

**PROVISIONS REGARDING  
EXTRAORDINARY AND URGENT MEASURES TO COPE WITH THE  
EPIDEMIOLOGICAL EMERGENCY CAUSED BY COVID-19**

*Update of April 21<sup>st</sup>, 2020*

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**CIVIL LITIGATION ISSUES  
CUSTOMS ISSUES**

**Postponement of hearings and suspension of procedural time-limits: “phase 1” from March 9, 2020 until May 11, 2020**

Article 36 of Legislative Decree no. 23/2020 (Liquid Assets “*Liquidità*” Decree) extended to May 11 the time-limit, initially set forth by Article 83 of Legislative Decree 18/2020 (*Cura Italia* Decree), to **postpone hearings and to suspend the effectiveness of all procedural time-limits** related to civil and criminal courts, with the only exception of those (i) related to matters or cases that cannot be postponed (as identified under paragraph 3 of the same article 83) and (ii) those whose delayed discussion may cause serious prejudice to the parties. In this latter case, it is necessary to issue a declaration of urgency by the head of the judicial department or, as regards the suits already commenced, by the investigating judge or the chairman of the board, by a measure for which no appeal shall lie.

However, with reference to administrative procedures, Article 37 of Liquid Assets “*Liquidità*” Decree extended to May 15 the suspension, initially set forth by Article 103 of *Cura Italia* Decree, of the time-limits of procedures pending as of the date of February 20, 2020 or commenced after such date.

**The period of suspension of the effectiveness of civil and criminal courts** changed therefore from 38 to 63 days (from March 9, 2020 until May 11, 2020). If the effectiveness of the time-limit begins during the suspension period, the beginning of the same is postponed to the end of the same period. In case of time-limit backwards, if the deadline falls in whole or in part in the suspension period, the hearing or the activity from which the time-limit has effect shall be postponed so as to meet the time-limit.

The suspension is valid for all time-limits, among which are those for submission of application initiating proceedings and proceeding concerning enforcement, appeals and adoption of court orders.

You will find below an explanatory chart of the rules applicable to the main civil procedural time-limits, divided on the basis of the stage and/or type of procedure, as well as some fundamental time-limits (generally unrelated to the field of application of the two captioned decrees) and the administrative procedures regarding intellectual property.

In the chart, when indicated that the time-limit is under suspension, such suspension shall not apply in those cases indicated under Article 83, paragraph 3 (matters or procedures that cannot be postponed), of *Cura Italia* Decree.

Moreover, we underline also that, according to the prevailing guideline, the party may benefit or not from the suspension provided for by the rule; in other words, the suspension does not represent an impediment to the performance of the deed.

Therefore, also during the suspension period, it is allowed to carry out activities of the parties or bring civil actions; however, since the suspension is effective also with reference to the activities of the judges (enforcement of court orders and filing of their grounds) it is possible that these latter will wait for the end of the suspension period to carry out their activities.

Finally, the remarks on the right column indicate the possible doubts related to the application of the suspension period as well to the addresses of some judicial offices.

# CIVIL LITIGATION ISSUES

LEGAL PROCEEDINGS	DEED	APPLICABLE REGULATION	REMARKS
TRIAL	WRIT OF SUMMONS	<ul style="list-style-type: none"> <li>Registration of the claim (10 days of the notification): <i>time-limit subject to suspension</i></li> <li>Time-limit for appearance before the Court (free time-limit of 90/150 days between the notification of the writ of summons and the hearings pursuant to Article 183 of the Civil Procedure Code): <i>time-limit subject to suspension</i></li> </ul>	It is deemed that the court appearance must be postponed <i>ex officio</i> if, as a consequence of the suspension of the time-limits, the time-limits to appear before the court are not met
	STATEMENT OF DEFENCE/THIRD PARTY NOTICE/COUNTERCLAIM	Incorporation in judgement of the defendant, third party notice and counterclaim: <i>time-limits subject to suspension</i>	If the time-limit backwards falls within the suspension period with first hearing fixed at a date not between March 9 and May 11, if the Office does not provide to postpone the hearing <i>ex officio</i> , it is advisable that the party requests the postponement by an appropriate request
	BRIEFS pursuant to Article 86, paragraph 6 of the Civil Procedure Code	<i>Time-limits subject to suspension</i>	It is deemed that the hearing pursuant to Article 184 of the Civil Procedure Code must be postponed <i>ex officio</i> , if as a consequence of the suspension of the time-limits, those provided for the filing of the briefs pursuant to Article 183 of the Civil Procedure Code expire after the hearing
	COURT APPOINTED EXPERT	Filing of the draft court appointed expert witness and of the remarks of the Experts of the Parties: <i>time-limits subject to suspension</i>	If the Court appointed expert, not benefitinfig from the suspension period, files his witness, if the Experts of the Parties may or not benefit from the suspension period is under discussion
	FINAL STATEMENT AND BRIEF OF REPLY pursuant to Article 190 of Civil Procedure Code	<i>Time-limits subject to suspension</i>	
	CLOSING NOTES in view of the hearing pursuant to Article 281-sexies of the Civil Procedure Code	Filing of closing notes with expiration backwards as regards the hearing: <i>time-limit subject to suspension</i>	The application of the suspension is under discussion if the time-limit for filing is a fixed date
	RESUMPTION OF THE PROCEEDINGS	<i>Time-limit subject to suspension</i>	
APPEALS	PLEA	<i>Time-limits subject to suspension</i> , except from those related to the proceedings under Articles 283 and 351 of the Civil Procedure Code	
	CASSATION APPEAL	<i>Time-limits subject to suspension</i> , except from that related to the proceedings under Article 373 of the Civil Procedure Code	
ENFORCEMENT PROCEDURE	PAYMENT INJUNCTION	<ul style="list-style-type: none"> <li>Enforcement of the payment injunction (60/90 days of the filing): <i>time-limit subject to suspension</i></li> <li>Opposition to payment injunction (40 days of the notification): <i>time-limit subject to suspension</i></li> </ul>	Considering the remarkable similarity with proceedings under Articles 283, 351 and 373 of the Civil Procedure Code, expressly exempt from the extraordinary suspension, also the application for suspension of the provisional execution of the payment injunction is considered as not subject to suspension (article 649 of the Civil Procedure Code).

# CIVIL LITIGATION ISSUES

PROCEDIMENTO	ATTO	DISCIPLINA APPLICABILE	NOTE
	WRIT OF ENFORCEMENT	<ul style="list-style-type: none"> <li>Time-limit for the formal notice under Article 480 of the Civil Procedure Code: <i>time-limit not subject to suspension</i></li> <li>Effectiveness of the writ of enforcement (90 days of the notification): <i>please see the remark</i></li> <li>Opposition to writ of enforcement (20 days of the notification): <i>time-limit not subject to suspension</i></li> </ul>	The content of Article 83 of Legislative Decree 18/2020 raises doubts in relation to the enforceability of the suspension provided for also in relation to deeds which are not exactly procedural documents, since they are of one party as the writ of enforcement. However, such doubt seems to be solved in light of the Relation of the Supreme Court no. 28 of April 1 <sup>st</sup> , 2020 which includes the writ of enforcement among those deeds " <i>necessary to initiate proceedings</i> " validating therefore the suspension of the related time-limits
EXECUTIVE PROCEDURES	SEIZURE	<ul style="list-style-type: none"> <li>Request of enforcement proceedings and preliminary enforcement: <i>time-limits subject to suspension</i></li> <li>Registration of the enforcement proceedings: <i>time-limit subject to suspension</i></li> </ul>	<p>Since Article 83, paragraph 3 of Legislative Decree 18/2020 sets forth that the potential declaration of urgency must be put "at the end of the writ of summons or of the appeal with injunction that cannot be appealable", the chance to declare the urgency of the seizures not providing the notification of writ of summons or the filings of appeals would seem to be not possible.</p> <p><i>Court of Padua: the claims for suspension under Articles 615, 624, 618 and 649, 586 of the Civil Procedure Code are processed since the related proceedings are considered as concerning the fundamental rights of the individuals.</i></p>
OTHER PROCEEDINGS	PREVENTING PROCEEDINGS	<i>Time-limits subject to suspension</i>	The urgency required for the enforcement of the precautionary measure is a condition other than " <i>serious injury</i> " arising from the delayed discussion under Article 83, paragraph 3, letter a) of <i>Cura Italia</i> Decree. The suspension of the time-limits does not apply in cases of " <i>precautionary measures whose subject matter is the protection of the fundamental rights of individuals</i> "
	PRELIMINARY EXPERT WITNESS REPORT	<i>Time-limits subject to suspension</i>	
	PROCEEDINGS FOR ENFORCEMENT OF EVICTION	<ul style="list-style-type: none"> <li><i>Time-limits of the proceedings subject to suspension</i></li> <li>The enforceability of each court order providing the release of real estates for residential purposes or not <i>is subject to suspension until June 30, 2020</i> (Article 103, paragraph 6 of <i>Cura Italia</i> Decree)</li> </ul>	

# CIVIL LITIGATION ISSUES

PROCEDIMENTO	ATTO	DISCIPLINA APPLICABILE	NOTE
BANKRUPTCY PROCEEDINGS	ARRANGEMENT WITH CREDITORS AND RESTRUCTURING AGREEMENT	<ul style="list-style-type: none"> <li>The time-limits for application of approved arrangements with creditors and restructuring agreements whose expiration date falls in the period between February 23, 2020 and December 31, 2021 are extended to 6 months (Article 9 of Liquid Assets "Liquidità" Decree)</li> <li>As regards the approval of the arrangements with creditors and restructuring agreements pending as of February 23, 2020 (not yet voted by creditors): the debtor may submit an application to the court to be allowed to a time-limit not exceeding 90 days for the submission of a new plan, proposal of arrangement with creditors or a new restructuring agreement (Article 9 of Liquid Assets "Liquidità" Decree)</li> <li>In the cases of so called arrangement with creditors subject to filing under Article 161, paragraph 6 of bankruptcy law and of execution of a restructuring agreement under Article 182 bis, paragraph 7, of bankruptcy law: granting of a second extension of time-limit not higher than 90 days</li> </ul>	Court of Monza: in case of arrangement with creditors, prior postponement of all hearings after May 31 <sup>st</sup> , 2020, establishing that only for case of particular emergency the delegated judge may fix in any case hearings declarations of non eligibility, for the approved case of opposition and for the revocation of the arrangement with creditors
	BANKRUPTCY	<ul style="list-style-type: none"> <li>Time-limits of the pending proceedings subject to suspension</li> <li>All appeals under Articles 15 and 195 Royal Decree March 16, 1942, no. 267 and 3 of Legislative Decree of July 8, 1999, no. 270 filed between March 9, 2020 and June 30, 2020 cannot be processed, except for bankruptcy petitions filed by the Prosecutor where the adoption of precautionary measures of the pre-bankruptcy proceedings are requested (Article 10 Liquid Assets "Liquidità" Decree)</li> </ul>	<p>Court of Vicenza: hearings will take place only before the official receiver and the attorney of the creditor who is willing to attend will request to be connected by videoconference</p> <p>Court of Milan and Court of Monza: all hearings for the declaration of bankruptcy will be held, in case of peculiar cases of urgency which will have to be indicated and proven by the applicants</p> <p>Court of Verona: the pre-bankruptcy proceedings are considered as urgent under Article 83, paragraph 3 of Legislative Decree no. 18/20 in case of forthcoming expiration date of the time-limit pursuant to Article 10 of the bankruptcy law or of forthcoming enforcement of deeds or payments under Articles 64, 65 and 67 of bankruptcy law, with prior notification by the party</p>
OUT-OF-COURT SETTLEMENTS	MEDIATION	Suspension of the time-limits for the performance of any activity in the mediation procedures commenced before March 9, 2020 and if the activity represents a condition of admissibility of the request (Article 83, paragraph 20, Cura Italia Decree)	The suspension of the time-limits for the so called voluntary mediation procedures is not considered as applicable

# CIVIL LITIGATION ISSUES

PROCEDIMENTO	ATTO	DISCIPLINA APPLICABILE	NOTE
	ASSISTED NEGOTIATION	<i>Suspension of the time-limits for the performance of any activity in the assisted negotiation mediation procedures commenced before March 9, 2020 and if the activity represents a condition of admissibility of the request (Article 83, paragraph 20, Cura Italia Decree)</i>	
	ARBITRATION	The <i>Cura Italia</i> Decree and the Liquid Assets <i>Liquidità</i> Decree do not provide for a specific regulation with regard to arbitration	<p><i>Measure of the Arbitration Chamber of Milan: (i) as regard the current proceedings as of the date of March 9, 2020, the suspension of the time-limit to file all deeds related to the proceedings – including arbitration award – is provided for. This is without prejudice to the right of the Arbitration Tribunal and of the parties, by mutual agreement, to establish otherwise; (ii) for the proceedings commenced during the suspension period, the begin of the proceedings is postponed to May 12, 2020.</i></p> <p><i>By measure of the Bank of Italy as regards Banking Financial Arbitration: suspension of all time-limits of the procedure of out-of-court settlement, including the time-limit to response by the intermediaries to the claim raised by the client</i></p>
SIGNIFICANT TIME-LIMITS	INJUNCTION TO PERFORM under Article 1454 of the Italian Civil Code	<i>Such time-limit is not subject to suspension</i>	
	REQUIREMENT AND REVOCATION	For the period of enforcement of the measures under paragraphs 5 and 6 of Article 83 of <i>Cura Italia</i> Decree which forecloses the submission of the document instituting the proceedings, <i>the effectiveness of the time-limits related to requirement and revocation of the rights which may be exercised solely by performance of the activities foreclosed by the same measures is suspended (Article 83, paragraph 8 Cura Italia Decree)</i>	
ADMINISTRATIVE PROCEDURES AS REGARDS INTELLECTUAL PROPERTY	ITALIAN PATENT AND TRADEMARK OFFICE (UIBM)	<ul style="list-style-type: none"> <li><i>Suspension of all time-limits, including those mandatory, related to the administrative procedures as regards patent, trademarks, drawings and patterns, until May 15, 2020, except for appeals before the Appeal Board, being of judicial nature</i></li> <li><i>As regards international patent applications and European Patent applications (first filings), in relation to the international patent applications and patent renewal there is no suspension of the time-limits, except for the limitations indicated by the competent international or European bodies</i></li> </ul>	

## A CIVIL LITIGATION ISSUES

PROCEDIMENTO	ATTO	DISCIPLINA APPLICABILE	NOTE
	EUROPEAN UNION INTELLECTUAL PROPERTY OFFICE (EUIPO)	<i>Postponement of the time-limits expiring in the period between March 9, 2020 and April 30, 2020 including until May 1<sup>st</sup>, 2020</i>	
	EUROPEAN PATENT OFFICE (EPO)	<ul style="list-style-type: none"> <li><i>Postponement until further notice of the oral proceedings before the examination and opposition divisions fixed until April 30, 2020, except for the possibility that such proceedings take place by videoconference</i></li> </ul> <p>The oral proceedings before the Appeals Board <i>are suspended until April 30, 2020</i></p>	

### “Phase 2”: from May 12, 2020 to June 30, 2020

Starting from May 12 “phase 2” will start and it will last, at least for now, until June 30.

Article 83 of *Cura Italia* Decree mentioned above already provided for the main measures for the start and management of such phase, charging, in any case, the heads of the judicial offices to specifically identify the enforcement measures for such provisions, as long as they are all directed to, from one side, counter the risk of epidemiological infection and, on the other side, limit the negative consequences on the normal performance of the judicial activity.

Letters f) and h) of paragraph 7, in particular, identify the two tools chosen to conduct civil hearings at a distance where the presence of individuals other than defense attorneys and the parties is not required – namely the writing and the videoconference – such tools, with reference to the suits for which are not subject to time-limits suspension under paragraph 3 mentioned above, must be already functional.

In particular, paragraph 7 of Article 83 under letter f) provides for the conduction of the hearing by means of connection at a distance identified and regulated by a measure of the Director General of information and automated systems of the Justice Department (the so called “**hearing in videoconference**”), while letter h) provides for the conduction of the hearing by exchange and filing of written notes and related adoption of the court order outside the hearing (the so called “**certificated hearing**”). The decree does not explain which are the criterion for the choice of one rather than the other way of conducting the hearing at a distance, leaving therefore the choice to the offices at their own discretion. All hearings providing for the physical presence of individuals other than defense attorneys and parties (for instance the witnesses) will not be included into “phase 2”, and therefore they will be postponed to a date after June 30.

By resolution adopted on last March 26, the Supreme Judicial Council (CSM) issued the guidelines to the Judicial Offices in relation to the COVID 19 emergency and then drew up, in accordance with the National Bar Council (CNF) and the Directorate General of Information and Automated Systems (DGSIA), application protocols of the same, which must be adopted and possibly integrated by each local Bar Association and which, in any case, will represent mere operative indications which do not limit in any way the interpretation of the provisions, taken by the magistrates.

Specifically, as regards the certified hearing, which probably represents the privileged tool for the conduction of the hearings, the protocol, among other things, sets forth that the judge, by electronic provision, establishes a reasonable time-limit for the filing of written notes offset, if necessary.

The registry shall then communicate such provision to the parties, which must then file their own written notes according to the principle of brevity and may also be invited by the judge to file an electronic “courtesy copy” of all deeds and documents which are not already included in the electronic dossier, since originally filed in hard copy.

It is not clear if failure to file the written notes by both defense attorneys may be considered as failure to appear pursuant to Article 309 of the Civil Procedure Code: then it would be advisable that the provision of the judge is specific in this regard, as already happened in some cases, in order to remove any doubt thereon.

The judge, at the fixed date, shall verify the communication made by the registry to the parties on the provision regarding the establishment of the hearing and, to the outcome of the hearing, will issue a provision “out of the hearing” by means of which provides what necessary for the development of the suits and its definition.

An example of decree of establishment of a final hearing to be conducted as a certified hearing is represented by the decree of the **Court of Civitavecchia** of March 31<sup>st</sup>, 2020 that can be dowloaded at the following link [click here](#); whilst at the following link [click here](#) you will be able to download a provision regarding the establishment of a hearing for the adoption of precautionary measures to be conducted as a certified hearing, issued by the **Court of Florence** – specialized section regarding companies (decree of March 24, 2020).

With reference to the conducting of hearings in videoconference, the *Cura Italia* Decree (Article 83, paragraph 7, letter f) provides that, before the hearing, the judge request the defense attorneys of the parties and the prosecutor, if the presence of this latter is required, to communicate the day, time and the connection mode. In this regard, in order to ease the connection of all defense attorneys (also those less accustomed to the use of technology) the use of standard extremely clear patterns by the magistrates is advisable. To this end, it is useful to remind that the same Decree points out – as well as the provision related to the certified hearings – that the conduction of the hearing must in any case take place by means suitable to guarantee a fair debate and the actual attendance of the parties. The Decree also shall provide that the judge, by starting the hearing, acknowledges in the minutes on the ways by means of which the identity of those participants is ascertained and, in case of parties, of their free willing.



More detailed information on the technical features of conduction of the hearing at a distance are included in the Protocol attached to the Guide Lines of the Supreme Judicial Council (CSM), drafted together with the National Bar Council (CNF) and the Directorate General of Information and Automated Systems (DGSIA), ([click here](#)) in which, among other things, the prohibition to record the hearing is expressly provided, without prejudice to the obligation of the related verbalization.

An example of decree of establishment of a certified hearing and related time-limits for the filing of the written notes is represented by the decree of the **Court of Treviso** of April 20, 2020 which can be downloaded at the following link [click here](#).

Pursuant to Article 83 of the *Cura Italia* Decree, the heads of the judicial offices adopted different enforcement measures.

The guidelines adopted by the President of the **Court of Milan** brought to light a prevailing approach of the Section Presidents to avoid a general postponement of the civil hearings to a date after June 30, 2020, which therefore can be conducted, if possible, according to the ways provided for under Article 83, letters f) and h) of Decree 18/2020.

Also the guidelines of the President of the **Court of Padua** lead to an approach suitable to encourage, until June 30, the conduction of the hearings “at a distance” (also for the magistrate since his presence at his own office is not considered as necessary) or “certified”.

On the other hand, the **Court of Verona** choose the postponement of all hearings to a date after June 30, 2020, except for proceedings set forth by article 83, paragraph 3, letter a) of the *Cura Italia* Decree.

The **Court of Turin**, which in the initial phase of Covid-19 emergency gave an extensive interpretation of the extraordinary suspension (meant as an “obligation” and not as a “choice”) so that to prohibit the filing of any kind of deed by lawyers as well as of internal measures of the magistrates, on April 10, 2020 adopted a protocol of agreement with the Bar Association by means of which the hearing by prior exchange of written notes is provided preferably to the other ways of conduction of the hearings.

Also the **Court of Rome** signed on April 9, 2020 a protocol of agreement with the Bar Association providing the ways of conducting the civil hearings (with no preference order) by connection at a distance or witten notes.

The **Courts of Appeal of Venice and Milan**, assuming that the final hearings are to be considered as “urgent” provided that the same shall not be postponed but conducted as certified hearings by electronic filing of the written notes before the fixed hearing and that, in case of failure of filing by all parties, the measure under Article 309 of the Civil Procedure Code shall apply (failure of appearance of the parties).

Also for proceedings before the **Supreme Court** a protocol of agreement with the National Bar Council (CNF) and the Supreme Court has been adopted and this latter provides, for the first time a kind of “digitalisation” of the proceedings, limited, otherwise, to the hearing established in closed session under Article 375 of the Civil Procedure Code (the so called hearings “not attended”). Such protocol provides that, in the notice of establishment of the hearing, the registry requests all defence attorneys of the parties to send, by certified e-mail, within 7 days of receipt of the communication, an electronic copy in pdf format of the procedural documents, advising that, if the aforesaid documents are not delivered within the time-limit mentioned above for the discussion of the suits, already fixed, may be postponed and assigned another probation officer if the board cannot decide in closed session. The hearing is conducted by the Board at a distance, with the obligation of the physical presence of the President or of a delegated director in the closed session at the Supreme court as long

as another probation officer is assigned by *SIC* information system of the Supreme Court which, once signed, is delivered to the registry in order to be attached to the minutes of the hearing in which the presence of the magistrate connected at a distance is acknowledged.

### **A Postponement of 30 days for payments of duty and VAT to Customs Agency in forthcoming deadline**

By Establishment no 121878 of April 21<sup>st</sup>, 2020, the Customs and Monopolies Agency ([click here](#)) provided facilities to pay the accounts accrued duty and VAT of previous import for deadlines of April 23 and May 8.

The facility consists in the extension of the payment to 30 days and the non-application of the interests.

This latter concerns all accounts, without the previous exclusive right only in favour of the freight transport management companies.

The extension is allowed only if the company proves to have an impact on its turnover and precisely a reduction in March and/or April of 33% of the turnover for those companies with income up to 50 millions of euro in 2019 and a reduction of 50% for the other companies.

The granting of the extension provided by the Customs and Monopolies Agency is subject to a request by the taxpayer together with a self-certification as regards the respect of the aforesaid requisite.

## DISCLAIMER

The information contained in this document must not be considered as exhaustive, nor is intended to express an opinion or provide legal or tax advice, nor does it exclude the need to obtain specific opinions on individual cases.

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## THE CONSULTANCY FIRM

LEGALITAX is an integrated firm with 90 professionals, including 25 *partners*, lawyer and accountants. The law firm, with offices in Rome, Milan, Padua and Verona, provides its clients with legal and tax expert advice in response to all the needs of companies in the various stages of their existence. The clients are primarily Italian and foreign companies that invest and operate in Italy.

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