Time limits on procedures

Italja

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

Procedural time limits, i.e. the period of time within which a particular step must be taken, may be a) mandatory (*perentorio*), meaning that failure to comply makes the step invalid; b) indicative (*ordinatorio*), meaning that failure to comply does not entail invalidity or nullity; c) minimum (*dilatorio*), meaning that the step is invalid if taken before the date in question (Code of Civil Procedure, Sections 152 to 155, see annex referred to below).

2 List of the various days envisaged as non-working days pursuant to Regulation (EEC, Euratom) No 1182/71 of 3 June 1971.

The following are regarded as non-working days: all Sundays, 1 January, 6 January, 25 April, Easter Monday, 1 May, 2 June, 15 August, 1 November, 8 December, and 25 and 26 December.

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

When calculating a procedural time limit, the starting day (*dies a quo*) is not considered. If the final day (*dies ad quem*) is a non-working day, the time limit is automatically extended to the next working day. If the law refers to the concept of 'clear days' (*giorni liberi*), both the starting and final day are excluded from the calculation.

If the law does not expressly state that the time limit is mandatory, the time limit will be considered indicative.

To compute time limits expressed in months or years, the common calendar is used; thus the time limit expires upon the expiry of the last moment of the day of the month corresponding to the initial one or, in the case of time limits in years, on the last moment of the day of the month and (subsequent) year corresponding to the initial ones, irrespective of whether the months have 31 or 28 days or whether the calculation includes February of a leap year.

Mandatory time limits cannot be extended.

Procedural time limits in ordinary and administrative courts (with the exception of employment cases) are automatically suspended during the summer recess from 1 to 31 August of each year, in accordance with the reform implemented by Decree Law No132/2014 (previously the suspension lasted until 15 September), and their calculation resumes or commences from the end of this suspension period.

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

If the starting date is not specified by the judge, the time limit will normally begin to run from the moment the party actually or legally becomes aware of the obligation (for example: the time limit for an appeal starts at the moment the judgment is notified or, failing that, published).

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)?

This may occur in the following two cases:

a) With reference to time limits that begin to run from the date of service or notification of a document (as, for example, the time limits for appealing a judgment):

In these cases, for the purposes of an appeal within the short time laid down in Section 325 of the Code of Civil Procedure (30 days for a first appeal, or 60 days for an appeal on a point of law to the Court of Cassation), what counts is the moment of receipt of the copy of the judgment by the addressee. Therefore, the moment from which the time limit begins to run may indeed vary depending on the method of service, since postal delivery might be slower than delivery by a court bailiff.

b) With regard to service by post, the Constitutional Court (judgments No 477 of 2002 and No 28 of 2004) has held that the service of a court document is completed on the sender's side when the document is handed over to the court bailiff, whatever the method of transmission thereafter (by post or delivery by the bailiff), whilst it is completed on the recipient's side on the date of receipt of the document.

This principle means that the time of service of the document by the sender is distinct from the time of receipt by the addressee, a principle also accepted by Council Regulation (EC) No 1348/2000. The principle is concerned only with the timeliness of the service of the document, in that the legal time limit is deemed to have been observed by the serving party if the document is given to the court bailiff before the applicable time limit expires. It does not affect the starting time for other time limits, which is the time of notification or delivery of the document to the addressee, or of publication of a judgment, or another event as explained in greater detail above.

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 day when the event occurred is not taken into account.

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

All days are counted; only if the deadline falls on a holiday is it extended to the next working day.

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

Where a period is expressed in months or years, calendar months and years are meant.

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

In those cases, the time limit expires upon the expiry of the last moment of the day of the month corresponding to the initial one or, in the case of time limits in years, on the last moment of the day of the month and (subsequent) year corresponding to the initial one, irrespective of whether the months have 31 or 28 days or whether the calculation includes February of a leap year.

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.

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

Mandatory time limits cannot be extended. However, parties may apply to the court for an extension where they can prove that they failed to meet the deadline for reasons over which they had no control.

12 What are the time limits for appeals?

A first distinction must be made between long and short time limits.

The long time limit is six months from the publication of the judgment. The short time limit, which starts from the moment the judgment is notified, is 30 days for appeals before a court of appeal and 60 days for appeals before the Court of Cassation. Applications in third-party opposition (*opposizione di terzo revocatoria*) and applications for revision (*revocazione*) must be lodged within 30 days after discovery of the deceit or mistake that the application relies on. Appeals for lack of jurisdiction must be lodged within 30 days.

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

As a general rule, the court may set time limits at will within an interval established by law. However, the time limits for the appearance of the parties are established by law and not by the court. Under Section 168bis of the Code of Civil Procedure, the court may postpone the date of the first hearing by up to a maximum of 45 days.

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 Italy there is no general rule for granting extension of time limits. However, in certain cases, time limits have been suspended on account of natural disasters. Thus, as a rule the extension applies only to the person or area covered by a measure or a ministerial decree.

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

Non-compliance with a mandatory time limit leads to loss of the power to perform the act covered by the time limit.

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

The defaulting parties may apply for extension of the deadline if they are able to demonstrate that they failed to comply for reasons outside their control.

Related annexes

Procedural time limits: Code of Civil Procedure, Sections 323–338 PDF (72 Kb) it

Procedural time limits: Code of Civil Procedure, Sections 152–155 PDF (41 Kb) it

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