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Pauline Kubat, Cabinet d'avocats d'affaires basé à Paris et Lyon

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Covid-19: What implications for civil proceedings?

For several days now, the French have been observing a strict confinement following presidential and governmental instructions to stem the spread of the Covid-19 virus. There are many concerns and uncertainties remaining as to the outcome of this international crisis.

What is the impact of this situation on the French judicial life? Here is an update on the measures taken and envisaged with regard to civil proceedings.

As the epidemic was gaining ground, the Ministry of Justice issued a circular on March 14, 2020 concerning the adaptation of the criminal and civil court proceedings to the measures that have been taken to prevent and combat the Covid-19 pandemic.

The circular specifies that the essential missions in civil matters are to be maintained, i.e.:

- summary proceedings and the handling of civil litigation of an urgent nature;
- the protection of vulnerable persons.

For the last mission, it is specified that if the required appearance of the person to be protected through his/her placement under guardianship or curatorship cannot be ensured, a temporary judicial protection measure – which does not require the relevant person to be heard – may be ordered in case of emergency.

More generally, the aforementioned circular recalls the powers that are granted to judges to extend the time limits for proceedings, and invites as a matter of fact each court to establish for itself the conditions for the continuation or suspension of pending proceedings.

On Sunday March 15, 2020, French Minister of Justice Nicole Belloubet announced the implementation as from the following day of a plan for the continuation of court activities providing for the closure of all courts except for the handling of essential litigation, namely for civil matters:

- the hearings before juvenile courts and juvenile judges for the management of emergencies, in particular for educational assistance;
- summary proceedings before judicial courts for urgent matters, and urgent measures falling within the jurisdiction of family court judges (in particular buildings that threaten to collapse, eviction of a violent spouse);
- hearings before the *juge des libertés et de la détention civil* (civil liberty and custody Judge). (forced hospitalization, detention of foreigners).
- Standby service at juvenile courts, emergency educational assistance.

Apart from these essential disputes, hearings are postponed.

On March 16, 2020, the European Court of Human Rights (“ECHR”) took exceptional measures and decided to suspend for one month the six-month time-limit for the lodging of applications under Article 35 of the Convention European Convention on Human Rights.

More generally, the ECHR decided to suspend all pending proceedings for one month, effective from March 16, 2020.

As early as March 18, 2020, the National Council of Bars initiated discussions with the Minister of Justice in order to obtain the suspension of procedural deadlines.

As a result of these discussions, the emergency Bill to deal with the Covid-19 pandemic provides that the Government will be empowered to legislate by way of Ordinances to take all measures allowing, in particular, for the adoption of the following measures:

- The time limits, the non-observance of which may lead to nullity, voidness, extinction, limitations, unenforceability, forfeiture of a right, termination of an approval or authorization, or cessation of a measure may be adjusted, interrupted, suspended or their term may be postponed until three months after the end of the administrative police measures taken by the Government. These measures are reportedly applicable retroactively from March 12, 2020.
- The following set of rules may be adapted:

-rules on territorial jurisdiction;

-rules on court formation;

-rules relating to time limits for proceedings and judgments;

-rules on public access to hearings and on the conditions for holding hearings;

-rules on the use of videoconferencing before the courts;

- rules on the procedure for bringing cases before the courts;
- rules governing the organization of adversarial proceedings before the courts.

The Bill was adopted by the French Parliament on Sunday March 22, 2020.

In this context, a temporary suspension of time limits for proceedings is envisaged by the Minister of Justice and could be put in place very quickly.

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