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What changes in the procedural law issues and enforcement implementations are brought by Lex Covid?

This new Act allows, under defined conditions, relief from the effects of expiry of a time limit, even in cases where it would not otherwise be possible under the law. Lex Covid also sets out that until 30 June 2020, with exceptions, the courts will not undertake enforcements by selling movable assets and buildings in which the debtor has permanent residence.

As we have informed, the President of the Czech Republic signed an Act known as Lex Covid on 20 April 2020. The Act is intended to address practical problems arising in connection with the Covid-19 pandemic in judicial proceedings and bankruptcies, and it also deals with the functioning of legal entities. The purpose of this newsletter is to present the content of Lex Covid concerning the procedural law issues and implementation of enforcements.

Relief from the effects of expiry of procedural time limits

As a result of the adopted extraordinary measures, the courts have scaled down their activity and in particular they have significantly reduced access to the court buildings for the public whereby, among other things, they have limited access to case files. That, however, made it impossible or excessively difficult for some parties to proceedings to carry out the necessary procedural steps within the set time limits, e.g. submission of a response. In some cases, such situation could be addressed by filing a request for extension of the time limit to perform an act but the courts did not manage to deal with the requests within a reasonable time.

Lex Covid therefore enables relief from the effects of expiry of a time limit under set conditions, even in cases where this would be otherwise impossible by law. A condition for the relief is submission of a request/application by the party concerned within a set time limit, to which the omitted act must be attached.

The time limit for filing the application will start to run upon terminating or cancelling the extraordinary measure against the epidemic, which made it impossible or substantially difficult to carry out the act. The time limit will not end before a certain number of days after the emergency ends. The time limits for which it is possible to file an application or request for relief vary in different areas of the procedural law.

In civil justice, the application for relief must be filed within 15 days of the termination or cancellation of extraordinary measures. If the party has missed the time limit for submission of a response, as a result of which a judgement for recognition was issued, the court will decide based on the application of the party concerned on relief from the effects of expiry of the time limit for response and on an annulment of the judgement for recognition.

In administrative justice, the application for relief from the effects of expiry of a time limit must be filed within 14 days of terminating or cancelling the extraordinary measure that hindered or rendered it excessively difficult to carry out the omitted act.

In enforcement proceedings, the application for relief can be filed within 7 days of the termination or cancellation of the extraordinary measure. However, it is not possible to condone non-compliance with the time limit for filing an appeal against a decision in which the ownership of an asset was transferred to the purchaser at auction (an example can be a forced sale of immovable assets, or sanctioning of a business establishment by its sale).

It is newly possible under this extraordinary situation to launch proceedings for a stay of enforcement also after the enforcement has already been performed, provided that the performance took place during the extraordinary measures and the party could not file the application before the enforcement was performed due to the extraordinary measures. The party can launch proceedings for a stay of enforcement, if it was ordered based on an unenforceable decision, the enforcement decision is annulled or rendered ineffective, or if the enforcement was inadmissible because there is another reason why the decision cannot be enforced.

The same applies for enforcement proceedings. If, moreover, the party against whom enforcement is sought permits the time limit for fulfilling the enforced obligation to elapse, it can apply for relief from the effects of the expiry of that period. However, such party must pay the enforced claim and an advance payment for the reduced execution costs within 15 days of the termination or cancellation of the extraordinary measure, which will eventually mean lower execution costs for the party.

In insolvency proceedings, the person who permitted the time limit set for completing acts in this type of proceedings to elapse due to extraordinary measures can file an application for relief, with the omitted act attached, within 7 days of the termination or cancellation of the extraordinary measure. That does not apply if the case in question has already been decided or if the judgment against which the party failed to lodge an objection within the set period has become final and the party would like to file the objection presently.

In proceedings before the Constitutional Court, the application cannot be rejected solely on the grounds of being filed after the expiry of the set period, if the appellant filed it out of time due to restrictions arising from extraordinary measures against the epidemic. But the application must be filed no later than 15 days following the termination or cancellation of the extraordinary measure. That period will not end earlier than 15 days after the termination or cancellation the state of emergency.

If a person in criminal proceedings has allowed a period set for performing an act to expire, the person can apply to have his position restored to the status quo ante. That way, it is possible to restore also the period for lodging an appeal. It is necessary to apply for restoration of the status quo ante within 3 days of the termination or cancellation of the extraordinary measure in question, however, that period will not end earlier than 3 days after the termination or cancellation of the emergency. Such application must be accompanied by the act in question if it still has not been performed.

Lex Covid also deals with relief from the effects of expiry of a time limit in proceedings for satisfaction of property claims pursuant to the Act on the use of funds from material criminal sanctions imposed in criminal proceedings, and also with relief in procedures relating to applications for financial assistance pursuant to the Act on victims – in both cases, the entitled person can file an application for relief within 15 days of the termination or cancellation of extraordinary measures against the epidemic. The application must be accompanied by the submission which was to be made within the missed period.

Court decisions granting the relief, except for decisions of the Constitutional Court, do not have to be justified.

Enforcement and execution proceedings

Lex Covid has also laid down that until 30 June 2020, the courts will not implement enforcement and execution by forced sales of movable assets and buildings in which the debtors are registered as permanently resident. That does not apply if the person against whom the enforcement is brought makes a written notification to the court that the court should continue the enforcement or execution in the above manner, or if the subject of the proceedings is recovery of maintenance claims, personal injury claims or claims of compensation for damage caused by intentional criminal offences.

Should you have any questions concerning procedural law, not only related to the state of emergency, please contact Mr Ladislav Peterka at [ladislav.peterka \(at\) randalegal.com](mailto:ladislav.peterka@randalegal.com).

