

# COVID-19: Legal impact in Mexico, measures issued by various authorities (Eight part | Federal Judicial Branch)

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Following the previous *client alert*, published on **April 22<sup>nd</sup>, 2020**, listed below are the new measures issued by the Council of the Federal Judiciary and the Supreme Court of Justice for the mitigation and control of the SARS-CoV2 pandemic (COVID-19).

## Council of the Federal Judiciary

***General Agreement 8/2020 of the Plenary of the Council of the Federal Judiciary, regarding the work scheme and the contingency measures taken in Federal Courts given the public health phenomenon caused by the COVID-19 virus.***<sup>1</sup>

***Through the resolution published on April 27<sup>th</sup>, 2020, the Council of the Federal Judiciary (“CJF”) establishes the work scheme and contingency measures to be taken by for Federal Courts:***

- (I). From May 6<sup>th</sup>, 2020 until May 31<sup>st</sup>, 2020, jurisdictional activities shall abide by the following rules: **(a)** Only new matters filed physically or by online trial qualified as urgent will be processed. Each court will follow up on the matters considered **urgent**. The court’s personnel’s contact information shall be published. **(b)** Matters that were physically filed prior to the contingency will be continued, only if the final resolution is pending to be issued, **(c)** Matters that were filed online prior to the contingency will be continued, with the exception of matters where the hearing has not yet taken place or where the judicial proceedings require the physical presence of the parties or personal notifications are pending, and **(d)** deadlines for applications, claims, appeals, trials and procedures other than those mentioned above, as well as for the filing of appeals against judgments and resolutions issued in the trials filed prior to the contingency and physically processed, are suspended, no hearings will be held and no proceedings will be carried out.
- (II). If matters that are physically filed and are qualified as urgent, judges and/or the acting secretaries in charge will urge the parties, if possible, to continue through and online trial.

<sup>1</sup> [https://www.cjf.gob.mx/resources/index/infoRelevante/2020/pdf/AcuerdoGeneral6\\_2020.pdf](https://www.cjf.gob.mx/resources/index/infoRelevante/2020/pdf/AcuerdoGeneral6_2020.pdf)

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- (III). During the above-mentioned period, requests, claims, incidents and appeals not filed prior to the contingency will only be processed if it is an urgent case, regardless of whether they are filed physically or electronically.
- (IV). The following matters, but not limited to are considered urgent: **(a)** those that fall within the competence of the National Justice Center Specialized in Control of Investigation Techniques, Grounding and Intervention in Communications, **(b)** criminal matters<sup>2</sup>, **(c)** criminal enforcement matters<sup>3</sup>, **(d)** amparo trials in civil matters<sup>4</sup>, **(e)** precautionary measures in insolvency proceedings, **(f)** no-Strike Declaration, **(g)** forced incorporation into the Army, Navy or Air Force, and **(h)** matters that are considered urgent according to the law that regulates them, taking the following into account: **(1)** the human rights at stake, the significance of their eventual transgression, as well as the consequences that the conclusion of the contingency period may have, the extent and ramifications that depart from those of "a simple break", and **(2)** the possible differentiated and intersectional impacts on access to economic and social rights for groups and populations in particular vulnerable situations, especially those related to health.
- (V). The courts on duty can be consulted [here](#).
- (VI). Due to the increase in the number of cases that have been filed, some circuits will have two courts on duty. Therefore, since the Common Correspondence Offices ("**OCC**") do not have the power to assess the urgency of a case, both courts on duty are empowered to receive promotions that are filed and to establish a communication mechanism in order to adopt measures to avoid disproportionate reception of filings of the specific matter. To this end, the Executive Secretariat for the Creation of New Bodies is empowered to adopt the necessary measures to balance the workload.
- (VII). The Special Commission may change the number of courts and tribunals on duty in the light of workloads, the pattern of reception and distribution of cases. If necessary, the OCC is designated decide the shift of urgent matters to one of the courts on duty.
- (VIII). When a court's duty end, it must follow up on the determinations taken in urgent matters, and if the urgency persists, they must continue with the proceedings until the final judgment or decision is issued and notified. In case physical presence is necessary, protocols and guidelines issued by the Department of Personnel Services must be met in order to protect the integrity and health the parties and court's personnel.
- (IX). Unitary Courts on duty indicated [here](#) are authorized to hear matters and appeals from the Federal Criminal Justice Centers. If the head of any of these courts is absent and a secretary or clerk remains in

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<sup>2</sup> a) Execution of criminal action with a detainee; b) Exercise of criminal action without a detainee for crimes that warrant informal pretrial detention; c) Diligence of official communications and exhortations necessary for a resolution of the legal situation; d) Requests for search warrants and tapping of private communications; e) Classification of arrests; (i) Challenges to decisions by the Public Prosecutor's Office that are brought by the victim and that the judge considers important for the exercise of his or her rights in the context of the case; (l) In the traditional criminal system, proceedings for the receipt of preparatory statements and proceedings in the pre-trial period (n) Appeals against constitutional decisions affecting personal freedom, against decisions imposing preventive detention measures, and against resolutions issued in incidents and disputes provided for in the National Penal Enforcement Act relating to personal freedom, health and physical integrity.

<sup>3</sup> **a)** Preliminary procedures for the imminent commutation of the sentence; **b)** Procedural actions that can be decided and agreed upon in writing and that allow for the resolution of the execution file; c) Health step (hospitalization); **c)** Written decisions on requests from persons deprived of their liberty, if there is no dispute between the two parties and there is no burden of proof; **d)** Procedure for the determination and execution of pre-liberation benefits (preparatory, early, conditional release and the substitution or temporary suspension of the sentence) and those derived from the Amnesty Law published in the Federal Official Gazette on April 22<sup>th</sup>, 2020; **e)** Matters relating to conditions of confinement concerning medical care related to the third health step (hospitalization)); **f)** Issues related to segregation and torture; **y g)** Proposals regarding the consequences of the Covid 19 on the occasion of the internment.

<sup>4</sup> **a)** Amparo trials against decisions on precautionary, protective or protective measures in cases of domestic violence and violence against women in general; **b)** Amparo Trials against current maintenance determinations; **y c)** Amparo Trials related to acts that affect the best interests of minors and that the judge deems transcendent for the exercise of their rights in the context of the contingency.

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office, the CJF will designate another court to hear appeals from the new criminal justice system during the duty period, while the other court remains on duty for the remaining urgent cases.

- (X). The following rules shall be observed by the Courts on duty and by the Courts dealing with cases of low duty:
- (a) During this period, the following people are exempt from attending work if they are on duty (people 60 years or older, pregnant women or women in a state of immediate puerperium, women that are breastfeeding, people with diabetes, hypertension, cardiovascular disease, chronic lung disease, cancer; immunosuppression (acquired or provoked), or with renal or hepatic insufficiency).
  - (b) Since minors are not allowed to attend Courts, public servants who are not able to leave their children in the care of another person are not required to attend.
  - (c) The people mentioned may only be given tasks that can be carried out remotely, and must remain within the jurisdiction of the court to which they are assigned.
  - (d) As few people as possible should physically attend courts and no more than one third of the staff shall be present simultaneously.
  - (e) The registration and attendance control system (SIRCA) is suspended and sanitary access filters are enabled. Access will not be allowed to someone with 38°C or higher body temperature or that has presented the following symptoms: cough, sore throat, difficulty in breathing or runny nose.
  - (f) During the above-mentioned period, remote work will be privileged, however, if necessary, working hours will be from 9:00 a.m. to 3:00 p.m., urgent matters may arise after the established hours, or differentiated shifts may be established in order to reduce simultaneous physical presence.
  - (g) The secretary appointed to an urgent matter contact information shall be published in the corresponding court in order to receive promotions after working hours.
  - (h) During the mentioned period, official and academic licenses will not be granted to judges, however, personal licenses will be assessed on a case-by-case basis.
  - (i) The judges of the courts on duty: **(a)** are not excluded from covering the guards corresponding to their court even if they are considered as people in a vulnerable situation, **(b)** they are not forced to physically attend court, and may adopt a remote working scheme, except in the case of judges who must hold hearings under the principle of immediacy, and not being in a position to do so, they must do so by means of real-time video conference, **(c)** may not leave their jurisdiction, which does not mean that they cannot solve matters within their competence from distance. In the event of needing a medical license during the period of suspension, the CJF will agree on what is appropriate, taking into account the specific case.
  - (j) If, in the opinion of the judges of the courts on duty, the staff is not enough and/ or the work scheme does not provide safe health conditions for workers or individuals, they must inform the CJF so temporary personnel is assigned to assist them.
- (XI). The Collegiate Circuit Courts on duty can be consulted [here](#). These courts are authorized to hear appeals from Amparo trials considered urgent, especially the appeals of article 97, section I, paragraph b) of the Amparo Law, as well as those appeals that due to the contingency require the same urgent attention at judge's and the president of the Collegiate Court's discretion.
- (XII). In circuits where there is only one Collegiate Court, that will be the court on duty. The guidelines that must be met in order to hold sessions are established herein.
- (XIII). Regarding to the resolution of physically filed matters, the CJF established various guidelines:

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- (a) The suspension of procedural deadlines and terms is maintained for all federal courts. Jurisdictional activities are continued exclusively to solve in a definitive manner those cases where the final ruling is pending.
  - (b) Only those rulings that solve matters classified as urgent will be notified immediately; any other resolution will be notified in accordance with its own regulations once activities have been resumed.
- (XIV). On the other hand, the CJF established specific rules for the processing and resolution of online trials:
- (a) In order to act from the Online Services Portal, the interested parties must request the consultation themselves or through a legal representative, by the means of electronic promotion from the same Portal.
  - (b) The proceedings of this type of lawsuits continues as long as it does not require a personal notification or the intervention of any of the interested parties before the corresponding court. In the event that the above-mentioned exceptions are fulfilled, the processing of the case will be suspended until activities are resumed.
  - (c) The notification of judgments will be electronic, consequently any appeal against those resolutions will have to be filed in the same way. The above is excepted for rulings that have to be notified in person, which shall be notified immediately only if the case is urgent; otherwise, it shall be notified once activities are resumed.
- (XV). Regarding to the specific rules for courts dealing with criminal matters, the CJF has established a number of guidelines, among which it is worth highlighting the following:
- (a) Hearings and sessions may be held by video-conference, both in urgent matters and for those already in the courts, at the discretion of each court.
  - (b) In addition to the processing of urgent cases, all courts shall deal with: decisions that do not require hearings; decisions that require hearings involving danger to life; and matters that are ready for resolution.
  - (c) The Specialized Execution Courts with jurisdiction throughout the country and domiciled in Mexico City, the Federal Criminal Procedure Courts and the District Judges specializing in the Accusatory Criminal System who are in charge of execution shall process and solve: applications for pre-release benefits from sentenced persons submitted by the Commissioner for Prevention and Social Rehabilitation, in accordance with his/her prison policy and, in particular, the context of the Covid-19 pandemic; and applications for amnesty submitted by the Commission.
- (XVI). Regarding the general provisions, the CJF determined multiple guidelines, among which the following stand out:
- (a) The Executive Secretariat for the Creation of New Organs will monitor workloads among the on-call jurisdictional organs, and the General Direction of Judicial Management will be responsible for implementing actions to ensure that the jurisdictional organs have the corresponding technological tools.
  - (b) Sessions via videoconference must abide by the following rules: the order of sessions will be followed as in the case of face-to-face sessions; session lists must be published on the CJF's website; audio and video quality will be checked before and during each session; virtual sessions will have the same legal effects as sessions held physically; and a backup of each session will be generated.

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**General Agreement number 9/2020, of the Plenary of the Council of the Federal Judiciary, which amends Resolution 5/2020, related to the contingency measures taken in the Administrative Areas of the Council itself due to the public health phenomenon caused by the COVID-19 virus.<sup>5</sup>**

**This agreement determined to reform article 1 of the “General Resolution 5/2020, of the Plenary Session of the Council of the Federal Judiciary, regarding contingency measures taken in the administrative areas of the Council itself due to the public health phenomenon derived from the virus COVID-19”<sup>6</sup>, to state as follows:**

- Activities of administrative areas of the CJF are suspended from March 18<sup>th</sup>, 2020 until May 31<sup>st</sup>, 2020.

## Supreme Court of Justice

**General Agreement number 7/2020, dated April 27<sup>th</sup>, 2020 of the Plenary of the Supreme Court of Justice by which the suspension of jurisdictional activities is extended.<sup>7</sup>**

- Through the agreement published on the Supreme Court of Justice’s (“**SCJN**”) website on April 27<sup>th</sup>, 2020, the suspension of jurisdictional activities is extended from May 6<sup>th</sup>, 2020 until May 31<sup>st</sup>, 2020.
- The days included in this period are considered non-working days and there will be no deadlines.
- Only for the following matters are the days and hours enabled during the suspension of activities:
  - I. To provide and rule on urgent constitutional controversies in which the suspension is requested,
  - II. To hold remote sessions of the Plenary and the Chambers of the SCJN. The resolutions issued in the sessions will be signed using the Certified Electronic Signature of the Federal Judicial Branch (“FIREL”) or the Certificate of e. signature (formerly “FIEL”); and
  - III. To receive electronic filings related to the matters listed to be resolved in the remote sessions held by the Plenary or the Chambers of the SCJN.

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<sup>5</sup> [https://www.cjf.gob.mx/resources/index/infoRelevante/2020/pdf/AcuerdoGeneral9\\_2020.pdf](https://www.cjf.gob.mx/resources/index/infoRelevante/2020/pdf/AcuerdoGeneral9_2020.pdf)

<sup>6</sup> [https://www.cjf.gob.mx/resources/index/infoRelevante/2020/pdf/AcuerdoGeneral5\\_2020.pdf](https://www.cjf.gob.mx/resources/index/infoRelevante/2020/pdf/AcuerdoGeneral5_2020.pdf)

<sup>7</sup> [https://www.scjn.gob.mx/sites/default/files/acuerdos\\_generales/documento/2020-04/7-2020%20%28PR%C3%93RROGA%20SUSP.%20ACT.%20JURISD.%20AL%2031%20MAYO%202020%29%20FIRMA.pdf](https://www.scjn.gob.mx/sites/default/files/acuerdos_generales/documento/2020-04/7-2020%20%28PR%C3%93RROGA%20SUSP.%20ACT.%20JURISD.%20AL%2031%20MAYO%202020%29%20FIRMA.pdf)