

Spanish insolvency courts are responding swiftly and constructively to the Coronavirus crisis

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On 14 March 2020, as a result of the Coronavirus crisis and the declaration of the state of emergency, a general suspension of judicial activities was ordered in Spain (with a few exceptions, aimed at preventing irreparable damages).

However, despite the lockdown and the suspension, Spanish commercial courts conducting insolvency proceedings seem determined to decide the most urgent matters swiftly and practically, in the best interest of all stakeholders and bearing in mind the general interest. Commercial courts and courts in general will surely follow the same approach when faced with other urgent requests not related to insolvency matters, in order to avoid an irreparable harm.

The following examples are noteworthy:

- (i) A company and its insolvency administrator requested the court to order the termination of certain employment contracts on the basis of *economic causes*, as agreed with the workers' representatives on 10 March 2020. The court ordered the termination of the contracts shortly after, on 27 March 2020¹.
- (ii) On 25 March 2020 the insolvency administrator of a company that was exploiting a gym requested the court, within the liquidation phase of its insolvency proceedings, to approve the suspension of the employment contracts of all its workers due to *force majeure*, given the general lockdown. The court upheld the request in only two days².
- (iii) On 26 March 2020 a company running a hotel requested the insolvency court to approve the suspension of some of its employment contracts and the reduction of the working hours of certain employees due, again, to *force majeure* deriving from the lockdown. The court upheld the request in only four days³.
- (iv) On 27 March 2020 the insolvency administrator of a textile manufacturing company under liquidation insolvency proceedings requested the court's authorisation to resume its activity to manufacture medical masks for the sake of the general interest and given that no further costs nor detriment were to be expected from the requested measure. The court upheld the request in only one day⁴, basically on the grounds (a) that the insolvency proceedings have a "social meaning" that goes beyond the interests of the insolvent company and

¹ Decision of the commercial court 5 of Barcelona nº 76/2020 of 27 March 2020.

² Decision of the commercial court 1 of Las Palmas nº 70/2020 of 27 March 2020.

³ Decision of the commercial court 1 of Las Palmas nº 72/2020 of 30 March 2020.

⁴ Decision of the commercial court 3 of Valencia of 28 March 2020.

its creditors and (b) that the new manufacturing activity would probably increase the value of the business vis-à-vis its potential acquirers.

- (v) On 27 March 2020 a company running a country club requested the court, within the composition phase of its insolvency proceedings, to approve the suspension of certain employment contracts and the reduction of the working hours of other due to the lockdown (*force majeure*). The court upheld the request in only three days⁵.
- (vi) It seems that on 30 March 2020⁶ a court declared the insolvency proceedings and simultaneously opened the liquidation process of a company only to allow a swift completion of a binding offer for the acquisition of a business unit, presumably to avoid the damage that would have resulted in case the usual timing had been followed.

⁵ Decision of the commercial court 1 of Las Palmas nº 71/2020 of 30 March 2020.

⁶ Decision of the commercial court 11 of Barcelona of 30 March 2020 (not available).