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Time limits on procedures

 Bulgaria

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European Judicial Network
(in civil and commercial
matters)

1 What are the types of deadlines relevant for civil procedures?

(A) The exercise of the right to judicial protection of subjective substantive rights is backed by limitation and absolute periods (calendar time periods) established by the law.

The limitation period is the period of inactivity of the holder of a subjective right, the expiry of which liquidates his/her ability to seek legal protection of that right. The expiry of a limitation period does not extinguish the substantive right itself but the associated right of action and right of enforcement, turning the right into a natural right (substantive right not subject to judicial protection). The limitation does not apply automatically but only following an objection by the debtor before the competent court or a bailiff.

The rules of duration, cessation and suspension of limitation periods are laid down in the Obligations and Contracts Act (ZZD). A general five-year limitation period is established for all claims without special time limits. (Article 110 ZZD)

A three-year limitation period is established for three groups of claims (Article 111 ZZD):

- claims for remuneration for which no other limitation period is provided
- claims for indemnity and compensations arising from an unperformed contract
- claims for rent, interest and other periodic payments, such as the claims of heat and electricity suppliers, regardless of possible periodic variations of the amount. Repayment instalments under bank loan agreements, however, are not of the nature of periodic payments and are subject to the standard limitation period.

A three-year limitation period is also established for the right to request statutory invalidation of contracts concluded in error, or as a result of fraud or threat, as well as contracts concluded by incapacitated persons or their representatives without meeting the relevant requirements.

A one-year limitation period is established for the right to request statutory invalidation of a contract concluded because of exceptional necessity or obviously unfavourable conditions (Article 33 ZZD)

A six-month limitation period is provided for claims concerning deficiency in the sale of chattels, or deficient workmanship in a manufacturing contract, except for construction works where the claim is liquidated within the general five-year term (Article 265 ZZD).

A two-year limitation period is established in enforcement proceedings. Where the creditor in an instituted enforcement case fails to seek the performance of enforcement actions for two years, the enforcement proceedings will be terminated ex lege on the basis of point 8 of Article 433(1) GPK, and the new limitation period starts to run from the performance of the most recent valid enforcement action

The limitation period starts to run from the time when the right of action is formed and can be exercised, which depends on the nature of the substantive right affected. This may be the time when the contractual obligation has become payable, or the time of committing the wrongful act, or the time of identifying the doer in tort/delict,

or the time of handing over the item in a claim for defects, etc.

The limitation period may not be shortened or prolonged by consent of the parties.

The limitation period may, however, be suspended and interrupted.

The limitation period ceases to run in the cases set out exhaustively in Article 115 ZZD:

- between children and parents, while the latter exercise their parental rights;
- between persons held in guardianship or trusteeship and their guardians or trustees while that guardianship or trusteeship lasts;
- between spouses;
- for claims of persons whose property, in law or by court order, is subject to administration, against the administrator while that administration lasts;
- for claims concerning compensation of legal entities against their managers, while the latter are in office;
- for claims of minors and persons under restraint for the period of absence of a legal representative or trustee, and 6 months after the appointment of such person, or after the incapacity has ended;
- as long as the claim proceedings are taking place.

In these cases, the party is temporarily and legally deprived of the ability to exercise the right of action. The limitation period which has run until the suspension remains in effect and continues to run after the lapse of the circumstance that caused the suspension.

The limitation period is suspended in the following cases:

- with the debtor's recognition of the claim
- with a claim or objection, or with a request for conciliation; however, if the claim or the objection is not satisfied, the limitation period is not be deemed to have been interrupted
- by making a claim in the insolvency proceedings
- by taking enforcement actions

In these cases, the period which has run from the time of origin of the right of action till suspension of the limitation loses its legal relevance and a new limitation period begins to run. Where the suspension is performed by a claim or an objection, the law also establishes another important consequence: the new limitation period which starts after the suspension is always five years.

Absolute (preclusion) time periods are those upon the expiry of which the substantive rights themselves lapse. These time limits begin to run from the time of origin of the subjective right, and not from the time of origin of the right of action.

Absolute periods may not be ceased or suspended like limitation periods.

They are applied by the court or by a bailiff of its or his/her own motion, which means that their protection does not require an objection made by the debtor. The expiry of an absolute period renders an action brought inadmissible, whereas the expiry of a limitation period (provided an objection has been made) renders the action unjustified.

Such preclusion time periods include: the three-month period in which the pledgee or mortgagee may object if payment of insurance indemnity is made to the owner of the item, and not to him/her; the two-month period in which a co-owner may bring an action for the purchase of a co-owned item if the other co-owner has sold his/her share to a third party; the one-year period for bringing an action to cancel a donation, etc.

B) Time limits for the performance of certain procedural actions by the parties and the court in claims proceedings, as well as in enforcement proceedings, are established by the Civil Procedure Code (GPK). Time limits for the performance of procedural actions in insolvency proceedings are established by the Commerce Act (Targovski zakon) (TZ) and, respectively, by the Bank Insolvency Act (Zakon za bankovata nesastoyatelnost) (ZBN) in respect of bank insolvency and in other special laws.

In respect of the parties, omission of the deadline results in liquidation of the right to carry out the relevant procedural action. Failure by the court to meet a set deadline for proceeding does not constitute an impediment

to carrying out the procedural action later, since it is always due. The time limits established in respect of the court are merely indicative.

The time periods to carry out procedural actions by the parties are those which are established by the law, and those established by the court.

The time periods established by the law (legal time periods) include:

- the time limit for remedying non-conformities of the statement of action (one week from the communication to the party under Article 129(2) GPK, but the court is free to set a longer time limit)
- the time limit for response to the defendant's claim, for specifying evidence, for challenging the veracity of the evidence in the statement of claim, for making a counter-claim, for introducing third parties (accessories) by the defendant and bringing actions against them, and for objection against the procedure established by the court to consider the proceedings. It starts to run from the receipt of the duplicate copy of the statement of action by the defendant, and is one month or two weeks depending on whether the proceedings are under the standard procedure or under the special claims procedure for the examination of commercial disputes (Article 131 and Article 367 GPK)
- the time limit for claiming an additional statement by the claimant in proceedings on commercial disputes – a two-week period from the receipt of the defendant's response (Article 372 GPK)
- the time limit for response to the additional statement by the defendant in proceedings on commercial disputes – a two-week period from the receipt of the additional statement of claim (Article 373 GPK)
- the time limit for appeal against the judgements pronounced by the court – a two-week period from the service of the judgement to the party (Article 259 GPK)
- the time limit for response to the appeal by the opposite party and for submitting a counter-appeal – a two-week period from the receipt of an appeal copy (Article 263 GPK)
- the time limit for cassation appeal against the judgements given by the court – a one-month period from the service of the judgement to the party (Article 283 GPK)
- the time limit for appeal against judgements given by the court – a one-week period from their communication to the party, and if they were given in a court hearing attended by the party, the time limit runs from the date of the hearing (Article 275 GPK)
- the time limit for submitting an application for cancellation of an enforced decision – a three-month period from the occurrence of the reason for its cancellation (Article 305 GPK)
- the time limit within which the party may request the judge's dismissal – the first hearing after the occurrence of the reason for dismissal, or of learning of it (Article 23 GPK)
- the time limit within which the party may submit an objection for lack of exclusive jurisdiction – until completion of the proceedings at second instance (Article 119 GPK)
- the time limit within which a party may submit an objection for lack of local jurisdiction by location of the immovable property – until completion of the judicial inquiry at first instance (Article 119 GPK), and in all other cases of a breach of the rules of local jurisdiction, an objection may be submitted only by the defendant within the period for response to the application (Article 119 GPK). In consumer actions and actions brought by an injured person against an insurer, the Guarantee Fund (Garantsionen fond) and the National Bureau of Bulgarian Motor Insurers (Natsionalno byuro na balgarskite avtomobilni zastrahovатели), the court of its own motion ensures compliance with local jurisdiction until the first court hearing has been closed
- the time limit within which the claimant may withdraw the statement of claim without the defendant's consent – until completion of the first court hearing (Article 232 GPK)
- the time limit within which a party may submit an incidental application – in the first hearing for the claimant and within the period for response to the statement of claim by the defendant (Article 212 GPK)
- the time limit for challenging the veracity of a document – with the response to the legal action which it is presented with, at the latest, and if presented with the statement of claim, the defendant should contest it with his/her written response (Article 193 GPK)
- the time limit for making an objection against a payment order – a two-week period from the service of the order (Article 414 GPK)
- the time limit for appealing against a refusal to issue a payment order – a one-week period from the communication to the petitioner (Article 413 GPK)
- the time limit for appealing against the order for issuing a writ of execution – a two-week period which runs from the service of the order for the petitioner, and from the service of the request for voluntary compliance for the debtor (Article 407 GPK)

- the time limit for voluntary compliance by the debtor in the enforcement proceedings – a two-week period from the service of the request by the bailiff (Article 428 GPK)
- the time limit for appealing against the actions of the bailiff – a one-week period from the performance of the action if the party attended that performance, or if it was regularly summoned, and in other cases – from the date of the notice (Article 436 GPK)
- the time limit for submitting a claim in the insolvency proceedings – within one month, and within three months, respectively, from the entry into the commercial register of the decision to open the insolvency proceedings (Article 685 and Article 688 TZ)
- the time limit for applying a recovery plan – within one month from the date of entry into the commercial register of the court's judgement for approval of the list of accepted claims (Article 696 TZ)
- the time limit for making objections against the list of accepted claims – a seven-day period from disclosing the list in the commercial register (Article 690 TZ)
- the time limit for submitting objections against the allocation account prepared by the insolvency administrator – a fourteen-day period from the entry of the account into the commercial register (Article 727 TZ)
- absolute time limits for the performance of the relevant procedural actions are also regulated in other special laws which cannot possibly be listed exhaustively: the TZ regarding trader stabilisation proceedings, the ZBN, the Insurance Code (Kodeks za zastrahovaneto), etc.

The time limits determined by the court include:

- the time limit for collecting evidence (Article 157 GPK)
- the time limit for depositing the costs for the collection of evidence (summoning of witnesses, payment of reward for expert witnesses, etc.) – Article 160 GPK)
- the time limit for remedy of the irregularities of a procedural action performed by the party (Article 101 GPK)
- time limit for entry of the statement of action, which is usually longer than one week

The time limits are also divided into two types depending on whether they can be extended by the court, or this option is excluded. All time limits set by the court are subject to extension. The time limits for appeal and for the submission of a request for cancellation of an enforceable judgment are not subject to extension: Article 63(3) GPK.

2 List of the various days envisaged as non-working days pursuant to the Regulation (EEC, Euratom) n° 1182/71 of 3 June 1971.

Public holidays include:

1 January – New Year's Day;

3 March – Liberation Day – National holiday;

1 May – Labour Day;

6 May – St. George's Day, Day of Courage and the Bulgarian Army;

24 May – Day of Bulgarian Education and Culture and Slavonic Literature;

6 September – Unification Day;

22 September – Independence Day;

1 November – Day of National Awakeners: non-working day for all educational institutions and working day for all other legal entities;

24 December – Christmas Eve, 25 and 26 December – Christmas;

Good Friday, Holy Saturday and Easter Sunday – two days (Sunday and Monday), which are set for celebration in the respective year.

The Ministerial Council may also declare, on one occasion only, other days for public holidays, days for the celebration of certain professions, as well as shift non-working days during the year.

3 What are the applicable general rules on time limits for the various civil procedures?

The general rules on time limits for performance of procedural actions by the parties and the court in claims proceedings, as well as in enforcement proceedings, are established by the Civil Procedure Code (GPK). A number of special laws also establish absolute periods for the exercise of procedural rights, e.g. Article 74 of the TZ, Article 19 and Article 25 of the Commercial Register and the Register of Non-Profit Legal Persons Act (Zakon za trgovskiya registar i registara na yuridicheskite litsa s nestopanska tsel) (ZTRRYLNT), etc. General information on the general rules set out in Chapter Seven of the Civil Procedure Code 'Time limits and recovery of time limits' is presented in the answers to Questions 4, 5 and 6.

The general rules on limitation periods are set out in Article 110 and the following of the Obligations and Contracts Act. See Item 1.

The general rules on the time periods for fulfilment of obligations arising from obligation relations are set out in Articles 69–72 of the Obligations and Contracts Act.

In the presence of preconditions defined in the procedural law (Article 61, Article 229, Article 432 GPK), the established procedural time limits cease to run, in which case the cessation starts from the event that occasioned the stay of the proceedings. Proceedings are stayed when an impediment to their continued progress has emerged and until it is removed the performance of procedural actions is inadmissible with the exception of securing the action. After the impediment is removed (e.g. a party dies, guardianship has to be instituted, underlying proceedings exist, etc.), the proceedings are subject to resumption, whereupon all actions taken before the stay retain their validity.

Special laws establish other time limits that are shorter than the standard limitation period.

4 When an act or a formality has to be carried out within a given period, what is the starting time?

The starting point from which the time limit to take a certain procedural action begins to run is usually the date on which the party is informed that he/she should perform that action, or notified accordingly of a pronounced act of the court against which a complaint may be lodged.

- the time limit for remedy of any irregularities of the statement of claim runs from the date on which the court's instructions are communicated to the party.
- the time limit for a written response to the statement of claim by the defendant runs from the receipt of a copy of the statement of claim and the evidence thereto, and in the notice by which the court sends the copies to the defendant it must specify the time limit for the reply and the consequences of the failure to do so.
- the time limit for appealing against the judgement runs from its service to the party.
- the time limit for appealing against a judgement pronounced in a case considered under the procedure 'Summary Proceedings' (Part Three, Chapter 25 of the Civil Procedure Code) runs from the date on which the court stated that it would disclose its judgement.
- the time limit for appealing against the judgement runs from its communication to the party, and if pronounced in a court hearing attended by the party, the time limit runs from the date of the hearing.
- the appeal against the actions of a bailiff is submitted within a one-week period from the performance of the action if the party attended that performance, or if it was regularly summoned, and in other cases – from the date of the communication.
- time limits in insolvency proceedings run from the disclosure of the relevant action of the insolvency administrator (for example, completing a list of creditors with accepted claims), or an act of the court in the Commercial Register.

There are also time limits that start to run from the moment of initiation of the claims proceedings, as the law

establishes only the final time for their performance.

For example:

- the claimant may change the grounds or the petition of his/her claim or withdraw the claim without the consent of the defendant until completion of the first hearing in the case,
- each of the successors in the partition proceedings may, by the time of the first hearing, request with a written application to have additional property included as subject of the partition, etc.

5 Can the starting time be affected or modified by the method of transmission or service of documents (personal service by a huissier or postal service)?

The time limit runs from the moment of notification to the party. The time at which the notice to the party is deemed to have been properly served is determined differently, depending on the manner of notification. Chapter VI 'Notices and summons' of the Civil Procedure Code sets out the rules on the manner of serving notices and summons to the parties, as well as on the time at which notices are deemed to have been properly served.

Where the notice is served personally to the addressee or his/her representative, or to another person, respectively, who lives or works at the address, the summons must state the date on which the notice was received by the person, whether served by a court agent or a postal worker. From that date the time limits for the relevant procedural action start to run.

Notices may also be served to an email specified by the party. They are deemed to have been served with their entry into the specified information system.

In the presence of legal preconditions (for example, when the party has changed the address that it has specified for the case without notifying the court), the court may order the service to be done by attaching the notice under the case, then the time limit begins to run from the date of the attachment. This is substituted service, which is resorted to when an imposed procedural obligation is not complied with.

Where a defendant cannot be found at his/her permanent address and no person is found to receive the notice, the server must affix a notification to the door, or to the mailbox, stating that the papers have been left in the court office and may be received within two weeks from the date of the notification. In this case, if the defendant does not appear to receive them, the notice and related papers are deemed to have been served with the expiry of the time limit for their receipt.

Substituted service in this situation results from the natural person's non-compliance with his or her administrative obligation to declare a permanent and current address at which he or she is supposed to be found.

Notices are served on traders and legal persons which are entered in a relevant register at the last address declared in the register. If an office does not exist at that address and corporate signage is not found, i.e. there is reason to believe that the person has left its address, all communications are placed in the case file and are deemed to have been duly served: Article 50(2) GPK.

If the trader is at the address entered in the register but the server does not obtain access to the office or does not find a person willing to accept the notice, the server affixes a notification and, unless the papers are received within two weeks of that affixation, they are deemed to have been served (service is substituted).

6 If the occurrence of an event sets the time running, is the day when the event occurred taken into account in the calculation of the time period?

The time limit is calculated in years, weeks and days. A time limit counted in days is calculated from the day following the day on which the period begins to run and expires at the end of the last day. For example, if the party is instructed to remedy the irregularities of an action within seven days, and a notice is served on 1 June, it

is the date on which the time limit begins to run, but the count begins on the next calendar day, 2 June, and the period will expire on 8 June.

7 When a time limit is expressed in days, does the indicated number of days include calendar days or working days?

Time limits are calculated in calendar days. If, however, the time limit expires on a non-working day (weekend or holiday), it is deemed to expire on the first working day after the non-working day.

8 When such a period is expressed in weeks, in months or in years?

A time limit which is counted in weeks expires on the respective day of the last week. For example, if the party is given instructions to remedy the irregularities of the statement of claim within one week, and a related notice is served on Friday, the time limit will expire on Friday of the following week.

A time limit which is counted in months expires on the respective date of the last month, and if the last month has no such date, the period will expire on the last day of the month.

A time limit which is counted in years expires on the respective date of the last year, and if the last year has no such date, the period will expire on its last day.

9 When does the deadline expire if expressed in weeks, in months or in years?

See the answer to Question 8.

10 If the deadline expires on a Saturday, Sunday or a public holiday or non-working day, is it extended until the first following working day?

When the last day of the period is non-attendant, the time limit always expires on the first subsequent attendant day.

11 Are there certain circumstances under which deadlines are extended? What are the conditions for benefiting from such extensions?

Only the time limits for appealing against judgements and orders, and for submitting requests for cancellation of an enforced judgement may not be extended by the court, as well as the time limit for filing an objection against a payment order.

All other legal and court-appointed time limits may be extended by the court at the request of the concerned party, submitted prior to the expiry of the time limit if there are good reasons (Article 63 GPK). The newly established time limit may not be shorter than the initial one. The extended time limit runs from the expiry of the initial one. The ruling whereby the time limit is extended (and the ruling whereby such an extension is refused) is not communicated to the party which, therefore, should actively follow the court's activity.

12 What are the time limits for appeals?

The Civil Procedure Code sets out the general rules for appealing against judgements and orders in all civil and commercial matters by providing for:

- a two-week period for appealing against judgements pronounced by the court, running from the service of the judgement to the party
- a one-month period for a cassation appeal against judgements pronounced by the court, running from the service of the judgement to the party
- a one-week period for appealing against judgements pronounced by the court, running from their

communication to the party, and if pronounced in a court hearing attended by the party, running from the date of the hearing

Exclusions to these general rules are exhaustively established by the law and are based on the specific features of the relevant proceedings. Such exclusions are provided for:

- decisions to initiate insolvency proceedings that are subject to appeal within seven days of their entry into the Commercial Register;
- decisions rejecting an application for opening insolvency proceedings, which are subject to appeal within seven days from the date of the notice under the procedure of the Civil Procedure Code;
- a decision in partition proceedings which the court pronounces on the claims of the co-partitioners for accounts, a decision to assign an indivisible immovable property to a public sale, a decision to assign an indivisible immovable property to one of the co-partitioners, and a decision to disclose the final partition protocol may be appealed with a joint complaint within the time limit for appealing against the latest decision
- a non-attendant decision is not subject to appeal, but within one month of its service the party against which it has been ordered may request the appellate court to cancel the decision if unable to participate in the case
- a decision to allow a divorce by mutual consent is not subject to appeal,
- there are also other special situations regulating time limits for appealing against a judgment: e.g. a decision on entry of a political party is appealable within seven days.

13 Can courts modify time limits, in particular the appearance time limits or fix a special date for appearance?

There is no provision for the court to shorten the time limits established by it or by the law, but only to extend the time limits at the request of the parties. Only the time limits for appealing against judgements and orders, and for submitting requests for cancellation of an enforced judgement may not be extended by the court, as well as the time limit for filing an objection against a payment order.

However, there is no obstacle for the court to change, on its own motion, or at the request of one of the parties, the date of the hearing by scheduling it for an earlier or a later date, if required by important circumstances. In such cases, however, the court should notify the parties of the new date, and the notice should be served within one week prior to the date of the hearing at the latest.

14 When an act intended for a party resident in a place where he/she would benefit from an extension of a time limit is notified in a place where those who reside there do not benefit from such an extension, does this person lose the benefit of such a time limit?

The procedural rules of the Civil Procedure Code, including those related to the extension of the time limit, apply to all participants in the proceedings, regardless of their place of residence.

15 What are the consequences of non-observance of the deadlines?

The common principle is that procedural actions performed after the expiry of the time limits are not considered by the court. In addition to this rule, the GPK expressly provides that if the deficiencies of the statement of claim are not remedied in time, it is returned; if an appeal, a request for cancellation or an objection to an enforcement order is submitted after the expiry of the time limit, they are returned as overdue; if the party fails to submit in due time the evidence available to them, it will not be accepted in the case, unless the omission is due to special unforeseen circumstances. Non-compliance with procedural time limits precludes the exercise of the rights for which these time limits are envisaged.

16 If the deadline expires, what remedies are available to those who have missed the deadlines, i.e. the defaulting parties?

A party which has not observed the time limit established by the law or by the court may request its reinstatement if it proves that the non-observance was due to special unforeseen circumstances which it was not able to overcome. No reinstatement is allowed if it was possible to grant an extension of the time limit in order to carry out the procedural action.

A request for reinstatement of the time limit must be submitted within one week of the notice of non-observance, indicating all the circumstances justifying it and any evidence of the merits of the request. The request must be submitted to the court before which the relevant procedural action should have been taken. Together with the request for reinstatement of the time limit, the papers for which a recovery of the time limit is requested are also submitted, and if the time limit is for payment of expenses, the court sets a new time limit for their submission.

The request is mandatorily examined in open court. If the request is granted, the forfeited rights are restored.

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