Time limits on procedures

Португалия

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

Procedural time limits may be **peremptory** (*perentório*), when their expiry extinguishes the right to carry out an act, or **dilatory** (*dilatório*), when they defer until a particular time the possibility of carrying out an act or the point at which another time limit starts to run.

Procedural time limits are subject to the rules laid down in Articles 138 to 143 of the Code of Civil Procedure.

The calculation of procedural time limits or time limits set by the courts is governed by the rules laid down in Articles 278, 279 and 296 of the Civil Code.

For time limits in civil matters, their length and effect on legal relations is governed by Articles 296 to 333 of the Civil Code.

In particular, limitation periods (*prazos de prescrição*) and time bars (*prazos de caducidade*) are governed by the rules in Articles 300 to 327 and Articles 328 to 333 of the Civil Code, respectively.

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

For this purpose, Portugal notified the European Commission of the following public holidays:

1 January; 7 April (Good Friday); 9 April (Easter Sunday); 25 April; 1 May; 8 June (Corpus Christi); 10 June; 15 August; 5 October; 1 November 1, 8 and 25 December.

The Commission published this list in the Official Journal of the European Union No 2023/C 39/07, available here

The Member States provide this list to the Commission each year. Some of the public holidays are variable and do not always fall on the date indicated above.

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

The general rule in Portuguese civil procedural law is that in the absence of any specific provision, the time limit is 10 days for the parties to apply for any act or judicial proceeding, plead nullity, file an incidental plea or exercise any other procedural right; the time limit is also 10 days for the party to respond to the other party's claim (Article 149 of the Code of Civil Procedure).

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

As a rule, the time limit for any response always starts to run from the service of the act in question (Article 149(2) of the Code of Civil Procedure).

Service on the parties during proceedings is made to their legal representatives.

When the service is intended to summon a party to appear in person, in addition to service on the representative, a registered notice will also be sent by post to the party itself, indicating the date, place and purpose of the appearance.

Service on representatives is by email (see Implementing Order (*Portaria*) No 280/13 of 26 August 2013, which may be consulted here), and the computer system will certify the date on which the service was made, with notification presumed to have taken place on the third subsequent day or, if that day is not a working day, on the first working day after that.

Summons by recorded delivery letter, with advice of receipt, 'is deemed to have taken place on the day on which the advice of receipt is signed and to have been effected by the person summoned even if the advice of receipt was signed by a third person, assuming, unless there is evidence to the contrary, that the letter was promptly delivered to the recipient' (Article 230(1) of the Code of Civil Procedure).

When the summons is effected by the legal representative, a court bailiff or a court clerk contacting the person summoned, the time limit begins to run from when that person signs the record of service.

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. See the answer to the previous question.

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 actual date of the act, event, decision, summons or service does not count (Article 279(b) of the Civil Code).

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

Where the time limit for carrying out a procedural act ends on a day on which the courts are closed, the period is extended to the next working day (Article 138(2) of the Code of Civil Procedure).

Judicial vacations run from 22 December to 3 January, from Palm Sunday to Easter Monday and from 16 July to 31 August.

The court may, by reasoned order and after hearing the parties, suspend the procedural time limit, in accordance with Article 269(1)(c) of the Code of Civil Procedure.

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

The calculation of any time limit does not include the day – nor the hour, if the time limit is expressed in hours – on which the event occurred from which the period begins to run, in accordance with Article 279(b) of the Code of Civil Procedure.

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

A period expressed in weeks, months or years and starting from a certain date ends at 24.00 of the corresponding day in the last week, month or year; if the corresponding day does not exist in the last month, the period ends on the last day of that month (Article 279(c) of the Civil Code).

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?

As the courts are only open on working days, and Sundays and public holidays are treated as judicial vacations, periods that end on Sundays or public holidays are extended to the first working day if the act in question has to be carried out in court.

The rule for calculating all procedural time limits is that the end of the period for carrying out the procedural act is extended to the following working day if it falls on a date when the courts are closed (Article 138(2) of the Code of Civil Procedure).

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

The procedural time limit established by law can be extended in the cases provided for.

With the parties' agreement, the time limit can be extended once and for the same length of time (Article 141 of the Code of Civil Procedure).

In the event of a justified impediment: the law allows an extension of the time limit (Article 140 of the Code of Civil Procedure).

The law also allows the act to be carried out within the first three working days following the expiry of the time limit, subject to the payment of a fine (see Article 139 of the Code of Civil Procedure).

12 What are the time limits for appeals?

The deadline for lodging an appeal is 30 days to be counted from service of the decision (Article 638 of the Code of Civil Procedure), and 15 days in urgent cases and in the cases laid down in Article 644(2) and Article 677 of the Code of Civil Procedure.

In those cases where the decision is not notified: the period runs from the day on which the person concerned became aware of the decision.

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

Statutory procedural time limits cannot be shortened. However, the Court may set a date or time limit for the appearance of the parties involved.

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?

Where the writ of summons is served outside the geographical area of the district of the court in which the action is pending, the time limit for the person summoned to lodge a defence to challenge a particular civil claim is extended (Article 245 of the Code of Civil Procedure).

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

The expiry of the mandatory time limit extinguishes the right to carry out the act. However, the act may be carried out outside the time limit in the event of a justified impediment and, regardless of this, it may also be carried out within the first three working days following the deadline, subject to immediate payment of a fine (Article 139 of the Code of Civil Procedure).

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

The act can be carried out after the time limit in cases of justified impediment.

In accordance with Article 140 of the Code of Civil Procedure, a justified impediment is deemed to be an event not attributable to the party or its representatives or authorised agents which prevents a given act from being carried out in good time. In this case, the party that claims the justified impediment must immediately provide supporting evidence.

Regardless of justified impediment, the act can be carried out within the first three working days following the end of the time limit, subject to payment of a fine, as noted above, and the court may, exceptionally, decide to reduce or waive the fine in cases of clear financial hardship or when the amount is deemed manifestly disproportionate, particularly in actions that do not require a legal representative to be appointed and where the act has been committed by the party themselves.'

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