

The COVID-19 Outbreak - Implications For Ukrainian Legal Proceedings

March 24, 2020

Due to the global COVID-19 pandemic, the Ukrainian government has introduced restrictive measures aimed at prevention of the spread of COVID-19. While such restrictive measures did not directly concern Ukrainian courts' activity, on March 17, 2020, the Council of Judges of Ukraine ("Council") approved recommendations for the working regime of Ukrainian courts for the period of the COVID-19 quarantine.

The Council recommended to set up the following special regime of work in all courts of Ukraine, in particular:

- To inform all participants of the court proceedings that they have the opportunity to adjourn the court hearing due to the COVID-19 quarantine;
- To cancel all events not directly related to adjudicating disputes (e.g., conferences, round-tables, workshops, etc.);
- To limit the access to the court premises of persons who are not participants of court proceedings (under the general rule, court hearings as well as attendance of court premises are opened for public), or persons who have evident symptoms of respiratory disease;
- To reduce the quantity of the court hearings ; and
- To recommend the parties to continue the review of court cases under a written procedure (i.e. without participation of parties' representatives).

The Council also recommended that all persons submit all documents to courts of Ukraine (e.g., claims, pleadings, appeals etc.) by registered post, fax, email or other remote means (i.e. not through court offices by hand).

Also, on March 11, 2020, the Legal Policy Committee of the Ukrainian Parliament issued a press-release where it stressed that Ukrainian courts should continue their work despite the COVID-19 quarantine to ensure access to justice as provided in the Constitution of Ukraine.

What are the implications for parties in court?

Given that the Council's recommendations are not obligatory, it is difficult to estimate whether Ukrainian courts will strictly adhere to the Council's recommendations. We are aware from public sources that various courts across Ukraine have started to adjourn court hearings scheduled for the period of the COVID-19 quarantine and have imposed restrictions for visiting court premises due to the COVID-19 situation. Such measures may generally cause a delay in legal proceedings.

However, it is not excluded that in some cases judges may disregard the Council's recommendations and continue the court proceedings on an as-usual basis. That could be, for example, in cases where time periods for certain procedural stages may not be extended and the law prohibits the consideration of the cases without participation of

the parties (e.g., bankruptcy proceedings, criminal proceedings etc.). It is therefore advisable to monitor the situation and check with your legal counsel in respect to further steps to be taken.

Limitation periods

So far, the Ukrainian Parliament did not pass any laws aimed at resolving the situation with running limitation periods (for applying to the court with a claim, to submit court orders for enforcement to the enforcement authorities or otherwise), so such periods continue to run in general order. Theoretically, the situation with COVID-19 may be considered as a reasonable ground for re-starting the limitation clock. Also, the situation with COVID-19 potentially may be considered as a ground to stop the running of a statute of limitation period (in Ukrainian – *strok pozovnoi davnosti*) for the whole period of the quarantine, if a claimant can prove to the court that the COVID-19 quarantine was an extraordinary or inevitable event, which constrained their ability to apply to the court with a claim.

That, however, will be subject to court discretion and there is no guidance or established court practice yet available. Also worth noting is that under Ukrainian law not all limitation periods can be re-started. For example, in bankruptcy cases, the 30-day limitation period to apply to the bankruptcy court with a claim on the debtor cannot be re-started. Despite the fact that the submission of a claim in the bankruptcy after the 30-day period is still possible, such a claim (if recognized by the bankruptcy court) would not provide the respective creditor with any voting rights in all-creditors meetings.

Source: Recommendations of the Council of Judges of Ukraine concerning the Special Working Regime of Courts of Ukraine for the Protection of the Population of Ukraine against the Spread of Acute Respiratory Diseases and COVID-19 Coronavirus, which is classified as a Particularly Dangerous Infectious Disease, approved by the Decision of the Council of Judges of Ukraine No. 19 dated March 17, 2020.

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