

What does the Covid-19 crisis mean for bringing Japanese court proceedings to assist victims of fraud?

Country: Japan

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?

(a) Is there special legislation on the effects of the crisis on civil justice?

The Prime Minister Shinzo Abe declared the State Emergency on April 7, 2020 pursuant to the Special Act on Prevention of New Type of Influenza. Through this Act, the Japanese Government shall grant the special financial support to the affected business owners and individuals. At the same time, the Government requested the reduction of social contact by 80 % and strongly encouraged the tele-work for most of the workers except the designated key workers engaged in medical service, electricity, energy supply, water supply, and transportation and logistics. The above Declaration of State Emergency does not ban the movement of people nor impose any criminal sanction on the breach. However, 70-80 percent of the workers voluntarily refrain from commuting to their offices and all the restaurants, bars and nightclubs are closed.

(b) Does the crisis have an effect on court hearings?

○ Do court hearings take place during the crisis?

All the court hearings from April 8 through May 6, 2020 were postponed and will be re-scheduled. Only limited cases such as injunction proceedings, domestic violence claims, habeas corpse proceedings, civil enforcement proceedings, and insolvency proceedings will take place on the conditions that such proceedings are really urgent and avoidable.

○ Do court hearings take place in form of video conferences?

Yes, in normal situation. However, for the time being, court hearings will not take place since all the parties are not ready to prepare for the court hearings.

(c) Does the crisis have an effect on deadlines (of procedural and substantive law)?

○ Are deadlines of ongoing proceedings affected?

Due to revocation of all court hearings from April 8 through May 6, 2020, the deadline for the ongoing proceedings extend until the re-scheduled dates.

○ Are deadlines for bringing actions affected (limitation periods)?

At this moment, there is no such law to extend the statute of limitation for bringing actions. However, in the past such as Great Earthquake in 2011, the limitation period shall extend at least for three months.

(d) Does the crisis have an effect on enforcement?

- Are enforcement orders issued?

Since the court are temporarily closed until May 6, 2020, enforcement orders will not be issued unless such orders are really necessary and urgent.

- Are there any effects on deadlines?

At this moment, there is no such law to extend the statute of limitation for bringing actions. However, in the past such as Great Earthquake in 2011, the limitation period shall extend at least for three months.

- Can enforcement acts be postponed due to the crisis?

Since the court are temporarily closed until May 6, 2020, enforcement acts will be postponed at least for 90 days.

(e) How do courts work during the crisis?

- Are courts closed?

The courts are temporarily closed until May 6, 2020.

- Can courts / judges be contacted?

Courts/judges can be contracted for limited time and methods.

- Are documents served?

Documents can be served for limited cases which courts determined the urgency.

(f) How are particularly urgent matters handled, in particular requests for interim measures such as injunctions and freeze orders?

Only if courts recognized real urgency of the matters for interim measures such as injunctions and freeze orders

(g) How do lawyers work during the crisis?

Most of the lawyers work remotely at home. However, for really urgent cases, lawyers may work at offices.

(h) How do banks work during the crisis?

Banks work during this crisis although with the limited manpower.

(i) Does the crisis have an effect on insolvency law?

All court hearings including insolvency matters from April 8 through May 6, 2020 were revoked and will be re-scheduled for approximately 3 months. Only limited cases of insolvency proceedings will take place on the conditions that such proceedings are really urgent and avoidable.

- (j) Are there any further effects not addressed in the questions above?

2. FORECAST: AFTER THE CRISIS AND LONG-TERM EFFECTS

What are the consequences of the Covid 19 pandemic once the pandemic has abated, in the gradual return to a new normality and what are the long-term effects?

- (k) Which measures introduced during the crisis will be withdrawn immediately?

Since the special measures are undertaken until the emergency state declaration is lifted, almost all the measures will be withdrawn once the crisis is over. However, regarding the economic measures taken by the national government and local governments during the crisis, such as subsidies and low rate interest loans, those will remain.

- (l) Which measures will remain in place?

On a procedural level, digital filing of a claim and videoconference hearings will increase. However, it is very difficult for judiciary workers to work remotely due to the reason of maintain the confidentiality of claims and in particularly criminal matters. However, the various economics measures will likely remain in place since this crisis has the impact of the long time effect for the whole industry.

- (m) Will enforcement of economic crime, including corruption matters be weakened due to the lack of financial resources?

We believe that the enforcements of economic crime will not be weakened by the financial crisis that might come after the pandemic has passed, especially considering that the fight against corruption and white-collar crime has become a priority to the main authorities in Japan. In particular, a lot of fraud cases are expected to occur in the internet communication business as well as new type of fraud, including crypt-currencies and e-commerce.

- (n) Do you expect a rise of new anti-corruption prosecutions after the crisis?

During this crisis, anti-corruption prosecutions are limited due to the lack of manpower. However, after the crisis, anti-corruption prosecutions as well as the recovery process (eg victims and lawyers) will surely resume the full execution of their duties.

(o) Will the ratio of third party funded matter rise?

Third party funding is not allowed under the current legal system. However, due to the rise of fraud claims by consumers, such funding system for small claims may rise.

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