Time limits on procedures

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Spain

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

Procedural acts must be performed by specific *deadlines* or within the *time periods* stipulated by law.

A deadline specifies the time by which a given procedural act must take place.

A time period specifies the time available for carrying out the process. Periods may be expressed in days, weeks, months or years.

If the law does not stipulate a time period or deadline, it is to be understood that the act must be performed without delay.

Any delay in court proceedings may result in an infringement of the right to a trial without undue delay, which is considered to be part of the fundamental right to effective legal protection. In order to determine whether there is undue delay, reference is made to the concept of a reasonable time period, which takes account of factors such as the complexity of the dispute, how long the type of dispute in question would normally take, the interest of the litigant and his or her procedural conduct, and the conduct of the authorities or a consideration of available resources. If this happens, an assessment may be made of the liability of the courts and court staff, or the financial liability of the State, for the damage caused to the injured party.

In addition to the procedural time periods, there is the separate issue of time limits for the exercise of material legal rights (limitation and prescription) which are laid down in substantive laws and determine the failure of an action brought. These must however be considered in the judgment and may not prevent the proceedings from being conducted.

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

The regulation, in the area of rules on administrative procedures, is contained in Article 30 of Law 30/2015 on the Common Administrative Procedure in Public Administrations (*Procedimiento Administrativo Común de las Administraciones Públicas*), according to which:

1. Unless Spanish law or EU legislation states otherwise, where time periods are expressed in hours, they are deemed to refer to working hours. All hours of a day that form part of a working day are working hours.

Where the time period is expressed in hours, these will start to run from the hour and minute on which the act is notified or published. Such time periods shall not exceed 24 hours, in which case they shall be expressed in days.

2. Similarly, unless Spanish law or EU legislation states otherwise, where time periods are expressed in days, they are deemed to refer to working days, excluding Saturdays, Sundays and public holidays.

Where time periods have been set in calendar days because a Spanish or European Union law so provides, this shall be stated in the relevant notifications.

3. Where the time period is expressed in days, these are counted from the day following that on which the act in question is notified or published, or from the day following that on which an application is deemed to have been allowed or refused in the absence of a response from the authorities concerned.

4. Where the time period is expressed in months or years, these will start to run from the day following that on which the act is notified or published, or from the day following that on which an application is deemed to have been allowed or refused in the absence of a response from the authorities concerned.

The time period will come to an end on the same day as the date of notification, publication or absence of a response in the month or year of expiry. If there is no equivalent to the starting date in the last month of the period, the expiry date is taken to be the last day of the month.

5. If the last day of the period is a non-working day, the period is extended to the next working day.

6. Where a day is a working day in the municipality or Autonomous Community in which the party concerned is resident and a non-working day in the place where the administrative body is located, or vice versa, it will be treated as a non-working day in all cases.

7. For the purpose of calculating time limits, the calendar of non-working days will be determined by the Central Government and Autonomous Community administrations for their respective areas of responsibility, subject to the official calendar of working days. The calendar approved by the Autonomous Communities will include the non-working days for the local government bodies in the geographical area in question, to which the calendar will apply.

The calendar must be published before the start of each year in the relevant official gazette and other media to ensure that it is made known to the public.

8. The fact that a day has been declared as working or non-working for the purpose of calculating time periods does not in itself determine how public administration offices operate, or how daily working hours and schedules are organised.

Non-working days for the purpose of judicial proceedings are laid down in Article 182 of the Organic Law on the Judiciary. This provides as follows:

1. The following are non-working days for procedural purposes: Saturdays and Sundays; 24 and 31 December; national, regional and local public holidays. The General Council of the Judiciary may, by regulation, authorise judicial procedures on these days in cases not expressly provided for by law.
2. A working day runs from 8 a.m. until 8 p.m., unless the law provides otherwise.

In accordance with Article 183 of the same legal document, days in August are non-working, as is every day from 24 December to 6 January of the following year, inclusive, for all legal proceedings, except those declared urgent by procedural law. However, the General Council of the Judiciary may, by means of a regulation, authorise them for the purposes of other proceedings.

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

The rules are set out in Chapter II of Title V of Book I of Law No 1/2000 on the Civil Procedure (*Ley de Enjuiciamiento Civil*, hereinafter 'the Civil Procedure Law', or 'CPL'), Articles 130 to 136.

The main features of the current rules are as follows:

a) All judicial procedures must be carried out on working days and during working hours:

Working days are all those of the year, except Saturdays and Sundays, and the days between 24 December and 6 January of the following year, inclusive, national holidays and public holidays for work purposes in the

respective Autonomous Community or locality. Days in August are also non-working days and the courts will not send legal practitioners electronic notifications on these days, unless they are deemed to be working days for the purposes of the formalities in question.

Working hours are from 8 a.m. to 8 p.m. unless the law stipulates otherwise for a specific procedure. For notification and enforcement purposes the hours from 8 p.m. to 10 p.m. are also deemed to be working hours.

By way of exception, for certain procedures, such as submitting bids in an electronic auction, the time limit is defined in terms of calendar days, and there are no non-working hours. Article 649 of the Civil Procedure Law lays down a period of 20 calendar days from the start of the auction, and the auction will not close until 1 hour after the last bid is made, provided that this is higher than the previous highest bid, even if this means that the initial 20-day period referred to in that article is extended by up to 24 hours.

b) Days and times may be deemed working days and hours for the purposes of procedures deemed urgent, i.e. where a delay could be seriously detrimental to the parties concerned or to the proper administration of justice, or could make a court ruling ineffective, (*Examples includenon-voluntary admission to a psychiatric hospital; and judicial measures taken in the 'best interest' of minors in conflicts of any type arising from civil proceedings, etc.*). This may be done at the initiative of the court or at the request of the party concerned and may be ordered by either the legal counsel or by the court itself, as the case may be.

In any event, urgent measures can be taken in August without the need of express authorisation. Similarly, authorisation is not required if urgent measures initiated during working hours must necessarily be continued in non-working hours.

c) With regard to the calculation of time periods, the period starts to run from the day following that of the legal notification of the start of the period, and includes the last day of the period, which ends at midnight.

However, where the law stipulates that a time period starts to run as soon as another one expires, it will start to run from the day following the expiry of the former period, without any need for fresh notification.

d) Except where there are exceptions (natural persons in claims of under EUR 2 000), documents are submitted (Art. 135 of the CPL) through the courts' online and electronic systems. These are mandatory for legal practitioners and for certain litigants even when not represented by a court representative (for example, legal persons, notaries and registrars: see Article 273 of the CPL). Parties may also choose to use these systems even when not required to do so. Where documents are submitted electronically, confirmation is provided in the form of an electronic receipt that is issued automatically. The receipt includes the registry entry number and the date and time of submission, which is the time at which the document will be deemed to have been submitted for all purposes. Practitioners may submit pleadings and other documents electronically 24 hours a day, every day of the year. Where a document is submitted on a non-working day or outside working hours, it will be deemed to have been submitted at the start of the next working day. There is also provision for time periods that are about to expire to be extended where a mandatory document cannot be filed by the deadline due to an unplanned interruption in the online communications service. This also applies to planned interruptions and cases where the submission of a mandatory document cannot be filed due to time-related and other shortcomings in the IT products used by the courts. In all these cases, presentation on the following working day is permitted, if an explanation is given for the impossibility of an earlier submission.

Whatever submission method is used, any documents that are subject to a time limit may be submitted until 3 p.m. on the working day following that on which the time period expires.

In proceedings in the civil courts, claim documents may not be submitted to the duty court.

e) Time periods cannot be extended: if a party fails to observe the time limit he or she forfeits the opportunity to carry out the procedural act in question.

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

The general rule in Article 151 of the Civil Procedure Law is that notice of all decisions issued by the courts or legal counsels must be served within three days of the date of the decision or the publication date.

Article 151(2) states that where notice is served on the Public Prosecutor, the Government Legal Service, Counsel for the Spanish Parliament (*Cortes Generales*) and the Legislative Assemblies or Counsel for the Legal Service of the Social Security Administration or other Autonomous Community bodies or local government organisations, and where notice is served via the Professional Bodies of Court Procedural Representatives, it will be deemed to have been given on the next working day after the date of receipt recorded in the formal record, or in the confirmation of receipt where notice has been served electronically or online. Where notice is sent after 3 p.m. it will be deemed to have been received on the following working day.

Article 151(3) adds that where delivery of a document or order that is to accompany the notice takes place on a date subsequent to receipt of the notice, notice will be deemed to have been given when delivery of the document has been recorded, provided that the effects of the notice are linked to the document.

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)?

Where notice of a decision is served by a bailiff or by post, the relevant date is the date on which the document is delivered by the bailiff or the postal service and signed for on receipt.

Where notice is served by publication under Article 164 of the Civil Procedure Law because the defendant's address is not known, the period starts to run from the day following that on which it is posted on the court notice board or published either in the Official State Gazette or electronically, as applicable.

Where copies of documents submitted by court representatives need to be transferred to the court representatives of the other parties, Article 278 of the CPL stipulates that if by law the act transferred triggers the start of a time period in which a procedural step needs to be taken, that period will start to run without the involvement of the court and will be calculated from the date following that recorded on the copies that were transferred or the date on which they are deemed to have been transferred where delivered electronically. In the latter case, it shall be deemed to have been made on the date and time shown on the receipt attesting to its submission. Where a document is submitted on a non-working day or outside working hours, it will be deemed to have been submitted at the start of the next working day.

In accordance with Article 162 of the CPL, where notices are sent electronically, using IT or similar means toparties to or recipients of such notices, who are legally or contractually obliged to send and receive them electronically, or where the addressees choose to do so, as well as in any other case provided for by law, the proof of receipt shall demonstrate that such notices have been delivered.

Legal practitioners and recipients who are obliged to use electronic means, as well as those who choose to use them, must inform the courts that they have such means at their disposal. They must also provide an email address for that purpose. At any event, where the notice is correctly transmitted by electronic means, with the exception of those carried out by the notifications services of the Professional Bodies of Court Procedural Representatives (*Colegios de Procuradores*), if three days elapse without the recipient accessing its content, it shall be understood that the communication has been lawfully transmitted with full effect. This being the case, the time limits for carrying out the various steps in the procedure shall commence on the working day following the third working day.

Exceptions shall be made where the recipient provides evidence that he or she was unable to access the notification system during that period. If failure to access is due to technical reasons and those reasons are still in place at the time they are brought to the attention of the court, the notice shall be effected by the delivery of a (hard) copy of the decision. In such cases, however, where access occurs after the deadline, but before the communication is made by means of a physical delivery, the communication shall be deemed to have been

correctly made on the date shown on the electronic receipt.

Cases of *force majeure* in which the Professional Bodies of Court Procedural Representatives have suspended the forwarding of the notifications service for a maximum period of three days, as provided for in Article 151(2), shall also be excluded.

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 calculation begins on the day following that on which the event that by law triggers the start of the time period took place.

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

Non-working days are excluded from calculations of time periods, except as explained above for bids in electronic auctions, where the period is expressed in calendar days.

When calculating time periods for urgent actions, days in August are not classed as non-working days: only Saturdays, Sundays and public holidays are excluded from the calculation.

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

Time periods expressed in months or years are calculated from one date to another. Spanish legislation does not provide for any time periods expressed in weeks.

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

If there is no equivalent to the starting date in the last month of the period, the expiry date is taken to be the last day of the month.

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?

Where a time limit expires on a Saturday, Sunday or other non-working day it will be deemed to be extended until the next working day.

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

Time periods cannot be extended. However, periods can be interrupted and deadlines extended where they cannot be complied with for reasons of *force majeure*. In these cases, the clock starts again when the reason for the interruption or extension has ceased. The legal counsel, either of his or her own motion or at the request of the party affected by the situation, must find evidence of such a situation of *force majeure* at a hearing attended by the other parties. This also applies to situations where the lawyer or court's procedural representative are unable to assume their function. (See answer to question 13.)

12 What are the time limits for appeals?

The time limits for the various types of appeal are laid down by law and cannot be extended. For appeals to the next higher court (*recursos de apelación*) and to the Supreme Court (*recursos de casación*) the time period is 20 days from the day following notification of the judicial decision (Articles 458 and 479 of the CPL).

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

The statutory time limits cannot be extended. In some cases the law requires the court to fix a specific date and time for an act.

By way of an exception, there is provision for periods to be interrupted and deadlines to be extended in the event of *force majeure*:

a. This is contained in Article 134(2) of the Civil Procedure Law. The legal counsel, either of his or her own motion or at the request of the party affected by the situation, must find evidence of such a situation of *force majeure* at a hearing attended by the other parties. An appeal for review of the counsel's decision may be filed with the court. In this case, the calculation shall resume at the time when the cause of the interruption or delay ceases to exist.

Specific provision is also made, for a period of three working days, for objective reasons of *force majeure* affecting lawyers or the court's procedural representatives, such as the birth and care of a minor, serious illness and an accident involving hospitalisation, death of relatives up to the second degree of consanguinity or affinity or absence from work certified by the social security system or health system or equivalent social provision. Such grounds shall be provided by the Bar Association (*Colegio de Abogados*) or the Professional Bodies of Court Procedural Representatives, or the parties involved.

b. Once a date has been set for a hearing, if any of those summoned to appear is unable to do so for reasons of *force majeure* or for similar reasons, they must inform the court immediately, providing evidence of the reason, and request a new hearing or decision (Article 183(1) and Articles 189 and 430 of the CPL). A new hearing is announced if the evidence of the situation is accepted and if this situation prevents the following from attending: the lawyer (Article 183(2) and Article 188(1)(5) and (6) of the CPL); a party whose presence is necessary because he or she is not assisted by a lawyer or has to be questioned; (Articles 183(3) and 188(4) of the CPL); or a witness or expert. In the latter case, the witness or expert may instead be called to examine the evidence outside the hearing, once the parties have been heard (Article 183(4) of the CPL). The reason for suspension is expressly referred to as the reason for the suspension of leave for the birth or care of a minor by the party's lawyer, in which case a new notice may only be issued at the end of the statutory period of compulsory leave. This also applies to medical emergencies occurring on the same day of the notice or within a twenty-four-hour period immediately preceding it. If any of these circumstances affect the legal representative of one of the parties, and the opportunity to appoint a replacement does not present itself, the hearing shall also be suspended, and may not be reopened until three days have elapsed. At that point the Professional Body of Court Procedural Representatives may, where appropriate, arrange for his or her replacement to be put in place.

c. The time limit for a person in contempt of court to request annulment of a final judgment can be extended in the event of *force majeure* (Article 502(2) of the CPL).

d. Where evidence is examined before the trial takes place (which may be authorised by the judge under Article 293 et seq. of the Civil Procedure Law if there is a well-founded fear that it will not be possible to examine the evidence at the usual stage of the proceeding), the application must be filed within two months of examination of the evidence, unless it is proved that it was not possible to initiate the trial within that time period for reasons of *force majeure* or similar grounds (Article 295(3) of the CPL).

The two parties may by mutual agreement also apply for proceedings to be suspended without giving reasons or in order to enable them to try and reach an agreement or settlement or to submit to mediation or arbitration. Proceedings may not be suspended for more than 60 days or until the mediation is completed (Article 19(4) and Article 415 of the CPL).

If an application for legal aid is made, there are two possible scenarios, covered by Article 16 of Law 1/1996 of 10 January 1996 (the Legal Aid Law), as amended by the above-mentioned Law 42/2015:

1. If the application is made when the proceedings are already under way, in order to prevent the right to an action being prescribed or either party being denied the right to a trial due to expiry of the time period, the legal counsel or the administrative body, of its own motion or at the request of the parties, may order the period to be

suspended until there is a decision on whether or not to grant legal aid, or there is a provisional appointment of a lawyer and court representative in cases where legal representation is either mandatory or required in the interests of justice, provided that the application was made within the time periods laid down in the civil procedure legislation.

2. When the application for legal aid is made before the start of proceedings and the action may be adversely affected by the expiry of the limitation or prescription periods, these periods will be interrupted or suspended, respectively, until there is a provisional appointment of a legal aid lawyer and, if required, a court representative, handling the case on behalf of the applicant; and, if no such appointment can be made, until a definitive administrative decision is issued on whether or not to grant legal aid.

In any case, the limitation period will restart when the applicant is notified of the provisional appointment of a lawyer by the Bar Association or, where applicable, when the Legal Aid Board issues its decision on whether to grant legal aid and, in any event, within two months of the application being made.

Should the application be refused, be clearly abusive and intended merely to extend the time periods, the court dealing with the case may calculate the time periods in the strictest terms permitted by law, with all of the consequences arising therefrom.

In oral proceedings concerning the launch or eviction of a habitual residence, such as eviction for non-payment or expiry of the time limit, Article 441(5) of the CPL provides for another case of suspension of proceedings, where the household concerned is in a situation of social or economic vulnerability, in order for the competent authorities to make a proposal for alternative decent social rental housing, immediate care measures or possible financial aid and subsidies from which the defendant may benefit. After obtaining information from the public authorities responsible for housing and social assistance and hearing the parties, the court decides by order on whether it suspends the proceedings for the adoption of the measures proposed by the public authorities for a maximum period of two months if the claimant is a natural person, or four months in the case of a legal person.

Once the measures have been adopted by the competent public authorities or after the expiry of the maximum period for suspension, the suspension shall be automatically lifted and the procedure shall continue with all its formalities.

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?

Not applicable.

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

In general, a party who fails to comply with a time period or deadline loses the right to perform the action in question (Article 136 of the Civil Procedure Law). Some of the most significant examples are as follows:

- With regard to the defendant’s appearance at the trial, he or she is declared to be in contempt of court (Articles 442(2) and 496(1) of the Civil Procedure Law) and the trial continues without the defendant being summoned again. He or she is notified only of this decision and of the final decision which puts an end to the trial (Article 497 of the CPL).
- In ordinary proceedings, if the applicant or the applicant’s lawyer fails to appear at the pre-trial hearing and the defendant either does not appear or appears but does not assert a legitimate interest in the continuation of the proceedings, the case is dismissed (Article 414).
- In oral proceedings, if the applicant fails to appear and the defendant does not assert a legitimate interest in the continuation of the proceedings, the applicant will be deemed to have discontinued proceedings. The applicant will be ordered to pay costs and to pay the defendant compensation where the defendant requests it and provides evidence of the damage and loss suffered (Article 442(1) of the CPL).
- Notwithstanding the court’s duty to actively manage cases, where there is no activity in the proceedings they will lapse, and all forms of actions and appeals at all instances are deemed to have been abandoned

(Article 237 of the CPL). Proceedings at first instance lapse after two years of inactivity and are deemed to have been withdrawn, meaning that it is possible to bring a new action. Proceedings at second instance or awaiting an extraordinary appeal on grounds of procedural irregularity or an appeal to the Supreme Court lapse after one year of inactivity and the party is deemed to have abandoned all forms of appeal. Time periods are calculated from when notice was last served on the parties. Proceedings do not lapse where they are stalled due to *force majeure* or other reasons beyond the parties' control.

- Enforcement proceedings do not lapse and may be continued until judgment is enforced, even if they remain inactive for the periods described above. But for this to apply it is necessary for enforcement proceedings to have commenced, because Article 518 of the Civil Procedure Law imposes a limitation period of five years on any enforcement action founded on a court judgment, court decision or mediation agreement. The five-year period starts to run when a decision becomes final. Therefore, if an enforcement claim is not filed within this time period, the time limit expires and the right to enforce the judgement through the courts is lost.

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

Where a party is informed that the deadline for a particular action has expired, prompting the start of the next procedural stage, or where a party's submission or application is rejected on the grounds that it is out of time, the party may appeal against the decision. This is the case, for example, if the defence to a claim is rejected on the grounds that it was submitted after the deadline.

Someone who has been convicted in absentia and on whom judgment has been served in person may appeal only to the next higher court (*recurso de apelación*) or to the Supreme Court (*recurso de casación*) if such an appeal is made within the statutory time limit. The same remedies may be used by the defendant who fails to appear and who has not been personally served with the judgment, but in this case the time limit for lodging such appeals shall run from the day following publication of the decision handing down the judgment on the Single Judicial Noticeboard or, as the case may be, by the electronic means referred to in Article 497(2). (Article 500 of the CPL).

Where someone has persistently failed to appear in court, they may seek to have a final judgment set aside if they were unable to appear in court or were unaware of the existence of the proceedings for reasons of *force majeure* (Article 501 and following of the CPL).

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