

Coronavirus (COVID-19)

Measures taken by the Government of Spain
against the health alert caused by COVID-19

16.4.2020

In view of the health alert generated in our country due to the spread of COVID-19, the Government decreed a state of alarm by means of Royal Decree 463/2020, of the 14th of March, meaning a series of restrictive and preventive measures have been established throughout the national territory, aimed at containing the virus.

These measures have an enormous impact on business activity, and we shall proceed to explain them for you as follows.



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1 State of Alarm

By means of Royal Decree 463/2020, of the 14th of March, and under article 116 of the Spanish Constitution and article four, sections b) and d), of the Organic Law 4/1981, of the 1st of June, regarding states of alarm, exception and siege, a state of alarm has been declared in order to face the emergency health situation caused by COVID-19.

The duration of the state of alarm was initially 15 (fifteen) calendar days from when it was announced, but the period was extended until the 12th of April 2020 by agreement of the Congress of Deputies in the session held on the 25/03/2020.

By means of the aforementioned Royal Decree, a series of measures have been adopted to contain the progress of the disease, including:

1. Limiting the freedom of movement of persons during the state of alarm, except for a series of specific activities, including travel to the workplace to carry out employment, professional or business services;
2. Suspending all on-site educational activity in all schools, educational centres including all stages, cycles, degrees, courses and all levels of education, including university education, as well as any other educational or training activities taught in other public or private centres;
3. Suspending the opening to the public of retail establishments and bars in general as well as hotel and restaurant activities, except for deliveries made by home delivery services.

For business purposes, and among other measures, article 13 of the aforementioned Royal Decree states that for ensuring the supply of goods and services necessary for the protection of public health, the Minister of Health may:

- a. Issue any orders necessary to ensure market supply and the operation of the services of production centres affected by the shortage of products necessary for the protection of public health.
- b. Intervene and temporarily occupy industries, factories, workshops, farms or premises of any nature, including privately owned health centres, services and establishments, as well as those centres involved in the pharmaceutical sector.
- c. Practice temporary searches of all kinds of property and impose mandatory personal conditions where necessary for the adequate protection of public health, in the context of this health crisis.

2 Tax Issues

2.1 DEFERRAL OF TAXES OWED

By means of Royal Decree-Law 7/2020¹, urgent measures have been approved to respond to the economic impact of COVID-19, permitting the deferral of the payment of all tax owed deriving from any tax declarations, returns, or self-assessments to be submitted and paid between 13/03/2020 and 30/05/2020, provided that the amount thereof does not exceed 30,000 euros.

This deferral will benefit those entities with a turnover of less than 6,010,121.04 euros in the year 2019.

¹ For further information, see the full content of the clause: <https://www.boe.es/boe/dias/2020/03/13/pdfs/BOE-A-2020-3580.pdf>

The deferrals will have a term of six months, and will not accrue default interest during the first three months.

Those entities wishing to benefit from the expected deferral must proceed to submit the corresponding request via the online headquarters of the Tax Authorities², marking the box for the reason for the request as “Deferral Royal Decree-Law”.

2.2 SUSPENSION OF ADMINISTRATIVE DEADLINES

By means of Royal Decree 465/2020 of the 18th of March³, as well as Royal-Decree-Law 8/2020, also of the 18th of March, the following measures in the area have been established regarding taxation:

Administrative deadlines are to be extended as follows:

- Those deadlines in force on the 18/03/2020 shall be suspended until the 30/04/2020.
- In cases in which the deadline should be calculated via notice sent after 18/03/2020, this shall be extended until 20/05/2020, unless the term granted by the applicable regulations is longer, in which case this will be chosen.
- However, it will be possible to continue attending to requirements and requests for information, as well as filing claims, within the period stipulated for such procedures.
- The suspension will also not affect the deadlines for filing statements and self-assessments.
- If the suspension is applied to the calculation of the term for the procedures governing taxes, penalties and reviews carried out by the Spanish Tax Authorities (AEAT) in the period between 18/03/2020 and 30/04/2020, any urgent or essential procedures may however be carried out.
- Deadlines due to statutes of limitation and expiry periods shall be suspended during said period.

By means of Royal Decree-Law 11/2020, of the 1st of April certain concepts that left doubts as to how they should be interpreted have been clarified:

- The effects of the suspension of the terms of the tax procedures also extend to regional and local taxes.
- Calculation of the terms to file replacement appeals and economic-administrative claims: this period will begin to run from the 30th of April 2020, even for those terms that started before the 13th of March 2020, but would not have ended before said date (13th of March 2020).
- Suspension of the maximum duration period for the execution of resolutions of the economic-administrative bodies: the period between the 18th of March 2020 and the 30th of April 2020 will not count for the purposes of calculating the maximum term that the Tax Administration has to execute the resolutions of economic-administrative bodies.
- Suspension of limitation and expiry periods: said period will also not be taken into account for the purposes of calculating the limitation and expiry of any type of actions or rights in the field of taxes.
- Deferral of customs debts by SMEs and the self-employed:
 - Deferrable customs debts: those accrued between the 2nd of April and until the 30th of May exceeding 100 euros up to a maximum limit of 30,000 euros.

² <https://www.agenciatributaria.gob.es/AEAT.sede/procedimientoini/RB01.shtml>

³ For further information see the full content of the clause, <https://www.boe.es/boe/dias/2020/03/18/pdfs/BOE-A-2020-3828.pdf>, amending Royal Decree 463/2020.

For further information see the full content of the clause: <https://www.boe.es/boe/dias/2020/03/18/pdfs/BOE-A-2020-3824.pdf>

- Excluding import VAT payments settled in periodic VAT returns/settlements (deferred VAT on imports).
- Requests: The deferral request shall be made in the customs declaration itself.
- Guarantees: the guarantee provided to obtain the release of the merchandise is sufficient and will be affected by the payment of the corresponding customs debt until the deferral granted is paid.
- Terms: 6 months without interest accruing during the first 3 months.

2.3 SUBVENTIONS

In terms of subsidies and public aid, procedures may be modified to extend the deadlines for the execution of the subsidised activity and, where appropriate, to justify and verify said execution, although it would not have been contemplated in the corresponding regulatory bases, provided that the competent body justifies the impossibility of carrying out the subsidised activity during the time the state of alarm is valid and the remaining period after it ends is insufficient to carry out, justify or verify the subsidised activity.

At the request of the beneficiary, the resolutions and agreements for granting subsidies provided for in the article 22.2 of the General Law on Subventions 38/2003, of the 17th of November may also be modified. However, in the event that the object of the subsidy is the financing of the operating expenses of an entity, the execution period initially established cannot be modified.

As an exception to the suspension of terms, the adoption of these modifications is not subject to the suspension of administrative terms operated as a consequence of the State of Alarm.

3 Financial Issues

3.1 LINES OF COLLATERAL TO GUARANTEE THE LIQUIDITY OF THE SELF-EMPLOYED AND COMPANIES

The Council of Ministers, through Agreement⁴ dated 24/03/2020, approved the first line of collateral in order to provide liquidity to the self-employed and companies in the face of the current health alert situation.

This first line of collateral is made up of two tranches of 100,000 million euros, the first of which is for the self-employed and SMEs, and the second to those companies that are not considered SMEs.

Loans qualifying for this measure must have been subscribed or renewed starting from 17/03/2020, and as long as the applicants prove that they are not in default or bankruptcy. In any case, financial institutions will have the last word.

These credit lines will guarantee 80% of loans or renewals signed by the self-employed or SMEs, while in the case of other companies, 70% of new loans and 60% of renewals will be guaranteed. In any case, the guarantees will have a term equal to that of the loan, up to a maximum of 5 years.

This new line of guarantees will begin to operate within 10 days from the issue of the agreements, and interested parties may apply until 30/09/2020. The management of these guarantees is entrusted to the Official Credit Institute (ICO).

⁴ See here the Bulletin of the Council of Ministers dated 24/03/2020:
<https://www.lamoncloa.gob.es/consejodeministros/referencias/documents/2020/refc20200324.pdf>

3.2 FINANCIAL ASSISTANCE FOR COMPANIES

By means of Royal Decree-Law 8/2020, certain assistance was established for companies as listed below:

- Insurance guarantees for exports, amounting to 2,000 million euros.
- Specific line of funding amounting to 400 million euros by the Official Credit Institute destined for the self-employed and companies in the tourism sector.
- Promoting technology and remote work.
- Specific assistance for individuals and the self-employed.

By means of Royal Decree-Law 11/2020, new support measures were established for the business fabric:

Support measures for the industrial sector:

- Refinancing of loans granted by the General Secretariat for Industry and SMEs.
- Flexibility of the evaluation criteria of the degree of execution of projects which are underway.
- 60 million euro increase in the CERSA Technical Provisions Fund.
- Refund of expenses paid by companies for the organization of events organized by the ICEX that have been cancelled due to force majeure. In the case of non-recoverable expenses, additional aid will be granted to those companies.

Support measures for the tourism sector:

Suspension for one year and without penalty of the payment of loans granted by the Secretary of State for Tourism under the following programs: Emprendetur I+D+i, Emprendetur Jóvenes Emprendedores and Emprendetur Internacionalización.

Support measures for the energy sector:

Permits for access and connection to the electrical networks will last an additional two months from the end of the state of alarm to ensure that those affected have sufficient time to obtain the authorization to operate the corresponding electricity generation facility without the expiry thereof.

Measures for the protection of Spanish companies:

Prohibition of takeover bids on strategic companies and extension of the scope of the suspension of the liberalization regime of certain foreign direct investments in Spain for reasons of public security, public order and public health in the main strategic sectors in Spain, also extending to those carried out by investors resident in countries of the European Union and the European Free Trade Association, when said investors are controlled by resident entities outside that territorial area.

4 Corporate Issues

4.1 FILING ANNUAL FINANCIAL STATEMENTS

According to Royal Decree Law 8/2020, companies will have a three-month period for preparing their Annual Financial Statements, which will begin once the state of alarm has

ended. Consequently, the term for the General Meeting to approve them will be three additional months, effective once the term for drawing them up ends⁵.

In the event the Annual Financial Statements were formulated prior to the declaration of the state of alarm, and when the company is obliged to carry out an audit, the period in which the auditor will have to verify the accounts will be two months, effective from the end of the current state of alarm.

By means of Royal Decree 11/2020, regarding the formulation of Annual Financial Statements, it has been clarified that, although the term has been suspended until three months after the end of the period of the alarm state, the formulation thereof is valid during the alarm period, applying the extension rules to the deadline for verification by auditors.

The extension of the period of the audit of the accounts to the two months following the termination of the alarm state, applies to cases of accounts formulated before the start of the state of alarm.

When the accounts have been drawn up and are pending approval by the General Meeting, proposals for the application of profits contained in the report may be modified by the administrators, in which case a letter from the auditor must be included stating that their opinion would not have changed had they known the new proposals beforehand. If the Board is already convened for approval, this may be removed from the agenda by submitting only the Annual Financial Statements for approval and calling for a new meeting to approve the new proposal for the application of profits.

Regarding listed companies, when the proposal for the application of profits is modified, the new proposal, together with justification thereof by the management body and the auditor's brief, will be published as additional information to the Annual Financial Statements once it has been approved, on the entity's website and on the CNMV's website as other relevant information or, if necessary, as other privileged information.

4.2 CALLING ANNUAL GENERAL MEETINGS

In the event the administrative body has called the holding of the Annual General Meeting prior to the declaration of the state of alarm, it will have a minimum period of 48 hours in advance to call it off, by means of an announcement on the company website, or failing that, in the Official State Gazette. The meeting must be called again within a month from the end of the state of alarm.

4.3 THE RIGHT OF SHAREHOLDERS TO SEPARATE THEMSELVES, AND THE DISSOLUTION OF COMPANIES DURING THE STATE OF ALARM

During the validity of the state of alarm, shareholders may not exercise their right to separate themselves provided by law or statute, nor will the dissolution of capital companies take place when the term for which they were established has expired, said dissolution will take place once 2 months have elapsed after the end of the state of alarm.

The period of 2 months for calling the Annual General Meeting is suspended until the state of alarm ends for those companies that finding themselves in legal or statutory cause for dissolution, both companies that were in such cause for dissolution prior to state of alarm as well as those that find themselves in said circumstances during the period thereof.

Likewise, the administrators of companies that find themselves in cause for dissolution during the validity of the state of alarm will not be liable for the commercial debts contracted during this period.

⁵ In the case of listed companies, the term established for holding the Annual General Meeting ends on the 30th of October.

4.4 THE MANAGMENT BODY

Given the current restriction measures, meetings of the administrative body may be held by videoconference. Likewise, any resolutions of the administrative body may be adopted by means of a written vote and without holding a session, if the President so considers or if two of the members of the administrative body request this.

By means of Royal Decree 11/2020, it has been agreed to allow meetings of administrative bodies and the Boards of Shareholders of commercial companies or other entities, to also be held by telephone provided that the Secretaries of the body recognize the identity of the attendees, they have the appropriate means, and a certificate is sent indicating all this by registered mail.

Written and non-meeting agreements may be adopted whenever the President of a company decides or at least two of the members of the board in question request this.

5 Civil and Procedural Issues

5.1 PROCEDERAL DEADLINES, STATUTES OF LIMITATION AND CASE EXPIRY PERIODS

From the beginning of the state of alarm declared by Royal Decree 436/2020 and until the end thereof, or where appropriate, of any extensions that are agreed, all procedural deadlines of all the Courts are suspended. Likewise, any expiry and limitation periods for the shares and rights derived from contracts governing commercial actions are suspended.

On the other hand, by means of Royal Decree-Law 11/2020, the approval of an Action Plan has been agreed to streamline judicial activity in social, contentious-administrative jurisdictional orders and in the field of commercial courts, in order to contribute to the goal of rapid economic recovery, within a maximum of 15 days from the end of the state of alarm and any extensions thereof.

Although contracts, orders or other commercial relationships in force are not affected by the suspension of terms, given the current restriction and prevention measures, it is possible however, that compliance may be affected in many cases.

Figures of force majeure (article 1105 of the Civil Code) and clause “rebus sic stantibus” may be applicable depending on the case. It is recommended that in those obligations pending compliance, documentation be maintained up-to-date, allowing for, in the event that any damage is generated, the relevant notice to be made the other party to the contract.

For the purposes of International Trade, the Ministry of Industry, Commerce and Tourism, by means of an Interpretative Note dated 31/03/2020, has specified that import and export activities of all kinds of products, goods and materials is allowed, insofar as they are configured as key to supplying or fulfilling international contract commitments.

5.2 ARBITRATION ISSUES

No suspension of arbitration terms has been established, but all Arbitration Institutions are favouring the suspension of terms, which will depend on a specific agreement between the parties to the Arbitration.

5.3 BANKCRUPCY ISSUES

Likewise, in insolvency matters, during the validity of the state of alarm, debtors in a state of insolvency will not be obliged to file for bankruptcy, while the Courts will not admit any necessary bankruptcy application until two months have elapsed from the end of the state of

alarm, taking precedence for this purpose any requests for voluntary procedures, even when they are of a later date.

Royal Decree-Law 11/2020 establishes a correlation between ERTES (temporary redundancies) and bankruptcy proceedings:

- If on the date of entry into force of Royal Decree-Law 11/2020 (01/04/2020) an order had been issued by the bankruptcy judge agreeing on the application of the measures provided for in articles 22 and 23 of Royal Decree-Law 8/2020 (measures from temporary redundancies (ERTES) due to force majeure and due to other reasons (CTEO)), the judicial resolution will have full effects for the recognition of benefits provided in this legislation for workers.
- If at that date no decision had been issued by the bankruptcy judge, they must refer to the employment authority and continue processing through the procedure and with the specialties provided for in articles 22 and 23 of the aforementioned Royal Decree-Law 8/2020.

It is established that the measures for temporary redundancies (ERTES) of Royal Decree-Law 8/2020 will be applied to bankruptcy proceedings, if the de facto estimates contemplated in said Legislation are present. The procedure established in the Bankruptcy Law (Article 64) will be derogated from and the procedure established in the Workers Statute and in Royal Decree-Law 8/2020, establishing the following specialties:

- a. Any requests or notices of cases must be made by the bankrupt company with the authorization of the bankruptcy administration, or by the bankruptcy administration directly, according to the intervention or suspension system of patrimonial faculties.
- b. The bankruptcy administration will be part of the consultation period foreseen in Royal Decree-Law 8/2020.
- c. The decision to apply the measures on suspension of contracts or reduction of working hours must have the authorization of the bankruptcy administration or be adopted by it, according to the intervention arrangements or suspension of patrimonial faculties, in the event an agreement is not reached in this regard in the consultation period.
- d. In any case, the request, resolution and measures applied to the insolvency judge must be reported immediately by electronic means.
- e. It will be the insolvency judge who is aware of any objections related to the suspension of contracts due to temporary redundancies (both ERTE and CTEO) or the reduction of hours worked.
- f. In the event of any temporary redundancies (ERTE) due to force majeure, the resolution denying the existence of force majeure will be challengeable before the Social Order.

5.4 REAL ESTATE ISSUES

1. LONG TERM HOUSING RENTAL

The measures refer exclusively to the lease of properties to be used as a long-term residence and in no case are measures applicable to leases of other types of property such as business premises, offices or industrial warehouses.

Protective measures and moratoriums are established for tenants of long term residences, especially those with special vulnerability, and especially against public housing entities or large organizations.

2. MORTGAGE MORATORIUM

A moratorium is established on the mortgage debt contracted in loans agreed for the acquisition of the following properties:

- a. Long-term habitual residence.
- b. Properties used for business activity carried out by entrepreneurs and professionals, provided that certain requirements are met.
- c. Homes other than the habitual residency which are being rented out and for which the mortgagee, an individual person, owner and lessor of said homes, has stopped receiving the rental income since the entry into force of the state of alarm decreed by Royal Decree 463/2020, of the 14th of March, or stops receiving payment thereof within a month of the end of said period.

6 Employment Issues

6.1 MEASURES TO PROMOTE FLEXIBILITY AND REMOTE WORKING

According to the provisions of Royal Decree Law 8/2020, companies must implement measures and mechanisms that allow for the adaptation or reduction of working hours, and implement working from home or other alternatives, as this implementation is a priority for the temporary cease of business reduction.

6.2 TEMPORARY MASS REDUNDANCY PROCEDURES

If the company is in a position to suspend its activity partially or temporarily, according to article 47 of the Workers Statute, it may request a Temporary Mass Redundancy Procedure (ERTE) when any of the following conditions occur:

- Economic, technical, and organizational causes, or production, such as the shortage or lack of supply of resources for business activity; decrease in demand or inability to provide services due to the corresponding decrease in the activity of client companies.
- Causes derived from force majeure, such as in the event of high rates of employee absenteeism or recommendation by the Health Authorities to cease business activity.

In both cases, a consultation period will be required with the workers' representation or, where appropriate, the commission established for this purpose. Likewise, if the interruption of the activity were derived from a cause of force majeure, the authorization of the Employment Authority will be required.

If the activity is stopped without Temporary Redundancies (ERTE) being reported, the workers would retain their right to salary, in accordance with article 30 of the Workers Statute.

The right to unemployment benefit is recognized for the affected workers even if they lack the minimum period of employment, and the time in which the benefit is received in order to consume the maximum periods of payment established is not calculated.

The company is exonerated from the payment of taxes collected from salaries for the duration of the suspension period, in companies with less than 50 employees. In companies with more than 50 employees, the tax exemption will reach 75% of the business contribution.

These extraordinary measures will be subject to the commitment of the company to maintain employment for a period of six months from the date business resumes.

6.3 COMPLEMENTARY MEASURES IN THE WORKPLACE

On the 28/03/2020 the Government approved Royal Decree No. 9/2020 by which a series of measures are to be enacted in the workplace.

In this way, the “essential” character of the health services and care homes for the elderly is emphasized, decreeing that they must maintain their activity during the duration of the state of alarm and any possible extensions thereof.

Likewise, employment protection has been implemented to protect against the current circumstances. Thus, the extinction of contracts or dismissals based on technical, organizational and production causes covered by the Temporary Redundancy Procedures (ERTE) is prohibited.

In parallel, a series of mechanisms have been established in order to streamline the procedures for applying for unemployment benefits derived from the Temporary Redundancy Procedures (ERTEs), while enabling any corporate companies that, for technical reasons are unable to hold a General Assembly, to totally or partially suspend the supply of work to their partners by means of a certificate issued by the Governing Council, which will initiate the corresponding procedure.

At the same time, the finalizing of the maximum term of temporary contracts is suspended.

Finally, it is stated that corresponding public sanctions will be imposed regarding any requests from companies that contain inaccuracies or falsehoods, any undue benefits paid out must be reimbursed, and the collaboration between the management entity and the Employment and Social Security Inspection must be enabled.

6.4 SUSPENSION OF THE “NON-ESSENTIAL” BUSINESS ACTIVITY

By means of Royal Decree-Law No. 10/2020, which came into force on the 29/03/2020, the Government decreed that from that date and until the 09/04/2020, professional activity is suspended in all those sectors that are not considered “essential”.

Thus, the Government has agreed that those professionals who do not work in essential companies (such as, among others, those supplying basic products for the market, producers of medical and pharmaceutical materials, or transport and logistics), and who do not have tools to work remotely, must cease professional activity until 09/04/2020, while receiving their usual remuneration during this period.

To this end, the aforementioned Royal Decree states that, once the restriction measures derived from the current State of Alarm have been lifted, and until the 31/12/2020, employees will proceed to recover the hours spent out of work during the decreed suspension. The procedure by which such hours can be recovered will be negotiated between the company and the workers' representation, and in no case will it violate the provisions regarding the minimum hours off to which the employee is entitled.

Likewise, it is provided that those companies that must apply this period of suspension of professional activity may set a minimum staff roster or shifts to maintain their essential activity, following patterns of shifts and staff used during business carried out on an ordinary weekend or holiday as a reference.

By means of Order SND / 307/2020, of the 30th of March the Ministry of Health established interpretive criteria for the application of said Royal Decree-Law 10/2020, and a responsible

declaration model was approved to facilitate the necessary journeys between the place of residence and work.

6.5 TAX COLLECTION MEASURES

By means of Royal Decree-Law 11/2020⁶, The General Treasury of Social Security may grant moratoriums of six months, without interest, to companies and self-employed workers who so request and comply with the requirements and conditions that will be established by Ministerial Order. This moratorium will not affect those companies that have obtained exemptions from payment as consequences of Temporary Redundancy Procedures (ERTES) under the State of Alarm, in accordance with article 24 of Royal Decree-Law 8/2020.

Companies and self-employed workers may request the deferral in the payment of Social Security debts, the regulatory term of which takes place between the months of April and June 2020 at an interest rate of 0.5%, as long as they have no other deferral in force, under the terms and conditions established in Social Security regulations.

7 Data Protection

The General Data Protection Regulation (hereinafter “GDPR”) recognizes that in the event of the control of an epidemic, sectioning must limit the right to protect an essential interest for the life of the interested party or that of another natural person, which also results in the exercise of public interest.

Health data is subject to special protection by the GDPR and the legal bases established by article 6 of the GDPR for the lawful sectioning of personal data are not necessary to process health data and must be consistent with the circumstances established in Article 9 of the GDPR, which are the following:

- The party responsible (legal entity that processes the data) is required to comply with the obligations and rights in matters of employment law and social security and protection (article 9.2.b) GDPR);
- Requests for information to protect the vital interests of the interested party or of another natural person to avoid contact, when the interested party is not qualified to grant consent (article 9.2.c) GDPR);
- Maritime seizure necessary for the fulfillment of a mission carried out in the essential public interest and in the field of public health, such as protection against cross-border risks that affect health (articles 9.2.gD), i) RP).
- When sectioning is necessary for preventive or occupational medicine penalties, evaluation of work capacity and medical diagnosis, etc. (article 9.2.h) GDPR).7

Thus, in the context of the foregoing circumstances, those responsible for the data can make as many decisions as deemed necessary to safeguard the vital interests of individuals, compliance with legal obligations or safeguarding public health.

And therefore they may process personal health data of identified people to protect other people from contact; also by means of the occupational risk prevention regulations they may process the data necessary to protect the health of employees.

⁶ <https://www.boe.es/boe/dias/2020/04/01/pdfs/BOE-A-2020-4208.pdf>

All this must follow the principles of article 5 of the GDPR: with legality, loyalty, transparency and limited exclusively to safeguarding people's health, precision and, always, collecting the minimum data necessary for this without any requirements.

Let us not forget that the technical and organizational measures specified for the level of security appropriate to the risk in the sectioning of said data must be adopted and the minimum security established in article 32 of the GDPR must be observed.

8 Government tenders

In the area of contracting by Public Administrations, the contractor of any works contracts in force at the entry into force of Royal Decree Law 8/2020, or those works contracts scheduled for completion between the 14/03/2020 and the termination of the state of alarm, the compliance of which is not possible given the situation generated by the expansion of COVID-19 or the measures agreed upon for prevention, may request the suspension of the contract or the extension of the terms thereof.

In cases of suspension, it is possible for the contracting entity to indemnify the contractor for the most essential expenses or costs.

9 Intellectual Property

The Spanish Patent and Trademark Office (OEPM) issued a first resolution by which, pursuant to Royal Decree 463/2020 regarding the suspension of the calculation of Administrative terms, the calculation of terms for all those administrative processes managed by the entity during the validity of the state of alarm are suspended and interrupted. Likewise, the calculation of limits and expiry terms for all actions and rights that individuals have in relation to the OEPM procedures is suspended.

However, according to the resolution of the Director of the OEPM on the 25/03/2020⁷, admission will continue with the processing of all types of applications. Likewise, all those procedures that do not require prior action by the interested parties or those in which the interested parties express their agreement in the continuing of the procedure will be fulfilled. All this will be applied in bilateral procedures, between the OEPM and the interested party, and as long as the rights of third parties are not affected.

Similarly, the EUIPO⁸ (European Union Intellectual Property Office) issued a resolution on the 16th of March by which all deadlines of procedures processed by this entity the expiry of which was set between the 9th of March and the 30th of April 2020 are extended until the 04th of May 2020.

This extension operates automatically and it is not necessary for interested parties to request it, although it is mentioned that for those in a position to comply with the corresponding procedure during the term of the extension, the procedure will continue its ordinary course.

It is also noted that the extension decreed only affects those procedures followed before the EUIPO, and is not applicable to other types of procedures. In particular, reference is made to the deadline to file cases before the General Court against resolutions of the EUIPO Court of Appeal, which is not affected by the extension.

⁷https://www.oepm.es/export/sites/oepm/comun/documentos_relacionados/Noticias/2020/2020_03_25_Resolucion_Disposicion_Adicional_tercera.pdf

⁸ Find all the information regarding the EUIPO measures in the face of the health alert generated by COVID-19 at the following link: <https://euipo.europa.eu/ohimportal/en/news/-/action/view/5657728>

10 Consumers

Royal Decree-Law 11/2020 establishes a series of measure to protect consumers:

- Special term for termination of contracts: Consumers will have a period of 14 days to resolve contracts for the sale of goods and the provision of services that cannot be executed as a consequence of the measures adopted by the state of alarm.
- Payment of fees in successive continual contracts: the collection of fees will be paralysed until the services can be rendered again as usual.
- Package tours: the consumer may choose to request a refund or make use of the voucher that the organizer or the travel agency will provide. The voucher will last one year and if it is not used, a refund may be requested later.
- Limitation of online gambling advertising (casinos, bingo and poker).
- Changing Telephone Company (transferring operations): transferring operations that do not involve physical displacement are not suspended. In addition, consumers must not see increased rates in the period of time when, as a consequence of the suspension, they cannot request a change in the company that provides electronic communications services.

11 Tourism

By Order of the Ministry of Health SND / 257/2020, of the 19th of March the opening to the public of all hotels and similar accommodation, tourist accommodation and other short-stay accommodation, camping sites, caravan parks and other similar establishments, located anywhere in the national territory has been suspended.

Exceptionally, the provision of surveillance, security and maintenance services in these establishments is permitted.

By Order of the Ministry of Transport, Mobility and Urban Agenda, n° TMA 277/2020, of the 23rd of March, various tourist accommodation, camping sites, caravan parks and other similar establishments have been declared essential services.

Additionally, through different resolutions of the Minister of Transport, Mobility and Urban Agenda, the list of tourist accommodation included in the aforementioned Annex is being expanded, modified or revised.

12 Borders

By Order of the Ministry of the Interior INT / 239/2020, of the 16th of March controls at internal borders have been temporarily restored, as of the 17th of March 2020, and will affect internal land borders.

Only Spanish citizens or residents of Spain, cross-border workers, or those who prove causes of force majeure or situation of need will be allowed to enter national territory, by land.

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Foreign personnel accredited as a member of diplomatic missions, consular offices and international organizations located in Spain are exempt from these restrictions, provided they are displacements linked to the performance of official functions.

In order to ensure the continuity of economic activity and to preserve the supply chain, these measures are not applicable to the transport of goods.

13 Updated Legislation

Given the changing scenario in which we find ourselves, the Official State Gazette offers an update of all these regulatory provisions and other measures published in relation to the current state of alarm, available at the following link:

https://www.boe.es/biblioteca_juridica/codigos/codigo.php?id=355

14 Contact

SPAIN

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