

## Procedural time limits - France

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

Apart from procedural time limits properly so called (*délais de procédure*), French law provides for what may be termed 'periods of prescription' (*délais de prescription*) and 'periods of limitation' (*délais de forclusion*).

Periods of prescription (*délais de prescription*) are periods of time at the end of which a person acquires a right in respect of property (*délai de prescription acquisitive*) or the holder of a right loses it by failing to exercise it (*délai de prescription extinctive*). Periods of prescription may be suspended (*suspendu*) or broken off (*interrompu*): if a period is suspended, and the cause of the suspension is then removed, the period continues to run for the time remaining; if a period is broken off, and the cause of the breaking off is then removed, the period begins to run afresh.

Periods of limitation (*délais de forclusion*) restrict the duration of a right of action. They correspond to the English common-law concept of 'limitation of action'. Periods of limitation may not be suspended. As a general rule they may not be broken off either: however, under Articles 2241 and 2244 of the Civil Code, certain steps, such as a summons to appear in court, or an attachment or other enforcement measure, do break off these time limits.

Procedural time limits (*délais de procédure*) are those applying to court proceedings once the proceedings have been initiated. They are laid down by law or imposed by the court. In contrast to periods of limitation, they do not bar the action. These time limits may not be suspended or broken off.

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

Under the current legislation the following days are public holidays:

- Sundays;
- 1 January;
- Easter Monday;
- 1 May;
- 8 May;
- Ascension Day;
- Whit Monday;
- 14 July;
- the Assumption (15 August);
- All Saints' Day (1 November);
- 11 November;
- Christmas Day (25 December)

Public holidays have been established in certain places (certain departments (*départements*) and territorial communities (*communes utés territoriales*)) to commemorate the abolition of slavery: 27 May for Guadeloupe, 10 June for French Guiana, 22 May for Martinique, 20 December for La Réunion and 27 April for Mayotte.

In the departments of Alsace-Moselle, 26 December and Good Friday are public holidays.

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

Since the entry into force of Law No 2008-561 of 17 June 2008 (which includes transitional provisions), the period of prescription after which a right is lost under ordinary law is five years (it was previously 30 years).

However, there are a number of exceptions to this principle, especially for civil liability actions arising from an event resulting in bodily injury, for which the period of prescription is fixed at 10 years from the date when the initial or aggravated injury is considered to be consolidated, or for actions involving real property rights, which lapse after 30 years.

The duration of periods of limitation and procedural time limits varies according to the subjectmatter and the procedure involved.

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

For procedural time limits, Article 640 of the Code of Civil Procedure states that when an act or a formality has to be carried out within a given period, the period is calculated from the date of the act, event, decision or service that causes it to run.

For periods of prescription and limitation the same rule applies, subject to any specific provisions. For instance, under Article 2226 of the Civil Code, civil liability actions relating to bodily injury are barred 10 years from the date when the initial or aggravated injury becomes manifest.

## **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)?**

According to Article 664-1 of the Code of Civil Procedure, when a document is served by a bailiff (*huissier*), the date of service is the date of personal service, at the home or residence of the addressee, or the date of the official report drawn up by the bailiff listing the steps taken to find the addressee. When a document is served electronically, the date and time of service are those of the transmission of the document to its addressee.

When a document is served by post, according to Articles 668 and 669 of the Code of Civil Procedure, the date of service is, with respect to the sender, the date of dispatch, and, with respect to the addressee, the date of receipt of the letter. The date of dispatch is the date that appears on the postmark of the office of dispatch. The date of receipt is the date of the signed receipt (*réci pissé*) or signature (*émargement*) of the addressee. If the document is served by registered letter with a form for acknowledgment of delivery (*avis de réception*), the date of receipt is that which is affixed by the postal service when the letter is handed to the addressee.

By way of exception, Article 647-1 of the Code of Civil Procedure provides that the date of service of a writ in an overseas community, New Caledonia or abroad is, with respect to the sender, the date of dispatch of the writ by the bailiff or the court registry (*greffe*), or failing that the date of receipt by the responsible public prosecutor's office (*parquet*).

**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?**

According to Article 641 of the Code of Civil Procedure, where a time limit is expressed in days, the day of the act, event, decision or service that causes it to run is not counted.

The starting point of the time limit is not affected by the form of service. However, when a document is not served personally, certain provisions allow the time when the period starts to run to be deferred to the date when the document is in fact notified to the person or the date when enforcement measures are taken on the basis of the document.

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

According to Article 642 of the Code of Civil Procedure, a time limit that would otherwise expire on a Saturday, Sunday, public holiday or non-working day is extended until the first following working day.

Thus time limits do continue to run on Sundays and public holidays, but are extended when they would otherwise end on a Saturday, Sunday, public holiday or non-working day.

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

According to Article 641 of the Code of Civil Procedure, where a time limit is expressed in months or years, it expires on that day of the last month, or of the month in the last year, that bears the same number in the month as the day of the act, event, decision or service from which the time limit runs. Where the relevant subsequent month has no day bearing the same number, the time limit expires on the last day of that month.

Where a time limit is expressed in months and in days, the months are counted first, then the days.

The rule laid down in Article 642 of the Code of Civil Procedure (see previous question) applies to all time limits, whether expressed in days, months or years.

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

As explained above, according to Article 642 of the Code of Civil Procedure, all time limits expire on the last day at 24:00, unless the time limit is extended on the grounds that it would otherwise fall on a Saturday, Sunday, public holiday or non-working day.

As explained above, the point of departure of all time limits is the day of the act, event, decision or service that causes the time limit to run.

**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 explained above, a time limit that would otherwise expire on a Saturday, Sunday, public holiday or non-working day is extended until the first following working day.

The time when a time limit starts to run is necessarily determined or determinable. In case of doubt it can be determined by the court. The extension of the time limit to the first following working day applies to all subjectmatter and in all procedures.

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

According to Article 643 of the Code of Civil Procedure, when the action is brought before a court sitting in metropolitan France, the time limits for appearance (*comparution*), lodging an ordinary appeal (*appel*), lodging an objection (*opposition*), seeking review of a judgment (*révision*) and lodging an appeal on points of law to the Court of Cassation (*recours en cassation*) are extended by:

- one month for persons living in an overseas department or in an overseas territory or community;
- two months for persons living in a foreign country.

According to Article 644 of the Code of Civil Procedure, when an action is brought before a court sitting in the overseas territorial community it specifies, the time limits for appearance, lodging an ordinary appeal, lodging an objection and seeking review of a judgment are extended by:

- one month for persons not living in the territorial community for which the court sitting has jurisdiction;
- two months for persons living in a foreign country.

### **12 What are the time limits for appeals?**

In principle, according to Article 538 of the Code of Civil Procedure, the time limit for an ordinary appeal is one month in contentious matters, or fifteen days in noncontentious matters. However, several other provisions make exceptions to this principle. For instance, the time limit for such an appeal is fifteen days in cases of orders made in interim proceedings, enforcement court decisions, family court decisions, juvenile court decisions in matters of educational support, etc.

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

In urgent cases, the courts may shorten the time limits for appearance, and may allow the initial summons to state a fixed day for a hearing on the merits. Conversely, the courts may postpone their consideration of the case to a later date in order to allow the appearance of the parties.

### **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?**

In accordance with Article 647 of the Code of Civil Procedure, when an act intended for a party resident in a place where he/she would benefit from an extension of the time limit is served on him/her personally in a place where local residents would not benefit from such an extension, only the time limits allowed to the local residents will apply.

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

The expiry of a period of prescription or limitation puts an end to the right of action, and any proceedings are barred; an application will be declared inadmissible without consideration of its substance.

In the case of a procedural time limit set by law or imposed by the court, the penalties for non-observance vary according to the role of the time limit and the nature of the step to be taken. Failure to comply with a time limit for appearance nullifies a judgment delivered before the time limit expires if the defendant has not appeared. Lack of due diligence on the part of the parties is generally penalised by removal from the case-list. Failure to perform a procedural step in due time renders the step null and void.

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

No remedies are available to reverse the lapsing of the right to take legal action, which is a legal effect of the expiry of the period of prescription or limitation.

However, where the law so provides, the court has the option partially to relieve a party from the limitation consequent on failure to observe a time limit. Article 540 of the Code of Civil Procedure allows a partial lifting of the bar resulting from failure to comply with the time limit for challenging a judgment rendered by default, or deemed to have been given on a defended action, if the party, without any fault on his or her part, was not aware of the judgment in time to be able to challenge it, or if he or she was unable to act.

The decision of a court declaring that a procedural step is null and void may be subject to an appeal or an application for reversal (*rétractation*). In addition, nullity of this kind puts an end to the current proceedings, but leaves the right to bring an action intact. A fresh application may therefore be made as long as no cause for barring the proceedings applies, notably the expiry of the period of limitation.

No appeal can be brought against the decision to remove a case from the case-list. However, removal leaves the action itself intact. Periods of prescription or limitation will have been broken off by the serving of the summons, and that effect remains. Removal from the case-list suspends the action, but the suspension can be ended by the accomplishment of a formality, an application to re-register the case in the case-list.

#### **Related links**

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Last update: 29/11/2017