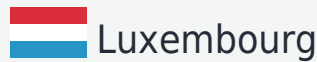


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Time limits on procedures



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European Judicial Network
(in civil and commercial
matters)

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

Under Luxembourg law, there are time limits for bringing proceedings, for procedural formalities, for appearing in court, extensions for distance, etc.

Time limits after which actions lapse or become time-barred are not always purely procedural: only those that are purely procedural are dealt with here.

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

Saturday and Sunday are considered to be non-working days, as are the following statutory public holidays:

- New Year's Day, Easter Monday, 1 May, 9 May, Ascension Day, Whit Monday, Luxembourg National Day on 23 June,
- the Assumption, All Saints' Day, and Christmas and Boxing Day/St Stephen's Day.

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

Procedural time limits may vary depending on the subject-matter and the type of proceeding.

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

The time limit runs from midnight on the day of the act, event, decision or service of the act.

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)?

Yes: if service (*signification*) by a bailiff or notification (*notification*) by the clerk of the court is required by law, the service or notification may be deemed to have taken place on a day other than the day on which the document actually reaches the hands of the person concerned (for instance if the document is refused, if the document is left at the party's home, etc.).

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?

All time limits are calculated from midnight on the day of the act, event, decision or service that starts time running.

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

Statutory public holidays, Saturdays and Sundays are counted for purposes of time limits.

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

Statutory public holidays, Saturdays and Sundays are counted for purposes of time limits.

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

Any procedural time limit expires at midnight on its last day.

If a time limit is expressed in weeks, it will expire on that day of the last week that bears the same name as the day of the act, event, decision or service from which the time limit runs.

If a time limit is expressed in months or in years, it will expire on that day of the last month or year that bears the same number as the day of the act, event, decision or service from which the time limit runs. If the relevant subsequent month has no day bearing the same number, the time limit expires on the last day of that month.

If a time limit is expressed in months and days or in fractions of a month, whole months are counted first, and then days or fractions of months; where fractions of a month are to be calculated, a month is considered to have 30 days.

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?

Any time limit that would otherwise expire on a Saturday, a Sunday, a statutory public holiday or a public holiday in lieu is extended to the first working day following it. The same applies when documents have to be submitted to municipal offices and on the final day of the time limit municipal services are closed to the public.

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

If legal proceedings are brought in a Luxembourg court against a person resident abroad, time limits are extended for distance. These extensions vary from 15 to 35 days depending on where the defendant lives.

12 What are the time limits for appeals?

As a general rule, appeals (*appels*) must be brought within 40 days, extended for distance in the case of persons resident abroad. Appeals against judgments that are not provisionally enforceable cannot be brought until eight days have elapsed.

The time limit for applying to have a judgment by default set aside (*opposition*) is 15 days, running from the date of service or notification.

Interim orders (*ordonnances de référé*) may be appealed within a time limit of 15 days from the date of service. If an interim order is made by default, the time limit for applying to have it set aside is eight days from the date of service. The time limit for applications to set aside runs concurrently with the time limit for appeals.

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

In the case of summary proceedings for an interim order, a summons is issued to attend a hearing held for the purpose on the normal day and time for such proceedings. If the case is urgent, however, the presiding judge or his or her replacement may allow a summons to attend a hearing open to the public in court or at his or her own home, at a stated time, even during weekends, public holidays or days that are not normally working days.

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?

When a party resident outside Luxembourg is summoned to appear in person in Luxembourg, the ordinary time limits apply, unless the court decides to extend them.

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

If an action is not brought within the time limit, it is time-barred and can no longer be brought. If the time limit for a procedural formality expires, the action will as a rule lapse or be struck out.

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

If a party has not brought an action within the required time limit, the time bar resulting from the expiry of the time limit may be lifted if, for reasons for which the party was not responsible, the act from which the time limit ran was not brought to the party's attention in good time or if it was impossible for them to take action. An application to that effect is admissible only if it is made within 15 days from the time at which the party concerned became aware of the act from which the time limit ran or from the time at which it became possible for them to take action. Such an application is not admissible more than one year after the expiry of the time limit that would normally run from the act. These time limits do not have suspensory effect.

Any action lapses if proceedings have been discontinued for three years. This time limit is increased by six months in all cases in which there are grounds for applying for a new party to step into the shoes of an existing party, or for appointing new counsel. When proceedings lapse, it does not follow that no further action is possible. A party wishing to act must then bring a fresh legal action to uphold their rights, unless such an action is itself time-barred.

An order to strike out an action on the ground that counsel has failed to comply with time limits is not open to appeal.

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