example, the Toronto Commercial and Estate List will hear a broader array of matters such as select motions, select applications, case management conferences, pre-trial conferences, and judicial settlement conferences.

Additionally, the Divisional Court (an appellate court) is beginning to schedule remote hearings on non-urgent matters, subject to available resources. Scheduling preferences are given as follows: 1) urgent matters, 2) time-sensitive matters, 3) ordinary matters, subject to court availability and resources.

Courts are relaxing various requirements in order to ensure that matters can proceed. Endorsements and judgements are effective immediately upon being made, without the necessity of formal issuance and entry of Orders. Service may be effected by email without consent in circumstances where service by email with consent is ordinarily permitted. Filing of materials may be effected by email to specified court email addresses only for those matters that have been identified as proceeding to a hearing. Parties are discouraged from physically attending at courthouses, and can file claims through the court's online portal.

If there is a positive consequence of this crisis, it is that the Ministry of Justice is being forced to accelerate its plans to move towards electronic hearings and filings, which is something that Canadian courts have previously resisted. Courts are relying on communication and cooperation between counsel in order to effectively use court resources. Virtual courtrooms are to be used for the merits of claims, and not for jousting on administrative matters

England



Sue Thackeray



Keith Oliver



Harry Travers

Update from the Courts of England and Wales - A Civil Perspective - Sue Thackeray

On March 19, 2020, the Lord Chief Justice sent a message to Judges in the Civil and Family Courts to indicate there was an obligation to continue the work of the courts as a vital public service. He considered the rules in civil and family courts flexible enough to enable telephone and video hearings of almost everything; and legal impediments would be dealt with. The default position then was that all hearings should be conducted with one, more than one or all participants attending remotely. Many more procedural matters may be resolved on paper within the rules.

Since then, matters have moved on apace with new practice directions being issued to cover ever changing circumstances and an updated tracker being published for availability of Courts and tribunals for physical and remote hearings. As of April 3, 2020, there were still 161 open courts (buildings open to the public for essential face-to-face hearings), with 125 staffed courts (where staff and judges will work from the buildings but they will not be open to the public) and 80 suspended courts (those that are temporarily closed). Our case law updates are evidence that work is being progressed by our courts with efficiency. I would not say it's become the new "normal", but it is functioning well. Having said that, it may be that judgments are being delivered on older cases because the Judges have more time on their hands!

High Court (Civil)

Claims and applications are issued on-line; and pleadings are filed electronically so cases continue to be progressed. Injunctions are being applied for and granted. In London, the High Court, business is still being processed and progressed as normally as possible. Trials are taking place via remote video conference and there are a number of reported cases where this has been progressed effectively (one recent Court of Protection hearing taking place over a 3 day period with 20 participants involved at all times – including the press). Practice directions have been issued which include:

1. Parties can now agree to extensions of time from the Court directions of 56 days (previously 28 days); beyond that applications will be considered on paper but the parties may request an oral hearing;
1. The Courts will consider COVID-19 pandemic implications when considering applications for extensions of time, adjournments and relief from sanction – but it's not guaranteed to be an effective excuse; and
2. The Court can order proceedings to be heard in private as opposed to public to ensure smooth running of the process.

Winding-up and bankruptcy petitions in insolvency and companies list are largely adjourned until June 2020.

Most of my team's work is being conducted in the High Court, Court of Appeal and Supreme Court. One six-week trial has been adjourned (but that involved several over-seas parties and witnesses including in jurisdictions where there was a complete lockdown or where it was impossible for the parties to take part remotely). Other than that, the Court work has been carried out efficiently and effectively. Business (un)usual!

Court of Appeal (Civil)

On March 27, 2020, it was announced that the Court of Appeal would operate remotely. On April 1, 2020, judgment was handed down (remotely) in a case which had been heard remotely on March 26, 2020. Whilst Court counters are closed, drop-boxes and email contacts are being made available to the parties.

Supreme Court

The Supreme Court (the highest court in our land) has been operating remotely since its Registry closed on March 20, 2020. On March 24, 2020, the Supreme Court held its first appeal remotely. It is handing down judgments remotely.

County Court (Lower value matters)

The Central London County Court (for smaller claims) has asked parties to stop filing documents and a 90 day extension of time has been granted in respect of all directions. As of March 31, 2020, the Court Service publishes a daily report listing priorities.

1. Work which must be done includes: applications to stay enforcement proceedings, applications for trials listed in the next 3 months, applications in which there is a substantial hearing listed within the next month and other complex cases where the parties agree it is urgent.



2. Work which may be done includes small claims and fast track trials where parties agree it is urgent, approvals of infant settlements, applications for interim payments, applications to set aside default judgments, preliminary assessment of costs.
3. Other matters are not considered priority (and there is a stay on repossession actions of property until October 2020).

COVID-19 not necessarily a reason to delay

The Judgments from our courts are showing a reluctance to accept COVID-19 as an excuse without actual evidence of prejudice. The courts have rejected applications to adjournments and stays where there are simply “difficulties”, as you are expected to get on with matters.

True British Grit from our Judiciary's office

I received a sealed Order from the Court on Saturday and following an exchange with the Judge's clerk about this weekend service she explained: “We are all working even harder than usual at the moment as it is slower having to do all the work remotely, and we have had to rapidly upskill ourselves by learning how to use Skype and telephone conferencing for hearings, as well as how to record them when not in a courtroom. Because the days are taken up managing the virtual courts, and because there are fewer of us due to self-isolation by some staff (as a result of which I am currently looking after two other judges!) it means having to deal with any judgments and orders at the end of the day or the weekend, when things are quieter”.

A huge thanks to our wonderful Courts as it means we continue to be able to offer an effective service to our clients and access to justice for the parties.

If of interest: Lord Chief Justice's statement can be found here:

<https://www.judiciary.uk/announcements/coronavirus-covid-19-message-from-the-lord-chief-justice-to-judges-in-the-civil-and-family-courts/>

An up-to-date guidance can be found here:

<https://www.judiciary.uk/coronavirus-covid-19-advice-and-guidance/#generalinfo>

Additional points to consider - Keith Oliver

We began the week with the news that our Prime Minister, Boris Johnson, had been admitted into an Intensive Care Unit after suffering from persistent symptoms of Covid-19. As of Wednesday, April 8, the number of total confirmed cases in the UK stood at 55,242 with 6,159 deaths. However, channeling the British spirit, we have endeavoured to Keep Calm and Carry On! Amidst the nationwide lockdown that has entered its third week with no signs of being lifted, we are still forced to work from home, only leave our houses for one session of exercise per day or to shop for the essentials such as food or collect medication. Mercifully, the legal sector has (for the

most-part) been able to transition seamlessly to this new socially distanced-style of practice. Our courts are doing their best to assuage the disruption. Criminal cases have potentially been the most impacted by this shift. For example, there are currently no Jury trials underway and the Crown Court is dealing with most matters such as sentencing hearings and urgent applications (bail etc.) remotely. The Magistrates' Courts too are only covering crucial cases. The Civil Courts, again although predominantly working remotely via video link or through online hearings etc., have taken a slightly different approach. Some Civil Courts have split their matter listings into two 'Priority Categories'.

Priority 1 matters are matters that must be dealt with and include:

- Committals
- Freezing Orders
- Injunctions (and return days for ex parte injunctions)
- Applications to stay enforcement of existing possession orders
- Enforcement work that does not involve bailiffs, such as third-party debt orders (particularly hardship payments)
- Any applications in cases listed for trial in the next three months
- All Multi Track hearings where parties agree that it is urgent (subject to triage)
- Appeals in all these cases

Priority 2 matters are matters that could be dealt with and include:

- Applications or hearings pursuant to the Insolvency Act 1986 which concern the survival of a business or the solvency of a business or an individual
- Applications for summary judgement for a specified sum
- Applications to set aside judgement in default
- Applications for security for costs
- All small claim/fast track trials where parties agree it is urgent (subject to triage)
- Appeals in all these cases

The HM Courts & Tribunal Service indicate that 'civil work carried out within the Queen's Bench Division and Business & Property Courts of England and Wales is covered by the High Court Contingency Plan. The work of the Business and Property Courts outside of London (District Registries) is being dealt with on a case-by- case basis and is also excluded from these lists.'

In terms of civil work carried out by the Court of Appeal, the guidance stipulates that they are 'only dealing with urgent application in the Civil Appeals Office. Urgent work means applications where it is essential in the interests of justice that there be a substantive decision within the next 7 days.'

Despite all of these adaptations, the legal profession has always been and will always remain client centric. Nothing can beat face-to-face interaction with our clients or indeed fellow practitioners. However, due to the speed and ease to which the courts have remodelled themselves to this new 'normal', we now all stand on a precipice of opportunity. We have been given the chance to innovate, to work around these difficulties and create a modicum of certainty in these uncertain times.

For more information please see:

<https://www.gov.uk/guidance/hmcts-daily-operational-summary-on-courts-and-tribunals-during-coronavirus-covid-19-outbreak>

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878543/Civil_court_listing_priorities_8_April_2020.pdf

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/878548/RCJ_COA_urgent_business_priorities_8_April_2020.pdf

Updated guidance from The Law Society. The full link to the advice is here:

<https://www.lawsociety.org.uk/support-services/advice/articles/coronavirus-advice-and-updates/>

Some of the key points to note are that:

- Should solicitors go to court? The starting position for solicitors is not to attend court unless told otherwise.
- Only urgent cases are currently set to proceed. In those rare instances where in-person attendance is required, the solicitor will be contacted directly.
- On March 27, the Ministry of Justice (MoJ) and HM Courts and Tribunals Service (HMCTS) announced that for public safety reasons the work of the courts and tribunals will be consolidated into fewer buildings.
- There are 157 priority court and tribunal buildings open for essential face-to-face hearings. This represents 42% of the 371 crown, magistrates and family courts across England and Wales.
- In addition, a further 124 court and tribunal buildings will remain closed to the public but open to HMCTS staff, the judiciary and those from other agencies. These 'staffed courts' will support video and telephone hearings, progress cases without hearings and ensure continued access to justice.
- How can technology be utilized? There have been many technological advancements that have been adapted to allow for the smooth transition to remote working. Video

conferencing and online hearings are but two. Another key technological tool that will potentially be deployed is the use of electronic signatures that can be used to sign oaths and deeds. The Law Society has begun to lobby the Ministry of Justice for legislation that will allow for digital signatures to be legally used to enable the remote signing of oaths and deeds. Additionally, there are currently talks to bring legislative changes in relation to the witnessing of wills remotely/utilizing technology, whilst maintaining safeguards.

Update from the Courts of England and Wales: Criminal Proceedings – Harry Travers

As of the Lord Chief Justice's announcement on March 23, 2020, no jury trials or other physical hearings are to take place in England and Wales until further notice, unless it is safe for them to proceed.

Consequently, over half of court centres are expected to close to the public with the remaining open courts dealing with a limited range of work, much of which is being conducted remotely. The position is changing daily, however, the most recent figures from HM Courts & Tribunals Services are as follows:

- 160 open courts – these buildings are open to the public for essential face-to-face hearings
- 116 staffed courts – staff and judges will work from these buildings (not open to the public)
- 75 suspended courts – these courts will be temporarily closed

In the Crown Court, ongoing work includes sentencing hearings and all urgent applications, including applications for bail and applications to extend custody time limits. Pre-trial preparation hearings and case management hearings are also taking place. Where possible, hearings are being conducted remotely and through the use of live links.

In the magistrates' court, only urgent work is being conducted with all other hearings being adjourned until further notice. Urgent cases include cases where the defendant is in custody and cases involving coronavirus-related offences.

An interim charging protocol has been introduced by the Crown Prosecution Service, in conjunction with the National Police Chiefs' Council. The aim of the protocol is to slow the number of suspects being charged and entering the court system. The protocol categorizes cases as 'Immediate', 'High Priority', or 'Other', with only 'Immediate' cases (suspect is in custody and bail is likely to be refused, and/or coronavirus-related cases), proceeding to charge.

Coronavirus Act 2020

The Coronavirus Act 2020 (CVA) amends existing legislation, extending powers to use technology in eligible criminal proceedings, in which one or more participants appear before the court using a live video or audio link, or by wholly video or audio hearings.



The key changes to criminal proceedings in England and Wales under the CVA are ss.53 to 56 (and the associated Schedules 23 to 26) and the changes they make to the Criminal Justice Act 2003 (CJA) and the Crime and Disorder Act 1998 (CDA).

The definition of 'eligible criminal proceedings' is at para 2(3) of Schedule 23, and includes, but is not limited to, the following:

- summary (magistrates' court) trials;
- criminal appeals from the magistrates' court to the Crown Court;
- trials on indictment (jury trials) or any other trial in the Crown Court;
- proceedings under ss.4A or 5 of the Criminal Procedure (Insanity) Act 1964;
- proceedings under Part 3 of the Mental Health Act 1983;
- an appeal to the criminal division of the Court of Appeal;
- any hearing following conviction for the purpose of making a decision about bail;
- hearings before a magistrates' court or Crown Court after a plea of guilty is entered.

Trials

Presently, no jury trials at the Crown Court are taking place. In relation to ongoing Crown Court matters, our own recent experience is that trial fixtures are remaining in place until approximately two weeks before the trial date, at which point a telephone hearing will take place in order to vacate the trial, and where possible, to re-list it. Where the judge is sitting in person, hearings of this kind are able to take place by telephone under existing provisions which provide that where appropriate telephone facilities are available, they should be used for case management purposes. Where the judge is not sitting in person, such hearings may now take place wholly by audio, under new provisions introduced by the CVA. Our experience of such hearings has been positive so far.

Schedule 23 of the CVA amends the CJA, extending the circumstances in which a criminal court can use audio and video links during hearings. The court may direct that a person (but not a jury member) take part in eligible criminal proceedings through the use of an audio or video link. The court must be satisfied that a live link is in the interests of justice and parties must be given the opportunity to make representations before the court determines whether to make a live link direction. The court may rescind a live link direction at any time but only if it is in the interests of justice and after having considered representations from the parties.

The court's new powers under Schedule 23 are subject to restrictions under the newly inserted Schedule 3A of the CJA, which limits the list of eligible criminal proceedings that can be held wholly through live audio link. Examples of proceedings which may not be conducted in this way include hearings following conviction to impose or vary bail conditions. Proceedings which may be held wholly through video link are limited to appeals against sentence to the Crown Court; appeals

against conviction where the trial was by video link and the parties consent to the appeal being conducted in the same way; preliminary or incidental hearings to appeals to the Court of Appeal, and certain summary (magistrates' court) trials.

Significantly, while Schedule 23 includes defendants within the provisions for giving evidence by live link, Schedule 3A CJA, para 4(2), restricts the provision, providing that a defendant may not give evidence or take part in the proceedings by audio link only. This is so that defendants can still be identified.

When considering a live link direction, the court must consider all the circumstances of the case including, in particular, those set out in the amended s.51(7) CJA:

- a. If the direction concerns a witness -
 - i. the importance of their evidence;
 - ii. if a party's ability to test the evidence effectively may be inhibited.
- b. If the direction concerns a participant in the proceedings -
 - i. the availability of the person;
 - ii. the need for the person to attend in person;
 - iii. the views of the person;
 - iv. the suitability of the facilities in place where the person would take part in the proceedings;
 - v. whether the person will be able to take part effectively.

The new measures will have the most immediate impact in the magistrates' court, where it is still possible for some urgent trials to take place. In relation to interlocutory hearings in the Crown Court, many of the measures introduced under the CVA represent an evolution of existing, and increasingly used provisions allowing the use of telephone facilities to address non-urgent business and some discrete issues at short notice. However, without any provision for jurors to participate in trials by live link (not something that is being considered), it is unclear when trials in the Crown Court will recommence.

Sentencing hearings

The court may now make a direction to require or permit a person to take part in a sentencing hearing through a live link. Taking part in a hearing has been defined as either giving evidence and/or attending a hearing, when not giving evidence. This power includes the power to give a direction for a judge to take part by live link. The defendant may not take part in a sentencing

hearing through a live audio link only. In cases where it is anticipated that a defendant who is on bail will receive a custodial sentence, sentencing is likely to be adjourned, or in the absence of any alternative solution, to take place at court in person.

Appeals

Part 2 of Schedule 23 amends the Criminal Appeal Act 1968 in accordance with the expanded powers to use live links under s.51 CJA in relation to appeals to the criminal division of the Court of Appeal. It also provides for a single judge of the Court of Appeal and the Registrar of Criminal Appeals to be able to exercise these powers.

Extradition proceedings

Part 2 of Schedule 24 applies to the Extradition Act 2003 and expands the court's powers, enabling live links to be used in extradition proceedings. Where previously, s.206A of the Extradition Act 2003 prevented full extradition hearings from taking place over live link, the amended provisions appear to apply to initial and full hearings, provided that the court considers it to be in the interests of justice.

Such a direction may be given on the appropriate judge's own motion or on the application of a party to the proceedings and may be given in relation to all subsequent hearings. A person who takes part in a hearing through a live link is to be treated as present in court for the purposes of the hearing.

France



Stéphane Bonifassi

In the criminal sphere, justice is at a standstill and it raises crucial issues when it comes to pre-trial detention.

France being too reliant on pre-trial detention, the need to regularly assess the situation of an accused is provided by the criminal procedure code. An ordinance has made it possible to avoid such assessment for the duration of the confinement. This is highly problematic.

In the civil sphere, although the government has said that means to work remotely should be used, nothing is happening apart from highly urgent matters (and this threshold is hardly ever met). Court clerks and judges say they haven't got the means to work remotely. There is also a question of will from all those concerned. Is this situation being addressed by anyone at this stage? Hardly. Even the entities in charge of representing lawyers are hardly saying anything about this situation which is highly problematic for an access to justice point of view but also for the economic life of law firms and their employees.

Ireland



Paul Convery

As of April 1, 2020, there are 3,447 confirmed cases of COVID-19 in Ireland.

There have been 85 COVID-19 related deaths in Ireland. In respect of the Courts, The Supreme Court has adjourned all appeals until April 3. Clearly that extension will be extended. Similar arrangements have been established by the Court of Appeal. In The High Court there are no new cases or trials even if they do not involve oral testimony from witnesses. Judges will sit in the Criminal Courts of Justice to hear urgent applications in respect of bail and extraditions matters. The Four Courts will also hear applications in respect of Habeas Corpus, Wardship, Injunctions and their enforcement and urgent applications for Judicial Review. Criminal cases in the Circuit Court are continuing, however, family law lists have been adjourned to after April 20, 2020. Urgent criminal and family law matters will be heard in the District Court. Discussions are ongoing in respect of virtual trials but indications are that they will commence shortly. Further information on legal implications/options regarding the current pandemic is available at <https://lnkd.in/dpViPh2> .

Netherlands



Lisa van der Wal



Cathalijne van der Plas



David Schreuders

Citizens are allowed to go out but are very restricted. Remote working is advised and social distancing is key. When encountering other people (in the street, at work or in the supermarket) we have to keep a distance of at least 1.5 meters. Schools, restaurants and bars are closed, as are dentists, hairdressers and other professions that imply physical contact.

The government does not want to impose a full lockdown because that does not fit with our tradition. The government trusts that its citizens will comply with the rules and defers to everyone's own responsibility.

The current restrictions are in place until April 28. A week before that date, the government will inform its citizens whether there will be an extension of the restrictions.

The restrictions are in place to flatten the curve of the increased infections and hospitalizations, particularly in the intensive care (which have limited capacity). Although the number of infections and hospitalizations are still increasing, the increase is beginning to diminish.

All courts have been closed since March 17 and will remain closed until at least April 28. Only urgent cases are being handled, such as individuals who are in pre-trial detention and some types of civil injunction proceedings and insolvency cases. If a court hearing takes place, it is done by a conference call or video connection, and only in exceptional cases in person. This differs per court, depending on the available IT-infrastructure in the respective courts. The courts are reacting quite slowly in finding ways to continue as many cases as possible. Postponing the majority of court cases will lead to an accumulation of cases, and parties having to wait longer for their trial. Specifically for those who are in pre-trial detention, this is very difficult. There are only a few court rulings where the pre-trial detention was lifted because of Covid-19, which occurred because of the risk of being infected when in prison. Civil written proceedings continue as normal. It is also possible to file requests for prejudgment attachments and seizure of evidence, depending on the precise circumstances and the urgency. The same goes for summary proceedings.

North Macedonia



Gabriel Lansky

Situation overall

As of April 12th, 2020, North Macedonia has registered 828 cases of Covid-19 and 34 deaths.

Measures of the government

On March 18th, 2020, the President of North Macedonia declared a state of emergency with a 30-days duration, and all preparations for the parliamentary elections in April were postponed.

So far, the Government of the Republic of North Macedonia imposed strict limitations on movement to stop the spread of COVID-19, such as:

- The movement of all citizens is forbidden on workdays in the time between 4 pm and 5 am; except for urgent medical needs;
- The movement of citizens aged 67 and over is forbidden, except on workdays between 10 am and 12 am;
- The movement of young people, aged 18 and less is forbidden, except from Monday to Friday between 1 pm and 3 pm; and
- Association in groups of more than two persons in parks and other public places and areas is banned, except for parents with children (under the age of 14).

Production plants, factories and transport will continue to function during the curfew hour. For this purpose, the employers themselves will issue special permits for the movement of workers during curfew hours exclusively to and from the workplace location. There are also detailed recommendations for the organization of the production process and transport.

All shops in shopping malls are closed, except for supermarkets, food stores and pharmacies. People should keep distance of at least 1 meter from other persons. Schools, public scientific institutes, universities, libraries, student dormitories, cinemas, theatres, museums, coffee shops, bars, clubs, casinos, sports facilities, gyms and betting agencies are closed.

All public and private gatherings and events, in open and closed spaces, as well as all cultural events and manifestations, are prohibited.

Private and legal entities which fail to comply and violate the Government measures shall be sanctioned under Articles 205 (transmitting an infectious disease) and 206 (not acting according to health regulations during an epidemic) of the Macedonian Criminal Code. Violation of these provisions is sanctioned with a fine up to EUR 4,500 or one year of imprisonment for natural person or fine up to EUR 490.000 for the legal entity.

Customer-related business can continue to work through alternate sales (via online orders, telephone orders, etc.) and should organise delivery. All catering establishments that prepare and sell food can operate without visiting customers (guests) and make alternate sales (via online orders, telephone orders, etc.) and deliver or enable pick-ups of the orders outside the catering facility (via stand, counter, etc.) and of course comply with protective measures: wear protective masks, disinfect the work area etc.

These measures shall remain in force until the end of state of emergency.

Travel limitations due to COVID-19

All border crossings in the country are closed for passage of foreign nationals – passengers and vehicles, except for entry and transit of freight vehicles, diplomatic corps representatives in the Republic of North Macedonia, and other persons for whom the Ministry of Interior will give permission upon prior consultation with the Main Coordination Crisis Body to confirm that there is a particular state or economic interest. Such freight vehicles and persons shall enter the country under special conditions for protection under the Ministry of Health protocol.

Both airports, Ohrid Airport and the International Airport Skopje, are closed as of March 18th, 2020, including the border crossing at airports. This measures shall not apply to state, military, humanitarian, hospital, cargo flights, as well as to flights without passengers for aircrafts positioning.

Measures concerning court activity

Administrative and civil proceedings

The Government enacted a Decree with the power of a law for the application of the Law on general administrative proceedings during the state of emergency, which started on March 24th, 2020, suspending all deadlines for taking certain actions in the procedure, or deadlines determined by an authorized official in administrative procedures during the state of emergency. These deadlines shall continue after the end of the state of emergency, but only for as many days as there are left, from the day the state of emergency ended. The only exceptions are the deadlines for public procurement procedures.



However, the administrative officials may declare that a deadline for administrative action shall not be suspended, upon request of an interested person due to justified reasons, as long as the interests of a single party do not outweigh the public interest in preventing and combating the spread of COVID-19.

The Government enacted a Decree with the power of a law for the deadlines in court proceedings during a state of emergency which provides suspension of statutory deadlines and preclusive deadlines for most court proceedings and acts until the declared state of emergency ends.

Statutory and preclusive deadlines stop running for:

- filing a lawsuit in litigation proceedings;
- submission for commencing a non-contentious procedure;
- filing a motion for compulsory enforcement;
- proceedings for securing claims;
- claims for commencing an administrative dispute; and
- initiation and commencement of other court procedures, as well as for the submission of legal remedies or acts in the aforementioned procedures.

If it is necessary for the civil courts to conduct oral hearings or witness interviews, they shall use two-way communication and avoid physical presence of the participants in the proceedings. Citizens have significant physical restriction to court premises and judges work from home.

During the state of emergency, civil courts will only decide on cases which are considered urgent under the law, such as requests for interim measures, cases in which there is danger of violation of the principle of fair trial, cases which are in the phase of the adoption of a decision.

Criminal proceedings

Statutory deadlines and preclusive deadlines for most criminal court proceedings and acts are suspended until the state of emergency ends.

Statutory and preclusive deadlines stop running for:

- private claims in criminal proceedings, motions for prosecution, as well as for the submission of legal remedies or acts in the aforementioned procedures;
- in criminal and misdemeanor procedures, for the submission of a plea or objection to decisions by which the procedure ends and the submission of extraordinary legal remedies; and
- deadlines for expiry of criminal prosecution, commencement and conduct of misdemeanour proceedings, as well as for enforcement of criminal and misdemeanour sanctions.

Issuing of referrals for imprisonment for sentences up to three years shall be postponed until September 1st, 2020, save for cases where there is a risk for expiry of sentence enforcement.

During the state of emergency, criminal courts shall only decide on: cases which are considered urgent under the law and the decision for court action during Covid-19 adopted by the Judicial Council, cases in which there is danger of violation of the principle of fair trial and cases which are in the phase of adoption of a decision.

Next developments:

We are expecting even stricter measures in the week (April 16th 2020 – April 21st 2020) for the upcoming Easter weekend in North Macedonia. According to experts in the country, Covid-19-cases will peak to around 1,100 cases in the weeks after Easter. It is expected that the state of emergency will be extended and additional measures will be introduced to prevent further spreading of the virus in the country.



Slovakia



Gabriel Lansky

Situation overall

As of April 10, 2020, in Slovakia there were 701 confirmed infections, 2 deaths 23 recovered cases.

Measures of the government

State of emergency

The Government of the Slovak Republic approved the declaration of a state of emergency, according to Art. 5 of the Constitutional Act no. 227/2002, valid from March 16th, 2020 from 6 am.

All shops are closed except for grocery stores, pharmacies, drugstores, press shops, post offices, banks, petrol stations, restaurants and animal feed stores, laundry and dry cleaning shops, taxi services (only for the transport of goods), car repair shops, tire repair shops, and towing services.

Amusement parks, wellness and/or fitness centers, as well as ski resorts are also closed. Cultural and sports events are cancelled. There is a ban on the organization of group events. Schools remains closed until further notice.

Special hours only have been introduced in the shops for retired people: from 9 am to 12 pm.

Restriction of movement during Eastern Holidays

From April 8th to April 13th, 2020, there are strict movement restrictions within Slovakia: Travel is only permitted for work, groceries, hospital visits, close relatives' funerals, and outdoor leisure within your local district. Failure to heed these restrictions may result in a fine of EUR 1,650.

State Quarantine

According to new decree of the Public Health Authority issued on April 4th, all persons traveling to Slovakia, which means both Slovak and foreign nationals, are obliged to be isolated in state quarantine centers. After they have been tested in state quarantine, they are obliged to stay another 14 days in home quarantine.

Obligation to wear a face mask

There is an instruction from the Public Health Authority that it is obligatory to wear a face mask outside of home. The order became effective on March 25th, 2020 and is valid until further notice.

Measures in the legal systems

Interruption of limitation period, time-barred period and procedural deadlines until April 30th, 2020.

The courts will, at the time of the emergency carry out main hearings, hearings and public sessions only to the extent necessary (in particular in criminal matters or in the cases of minors). It will be possible to exclude the public from court hearings by cause of danger to life or health hazard. However, it will be obligatory to produce and make a phonogram from such a hearing.

Civil hearings at civil courts are adjourned. Each court shall communicate this in the general notice.

Bodies of private legal entities such as companies, cooperatives, civic associations, foundations, etc. will be able to take decisions per roll.

Until April 30th, 2020, there is a ban on the exercise of lien, auction or other monetization by auction companies, bailiffs and trustees under the threat of invalidity of these acts.

United States



Bruce Zagaris

I. RELEASE FOR DETENTION

As a result of the spread of Covid-19, on April 7, U.S. District Judge Colleen Kollar-Kotelly ordered an emergency inspection of the D.C. jail in the context of an emergency federal class-action lawsuit March 30. The American Civil Liberties Union and the D.C. Public Defender Service filed the action, alleging that the D.C. government has acted “too little and far too late” to fight the pandemic within jail facilities that house about 1,500 inmates, down almost 20 percent from the 1,839 in March. (See Spencer S. Hsu, [Judge calls for urgent inspect of DC jail](#), Wash. Post, Apr. 8, 2020).

Judge Kollar-Kotelly said she is considering appointing a prison downsizing expert to recommend categories of inmate who could be safely released or monitored outside the jail while housing the rest, at lower risk of infection.

The jail has banned outside visitors and stopped inmate group activities. It has ordered inmates confined for all but 30 minutes every day.

Judge Kollar-Kotelly also directed the jail to find an alternative to suspending inmates’ rights to defense counsel, which she said they had effectively done by barring attorney visits and permitting only 10-minute daily calls. Jail officials later agreed to allow 30-minute calls.

DC Superior Court judges also have released 108 defendants awaiting trial on bond change motions – half for felonies and half for misdemeanors. Federal judges also have released more than 20 pre-trial defendants or inmates near completion of their sentences.

On April 3, 2020, the Attorney General, issued a [“Increasing Use of Home Confinement at Institutions Most Affected by COVID-19”](#).

On March 26, 2020, the Attorney General, issued a [memo “Prioritization of Home Confinement As Appropriate in Response to COVID-19 Pandemic”](#).

II. INTERNAL REVENUE SERVICE (IRS)

On April 3, 2020, due to the coronavirus pandemic, the IRS issued an evacuation notice directing that nearly all of its employees work from home on mandatory telework starting Monday, March 30. Only employees performing “mission-critical duties” will be permitted to come into the office. Access to IRS offices will be restricted, with employees allowed only to pick up work files and



mail. Affected employees were instructed to take home whatever they needed to work remotely for the foreseeable future.

This may present a problem for tax confidentiality. Due to confidentiality, most IRS officials refuse to allow communication by email.

The IRS has not communicated about whether call centers would continue to be staffed, or whether mail sent to service centers would be opened and processed. Clearly communication with the IRS, already difficult even for practitioners, will become more challenging.

The IRS has already extended the filing deadline for income tax returns from April 15 to July 15.

The IRS is in charge of distributing economic impact payments. On March 30, the IRS announced it will start in the next three weeks and will be distributed automatically, with no action required for most individuals. However, some seniors and others who do not file returns will need to submit a simple tax return to receive the stimulus payment.

On March 23, The United States Tax Court issued a press release announcing that more trial sessions have been cancelled in light of the COVID-19 pandemic. The Court has cancelled all trial sessions through the end of June 2020.

The IRS will have difficulty making progress in its audits and enforcement cases. It already suffered due to the federal shutdown in January and now because of the need to prioritize its resources in sending economic impact payments.

III. DEPARTMENT OF JUSTICE

The DOJ has issued [an alert about criminals trying to exploit COVID-19 worldwide through a variety of scams](#). There have been reports of:

- “Individuals and businesses selling fake cures for COVID-19 online and engaging in other forms of fraud.
- Phishing emails from entities posing as the World Health Organization or the Centers for Disease Control and Prevention.
- Malicious websites and apps that appear to share virus-related information to gain and lock access to your devices until payment is received.
- Seeking donations fraudulently for illegitimate or non-existent charitable organizations.

Criminals will likely continue to use new methods to exploit COVID-19 worldwide.” <https://www.justice.gov/coronavirus>

AML experts are warning banks and financial institutions to exercise due diligence to not process suspicious payments that may reflect scams. Financial institutions must exercise more due diligence during the pandemic.

