

Date: 16th April 2020

Subject: What does Covid 19 crisis mean for victims of Fraud?

Country: SENEGAL

1. THE MOST CRITICAL PHASE OF THE CRISIS

As long as measures to prevent the spread of Covid-19 restrict freedom of movement:

What are the effects of the Covid-19 crisis on civil justice?

Due to the imperative necessity to act very quickly and take swift and urgent measures in face of the crisis, the Head of the State has **temporarily** been transferred legislative powers (loi d'habilitation) . This is unprecedented in Senegal and was fought against by the opposition parties;. The President has issued any specific Decree regarding the effect of the sanitary crisis on the justice system in general. However, by virtue of a Regulatory Order (Arrêté) of the Ministry of Justice, all courts activities have been suspended until further notice, in order to avoid promiscuity and preserve social distancing.

Any court proceedings have been conducted by video conference, as it has been the case in very exceptional circumstances. Mediation and other ADR solutions should have been explored to mitigate the challenges the senegalese court system is currently facing.

2. HOW ARE PARTICULARLY URGENT MATTERS HANDLED, IN PARTICULAR REQUESTS FOR INTERIM MEASURES SUCH AS INJUNCTIONS AND FREEZE ORDERS?

Exceptionnally, urgent cases can still be tried, but out of the presence of the public.

This is the case of a few of civil & commercial cases that can exceptionally be submitted to the courts through written pleadings. This could, for example, be the case of an arrest of vessel or any case where there is an imminent threat over one party's interest. As we can see, courts have a huge power of discretion to decide about what is *urgent or what an imminent threat is*.

3. HOW DO LAWYERS WORK DURING THE CRISIS?

All law firms around the country are officially closed and lawyers and staff are working from home (télétravail).

4. HOW DO BANKS WORK DURING THE CRISIS?

The banks are fully operational even though they have reduced their working hours from normally eight (8) to six (6). This is with respect to the public. Indeed, it must be underlined that international operations are still conducted via electronic means and are not suffering from the reduced working hours.

5. DOES THE CRISIS HAVE AN EFFECT ON INSOLVENCY LAW?

There has been so far any new legislation on insolvency, as a consequence of the sanitary situation.

It is noteworthy that, to prevent insolvency effects due to the crisis, the government of Senegal (GoS) has earmarked an important financial package to rescue small and medium size businesses. Further, by a Presidential Decree, the Head of State has prohibited any dismissal of employee, except for reason of gross and/or serious negligence (faute lourde).

FORECAST: AFTER THE CRISIS AND LONG-TERM EFFECTS

6. WHICH MEASURES INTRODUCED DURING THE CRISIS WILL BE WITHDRAWN IMMEDIATELY?

Once the crisis is over, the Presidential Decree restricting free movement of people from 8 pm to 6 am will be withdrawn, as baseless.

Further, the Regulatory Order issued by the Ministry of Justice suspending courts operations and activities will be annulled to allow judges and lawyers to resume work.

7. WILL THE RATIO OF THIRD PARTY FUNDED MATTER RISE?

Senegal has not yet adopted a legislation enabling parties to resort to Third Party Funding.

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