

As a reminder, the state of health emergency is set, as of today, **from 24 March to 24 May 2020**, and the “protected judicial period” is fixed from **12 March to 24 June 2020**.

Pursuant to the order n° 2020-306 of 25 March 2020, every act, appeal, formality, registration, declaration, notification and publication, which should have been finalised during the judicial protected period, “will be considered having been done in time, if it had been done during the deadline which cannot exceed, starting from the end of this period, the legal deadline given to act, within the limit of 2 months”

Following the clarifications given by the Ministry of Justice and the Council of Clerks of the Commercial Tribunals, there are the following consequences for legal transactions implicating a right of opposition for creditors:

- **Mergers, spin-offs and partial contributions of assets and liabilities under the legal rule of spin-offs** are not affected, since the opposition formed by a creditor does not have the effect of prohibiting the pursuit of transactions. Transactions planned, notably as at 30 June 2020, therefore, can be done normally. The certificates of non-opposition delivered by clerks will simply act as a reservation clarifying that an opposition made in the 30 days starting from the end of the protected judicial period will be considered as having being made in time.
- **Reductions in capital not motivated by losses**, however, cannot be carried out, since the transactions to reduce capital cannot start during the period of opposition. The transactions in progress or planned will only be able to take place at the end of the period of 20 days or one month, depending on the type of company, which will start to run fully from the protected judicial period.
- Similarly, **TUP** cannot take place, since the transfer of assets and liabilities cannot be carried out, and there is dissolution of the legal entity only from the period of opposition. The transactions in progress or planned, therefore, will only be able to take place at the end of the period of 30 days, which will start running from the protected judicial period.

Furthermore, within the scope of the order, the Ministry of Finance has asked that the Departmental Registration Services (SDE) prepare themselves in order to be able to manage the registration of certificates electronically.

From now, it is possible to upload PDF copies of certificates and send them by email to SDE and pay the corresponding registration costs online.

In light of these clarifications and as the doctrine emphasises, it seems, therefore, quite clear that the wish of the government, in this time of health crisis, is to not totally paralyse company activity. It aims to allow companies, as much as is possible following the existing legal measures, to undertake as many legal transactions as possible, and to meet the relative formalities in the best conceivable conditions.

If you would like to discuss any of the issues raised in this advice note, please contact:

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