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Time limits on procedures

Netherlands

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

The deadlines that apply in civil procedural law can broadly be grouped as follows:

- Minimum notice periods for summoning the other party and any third parties and witnesses to appear in the proceedings. Ordinarily, a period of at least 1 week applies. In principle, a period of at least 1 week also applies when summoning interested parties to appear in application proceedings, unless the court specifies otherwise (Articles 114-119 and 276 (summoning parties and third parties) and Articles 170 and 284 (summoning witnesses) of the Code of Civil Procedure (*Wetboek van Burgerlijke Rechtsvordering*)). It is important to note that if the defendant has a known address or is known to actually reside outside the Netherlands, the notice period for summoning that party is at least 4 weeks (Article 115 of the Code of Civil Procedure).
- Maximum periods for seeking legal remedies. The legal remedy of objection (*verzet*) normally has to be sought within 4 weeks. Generally, periods of 3 months apply to an appeal (*hoger beroep*), an appeal to the Supreme Court (*cassatie*) and an action to repeal a judgment that has become final (*herroeping*) (see Article 143 (objection), Articles 339 and 358 (appeal), Articles 402 and 426 (appeal to the Supreme Court) and Articles 383 and 391 (repeal of a final judgment) of the Code of Civil Procedure).
- Time limits for the performance of procedural acts by the parties and for decisions by the court. These generally range from 2 to 6 weeks. Under certain circumstances the court may allow the performance of procedural acts to be deferred.
- Limitation periods for commencing legal actions and exercising enforcement authority. The general limitation period is 20 years. In many cases, however, a shorter limitation period of 5 years applies. Incremental penalty payments expire 6 months after the day on which they are incurred. A limitation period that is already in progress may be interrupted, after which a new limitation period may commence. For example, the limitation period that applies to enforcement authority may be interrupted by serving the judgment or by any other act of enforcement (Articles 306-325, Book 3, of the Civil Code (*Burgerlijk Wetboek*). Statutory time limits are also subject to the rules laid down in the General Extension of Time Limits Act (*Algemene Termijnenwet*).

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

Apart from Saturdays and Sundays, the [General Extension of Time Limits Act](#) specifies the following as generally recognised public holidays:

New Year's Day: 1 January

Good Friday: Friday before Easter

Easter Monday: Monday after Easter

Ascension Day: Thursday 40 days after Easter

King's Day: 27 April

Liberation Day: 5 May

Whit Monday: Monday after Pentecost

Christmas Day and Boxing Day: 25 and 26 December.

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

Statutory time limits are subject to the rules laid down in the General Extension of Time Limits Act. This Act stipulates that a time limit set in an act that ends on a Saturday, Sunday or generally recognised public holiday is extended until the end of the next day that is not a Saturday, Sunday or generally recognised public holiday. If necessary, a time limit comprising at least 3 days is extended so as to include at least 2 days that are not Saturdays, Sundays or generally recognised public holidays.

In the national rules of procedure for civil cases initiated by summons (*Landelijk procesreglement voor civiele dagvaardingen bij de rechtbanken*) a time limit of 6 weeks is taken as a starting point for the performance of procedural acts by the parties and the pronouncement of the judgment. In accordance with the national rules of civil procedure for the cantonal court sectors (*Landelijk reglement voor de civiele rol van de kantonsectoren*), in principle the cantonal courts employ time limits of 4 weeks (<http://www.rechtspraak.nl/>).

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

The starting time is always the first day following the decisive event.

Summons

Not applicable.

Legal remedies

The time limit for the legal remedy of **objection** (only possible against judgments in default of appearance) has three different starting times:

the moment the judgment is served on the convicted party in person;

in the event that another method of service is used: the moment the convicted party performs an act proving that he or she is aware of the judgment or the commencement of enforcement; and

in other cases: the moment the enforcement of the judgment is completed.

The time limit for **appeals and appeals to the Supreme Court** against judgments is calculated from the date on which the judgment is delivered. The first day of the period is the day following that of the judgment. See also question 12.

The time limit for appeals and appeals to the Supreme Court against decisions is calculated:

from the date on which the decision is delivered, in the case of the applicant and the interested parties appearing in the proceedings, and after the decision has been served or otherwise notified, in the case of other interested parties.

The time limit for an **action to repeal** a judgment or decision that has become final commences after the ground for repeal has arisen and the claimant or applicant has become aware of it, but in any case not before the judgment or decision has become final, i.e. it can no longer be set aside by an objection, appeal or appeal to the Supreme Court.

Procedural acts

The fixed time limits for performing procedural acts are generally calculated from the previous case-list date in full weeks. Example: following a case-list hearing on a Wednesday the case is placed on the case list again on the Wednesday 4 weeks later and the submission deadline is 10 a.m. If the case is taken off the list, for example, the court then determines the date on which it will be restored to the list.

Limitation periods

The starting time of the limitation periods that apply to legal actions depends on the nature of the action. For example, a right of action to claim performance of a contractual obligation to provide or do something expires 5 years after the start of the day following that on which the claim became exigible. Example: a right of action to claim termination of an unlawful situation expires 5 years after the start of the day following that on which immediate termination of the situation can be claimed.

Enforcement

In principle, enforcement authority expires 20 years after the start of the day following that on which the judgment is delivered.

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)?

No. However, in some cases the manner in which a party becomes aware of the judgment influences the start of the time limit for seeking a legal remedy, e.g. for lodging an objection. See also question 4.

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?

No. The time limit commences on the day following that on which the event occurred.

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

Unless indicated otherwise, Dutch law uses calendar days. The General Extension of Time Limits Act stipulates that a time limit that ends on a Saturday, Sunday or generally recognised public holiday is extended until the end of the next day that is not a Saturday, Sunday or generally recognised public holiday. Furthermore, if necessary, a time limit set in an act comprising at least 3 days is extended so as to include at least 2 days that are not Saturdays, Sundays or generally recognised public holidays.

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

These also refer to calendar months and calendar years.

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

Summons

Not applicable.

Legal remedies

In summons proceedings legal remedies are sought by issuing a summons. Unless permitted to do so by the court before which the party is being summoned to appear, the bailiff may not issue the bailiff's notification after 8 p.m. The time limit therefore actually ends at 8 p.m. on the last day. In such proceedings it should also be borne in mind that neither the day on which the summons is issued, nor the day on which the party is summoned to appear (the first case-list date), is counted when calculating the notice period for the summons. The minimum notice period therefore has to lie between these two dates. In application proceedings legal remedies are sought by filing an application with the court registry. This can be done by post or in person during the registry's opening hours, or by fax until midnight on the last day of the period.

For appeals in family cases the starting time differs slightly from that applicable to appeals in other application proceedings (see also question 4. 'Legal remedies'). The applicant may lodge an appeal within 3 months of the day on which the judgment is delivered. Other interested parties may lodge an appeal within 3 months of the decision being served on or otherwise notified to them.

Procedural acts

If a case is on the case list, the following applies to the submission of documents. In principle, a document intended for a case-list date is submitted to the court registry by the submission deadline. This is the latest time by which any documents, with the exception of the summons, and reports must be in the court's possession. In accordance with the national rules of procedure the day and time by which documents must be submitted are: Wednesday at 10 a.m. If no hearing is held because the case is being dealt with in writing, the documents are submitted to the court registry on or before the case-list date. The cantonal sector of a court always holds a hearing, as procedural acts may also be performed orally in that case. Documents must be submitted to the court registry on the day preceding the case-list date at the latest. This can be done by post or in person during the registry's opening hours, or by fax until midnight on the day in question.

Limitation periods

See also 'Limitation periods' under question 4. For some rights of action the time when a party becomes aware of a certain fact is important. Example: a right of action to claim the recovery of undue payment expires 5 years after the start of the day following that on which the creditor became aware of both the existence of the claim and the identity of the recipient, and in any case 20 years after the claim arose.

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?

Yes, a deadline that expires on a Saturday, Sunday or generally recognised public holiday is extended until the end of the next day that is not a Saturday, Sunday or generally recognised public holiday. However, in accordance with the General Extension of Time Limits Act this does not apply to deadlines determined by counting back from a particular time or event. In other words, this rule applies to maximum periods and not to minimum periods.

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

In some cases the law provides for an extension to a deadline. For example, if the unsuccessful party dies during the period for lodging an appeal and that party's heirs wish to succeed him or her in the appeal proceedings, a new three-month period applies.

Generally, however, the rules relating to time limits are strictly enforced, although the Supreme Court of the Netherlands (*Hoge Raad der Nederlanden*) has made an exception for cases in which the party appealing was not made aware of the judgment promptly due to an error or omission on the part of the court. In such a case that party missed the deadline through no fault of his or her own and a short extension is granted.

12 What are the time limits for appeals?

The time limit for lodging an appeal is usually 3 months. In certain civil cases, such as interlocutory proceedings (expedited proceedings), shorter time limits apply for appeals and appeals to the Supreme Court, namely 4 and 8 weeks respectively.

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

All periods relating to whether a party has to appear are minimum periods. No maximum period has been set.

Summons

Notice periods for summoning a party may be shortened by the court at the claimant's request, if necessary subject to certain conditions. In interlocutory proceedings a summons is only issued after the judge has specified the date and time of the hearing, which may even be held on a Sunday. If necessary, a party can be summoned at very short notice. The court may also set a shorter notice period for summoning a party in application proceedings.

The court cannot extend notice periods for summoning a party, although it may set a longer notice period for appearing in application proceedings (see questions 7 and 8).

Procedural acts

The court may extend the time limits within which the parties must perform procedural acts if this is jointly requested by the parties. If a request is made unilaterally, a deferral is only granted on the basis of compelling reasons or force majeure. Compelling reasons include, for example, the actual or legal complexity of the case, the need to await a judgment in other relevant proceedings or a situation in which the party or his or her lawyer is ill or on holiday.

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?

Dutch law contains no provisions for such a situation.

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

Summons

If a party is summoned with insufficient notice, the summons becomes invalid in the event that the defendant fails to appear and will be declared invalid by the court. It does not become invalid automatically. The claimant may rectify such a defect by issuing an amended bailiff's notification before the first case-list date.

If the defendant fails to appear on the first case-list date, the summons is checked for any defects that may render it invalid. If it is in order, the defendant is declared to be in default through non-appearance and the claim is generally allowed in default of appearance. If the defendant fails to appear and it is likely that he or she did not receive the bailiff's notification as a result of the defect, the court will declare the notification invalid.

If the defendant fails to appear or to appoint a lawyer despite having been given notice to do so in the summons and it emerges that the bailiff's notification contained a defect that renders it invalid, the defendant is not declared to be in default through non-appearance. The court sets a new case-list date and orders the defect to be remedied at the claimant's expense. If the defendant appears and does not invoke the defect, the summons is deemed to have been issued correctly.

Legal remedies

If the time limit for seeking a legal remedy is exceeded, the penalty is the disallowance of the appeal. The underlying court decision then becomes final, i.e. it can no longer be set aside by an objection, appeal or appeal to the Supreme Court.

Procedural acts

If a procedural act is not performed within the set time limit, under certain conditions a deferral may be obtained (see question 10). If a deferral cannot be obtained, the right to perform the procedural act expires.

Limitation periods

If the interested party has allowed the period for commencing legal action to expire, the right of action protected by the claim continues to exist. However, it is no longer possible to exercise it through the courts.

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

The following legal remedies are available to parties who have missed deadlines.

Summons

A defendant who fails to appear on the first case-list date is generally judged in default of appearance. Until the final judgment has been delivered this defendant can prevent a default judgment by appearing as a party in the proceedings. After the final judgment has been delivered the party judged in default of appearance may seek the legal remedy of objection. Judgment in default of appearance, prevention of a default judgment by appearing in court and objection do not apply in application proceedings. In such cases the interested party who has failed to appear is able to lodge an appeal.

Legal remedies

Time limits for seeking legal remedies are enforced by the court of its own motion. Time limits for lodging appeals and appeals to the Supreme Court are mandatory. The courts are very strict in the application of these limits in the interests of legal certainty. However, the Supreme Court of the Netherlands has introduced a certain amount of flexibility for appeals in application proceedings. The notice of appeal must set out the grounds for the appeal, but in cases in which the decision has been pronounced but not yet sent and the appellant therefore does not have access to the underlying reasoning, it is permitted to present the grounds for the appeal in a subsequent, supplementary notice of appeal. The appeal itself must, however, have been lodged within the time limit. Only in occasional cases where the court has committed a double error is the time limit extended by 14 days following receipt of the decision. This is the case if the party lodging the appeal did not know and could not have known when the decision would be pronounced as a result of an error on the part of the court (or court registrar) and the decision was only sent out or issued after the time limit for appeals had expired, as a result of an error that cannot be attributed to the appellant. In summons proceedings the notice of appeal does not have to set out the grounds for the appeal. These are not presented until a later stage of the proceedings.

Procedural acts

Under certain circumstances a deferral may be requested for the performance of procedural acts (see question 13). If a deferral is not obtained, the right to perform the procedural act expires.

Limitation periods

No remedy is available against the expiry of limitation periods, other than interrupting them in due time (see question 1. d.). Nevertheless, under very exceptional circumstances the court may rule that invoking limitation is contrary to the principles of reasonableness and fairness.

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