

# ALLEN & OVERY

In cooperation with Arzinger Homburger AG, Karanovic & Partners,  
PHH Rechtsanwälte, Radu Tărăcilă Pădurari Retevoescu SCA  
and Odvetniki Šelih & partnerji, o.p., d.o.o.

## Covid-19 coronavirus measures impacting insolvency proceedings and enforcement

In the light of the Covid-19 pandemic, the vast majority of European countries are implementing various measures concerning insolvency proceedings, restructurings and rights of creditors generally. At the same time, the accessibility of insolvency courts and practitioners is becoming limited. This document captures the recent developments and provides an overview of the situation in Europe. Since the measures are changing dramatically, certain information may become outdated.

Updated 7 April 2020

## State of Covid-19 measures – insolvency proceedings and enforcement

Measures have been adopted predominantly in the most affected regions in the southern Europe, however, the other countries are following the trend with a minor delay. In a number of jurisdictions the measures are resulting from the declared state of emergency.

-  No measures adopted or contemplated
-  Measures being considered
-  Measures being adopted
-  Measures adopted, further measures may come
-  Jurisdiction currently not covered



## Intensity of Covid-19 measures – insolvency proceedings and enforcement

Types and intensity of the measures adopted by European countries significantly differ, with the strongest measures being adopted in the most affected regions. Europe's north-western region is currently adopting or considering adoption of these measures.

■ Measures adopted    ▨ Measures considered / being adopted

■ No measures in place nor being adopted or considered

■ ▨ Technical / organisational measures extending deadlines, postponing hearings, etc.

■ ▨ Temporary suspension of certain obligations (eg directors' duty to file for insolvency)

■ ▨ Moratorium / stay on enforcement and/or Insolvency filings, further complementary measures

■ Jurisdiction currently not covered



## Operation of insolvency courts / administration during Covid-19 outbreak

With the exception of Hungary, insolvency courts are generally open, however, hearings are suspended and procedural deadlines are postponed due to the state of emergency declared by many European countries.

-  Courts / administration fully operational with chance of minor delays
-  Courts / administration operational with chance of delays, prioritising urgent matters
-  Hearings / meetings postponed or limited to urgent matters with chance of delays, filings available
-  Courts / administration mostly closed or experiencing significant delays in proceedings
-  Jurisdiction currently not covered





## Austria

 **Wolfram Huber**  
PHH Rechtsanwälte

### Measures adopted:

- Periods for filing for insolvency if the business is insolvent (*zahlungsunfähig*) or over-indebted (*überschuldet*) extended from 60 to 120 days. As a consequence, companies which are affected by Covid-19 now have a maximum period of 120 days to file for insolvency, provided they can prove that the insolvency was caused by Covid-19.
- A deferral of social security contributions for the months of February, March and April 2020. In connection with this deferral, the Austrian legislator also stipulated that during this period, social security organisations (*Sozialversicherungsträger*) may not initiate insolvency proceedings in respect of companies that have outstanding social security contributions.

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- Insolvency courts still open, however all procedural deadlines (*verfahrensrechtliche Fristen*) in judicial civil proceedings (eg insolvency proceedings) are stayed until 30 April 2020 (and commence anew on 1 May 2020) provided that the event triggering the procedural deadlines falls on or after 22 March 2020 or, the procedural deadline has not yet expired as of 22 March 2020.

### Related notes:



[Covid-19 legislative measures](#)



## Belgium

 **Yves Van Pul**  
Allen & Overy (Belgium) LLP

### Measures adopted:

- None.

### Measure being adopted / considered:

- New measures discussed on daily basis.
- Currently no news on specific insolvency related measures other than the already existing tax support measures (which however are revoked in case of insolvency).

### Operation of insolvency courts / administration:

- Courts remain formally open, subject to several measures to cope with the Covid-19 pandemic.
- The business courts in Belgium have taken different measures of their own. Most courts have, except for urgent cases, postponed all oral hearings. New bankruptcy and judicial reorganisation cases are unlikely to be initiated prior to 19 April 2020 (except for urgent cases).



## Bosnia and Herzegovina

 **Milica Savić**  
Karanic & Partners

### Measures adopted:

- Court hearings (including in insolvency proceedings) postponed during the state of emergency, except for the hearings deemed urgent.

### Measure being adopted / considered:

- A public discussion in progress to prolong all deadlines related to the court proceedings, including deadlines in insolvency proceedings.

### Operation of insolvency courts / administration:

- The working hours of all courts in Bosnia and Herzegovina are reduced and the scheduled hearings postponed during the state of emergency.

### Related notes:



[Karanic & Partners - Covid-19 updates](#)



## Croatia

 **Milica Savić**  
Karanic & Partners

### Measures adopted:

- None.

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- All courts have postponed actions that are not urgent and courts may not be approached physically without a prior written summons.

### Related notes:



[Karanic & Partners - Covid-19 updates](#)



## Czech Republic

 Robert Pavlů

Allen & Overy (Czech Republic) LLP, organizační složka

### Measures adopted:

- None.

### Measure being adopted / considered:

- Draft law temporarily amending the insolvency regime submitted to the Parliament. The draft law introduces the following measures:
  - temporary stay on obligation to file for insolvency;
  - stay on opening new insolvency proceedings; and
  - extraordinary moratorium of 3 months, available on application by the debtor if its business was affected by the Covid-19 coronavirus, with possible extension by additional 3 months with the consent of creditors.

### Operation of insolvency courts / administration:

- The insolvency courts are formally open, however, most courts have cancelled their hearing dates for March and April, prioritising urgent cases only.
- Access to courts is restricted, however, filings are possible.



[Covid-19 coronavirus: Impending changes to Czech insolvency law](#)



## France

 Julien Roux

Allen & Overy LLP

### Measures adopted:

#### *Insolvency proceedings measures*

- The Ordinance n°2020-341 on 27 March 2020 relating to insolvency proceedings was published on 28 March 2020 and is applicable immediately including to insolvency proceedings, which are ongoing. The main purpose of the Insolvency Ordinance is to adapt on a temporary basis the procedures applicable to companies facing difficulties by (i) assessing the position of companies as of 12 March 2020 to appreciate insolvency situations (for a period ending 3 months from the date on which the state of emergency will end (i.e., 23 August 2020, unless the state of emergency is further extended or terminated earlier) (ii) extending the legal timeframe of some pre-insolvency proceedings and insolvency proceedings and (iii) Adapting procedural rules and formalities (holding formal hearings may no longer be necessary for the court to take certain decisions and communications between the different persons involved in the proceedings can be made by any means).

#### *Standstill on certain contractual obligations*

- Measures of general application protecting debtors have been taken by Ordinance n°2020-306 allowing for the disapplication of certain sanctions for any non-performance, during a period of legal protection, by an obligor of its contractual obligations. These measures will have an impact on obligations owed to lenders. The measures apply to all contractual obligations (including payment obligations but excluding financial guarantees of article L211-36 of the Financial and Monetary Code) which must be performed during the period between 12 March 2020 and 23 June 2020 inclusive (the Period). According to the Ordinance, should a debtor be in breach of a contractual obligation during the Period, the following contractual clauses which purport to sanction such breach will be of no effect (i) payments ordered by way of penalty (*astreintes*) (ii) contractual penalty clauses (iii) termination clauses, and (iv) acceleration clauses. All types of creditors (French companies and individuals) and all types of creditors are concerned. The protective measures relate to any breach of a contractual obligation having occurred during the Period (i.e. between 12 March 2020 and 23 June 2020 inclusive), but the effect of the protective measures will last until 23 July 2020. The above contractual sanction clauses which have been set aside during the period of legal protection will become effective again on 24 July 2020 if the defaulting party has not performed, by then, its contractual obligations.

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- Based on the Insolvency Ordinance (i) holding formal hearings may no longer be necessary for the court to take certain decisions and (ii) communications within the insolvency proceedings can be made by any means.
- French courts to prioritise the appointment of a *mandataire ad hoc* and the treatment of disposal plans in the context of reorganisation / liquidation proceedings when such plan may have a significant impact on employment.



## Germany

 **Peter H. Hoegen**  
Allen & Overy LLP

### Measures adopted:

- Temporary stay on obligation to file for insolvency, effective retroactively from 1 March 2020 until 30 September 2020 (extension until 31 March 2021 possible without legislative process).

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- Insolvency courts open and issuing all necessary orders. In ongoing insolvency proceedings, courts try to make more use of written proceedings (ie without physical meetings), however, this is only allowed if the debtor's financial circumstances are comprehensible and the number of creditors or the amount of debt are low.
- It is not clear how courts will deal with creditors' meetings in bigger insolvency proceedings. Probability that 190 insolvency courts in Germany may handle this differently.

### Related notes:



[Covid-19 Coronavirus: Temporary suspension of the obligation to file for insolvency proceedings](#)

[Covid-19 coronavirus: Access to new debt and equity during the corona crisis](#)

[Covid-19 coronavirus: The Covid-19 Act and its impact on real estate financings in Germany](#)



## Hungary

 **Zoltan Lengyel**  
Lengyel Allen & Overy Ügyvédi Iroda

### Measures adopted:

- Temporary national moratorium
- Measures effective until 31 December 2020.

### Measure being adopted / considered:

- Ongoing discussions regarding the financial effects of the moratorium. Further measures are possible.

### Operation of insolvency courts / administration:

- The operation of all courts is temporarily suspended.

### Related notes:



[Covid-19: Hungarian legislative measures](#)



## Italy



**Stefano Sennhauser**

Allen & Overy Studio Legale Associato

### Measures adopted:

- Temporary national moratorium applicable to SMEs as defined under EU Recommendation of 6 May 2003, which, although they have no deteriorated exposures (*esposizioni deteriorate*), have suffered from the effects of the Covid-19 outbreak. Operates upon request of the relevant SME for mortgages and other loans repayable in instalments, accompanied with:
  - prohibition to withdraw credit lines and certain loans granted against advance payments on credit (factoring); and
  - maturity extension to 30 September 2020 for bullet loans with contractual maturity prior to such date.

### Measure being adopted / considered:

- None

### Operation of insolvency courts / administration:

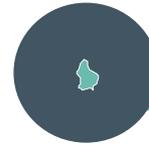
- All court hearings and meetings are postponed until after 15 April 2020 and any procedural deadlines are stayed (subject to exceptions). Based on individual valuations, the courts will only deal with urgent proceedings that, if delayed, may cause serious damage to the parties (e.g., if deemed urgent by the court, hearings for the bankruptcy declaration).
- From 16 April 2020 to 30 June 2020, the Chairs of the court may adopt certain organisational measures (eg limiting access to the court and opening time of the offices; postponement of hearings after 30 June 2020) to reduce the spread of Covid-19.

### Related notes:



[Covid-19: What Italian banks need to know about the Cura Italia decree](#)

[Covid-19 coronavirus: Urgent measures affecting civil litigation in Italy](#)



## Luxembourg



**Pierre Schleimer**  
Allen & Overy SCS

### Measures adopted:

- Temporary stay on obligation to file for insolvency, effective until the end of the state of emergency / further notice.

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- Courts open subject to restrictions resulting from the state of emergency (public hearings etc.).
- Subject to limited exceptions, procedural deadlines are suspended for the duration of the state of emergency.
- Given the limited capacity of the courts during the Covid-19 outbreak, the insolvency courts will prioritise urgent cases and delays in proceedings may occur.



## Netherlands

 **Sigrid Jansen**  
Allen & Overy LLP

### Measures adopted:

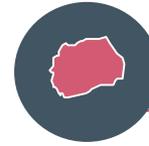
- De facto temporary stay on third party insolvency petitions.
- More critical assessment by courts of individual enforcement actions and attachments.

### Measure being adopted / considered:

- Unknown as yet.

### Operation of insolvency courts / administration:

- Only if matters are deemed urgent. Insolvency proceedings are generally to be regarded as such, but insolvency petitions by third parties are temporarily stayed and individual enforcement actions and attachments are more critically assessed by the courts.



## North Macedonia

 **Milica Savić**  
Karanovic & Partners

### Measures adopted:

- Stay on the opening of new insolvency proceedings.
- Stay on the opening of preliminary procedures for opening insolvency proceedings and postponement of already initiated procedures.

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- The courts competent for insolvency matters handle only urgent cases; all other cases postponed until further notice.
- Physical access to the courts allowed only for already scheduled hearings and urgent matters.

### Related notes:



[Karanovic & Partners - Covid-19 updates](#)



## Montenegro

 **Milica Savić**  
Karanovic & Partners

### Measures adopted:

- Until 30 March 2020 a specific work regime in all Montenegrin courts. All hearings are postponed save for urgent matters, with the urgency of the hearing being at the discretion of competent judge / judge panel.

### Measure being adopted / considered:

- Extension of the specific work regime of Montenegrin courts.

### Operation of insolvency courts / administration:

- The Commercial Court of Montenegro competent for insolvency matters holds urgent cases only, at the discretion of a competent judge.
- To the best of our knowledge, all insolvency hearings have been postponed since the introduction of the specific work regime.
- The Commercial Court of Montenegro regularly enacts decisions related to insolvency proceedings (eg decides on proposals for insolvency, appeals to decisions on insolvency, objections against insolvency administrator etc.).

### Related notes:



[Karanovic & Partners - Covid-19 updates](#)



## Poland

 **Arkadiusz Pedzich**  
Allen & Overy, A. Pędzich sp. k.

### Measures adopted:

- None.

### Measure being adopted / considered:

- The Polish Parliament is working on an act that will regulate the activities of courts and court deadlines during the pandemic.
- The Government does not envisage any changes to insolvency law due to the Covid-19 pandemic, however, there are still pending discussions and works on how the Polish law should be adjusted due to the pandemic.

### Operation of insolvency courts / administration:

- Most courts have cancelled hearing dates for March and April. The proposed act will extend the lockdown to all courts until the end of the pandemic.
- Polish courts have limited capacity and are currently resolving only urgent matters. Insolvency matters are not being treated as high priority matters, however, some courts have recently been operating efficiently in insolvency matters.
- Many courts have stopped issuing documents imposing procedural deadlines. The proposed act will suspend all court deadlines by law, while parties can still opt to meet them and exercise their rights and obligations.
- Access to courts is restricted, with some courts entirely closed. Many judges are out-of-office due to quarantine measures.

### Related notes:



[Warsaw podcast: Covid-19 coronavirus: court restructuring](#)

[Warsaw podcast: Covid-19 coronavirus: out-of-court restructuring](#)

[Tips for companies with liquidity issues](#)



## Romania

 [Victor Padurari](#)

Radu Tărăcilă Pădurari Retevoescu SCA

### Measures adopted:

- As a result of a state of emergency, statute of limitation is stayed and there is a general suspension of court proceedings other than urgent cases considered on case-by-case basis.
- Insolvency courts should however resolve requests to temporarily suspend any enforcement proceedings against the debtor's assets in urgent cases which could jeopardize the assets of the debtor.

### Measure being adopted / considered:

- The Government adopted an emergency ordinance allowing debtors affected by Covid-19 to request their creditors a moratorium on credit and leasing repayments of up to 9 months. Official text of the ordinance and rules of application are to be released.

### Operation of insolvency courts / administration:

- See above. To the extent possible, court hearings are held by means of videoconference, and all procedural acts are transmitted by electronic means of communication.

### Related notes:



[RTPR: Emergency Journal](#)



## Russia

 [Igor Gorchakov](#)

Allen & Overy Legal Services

### Measures adopted:

- Temporary stay on obligation to file for insolvency
  - Temporary national moratorium
  - Stay on opening new insolvency proceedings
- The above measures are in force until 4 October 2020.

### Measure being adopted / considered:

- None

### Operation of insolvency courts / administration:

- No restrictions subject to the consequences of the adopted measures listed above.



## Serbia

 **Milica Savić**  
Karanovic & Partners

### Measures adopted:

- On 17 March 2020, National Bank of Serbia introduced a 90-day moratorium on credit and leasing repayments. The moratorium cannot be shorter than 90 days or the length of the state emergency, whichever is longer. During the moratorium, a debtor is not obliged to repay the due instalments and no default interest is applicable. The bank / leasing provider cannot initiate enforcement or insolvency proceedings against the debtor or undertake any similar legal actions with the purpose of claiming the debt.
- All courts hearings are postponed unless urgent. Although insolvency and reorganisation proceedings are declared as urgent and that hearings should be regularly held, in practice, as public gatherings of more than 5 persons in closed spaces is prohibited as of 21 March, hearings in insolvency proceedings are being postponed as well.
- Deadlines for filing motions, legal remedies and undertaking other procedural actions in insolvency and reorganisation proceedings stayed during the state of emergency.

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- The courts are open, but hearings are postponed and deadlines for filings are extended (see above).

### Related notes:



[Karanovic & Partners - Covid-19 updates](#)



## Slovakia

 **Renatus Kollar**  
Allen & Overy Bratislava, s.r.o.

### Measures adopted:

- Lengthening of the period in which an over-indebted company must file for a bankruptcy over its assets to 60 days. Applies to over-indebtedness occurring from 12 March 2020 to 30 April 2020.
- Time limits determined by procedural laws or a court in relation to any procedural acts to be taken in court proceedings (including insolvency proceedings) are subject to stay and not pending from 27 March 2020 until 30 April 2020.
- The measures are effective either until 30 April 2020 or as long as the emergency situation or the state of emergency is announced and held by the government.

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- The courts (including insolvency courts) may proceed with hearings and public meetings only to the extent necessary. This will apply generally when (and as long as) the emergency situation or state of emergency is announced and held by the government (as it is now).
- Since the procedural time limits will not be pending from 27 March 2020, there will be no real reason to push pending proceedings forward. Creditors' meetings and creditors' committee meetings will also be postponed for the same reason.



## Slovenia

 [Mia Kalaš](#)

Odvetniki Šelih & partnerji, o.p., d.o.o.

### Measures adopted:

- Payment moratorium effective for 18 months as of cessation of reasons for measures. Possibility to apply for moratorium within 6 months of the pandemic ending, the moratorium shall last 12 months.
- Stay on all deadlines for exercising of parties' rights determined in laws (so-called "material deadlines" as opposed to "process deadlines"), eg time limit for filing a clawback action.
- Stay on deadlines in judicial matters except in urgent cases (insolvency matters declared non-urgent).

### Measure being adopted / considered:

- Amendments to the payment moratorium regulating certain details.
- State surety for part of the claims affected by the moratoria.
- Stay on commenced enforcement proceedings.
- Additional insolvency presumption related to delay in payment of social contributions.
- Stay on management's obligation to file for insolvency and certain other prolongations of deadlines for certain actions of management in insolvency.
- Prolongation of the possible suspension on deciding on a creditor's application for commencement of bankruptcy proceedings (after cessation of measures).

### Operation of insolvency courts / administration:

- Insolvency matters specifically declared as non-urgent by decree of the president of the Supreme Court
- No hearings and no deciding of insolvency courts until 1 July 2020 or recall of the above stated decree

### Related notes:



[Odvetniki Šelih & partnerji: Covid-19 news and updates](#)



## Spain

 [Javier Castresana](#)

Allen & Overy

### Measures adopted:

- The following measures have been adopted:
  - temporary stay on obligation to file for insolvency
  - temporary national moratorium on mortgage payment by individual in certain statutory regulated situations and on personal and consumer loans payment in certain statutory regulated situations
  - stay on opening new insolvency proceedings
  - stay on on-going insolvency proceedings
  - temporary national moratorium or discount on rent payment of residential leases for dwellings in certain statutory regulated situations
  - delays in eviction of tenants of residential leases in certain statutory regulated situations
  - extension of the lease term to residential leases for main residence in certain statutory regulated situations
- The above measures remain in force during the state of emergency (currently extended until 11 April 2020), except for: (i) the moratoriums on mortgage payments and on personal and consumer loans limited to three months (ii) the temporary national moratorium or discount on rent payment applicable for the duration of the state of emergency, up to a maximum of 4 months; (iii) the maximum suspension period of the delays on eviction of tenants is 6 months since the end of the declaration of emergency situation in Spain; and (iv) the extension of the lease term can be done for a maximum period of 6 months

### Measure being adopted / considered:

- The Spanish Government is currently considering to speed-up the approval process of the draft new Insolvency Law, including the implementation of the Restructuring Directive. Moreover, the Spanish government has announced future measures to streamline the forecast of a significant number of judicial proceedings after the state of alarm

### Operation of insolvency courts / administration:

- The courts will only deal with urgent proceedings that are "necessary to avoid irreparable damage to the rights and legitimate interests of the parties to the proceedings".

### Related notes:



[Moratorium on mortgage payment and on duty to file for insolvency](#)  
[Rent deferrals and other measures for residential lease agreements in Spain](#)  
[Extension of the mortgage moratorium and adoption of a moratorium on personal and consumer loans](#)



## Switzerland

 **Balz Gross**  
Homburger AG

### Measures adopted:

- Stay of all enforcement actions until 19 April 2020 (including statutory extension due to Easter holidays).

### Measure being adopted / considered:

- None.

### Operation of insolvency courts / administration:

- No court hearings until 19 April 2020, except for emergency situations.
- Deadlines in legal proceedings are suspended until 19 April 2020

### Related notes:



[Homburger: Covid-19 related bulletins](#)



## Turkey

 **Umut Gurgey**  
Allen & Overy Danışmanlık Hizmetleri Avukatlık Ortaklığı

### Measures adopted:

- Temporary stay on obligation to file for insolvency
- Stay on opening new insolvency proceedings
- Stay on on-going insolvency proceedings
- Effective until 30 April 2020 (subject to further extensions)

### Measure being adopted / considered:

- The Minister of Justice is reported to have said that they are discussing to adjourn all hearings, irrespective of its urgency and, in this respect, they have empowered High Council of Judges and Prosecutors.

### Operation of insolvency courts / administration:

- Courts are open only for urgent matters. All hearings, except for those requiring swift action, have been adjourned. Flexible working system has been adopted by the Ministry of Justice.



## United Kingdom

 Jennifer Marshall  
Allen & Overy LLP

### Measures adopted:

- None.

### Measure being adopted / considered:

- A suspension of the wrongful trading provisions whereby directors can be personally liable if there is no reasonable prospect of avoiding insolvent liquidation/administration and they do not take every step to minimize losses to creditors.
- A short moratorium that will give companies a breathing space from creditor action to explore options for rescue.
- A new restructuring plan based on the scheme of arrangement with the ability to cram down dissenting creditors within and across classes.
- Provisions preventing creditors from relying on contractual termination clauses as a result of insolvency/reorganisation proceedings.

### Operation of insolvency courts / administration:

- The insolvency courts are open, however, restrictions resulting from the quarantine apply and hearings may be limited.
- Electronic filings are possible.

### Related notes:



[Covid-19 coronavirus: Saving livelihoods and keeping UK businesses going](#)



## Ukraine

 Anton Molchanov  
Arzinger

### Measures adopted:

- None.

### Measure being adopted / considered:

- A group of the Parliament's majority MPs proposed the following measures to be adopted prior to 15 October 2020:
  - National moratorium on creditors' filing
  - Stay on the management obligation to file for insolvency
  - Suspension of ongoing insolvency proceedings (except associated appeal and cassation appeal procedures),
  - Stay of insolvency-related clawback actions

### Operation of insolvency courts / administration:

- Commercial courts dealing with both ordinary commercial disputes and insolvencies remain formally open, all filings remain available.
- All court hearings and meetings are postponed or cancelled until further notice, and all procedural deadlines are stayed. Some courts hold urgent cases only via videoconferences.

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