

# JUDICIAL MEASURES IN TURKEY REGARDING THE CORONAVIRUS (COVID-19) PANDEMIC

## Suspension Of Legal Periods, Enforcement, And Bankruptcy Proceedings

On March 25, 2020, the Turkish Grand National Assembly enacted the Law No. 7226 (“Law”), whereby the procedural deadlines have been suspended to prevent loss of legal rights because of the extraordinary circumstances arising from the Coronavirus pandemic. The Law was published in the Official Gazette No. 31080 (Duplicate) on March 26, 2020.

Provisional Article 1(1)(a) of the Law stipulates that all legal periods for filing a lawsuit, initiating enforcement proceedings, application, complaint, appeal, notice, notification, submission and limitation periods, periods of prescription, and mandatory administrative application periods have been suspended as from (including) March 13, 2020 until April 30, 2020. As the Law came into force on March 26, 2020, but shows its effects as of March 13, 2020, it has a retroactive effect.

This suspension is also valid for periods determined for parties in the Code of Administrative Procedure No. 2577, the Code of Criminal Procedure No. 5271, the Code of Civil Procedure No. 6100, and other laws containing procedural rules, as well as periods determined by judges within this framework, and periods in mediation and conciliation proceedings.

In this regard, the question arises whether this suspension will also be valid for international arbitration proceedings, although this is not explicitly mentioned in the Law. For domestic arbitration, there is no hesitation as it is regulated by the relevant rules in the Code of Civil Procedure, which is already mentioned in the Provisional Article 1(1)(a) of the Law. However, the International Arbitration Act No. 4686 (“IAA”) will apply in disputes with a foreign element where Turkey is the agreed place of arbitration or where the parties, arbitrator, or arbitral tribunal have agreed that the IAA will apply. Although the IAA is not listed in the Law, our opinion is that periods determined for parties by the IAA and periods determined by arbitrators in such arbitration proceedings will also be suspended because the IAA is a law that contains procedural rules and the reference to judges should be interpreted to include arbitrators by analogy. However a clarification should be sought from the arbitral tribunal.

Provisional Article 1(1)(b) of the Law provides that all periods stipulated by the Enforcement and Bankruptcy Law No. 2004, other laws related to execution law, and periods granted by judges and bailiff’s offices, all enforcement and bankruptcy proceedings except for the ones regarding alimony claims, new requests for enforcement, and any actions for the enforcement of provisional attachment orders have been suspended as from (including) March 22, 2020 until April 30, 2020.

It is also regulated that the deadlines expiring within fifteen or less days as from the beginning of the suspension shall be extended for fifteen days starting from the first day following the end of the suspension. If the effects of the Coronavirus pandemic continue, the suspension may be extended for once and up to six months by a Presidential Decree to be published in the Official Gazette.

The limitation periods regulated in law regarding crime and punishment, misdemeanor, administrative sanctions, disciplinary and preventive detention; periods of protection measures regulated in the Code of Criminal Procedure; and periods related to transactions that complete the precautionary measures regulated by the Code of Civil Procedure are excluded from the scope of the suspension.

## POSTPONEMENT OF HEARINGS

As per Provisional Article (1)(4)(b) of the Law No. 7226, referring to the Supreme Council of Judges and Prosecutors as the authorized institution to make necessary arrangements regarding first-instance judicial and administrative courts, as well as the regional courts of justice and regional administrative courts, the Supreme Council of Judges and Prosecutors declared on March 30, 2020, that all hearings, negotiations, and discoveries of the first-instance judicial and administrative courts, as well as the regional courts of justice and regional administrative courts, have been postponed until (including) April 30, 2020. The exceptions are listed as detention, investigation and prosecution files with short statute of limitation, requests for suspension of execution, and other works and proceedings to be considered urgent.

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