

Suspension of scheduled criminal proceedings, procedural deadlines and alterations to the prison system due to the COVID-19 health crisis

19th March 2020

The health crisis unleashed in recent days in our country by the COVID-19 has led to the adoption of a series of measures in the judicial sector that affect the normal practice of law and the ordinary functioning of judicial bodies, including in the criminal sphere. The following is a brief summary of the measures adopted:

14th March Royal Decree 463/2020 of declaring the state of alert for the management of the health crisis situation caused by Covid-19

Judicial proceedings

Since the entry into force of the Royal Decree, all scheduled legal proceedings and procedural deadlines of the criminal jurisdiction have been suspended throughout the national territory. The calculation of the time limits will be resumed at the moment that the validity of the mentioned Royal Decree expires or, in its case, the extensions of the same one.

However, there are specially regulated exceptions.

Thus, the second additional provision of the Royal Decree establishes that in the criminal jurisdiction order, suspension and interruption shall NOT apply (i) to habeas corpus proceedings (ii) to proceedings entrusted to the guard services (iii) to proceedings with detainees (iv) to protection orders (v) to urgent prison surveillance proceedings or (vi) to any precautionary measure in the area of gender or minor violence.

Consequently, proceedings with detainees and other proceedings that cannot be postponed, such as urgent precautionary measures, body searches, entries and searches, etc., will continue. Similarly, the investigating judge or court may agree to conduct any proceedings that cannot be postponed owing to their urgent nature.

Filing of procedural documents

In relation to the presentation of procedural documents, in criminal law as in the rest, nothing prevents the presentation of those so, in principle, the lawyers and solicitors can continue presenting before the Court all those documents related to each procedure in question, so that they are processed as soon as possible when these measures are lifted. Nevertheless, the experience accumulated during these days indicates that the Lexnet system of presentation of documents is not allowing their presentation. Therefore, all the professionals of Andersen are waiting for this to happen when the system returns to normal and we are in full coordination with the prosecutors for the presentation of the same as soon as the service is enabled.



Penitentiary law

In prison matters, visits by family members and relatives of prisoners are suspended, as well as exit permits. This prohibition is established because of the limitation on the freedom of movement of persons contained in article 7 of the aforementioned Royal Decree, and as visits of this nature are not included among the exceptions listed.

However, an extraordinary permit will be granted to those inmates who justify the need for an exit permit due to force majeure, such as the death of a family member or spouse.

To compensate for this situation, the Prison Institutions are extending authorised telephone communications to inmates.

On the other hand, third-degree inmates and those to whom the relaxation regime of article 100.2 of the Penitentiary System is applicable may continue to enjoy the regime of semi-freedom as long as it is to go to work. However, on their return to prison they must undergo the relevant medical checks.

Suspension of statutes of limitation

The fourth additional provision of the Royal Decree provides that the limitation periods for any actions, including criminal actions, shall be suspended for the duration of the state of alert and, where appropriate, any extensions adopted.

Provision of legal assistance to detained persons

The Consejo General de la Abogacía Española (General Council of Spanish Lawyers) has issued a statement requesting that assistance be provided whenever possible by telephone or videoconference and, if this is not possible, lawyers should be provided with the necessary means of individual protection.

We hope that the information will be useful and of interest to you. At Andersen Tax & Legal we have created a multidisciplinary team to deal with all the questions that may arise on this aspect or in relation to the COVID-19 and all the professionals of the firm are at your disposal.

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