

COVID-19's Impacts on the Judiciary

This Q&A was written in scope of the legal provisions introduced as of 13 March 2020 to combat COVID-19, after the first COVID-19 case in Turkey was announced on 11 March 2020. The restrictions included in the Q&A have been removed as of 15 June 2020. However, considering the highly increasing number of patients as of September 2020, and the fact that certain enforcement offices have been shut down due to COVID-19, we are of the opinion that several measures may be introduced once again in near future.

1. Within the context of the measures taken for combating COVID-19, how will the courthouses function?

The courthouses across the country are open and active. That being said,

- As per the decision dated 13 March 2020 and numbered 66836956-010.07.01-E.12362 of the Directorate of Administrative Affairs of the Presidency, the public employees who are pregnant, taking breastfeeding leave, disabled, over 60 years old (except managers), or those having a chronic disease, will be deemed on administrative leave as of 16 March 2020, for 12 days. In addition to that, annual leave requests of female employees having a child at preschool or elementary school age will be granted, and those who are not entitled to annual leave will be granted compassionate leave.
- According to the Presidential Circular numbered 2020/4, published in the Repeated Official Gazette dated 22 March 2020 and numbered 31076, it has been decided that the number of personnel serving in public bodies will be kept in minimum and flexible working methods such as remote or shift working will be implemented for public employees. Also, those who were previously deemed on administrative leave in scope of COVID-19 will be deemed on administrative leave until a new decision is made; and those who were allowed to use annual leave or compassionate leave may be deemed on administrative leave within the scope of the terms and conditions specified under the Circular.



Furthermore, since some courthouse personnel tested positive for COVID-19, it has been decided for the relevant courts and the chief and member judges and personnel of the courts that had close contact with those courts to be put on administrative leave, and the relevant departments be locked down.

In light of the above, we could say that the number of employees serving actively in the courthouse will significantly decrease within this time frame and several courts will not operate for a certain time span.

2. Is it possible to file a lawsuit during the COVID-19 measures?

YES. As explained above, all courthouses continue to operate across the country. It is also possible to file a lawsuit electronically through National Judiciary Informatics System (UYAP). That being said, as the judicial terms, including the prescription periods and the statutory limitations, have been suspended with the Law No. 7226 on Amendment of Certain Laws, which entered into force upon publication in the Repeated Official Gazette dated 26 March 2020 and numbered 31080, no loss of right will be incurred concerning the lawsuits filing of which is subject to judicial terms. With the Decision on Extension of Suspension of Terms For Prevention of Losses of Judicial Rights, published in the Official Gazette on 30 April 2020, the President announced that the end date of suspension, which was projected to be 30 April 2020, was extended until 15 June 2020, which would be re-evaluated if the risk of spreading of the outbreak is eliminated earlier, by exercising the authority that has been granted to him by law to extend such term once for no longer than 6 months, in the event where causes for suspension remain.

3. Is it possible to initiate enforcement or bankruptcy proceedings during the COVID-19 measures?

NO. As per the Presidential Decree dated 21 March 2020 and numbered 2279 on Suspension of the Enforcement and Bankruptcy Proceedings, which entered into force upon publication in the Official Gazette dated 22 March 2020 and numbered 31076, it has been decided that other than those for maintenance receivables, requests to initiate enforcement and bankruptcy proceedings will not be allowed, and preliminary attachment orders will not be enforced or executed as of 22 March 2020 until 30 April 2020. The Law No. 7226, which



entered into force at a later date, reiterated the suspension period for enforcement and bankruptcy proceedings in a similar vein. Lastly, the suspension of terms, which was set to be expired on 30 April 2020 at the first stage, has been extended until 15 June 2020 by the President.

4. How will the scheduled hearings be impacted during the COVID-19 measures?

With the decision dated 13 March 2020, the Council of Judges and Prosecutors ("HSK") recommended the courts at all levels to suspend the hearings and site examinations, other than those related to arrestee-involved investigations and trials and urgent matters, relying on the World Health Organization's announcements and the advices of Coronavirus Science Committee established under the body of the Ministry of Health.

Further to this decision, many courts have ex officio issued interim decisions suspending the hearings that are due or in near term due to the COVID-19 measures, and the current practice continues as so. The courts that have not issued such suspension decisions ex officio, on the other hand, have accepted the attorneys' excuses not to attend the hearings on the ground of COVID-19 outbreak and the HSK's decision, and suspended the hearings accordingly without taking any other action on the file.

As per the President's announcement on 4 May 2020, the trials and site examinations will be resumed as of 15 June 2020.

5. During this process, may any loss of right incur in scope of the ongoing enforcement and bankruptcy proceedings which are subject to quite short terms in terms of the parties' procedural actions?

No. Pursuant to the abovementioned Presidential Decree dated 21 March 2020 and numbered 2279 on Suspension of the Enforcement and Bankruptcy Proceedings, it has been decided that the enforcement and bankruptcy proceedings being conducted throughout the country (except those for maintenance receivables) will be suspended from 22 March 2020 to 30 April 2020 and parties' and enforcement offices' procedural actions in the ongoing proceedings will not be performed. Also with the Law No. 7226, it has been stipulated that the terms defined under Enforcement and Bankruptcy Code,



and under other laws containing procedural provisions, along with the terms determined by the judges or enforcement and bankruptcy offices in this respect, will be suspended as of 22 March 2020, until 30 April 2020.

By this way, the terms which started running in the scope of the enforcement proceedings commenced before 22 March 2020 are suspended as of this date and was set to be resumed as of 30 April 2020. As mentioned above, the President has extended the term expiring on 30 April 2020 to 15 June 2020.

6. Do the terms prescribed under the Civil Procedure Code, Administrative Procedure Code, Criminal Procedure Code and other laws containing procedural provisions continue to run?

NO With the Law on Amendment of Certain Laws No. 7226, which entered into force upon publication in the Repeated Official Gazette dated 26 March 2020 and numbered 31080;

- Any and all terms in scope of the acquisition, use or extinction of a right, including the terms for filing lawsuits, enforcement proceedings, applications, objections, notices, notifications, submission periods, prescription periods and statutory limitations, along with the mandatory administrative application terms.
- Terms specified under the Administrative Procedure Code,
- Terms specified under the Criminal Procedure Code,
- Terms specified under the Civil Procedure Code,
- Terms specified in other laws containing procedural provisions,
- Terms determined by the judges,
- Terms for mediation and conciliation facilities.

were suspended retrospectively from 13 March 2020 (inclusive), until 30 April 2020 (inclusive). As explained above, the President has extended these terms until 15 June 2020.

7. How will the terms be resumed when the suspension term is ended?

The suspended terms will resume starting from 16 June 2020, as the day following the end of the suspension period. If there are 15 or less days for the



expiry of a term as of the beginning of the suspension period, that term will be deemed extended for further 15 days starting from the day following the end of the suspension period.

8. Are there any terms being exempt from the suspension period?

Prescription periods for offenses and punishments, misdemeanours and administrative sanctions, and disciplinary detention and preventive detentions; terms for protection measures stipulated under the Criminal Procedure Code, and the terms related to the procedures complementing the preliminary injunction stipulated under the Civil Procedure Code are exempted from the suspension period.