

TIMEFRAMES FOR CRIMINAL INVESTIGATIONS FOLLOWING THE LIFTING OF THE STATE OF ALARM, ACCORDING TO THE GENERAL PUBLIC PROSECUTOR'S OFFICE

Royal Decree 463/2020, of 14 March, which declared a state of alarm for the management of the health crisis caused by COVID-19 ("RD 463/2020"), provided for the suspension of procedural time limits¹. Subsequently, Royal Decree-law 16/2020 of 28 April, on procedural and organisational measures to address COVID-19 in the field of the administration of justice ("RDL 16/2020"), established that the suspended procedural time limits will be recalculated from their commencement², starting from the business day immediately following the end of the state of alarm.

In light of the above, on 29 April 2020, the General Public Prosecutor's Office published a report entitled "Time limits and procedural terms, article 324 of the CPL and remote notifications to the Public Prosecutor". In this report, the General Public Prosecutor's Office states that the recalculation of procedural time limits is also applicable to the time limits established for the investigative stage of criminal proceedings.

Currently, the Spanish Criminal Procedural Law ("CPL") provides for a maximum time limit for conducting criminal investigations. This maximum period is (i) generally, six months; (ii) in cases in which the investigation is declared to be complex, eighteen months, which may be extended to three years; and (iii) exceptionally, a new maximum period may be set for the completion of the investigation³. The period runs from the date upon which criminal proceedings formally begin and, once the time limit expires, no further investigative actions may be ordered.

According to the General Public Prosecutor's report, the abovementioned time limits will be recalculated from their commencement, starting from the business day immediately following the end of the state of alarm, so that:

- (i) As a general rule, the investigative stage will be conducted in a maximum period of six months starting from the business day immediately following the end of the state of alarm.
- (ii) In cases in which the investigation has been declared to be complex, the investigative stage will be conducted in a maximum period of eighteen months starting from the business day immediately following the end of the state of alarm.

¹ Second Additional Provision of RD 463/2020.

² Article 2.1 of RDL 16/2020.

³ Article 324 of the CPL.

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- (iii) In cases in which the investigative stage has been extended by the same period of eighteen months or less, this specific extended period will run from the business day immediately following the end of the state of alarm.
- (iv) In the exceptional cases in which the Investigative Court has set a new maximum period for the completion of the investigation, this specific maximum period will run from the business day immediately following the end of the state of alarm.

The approach adopted by the General Public Prosecutor's Office on this matter has already faced opposition from legal practitioners. The main criticism is that it entails a broad interpretation of the procedural rule, which is unacceptable, as it is contrary to the defendant's fundamental right to a process with all the guarantees and without undue delay⁴.

Therefore, it is likely to be challenged by the defendants in the relevant proceedings, taking into account the particular circumstances of each case. It will be for the Courts to decide how to apply this exceptional procedural rule to the time limits for the investigative stage of criminal proceedings.

The Information contained in this Information Briefing is of a general nature and does not constitute legal advice. This document was prepared on 7 May 2020 and Perez-Llorca does not assume any commitment to update or revise its contents.

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⁴ Article 24 of the Spanish Constitution and article 6.1 of the European Convention on Human Rights.