

Law Bulletin

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CORONAVIRUS: THE PANDEMIC'S IMPACT ON THE TURKISH JUDICIAL SYSTEM

The Coronavirus (Covid-19) pandemic, which has now spread all over the globe, is continuing to have adverse effects on the commercial activities of entities as well as the daily activities of individuals. In order to prevent the Coronavirus' further spread, the government, professional institutions and administrative bodies are adopting new measures every day. In addition to its impact on many areas of law, Covid-19's increasing spread has had a direct and important effect on the Turkish judicial system. In this bulletin, we will comment on the effects of Covid-19 on the Turkish judiciary, in light of announcements made by the President, the Ministry of Justice, bar associations and administrative bodies.

The Istanbul Bar Association's Announcement: Postponement of Hearings, National Judiciary Informatics System (UYAP) and Audio and Video Information System (SEGBIS)

The Istanbul Bar Association published an announcement on 16 March 2020, further to its agreement with the central courthouses. This announcement is of advisory nature. It is not binding for courts, lawyers and parties. The important points of the announcement are as follows:

- 1.** All hearings will be postponed to a date after 14 April 2020.
- 2.** There is no need for lawyers/parties to submit written excuse pleadings for hearing postponements.
- 3.** There is no restriction on submitting pleadings through the National Judiciary Informatics System (UYAP). However, a limited number of court clerks will be working during this time and it is recommended that lawyers take this into account while submitting pleadings/filing actions.

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4. The statute of limitations will continue to run. Lawyers must carry out the necessary legal procedures in due time.
5. Hearings of criminal proceedings that concern suspects under arrest will be held. Accused/witness testimonies and statements will be obtained through the audio and video information system (SEGBIS). Hearings of other criminal proceedings will be postponed.

The Izmir Bar Association's Announcement: Postponement of Hearings and On-Site Examinations

The Izmir Bar Association issued an announcement to postpone hearings and on-site examinations, other than those concerning arrested individuals and urgent works, and to notify the parties about the new hearing and on-site examination dates. Similar to the Istanbul Bar Association's announcement, the Izmir Bar Association's announcement is advisory, it is not binding for courts, lawyers and parties.

The Head of the Mediation Department's Announcement: Meetings to be Held Through Teleconference

With its announcement of 16 March 2020, the Head of the Mediation Department recommends that for mediation processes that have been already initiated and pending, mediation meetings should be held through teleconference, whereas for new mediation applications, meeting dates should be set for the last days of the legislative time limit and meetings should be held through teleconference.

The Ministry of Justice's Decision: Postponement of Hearings and On-Site Examinations

The Ministry recommends with its decision of 17 March 2020 that, except for hearings/proceedings concerning arrested individuals and other urgent matters, all hearings and on-site examinations be postponed. The Ministry also advises courts to evaluate using of the audio and video information system (SEGBIS) when necessary. The Ministry's decision is advisory, it is not binding for courts, lawyers and parties and we may face (as we have been) differing practices.

Presidential Order: Suspension of Execution and Bankruptcy Proceedings

The President has issued an order that, between 21 March 2020 and 30 April 2020, all execution and bankruptcy proceedings will be suspended, no new execution and bankruptcy requests will be accepted, and no injunction orders will be enforced. The one exception to these suspensions is execution proceedings pertaining to alimony receivables.

Our Recent Practical Experiences

In accordance with the announcements and decisions cited above, mediation meetings are either handled through a teleconference or postponed to a date suitable to all parties. There are rumors

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and verified information that the Coronavirus has also spread at courthouses, specifically among judges and their families as well as court clerks. In many courts, clerks are working in shifts and lawyers are warned not to visit courthouses unless there is an urgent matter. There is an announcement of the Istanbul Bar Association that all hearings are to be postponed and that it is not necessary for lawyers/parties to submit written excuse pleadings for hearing postponement. Indeed, during this last week our experience in almost all hearings has been that an excuse pleading is submitted to the lawsuit file in advance of each hearing, asking for a postponement, in order not to face any problems in the future. Accordingly, the courts have been postponing these hearings and informing the parties/lawyers through UYAP. Except for those stated in the Presidential order dated 21 March 2020, all tasks required to be fulfilled within a fixed period are accomplished through UYAP, to prevent loss of rights.

Except for the Presidential order dated 21 March 2020, all announcements and decisions we have referred to above are merely of advisory nature. They are not binding on the courts. For this reason, it would be beneficial for parties and their lawyers to duly check their files through UYAP and to be in contact with courts and take the required steps in accordance with the practice of that particular court, to prevent loss of rights.

Proposal for Amendment of the Civil Procedure Law

Although not directly related to the outbreak of the Coronavirus, on 20 March 2020, a proposal was submitted to the Turkish Grand National Assembly for an amendment to be made to the Civil Procedure Law. A group of MPs proposes that, in civil litigations, if requested, parties and their lawyers can attend hearings through audio visual facilities and expert witnesses can be heard the same way, allowing the parties and lawyers to attend hearings without physically coming to the courthouses. It is very likely that the Coronavirus will have a strong effect on judicial system and cause various delays in litigation. As the Coronavirus spreads, it also brings with itself uncertainties, but various innovations such as the ones included in this amendment proposal, may help mitigate the adverse effects of the outbreak.

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