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**AEA-EAL European Association of Lawyers**

*To Mrs Maria Ślqzak*

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Lyon, 8 April 2020

**By email:** [president@aea-eal.eu](mailto:president@aea-eal.eu)

Dear friends and colleagues,

I refer to your email sent on the 24th of march, asking how Bars and law firms have reacted following the outburst of COVID 19 since January, and how the State is handling the crisis.

A few backgrounds have to be reminded beforehand while summarizing **practical measures**.

**1.** Firstly, French Bars are anything but similar in size, as on the one hand almost half of all French lawyers are registered with the Paris' Bar (approx. 30.000 lawyers), whereas other Bars only have a few dozens practitioners.

**2.** Secondly, the peculiar legal status of French lawyers had to be taken into consideration regarding two issues, the first one being that, as any lawyers (and Judges, clerks, bailiffs...), they partake in the judicial system, which is closely tied to state sovereignty and cannot be interrupted under any circumstances, but their independence implies that any coercive measure such as containment has to be backed by a sturdy legal ground.

**3.** Thirdly, the French Bars' reactions were, and still are, led in accordance with matter-related governmental decisions' and has evolved mostly on a daily basis since the beginning of the crisis, making communication tools essentials.

As far as Lyon's Bar is concerned, the Bar council used a newsletter, usually sent weekly to all registered Lawyers, to inform them as efficiently and as quickly as possible.

4. Regarding the decisions made by the law offices and public authorities, a few points may be underlined.

The first COVID-19 related mail was sent on the Friday 13th march by the Bar's Council to its members in LYON.

It stated that hearings would take place as usual the following week, but that the protests which gathered lawyers at the time were suspended effective immediately.

In addition, the Bar's Council announced that it would be closed to general public until further notice.

During the week-end, we were updated of the meetings with Ministry of Justice, whom decided to put into action plans in order to maintain judicial activity limited to urgent matters, as it became clear that the containment of the population would most likely have to come into effect.

On Sunday the 15th, we were informed that all non-extremely urgent cases would be postponed *proprio motu* by the Courts.

However, on Monday morning 16th of march, it came to our attention that the Courthouse was completely closed.

It was later known that day that several persons working there had been contaminated by COVID-19.

Accordingly, most law firms reacted accordingly by initiating teleworking and partial unemployment for firms' employees.

5. To this day, all civil hearings have since been postponed, unless imperative reasons command to proceed with a case, such reasons being ruled by judges themselves beforehand.

More precisely, most courthouses are closed, and the virtual network used by both lawyers and courts to process cases is shut down.

Only urgent criminal procedures are still trialled, essentially when the freedom of defendants is at stake, along with domestic violence cases, which increased because of the containment.

Other measures may be cited such as:

- videoconferencing for prisoners instead of appearing in person during a hearing, in the meantime, prosecutors are asked to request incarceration only for serious offenses and release have been eased<sup>1</sup> ;
- some hearings were even closed to the general public;
- Bailiffs, whose assistance is required in some matters are alternately on stand-by as their colleagues do not serve judicial documents for the time being;
- Bar's council, which organize free consultations to litigants, has organized phone consultations in order to maintain this service;

Given the lack of legal background, the Parliament passed a law creating a new concept of « **sanitary state of emergency** »<sup>2</sup>, allowing national and local authorities to take action on some particular matters such as prices control, sale of prescribed drugs, freedom of movement...

In addition, and in order to avoid procedural issues, several ordinances were adopted regarding civil, criminal (as previously mentioned) and administrative laws.

The ordinance relating to civil law was passed on the 25th of march<sup>3</sup>.

For the main part, it has suspended any procedural deadline, which should be come in very useful litigants who are not assisted by lawyers.

Ongoing procedures where deadlines apply are also put to a standby (investigation measures in particular).

This ordinance may apply to numerous cases regarding commercial rents as the absence of payment will not be able to provide ground to the lessor to obtain the termination of the commercial lease.

Insolvency law has also been softened, for instance allowing compagnies which go bankrupt to report it within a more flexible delay<sup>4</sup>

More controversially, administrative courts may rule cases dealing with deportation orders without any hearing<sup>5</sup>.

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<sup>1</sup> Ministerial circulars, CRIM-2020-11/H2-26.03.2020 & CRIM-2020-12/H2-26.03.2020

<sup>2</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041746313&categorieLien=id>

<sup>3</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041755644>

<sup>4</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041762344&categorieLien=id>

<sup>5</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041755612&categorieLien=id>

Those controversial provisions, along with others regarding criminal law, led the Bar's Council of LYON to send an open letter to the Ministry of Justice on the 27th of march stating that it would not provide further designation of lawyers whenever it is required by law in order to protest against what is seen as detrimental to human rights.

6. On another matter, economic and financial aspects of the crisis are dealt with by the government by focusing on two sets of measures: partial unemployment and support to compagnies regarding cash management.

Indeed, the Banque de France has estimated that unpaid invoices amount to around 13 billion euros at the moment<sup>6</sup>

More than 1.6 million workers and 150.000 businesses applied to partial unemployment on the 28th of march<sup>7</sup>, reaching more than 5 million workers and 450.000 businesses on the 6th of April<sup>8</sup>, for an estimated cost of 8.5 billion euros.

Moreover, loans amounting to more than 20 billion euros were asked by approximately 100.000 businesses.

The Ministry of economy and finances, announced that state guarantees up to 300 billion euros worth of loans would be provided.

The issue of nationalisation of major compagnies is arising now and then in the media but no measures have been announced yet regarding this matter, whereas smaller businesses may be granted premiums capped at 1.500€ via a state solidarity fund.

Also, on the 13th of march, the public authorities announced that they would support compagnies by delaying the payment of some taxes (but not VAT).

Many banks got in touch with their clients through emails in order to reassure them and assist them for the times to come, even if no binding measures were taken yet.

Finally, regarding the **sanitary crisis**, unprecedented measures in peacetime have come into force.

The freedom of movement has been critically reduced, and limited to the core, until the 15th of April so far.

A decree<sup>9</sup> of the 23rd march has listed a series of measures.

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<sup>6</sup> [https://www.lemonde.fr/economie/article/2020/04/02/coronavirus-l-augmentation-des-retards-de-paiement-menace-la-survie-des-entreprises\\_6035274\\_3234.html](https://www.lemonde.fr/economie/article/2020/04/02/coronavirus-l-augmentation-des-retards-de-paiement-menace-la-survie-des-entreprises_6035274_3234.html)

<sup>7</sup> [https://www.lemonde.fr/economie/article/2020/03/27/coronavirus-chomage-partiel-pour-les-particuliers-employant-a-domicile-cout-de-la-crise-sanitaire-les-dernieres-mesures-economiques\\_6034680\\_3234.html](https://www.lemonde.fr/economie/article/2020/03/27/coronavirus-chomage-partiel-pour-les-particuliers-employant-a-domicile-cout-de-la-crise-sanitaire-les-dernieres-mesures-economiques_6034680_3234.html)

<sup>8</sup> [https://www.lemonde.fr/economie/article/2020/04/05/le-maire-l-etat-apportera-les-moyens-financiers-pour-eviter-le-nauffrage-de-l-economie\\_6035605\\_3234.html](https://www.lemonde.fr/economie/article/2020/04/05/le-maire-l-etat-apportera-les-moyens-financiers-pour-eviter-le-nauffrage-de-l-economie_6035605_3234.html)

<sup>9</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041746694&dateTexte=20200403>

Its most symbolic imposes that one must, as soon as he or she leaves his or her accommodation, carry a statement issued on honour explaining the reasons of the move.

The decree has established a restrictive list of the valid reasons as follows:

- Travel to the work place, given that it cannot be postponed;
- Travel to purchase basic necessities for the household or one's work;
- Travel to seek medical assistance which cannot be granted thanks to teleconsultation;
- The necessity to provide assistance to children or vulnerable relatives;
- Physical exercise, however limited to one hour per day and no further than a one kilometre radius around one's accommodation;
- Necessity to report to a law enforcement (court supervision) or to a court;
- Necessity to accomplish a mission related to public interest and as required by public authorities.

So far, law enforcement officers have been reported to apply very strictly this measure in order to avoid public reunion and mass departure during holiday season.

In addition, naval and aerial connections are suspended until 15th of April, and barely maintained for vital matters and matched with heavy sterilization binding procedures.

Any gathering, no matter the motive, superior to 100 persons is prohibited, and all « non-essential » shops are closed, including schooling facilities, from kindergarten to faculties, except of medical staff children under 16 years old.

Surgical masks have been requisitioned<sup>10</sup>, and some people trying to take advantage of the supply shortage have already been arrested and are facing heavy sentences as their sale is forbidden.

Hydroxychloroquine, which has caused a controversy in the last days has been allowed as a treatment for COVID-19 patients, and export restrictions for similar molecules are implemented.

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<sup>10</sup> [https://www.lemonde.fr/societe/article/2020/04/06/j-ai-peur-d-etre-enferme-la-bas-y-a-trop-de-cas-scenes-de-la-justice-ordinaire-sous-covid-19\\_6035715\\_3224.html](https://www.lemonde.fr/societe/article/2020/04/06/j-ai-peur-d-etre-enferme-la-bas-y-a-trop-de-cas-scenes-de-la-justice-ordinaire-sous-covid-19_6035715_3224.html)

In order to limit the contamination through medical staff, the validity of medical prescriptions has been temporarily extended <sup>11</sup>.

Furthermore, funeral rites are forbidden and burials fall under the above restrictions.

To this day, the containment is supposed to end on the 15th of April but will be lifted only gradually.

I wish you all the best and remain available for any further information.

Sincerely yours,

P/C

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Lawyer

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A handwritten signature in black ink, appearing to read 'C. Colombier', written in a cursive style.

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<sup>11</sup> <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041774063&categorieLien=id>