

Pradžia>Nagrinėjimas teisme>Civilinės bylos>Procesiniai terminai

Time limits on procedures

Slovėnija

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

According to Slovenian procedural law, a time limit is a period of time restricted by two points in time – the start and end of the time period – in which a particular procedural act can be performed and, exceptionally, cannot be performed.

Slovenian law recognises different time limits:

substantive and procedural time limits: substantive time limits are determined by substantive law for asserting rights and are divided into negative prescription time limits, upon the expiry of which a right terminates by law, and limitation time limits, when a right can no longer be asserted if the opposing party objects. Procedural time limits are set for performing procedural acts;

statutory and judicial time limits: statutory time limits and their duration are laid down directly by law, while judicial time limits are set by a court taking into account all the circumstances of a particular case;

extendable and non-extendable time limits: judicial time limits may be extended, while statutory time limits may not;

subjective and objective time periods: subjective time periods start when an eligible person learned of a particular event or acquired an opportunity to perform a procedural act, while objective time periods start when a particular objective circumstance has occurred;

procedural prescription and indicative time limits: upon the expiry of a procedural prescription time limit, a procedural act to which the time limit applies can no longer be performed with an effectual consequence, whereas breaching an indicative time limit does not have direct legal consequences.

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

According to Regulation No 1182/71, 'working day' mean all days other than public holidays, Sundays and Saturdays. The following **public holidays** are designated as non-working days in Slovenia by the Public Holidays and Non-Working Days in the Republic of Slovenia Act (Zakon o praznikih in dela prostih dnevih v Republiki Sloveniji; abbreviated ZPDPD):

1 January - New Year's Day;

8 February - Prešeren Day, the Slovenian Cultural Holiday;

27 April - Day of Uprising Against Occupation;

1 and 2 May - May Day Holiday;

25 June - Statehood Day;

1 November - All Saints' Day;

26 December - Independence and Unity Day.

Non-working days in Slovenia also include:

Easter Sunday and Monday;

15 August - Assumption Day;

31 October - Reformation Day;

25 December - Christmas Day.

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

The general rules on procedural time limits in Slovenian law are prescribed by the Civil Procedure Act (Zakon o pravdnem postopku; abbreviated: ZPP).

Articles 110 to 112 and 116 to 120 of the ZPP are directly applicable in civil proceedings, and mutatis mutandis in non-contentious proceedings, enforcement and security proceedings, and in proceedings for compulsory settlement or bankruptcy due to insolvency of an undertaking or its liquidation.

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

Slovenian law recognises the civil counting of time periods, which is counting by days. Time periods are calculated in days, months and years. If a time period is expressed in days, the day of service of a court document or the day of the event from which the time period starts is not included in the time period. Rather, the first day of the time period is the first following day. Time limits which are expressed in months or years expire at the end of the day of the last month or year whose number corresponds to the date when the time limit started. If such a day does not exist in the last month, the time limit expires on the last day of that month. Time periods in these cases start on the day on which the event – from which the time period is counted – occurred (for example, if a procedural act needs to be performed within one year from service of a document and service took place on 25 April 2005, the time period expires on 25 April 2006). If the last day of a time period is a Saturday, Sunday, public holiday or other non-working day defined as such by the Public Holidays and Non-Working Days in the Republic of Slovenia Act (see point 2 above), the time period expires on the first following working day. The above-mentioned days do not have an effect on the start and the course of proceedings because the time period runs without interruption on these days as well. An exception to this rule is the judicial vacation (between 15 July and 15 August), during which a time period cannot start to run; rather, it commences on the first day after the judicial vacation.

The events after which time periods start are most often the service of a court document, an action by the opposing party or a non-procedural event.

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 Slovenian law, documents are served by post, by a bailiff, at a court or in any other manner prescribed by law. When a time period starts running upon service, the method of service of documents has no effect on when the time period starts running. The time period starts running when service actually took place or is regarded as having taken place in accordance with the law.

Service of documents is governed by Articles 132 ff. of the ZPP. It distinguishes between non-personal (ordinary) and personal service by post, and service by secure electronic means, which can also be personal or ordinary.

In **non-personal service of documents** (Articles 140 and 141 of the ZPP), service is regarded as having taken place on the day a process server gives documents to an addressee at their home or workplace. If the addressee cannot be found at their home, the documents may be given to an adult person in their household. If the process server serves the documents at the workplace of the addressee who is not there at the time of service or the process server cannot reach the person because of work procedures at the place of work, the service is regarded as having taken place when documents are given to a person authorised to accept post or to a person who is employed at such a place of work. If the addressee lives in accommodation and the process server

cannot find them there, the documents are given to a person there who is authorised to accept residents' post. The time limit starts the day after such service. If such service is not possible, the process server deposits the documents in a letterbox at the address of the residence. Service shall be deemed to have been effected on the day the document was left in the letterbox. If the addressee does not have a letterbox or it is not usable, the documents may be delivered to the court which had requested service or a local post office, leaving a notice of service on the home's front door stating where the documents can be retrieved. Service is deemed to have taken place on the day the notice of service is affixed to the door. The post office retains the documents for 30 days. If the addressee does not pick up the documents within that time period, the documents are returned to the court. If documents must be served on a legal entity, registered in the registry, or on a sole entrepreneur, and service is not possible at the address of the establishment registered in the register, service is carried out by leaving the documents or the notice of service at the address which is registered in the register, provided such address actually exists.

Personal service (Articles 142 and 143 of the ZPP) is performed when service concerns an action, a court decision against which an appeal or an extraordinary legal remedy is allowed, a payment order for the court fee for submissions under Article 105a of the ZPP, an invitation to a settlement hearing or the first main hearing. Other documents are personally served only when required by law or when a court assesses it is necessary because the documents are originals or for some other reason requiring greater caution. The time period starts running the day after such service. The time period may expire on a non-working day, meaning that if it expires on a non-working day, the time period is not extended to the next working day.

If direct personal service is required but is not possible, the process server may leave the document in a letterbox or affix to the home's front door a notice of documents, which sets out the 15-day time limit in which the addressee can collect the documents at a local post office, when service was attempted by post, or at the court which had ordered service. Service is regarded as having taken place when the addressee collects the documents from the post office or after 15 days if the addressee does not collect the documents. When the addressee does not collect the documents, the time period starts running the day after service took place or is regarded as having taken place.

Electronic service of documents may be carried out by secure electronic means. The judicial information system automatically sends documents to the registered address for service or to a secure electronic mailbox by legal or natural persons which carry out service of documents by secure electronic means as a registered activity on the basis of a special permit from the Ministry of Justice. The addressee must collect the documents within 15 days. The addressee collects the documents from the information system by proving their identity in the manner prescribed, signs the proof of service electronically and returns it to the sender by secure electronic means. Service is regarded as having taken place on the day the addressee accepts the electronic documents. If the documents are not accepted within 15 days, service is regarded as having taken place after the expiry of this time period. The addressee must have the possibility to learn about the content of the documents at least three months after the expiration of the 15-day period after having received the electronic documents. If the addressee does not collect the documents, the time period starts running the day after service took place or is regarded as having taken place. **It must be emphasised that despite having a statutory legal basis, electronic service is not yet possible in civil and commercial judicial proceedings, with the exception of enforcement, insolvency and land registry proceedings. Regarding the use of electronic operations, please see the subject 'automated processing'.**

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?

Where a time period is expressed in days, the day of service of a court document or the day of an event from which a time period starts is not included in the time period; instead, the first day of the time period is the day after the service of the court document or the day after the event.

Time limits which are expressed in months or years expire at the end of the day of the last month or year whose number corresponds to the date when the time limit started. If such a day does not exist in the last month, the time limit expires on the last day of that month. Time periods in these cases start on the day on which an event from which the time period is counted occurred (for example, if a procedural act needs to be performed within one year from service of a document and service took place on 25 April 2005, the time period expires on 25 April 2006).

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

Where a time limit is expressed in days, this means calendar days. Time periods run without interruption, including Saturdays, Sundays and non-working days. For example, if a judgment was served on a Friday, the time period for an appeal starts running on Saturday. If the last day of the time period is a Saturday, Sunday, public holiday or other non-working day prescribed as such by the Public Holidays and Non-Working Days in the Republic of Slovenia Act, the time limit expires on the first following working day.

When counting time limits it is necessary to also apply the special rules in Article 83 of the Courts Act (Zakon o sodiščih), which govern judicial vacations. Between 15 July and 15 August courts only conduct hearings and decide on urgent matters, which are defined as such by law (injunctions, custody and care of children, maintenance obligations, etc.). Except in urgent matters, procedural time periods do not run. If service was made during the judicial vacation (for example, on 20 July) the procedural time limit starts running on the day following the last day of the judicial vacation, which is 16 August. Procedural time limits too may not expire during the judicial vacation. For example, if service was made on 10 July, the 15-day time limit expires on 26 August. The running of time limits is interrupted by the judicial vacation.

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

Slovenian law does not express time limits in terms of weeks. Time limits are calculated in days, months and years. Saturdays, Sundays and other non-working days do not have an effect on a time limit, and a time limit may not expire on such a day. If the last day of a time limit is a Saturday, Sunday, public holiday or other non-working day defined as such by the Public Holidays and Non-Working Days in the Republic of Slovenia Act, the time limit expires on the first following working day.

The provisions in the Courts Act concerning time limits during the judicial vacation are deficient with regard to time limits which are expressed in months or years, and for which Article 111(3) of the ZPP provides that they expire on the day whose number corresponds to the date when the time limit started. The judicial vacation does not affect the running of time limits expressed in years. According to case law, time limits expressed in months do not run during the judicial vacation and thus are extended by one month (for example, a three-month procedural time limit that starts running on 20 June expires on 20 September, a three-month time limit that would have expired during the judicial vacation, for example on 5 August, is extended by one month and expires on 5 September).

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

Time limits which are expressed in months or years expire at the end of the day of the last month or year whose number corresponds to the date when the time limit started. If such a day does not exist in the last month, the time limit expires on the last day of that month (for example, if a particular procedural act needs to be performed within one year of service of documents, and the documents were served on 25 April 2005, the time limit expires on 25 April 2006; if a particular procedural act needs to be performed within one month of service, which took place on 31 May 2005, the last day of the time limit is 30 June 2005).

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?

Time limits do not expire on a Saturday, Sunday or other non-working day. If the last day of a time limit is a Saturday, Sunday, public holiday or other non-working day defined as such by the Public Holidays and Non-Working Days in the Republic of Slovenia Act, the time limit expires on the first following working day.

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

Only those time limits which are determined by a court, so-called judicial time limits (Article 110 of the ZPP), can be extended. A judicial time limit may be extended by a court upon a request of a party when there are justified reasons for its extension. An extension of a time limit must be requested before it expires. Time limits prescribed by law are non-extendable. The provision on the non-extendable nature of statutory time limits is mandatory.

12 What are the time limits for appeals?

Parties may lodge an appeal against a judgment or decision issued at first instance within the general appeal time limit of 30 days after the service of a copy of the judgment and 15 days after the service of a copy of the first instance court decision unless the ZPP (Article 333 or 363(2)) provides otherwise.

A shorter 15-day appeal time limit is laid down in disputes involving bills of exchange or cheques (Article 333 of the ZPP), and an 8-day limit in disputes involving trespass (Article 428 of the ZPP), small-claims (Article 458 of the ZPP), for notifying an appeal in small-claims commercial disputes and for issuing a payment order. The shorter 8-day time limit also applies to lodging legal remedies (appeals and objections) in proceedings for enforcing and securing claims (Article 9 of the Enforcement and Securing of Civil Claims Act (Zakon o izvršbi in zavarovanju)).

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

Courts hold hearings when they are prescribed by law or necessary in the course of proceedings (Article 113 of the ZPP). A hearing is an appointment at a particular place and time for conducting a procedural act. A court may defer a hearing to a later date when there are justified reasons for doing so (Article 115 of the ZPP).

A court may also extend the time limit it set for a party to perform a procedural act (judicial time limit) if there are justified reasons for its extension and the party requested that the time limit be extended before it would expire.

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?

Under Slovenian law, it is not possible to extend a time limit on the grounds that a party is resident in a particular place or area.

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

Missing a deadline generally means losing a right. A party loses the right to lodge a legal remedy (negative prescription) and a legal remedy lodged too late will be dismissed. A court will dismiss an application which a party does not amend or supplement within a prescribed time limit.

If a deadline is missed, the party may be considered to have withdrawn its claim (for example, in a case when a party does not pay a court fee within the statutory time limit, it is considered to have withdrawn its claim and the proceedings are stayed; the same applies when neither party requests that proceedings continue within four months after they were stayed).

If a party fails to appear at a hearing, in some cases it is regarded as having withdrawn the action (for example, if no party appears at the first hearing, the claimant is considered to have withdrawn the action).

Missing a deadline may also have consequences for a party in evidentiary proceedings. Missing a deadline to pay an advance for taking proposed evidence means that this evidence will not be taken.

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

If a party misses a deadline for a particular procedural act, which results in negative prescription (meaning that the party loses the right to perform the procedural act), a court may grant the party's request to perform it later (i.e. to return to the previous state; Articles 116 to 121 of the ZPP).

Conditions for returning to the previous state are:

a party missed a deadline for a justified reason, as determined by a court in the light of all the circumstances of the case;

negative prescription arose because a deadline was missed;

a party lodges a petition for return to the previous state before the court where the procedural act would have had to be performed, within 15 days from the cessation of the reason that caused the party to miss the deadline; if the party only learned of the missed deadline subsequently, then within 15 days from the time it learned of this; in all cases, within three months, or 30 days in commercial disputes, from the day on which the deadline was missed;

a procedural act that had not been performed is performed at the same time as the petition for return to the previous state is lodged.

Lodging a petition for return to the previous state generally does not affect the course of the proceedings, but a court may decide that the proceedings should be suspended until a decision on the petition becomes final. After receiving a timely petition for return to the previous state, a court generally holds a hearing at which it decides on the petition. If a return to the previous state is allowed, the proceedings return to their state before the delay, and decisions issued by the court due to the delay are annulled.

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