

Procedural time limits - Portugal

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

Time has repercussions in the legal world. In civil matters, legal situations are affected and constrained by two different types of deadline: civil and procedural. Time limits are subject to particular rules and methods of calculation depending on whether they are substantive or procedural.

Unless expressly provided otherwise, the deadlines established by law are civil.

As regards deadlines in civil matters, Portuguese legislation makes specific reference to periods of limitation, lapse and non-use (Article 298 of the Civil Code).

The right to invoke the limitation period arises when the holder of a given right has not exercised that right during a statutory period, provided that the right is freely available to its holder and is not exempt by law. The importance of the certainty and safety of legal relationships is thus reaffirmed by not leaving the exercise of rights pending indefinitely. The limitation period must be invoked by the person who benefits from it; it cannot be raised by the court of its own motion.

Strictly speaking, the lapse of a period means the cessation, without retroactive effect, of a right or legal situation when a specified period elapses.

If established in matters not at the discretion of the parties, the lapsing of a period is raised by the court of its own motion and can be claimed at any stage of the proceeding. If established in matters at the discretion of the parties, it must be invoked in or out of court in order to be effective.

Non-use means the failure to exercise a right to total or partial use of something, i.e. to enjoy its benefits or economic advantages, during a statutory period. It results in the extinction of the corresponding right.

Non-use cannot be raised by the court of its own motion.

Procedural time limits are laid down by law in order to produce a specific effect on a case (for example, the time limits for instituting proceedings or for opposition), and the time limit is either minimum or mandatory.

Minimum time limits serve to defer to a particular time the possibility of performing an act or the starting time of another period.

Where a mandatory time limit follows a minimum time limit, the two periods are counted as one.

A procedural time limit can be established by law or by order of the court.

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

Non-working days in Portugal pursuant to the above Regulation include:

1 January, Good Friday, 25 April, 1 May, 10 June, 15 August, 8 and 25 December.

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 notification of the act in question (Article 149(2) of the Code of Civil Procedure).

Notifications to the parties during proceedings are made to their legal representatives.

When the notification is intended to invite a party to appear in person, in addition to the representative being notified, a recorded delivery notice will also be sent by post to the party itself, indicating the date, place and purpose of the appearance.

Representatives are notified by email (for further clarification (see Implementing Order (*Portaria*) No 280/13 of 26 August 2013, at http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=1967&tabela=leis), and the computer system will certify the date on which the notification was made, assuming it took place on the third day after it was prepared or on the first working day after that, if that day is not a working day.

Service 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 addressee 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).

In the case of proceedings to fulfil pecuniary obligations arising from contracts in writing in which the parties have chosen their address for service, the service is sent by post to the chosen address, providing that the value of proceedings does not exceed €30 000.00 or, in the event that it does exceed that amount, the obligation towards the continued supply of goods or services. If the addressee refuses to sign the advice of receipt or to receive the letter, the postman makes a record of the incident before returning the letter, and the service is deemed to have been effected on the basis of the incident having been recorded. The relevant event from which the period starts to run is the date the incident is recorded.

If the letter is returned because the addressee has not collected it from the post office within the statutory time limit or because a person other than the person being served refuses to sign the advice of receipt or to receive the letter, the service is repeated and another registered letter with advice of receipt is sent to the person being served. In this case, the letter itself - on an officially approved form - is left containing a copy of all the compulsory information. The postman must record the date and exact place of posting the letter and immediately forward the record of service to the court. If it is not possible to post the letter through the letterbox of the person being served, the postman leaves a notice for the addressee. In this situation, service is deemed to have been effected on the date recorded by the postman or, if a notice has been left, on the eighth day after that date (the addressee being advised of this in the most recent letter sent to them). It is at that point that the procedural time limit initiated with the service begins to run.

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

Civil procedural law provides for an extension (additional period granted by the legislator) to reflect the geographical distance between the place of service and the court where the case is being heard or the fact that the person being served was not served personally. In these circumstances the mandatory time limit begins to run only from the end of this extension.

Service is effected through public notices and announcements when the whereabouts of the person being served are uncertain, followed by an announcement on a public access webpage (see the aforementioned Article 24 of Implementing Order No 280/13 of 26 August 2013). In these circumstances, service is deemed to have been effected on the day on which the last announcement is published. The extendable time limit begins from the date of service; the deadline for submitting a defence runs from the end of the legal extension of the time limit.

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, service or notification does not count.

The actual date of the act, event, decision or date of service and/or intimation which begins it does not count.

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

The procedural time limit laid down by law or established by court order is continuous. It is, however, suspended during judicial vacations, unless the procedural time limit is equal to or greater than six months or where acts in proceedings statutorily classified as urgent are concerned, unless, by reasoned order and after hearing the parties, the judge decided to suspend the procedural time limit. Where the time limit for carrying out a procedural act ends on a day when the courts are closed, the period is extended to the next working day.

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

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

When such a period is expressed in months or years, the starting point is determined in the same way, i.e. the period begins to run from the day following the date of service, notification or the relevant event that sets it in train.

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

A time limit expressed in days ends after the number of days of the period is added to the starting point, as described in the answer to part b) of this question

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).

As Sundays and public holidays are treated as judicial vacations, periods that end on Sundays or public holidays are moved to the first business day if the act in question has to be heard in court.

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?

The courts are only open on working days.

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.

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).

12 What are the time limits for appeals?

The deadline for lodging an appeal is 30 days to be counted from notification of the decision, 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.

If the party is in default and should not be notified in accordance with Article 249 of the Code of Civil Procedure, the deadline for lodging an appeal begins when the decision is published unless the party ceases to be in default before the end of the period, in which case they must be notified of the judgment or order and the period starts from the date of notification.

In the case of oral orders or judgments reproduced in the procedure, the deadline starts from the day they were handed down provided the party was present or notified to attend the act.

Where, apart from the aforementioned cases, notification does not have to take place, the deadline starts from the day on which the person became aware of the decision.

Within the same time limit as for lodging an appeal, the respondent may respond to the appellant's claim.

In the claim, the respondent may challenge the admissibility or timing of the appeal, as well as the legitimacy of the appellant.

If the purpose of the appeal is a review of recorded evidence, the time limit for lodging and response is increased by 10 days.

If the respondent requests that the scope of the appeal be widened, the appellant can respond within 15 days of notification of the request.

If there are several appellants or several respondents, even if they are represented by different lawyers, each of their claims has its own time limit. The Secretariat is responsible for ensuring that all their cases are heard during the time limits they have been assigned.

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

Statutory time limits cannot be shortened.

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 respondent on whom an application has been served to respond to a given civil action has a time limit for lodging a defence. This can be extended when the notice has been served outside the district where the court sits and where the proceedings will take place. Extension of the time limit for lodging a defence depends on the notice being served outside the district where the court sits and where the proceedings will take place, and not on the place of residence of the person served - [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 bring the action. However, the action 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 business days following the deadline, subject to immediate payment of a fine.

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, as referred to in 14; in other words, as result of an event not attributable to those subject to the time limit or their representatives, which prevents a given act from being carried out in time. In this case, the party that alleges the 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 judge may, exceptionally, decide to reduce or waive the fine in cases of clear economic hardship or when the amount is deemed manifestly disproportionate, particularly in actions that do not require a legal representative to be appointed and the act has been committed by the party themselves.

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