

# Coronavirus/COVID-19: French Courts Close, Save for Emergency Proceedings; Hearings Conducted Remotely

Skadden

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If you have any questions regarding the matters discussed in this memorandum, please contact the following attorneys or call your regular Skadden contact.

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French courts are closed for the unknown duration of the COVID-19 lockdown. Businesses facing immediate difficulties may still file for emergency or restructuring proceedings. Filings must be made electronically and hearings will be conducted remotely.

### Court Closures

Since March 16, 2020, French courts have ceased all activity except for “essential litigation” and emergency proceedings. Courts have been instructed to adopt a stringent assessment of emergencies and to hear only “matters where it is certain that a delay in the decision of the judge would harm the parties” (for example, a building threatening to collapse). The presiding judge of each court will decide on a case-by-case basis which circumstances qualify for emergency proceedings.

### Emergency or Restructuring Proceedings

The Paris and Nanterre Commercial Courts, France’s two main commercial courts, have issued useful guidance for businesses facing immediate difficulties. The following activities qualify in particular for emergency proceedings:

- Confidential and out-of-court settlement proceedings in a pre-insolvency situation: Ad hoc mandate available to businesses that are still solvent and conciliation available to businesses that are either solvent or have been insolvent for not more than 45 days. Both of these proceedings allow businesses that are facing economic, legal or financial difficulties to request that the court appoint a third party to assist them in preventive negotiations with creditors.
- Formal pre-insolvency proceedings (safeguard procedure, available to businesses that are solvent) and formal insolvency proceedings (receivership and liquidation), the initiation of which entails a moratorium on debt payment. Commercial courts will consider initiating insolvency proceedings for businesses that can no longer pay employees, even though the package of emergency economic measures announced by the French government to support businesses during the COVID-19 crisis renders such proceedings nonurgent. The emergency measures include cash flow support, facilitation of technical unemployment and state guarantee to secure the repayment of new loans granted by banks, among other things.
- Summary proceedings for emergency measures: Litigants must provide proof of the urgent nature of their matter to the presiding judge of the commercial court in order to receive the judge’s approval to file for such proceedings. The proceedings may then

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be ruled upon on very short notice. In cases where the existence of the defendant's obligation cannot be seriously challenged, the presiding judge of the commercial court may order interim payment or mandatory performance. In cases where the obligation can be seriously challenged, the presiding judge may order conservatory or restorative measures to prevent imminent damage or put an end to a manifestly unlawful nuisance.

## Remote Emergency Proceeding Hearings

Commercial courts should be contacted electronically (via [www.tribunaldigital.fr](http://www.tribunaldigital.fr)) and using the specific email addresses

provided on the commercial courts' websites at [www.greffe-tc-paris.fr](http://www.greffe-tc-paris.fr) and [www.greffe-tc-nanterre.fr](http://www.greffe-tc-nanterre.fr)). Hearings will be conducted remotely by video conference.

## ICC Arbitration, Mediation and ADR

Hearings and other meetings scheduled to take place at the ICC Hearing Centre in Paris on or prior to April 13, 2020, have been postponed or canceled. New matters may still be filed by email: Send requests for arbitration to [arb@iccwbo.org](mailto:arb@iccwbo.org), applications for an emergency arbitrator to [emergencyarbitrator@iccwbo.org](mailto:emergencyarbitrator@iccwbo.org) and requests in other ADR proceedings to [adr@iccwbo.org](mailto:adr@iccwbo.org).