Time limits on procedures

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

French law provides for 'periods of prescription' (*délais de prescription*), 'periods of limitation' (*délais de forclusion*) and procedural time limits (*délais de procédure*).

Periods of prescription are periods of time at the end of which a person acquires a right in respect of property by virtue of possession, referred to as an acquisitive prescription period (*délai de prescription acquisitive*) or, as a result of failing to exercise a right, loses it or sees it expire, referred to as an extinctive prescription period (*délai de prescription extinctive*). Periods of prescription may be suspended (*suspendu*) or broken off (*interrompu*).

Periods of limitation are particularly strict and are generally set by law for the purpose of bringing an action. When they expire, the action is deemed to have terminated. 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 institution of legal proceedings 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 may be laid down by law or imposed by the court. In contrast to periods of limitation, the time limits set for court proceedings 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:

- 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 (*communautés territoriales*)) to commemorate the abolition of slavery: 27 May for Guadeloupe, 10 June for French Guiana, 22 May for Martinique, 20 December for 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, e.g. for civil liability actions arising from an event resulting in bodily injury, for which the period of prescription is fixed at 10 years.

The duration of periods of limitation and procedural time limits varies according to the subject-matter 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.

The starting point of the extinctive prescription period under ordinary law of personal actions or actions involving moveable property is set at 'the date on which the holder of a right was aware or should have been aware of the facts entitling him to exercise the right'. Specific starting points are set in some fields, such as civil liability actions arising from an event resulting in bodily injury. Under Article 2226 of the Civil Code, the starting point of the period of prescription of 10 years is the date on which the initial or aggravated injury is considered to be consolidated.

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 that person has neither home nor residence nor a known workplace. 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 (*récipissé*) 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 indicates that the date of service of a judicial or extrajudicial document in French Polynesia, the Wallis and Futuna Islands, New Caledonia, the French Southern and Antarctic Lands 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. This rule applies to procedural time limits.

An extinctive prescription period is also expressed in days, so that the day of the event that causes the time limit to run is not counted. With regard to time limits for appeals, 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 until the first following working day 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?

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.

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 extension of the time limit to the first following working day applies to all subject-matter 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 (*pourvoi en cassation*) are extended by:

• one month for persons living in Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint Barthélemy, Saint Martin, Saint Pierre and Miquelon, French Polynesia, the Wallis and Futuna Islands, New Caledonia or the French Southern and Antarctic Lands;

• 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 Guadeloupe, French Guiana, Martinique, Réunion, Mayotte, Saint Barthélemy, Saint Martin, Saint Pierre and Miquelon or the Wallis and Futuna Islands, 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 non-contentious 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?

As a general rule, the time limits for appearance and serving summons in the civil courts may be shortened in emergencies, subject to authorisation by the court. These time limits may also be shortened in application of the law or regulations.

For example, the parties may be authorised to serve a summons for a specially indicated date in interim/short notice proceedings, but also within the context of the expedited procedure.

As a general rule, the courts may decide to postpone their consideration of the case to a later hearing 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?

When a period of prescription or limitation expires, 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. No provision is made in legislation for penalties for failure to comply with a time limit for appearance: under case-law, failure to comply with that time limit 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, where a time limit has been set for that purpose, is generally penalised by removal from the case-list. However, failure to perform a procedural step may also be penalised by nullity (for example if the summons is not served in the court registry within the prescribed time limit) or by closure of the investigation in the context of preparation of the case file (standard written procedure).

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.

An application for relief may be brought against the decision of a court declaring that a procedural step is null and void. 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 provided that 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. The suspension can be ended by an application to re-register the case in the case-list indicating the steps taken which justified removal.

Related links

Site Legifrance – Code of Civil Procedure (in French)
Site Legifrance - Code of Civil Procedure in English and Spanish
Site Legifrance – public holidays

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