Time limits on procedures

Estland

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

The provisions of the General Part of the Civil Code Act (*tsiviilseadustiku üldosa seadus*, TsÜS) concerning terms and due dates apply when calculating procedural time limits, unless otherwise provided by law. Under Section 134(2) TsÜS, a term is defined in years, months, weeks, days, hours or shorter units of time or with reference to an event that will definitely occur. A term begins to run on the day following the calendar day or the occurrence of the event which was set as the beginning of the term, and it ends on the due date. If a due date is defined as a term calculated in days or longer units of time, the term expires at 24:00 on the due date, unless otherwise provided by law. A declaration of intention due to be communicated within a term to a person engaged in economic or professional activity is to be communicated to the person and any acts to be performed within a term in respect of the person are to be performed at the latest on the due date by the end of the normal working time of the place at which the declaration of intention is to be communicated or the act is to be performed. If a procedural act is to be performed on the premises of a court, the end of the working day of the court is deemed to be the end of the term.

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

Non-working days are set out in the Public Holidays and Days of National Importance Act (*pühade ja tähtpäevade seadus*) (entered into force on 23 February 1998). They are:

1) 24 February – Independence Day and anniversary of the Republic of Estonia;
2) 1 January – New Year's Day;
3) – Good Friday;
4) – Easter Sunday;
5) 1 May – May Day;
6) – Whitsun;
7) 23 June – Victory Day;
8) 24 June – Midsummer Day;
9) 20 August – Day of Restoration of Independence;
10) 24 December – Christmas Eve;
11) 25 December – Christmas Day;
12) 26 December – Boxing Day.

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

Under Section 65(1) of the Code of Civil Procedure (*tsiviilkohtumenetluse seadustik*, TsMS), the provisions of TsÜS concerning terms and due dates apply when calculating procedural time limits, unless otherwise provided by law.

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

The general rule is set out in Section 135(1) TsÜS, under which a term begins to run on the day following the calendar day or the occurrence of the event which was set as the beginning of the term, unless otherwise provided by law or a contract. A term set by a court begins to run on the day following the day on which the document in which the term is set is served, unless otherwise prescribed when the term is set. If the document does not need to be served, the term begins to run once notice is received of the term having been set (Section 63 TsMS).

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. The Code of Civil Procedure states that a term set by a court begins to run on the day following the day on which the procedural document is served. This applies to all methods of service of documents.

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 – under Section 135(1) TsÜS, a term begins to run on the day following the calendar day or the occurrence of the event which was set as the beginning of the term, unless otherwise provided by law or a contract.

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

Under Section 136(9) TsÜS, for the purposes of defining a term, one day is deemed to be the period of time from midnight to midnight. Thus, if a term is expressed in days, the number of days refers to calendar days.

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

As a rule, procedural time limits are expressed in days.

A term is expressed in months if, for example, no appeal can be filed on expiry of the term. According to Section 632 TsMS, an appeal may be filed within 30 days of the judgment being served on the appellant, but no later than five months after the date when the judgment of the court of first instance was made public. Once five months have passed since the date on which the judgment was made public, no appeal can be filed even if there are fewer than 30 days until the end of the five-month period following the service and making public of the judgment. This absolute limitation has been put in place in order to ensure legal certainty. A similar five-month absolute limit for filing an appeal has also been put in place with regard to, for instance, filing an appeal against a ruling or an appeal in cassation.

An example of a term expressed in years is the term for expiry of a claim for a refund of a state fee or security — the claim expires when two years have passed since the end of the year during which the security or state fee was paid, but not before the proceedings have ended with a judgment entering into force. This is, nevertheless, the term for expiry of a claim and not a procedural time limit — such a timeframe can be neither extended nor restored.

A term for the expiry of a claim is also expressed in years. This is not a procedural time limit either. In accordance with Section 143 TsÜS, a court will take the expiry of a claim into consideration only at the request of the obligated person.

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

A term ends on the due date. If a due date is defined as a period of time calculated in weeks, the due date is the corresponding day of the last week of the period of time. If a due date is defined as a term calculated in months, the due date is the corresponding day of the last month. If a due date is defined as a

term calculated in years, the due date is the corresponding day and month of the last year. If a due date is defined as a term calculated in months or years and the due date falls in a month without that particular date, the due date is deemed to be the last day of the month (Section 136(2)–(5) TsÜS).

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. Section 136(8) of the General Part of the Civil Code Act states that, if a due date for making a declaration of intention or performing an obligation falls on a public holiday or any other non-working day, the due date is deemed to be the first working day following the non-working day.

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

Under Section 64(1) TsMS, a court may, on the basis of a reasoned petition or on its own initiative, extend a procedural time limit that it has set if there is good reason for doing so. A time limit may be extended on more than one occasion only with the consent of the opposing party.

12 What are the time limits for appeals?

An appeal must be filed within 30 days of the judgment being served on the appellant but not later than within five months as of the date on which the judgment of the court of first instance (*esimese astme kohus*) was made public (Section 632(1) TsMS). However, there are exceptions to this general rule:
1) If, when adjudicating a case, a county court (*maakohus*) declares in the operative part of the judgment that the relevant legislation of general application is in conflict with the Constitution (*põhiseadus*) and refuses to apply it, the period for appeal does not begin to run until a ruling concerning the legislation of general application that was not applied is pronounced by way of constitutional review by the Supreme Court (*Riigikohus*);
2) If a supplemental judgment is made in a matter during the period for appeal, the period for appeal begins to run as of the date on which the supplemental judgment is handed down, including with regard to the initial judgment. In cases where the omitted part is added to a judgment made without the descriptive part or statement of reasons, the period for appeal begins to run anew as of the date on which the full judgment is handed down.
If the parties reach an agreement to this effect and inform the court, the period for appeal may be reduced, or it may be increased to up to five months as of the judgment being made public.

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

Under the Code of Civil Procedure, a court schedules a court session immediately after receipt of a petition or application and the response thereto, or on expiry of the term set for responding. The court may also schedule a court session before receiving a response or before expiry of the term set for responding if it may be presumed that a court session will be required for adjudication of the matter regardless of the response or if immediate scheduling of the session is reasonable under the circumstances for other reasons. If the court does not require a response, it schedules the court session immediately after receipt of a petition or application. If possible, the court obtains and considers the opinion of the participants in the proceedings when scheduling a court session.
A court may cancel, alter the time of or adjourn a court session only with good reason (Section 352(1) TsMS).

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?

If the proceedings are conducted subject to Estonian procedural law, a person does not lose the right to have the procedural time limit extended solely on the basis of whether or not the time limit can be extended in the location where the person became aware of the act.

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

If a procedural act is not performed on time, the party to the proceedings is not entitled to perform the procedural act at a later time, unless a court restores the term provided by law, extends the term it has set or hears the petition, application, evidence or objection filed by the party to the proceedings. This applies regardless of whether or not the party to the proceedings was warned of such consequences beforehand.

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

If a court has made a default judgment as a result of the defendant's failure to appear, the defendant may file a petition to set aside the default judgment (Section 415 TsMS). The defendant may file a petition to set aside the default judgment if the defendant's failure to act which led to the judgment by default was for good reason. Good reasons for failure to respond to an action or to appear at a court session and for failure to notify the court thereof are, above all, traffic disruption, unexpected illness of a party or unexpected serious illness of a person close to a party due to which the party failed to respond to the action or to appear at court and to send a representative to the court (Section 422(1)).
A petition to set aside a default judgment may be filed regardless of whether a good reason exists if:
1) in the case of failure to respond to an action, the action was served on the defendant or representative thereof in any manner other than by personal delivery against a signature or electronically;
2) in the case of failure to appear at a court session, the summons was served on the defendant or representative thereof in any manner other than by personal delivery against a signature or delivery in a court session or in electronic form;
3) the default judgment could not legitimately have been made.
A petition to set aside a default judgment may be filed within 30 days after the default judgment is served. If a default judgment is served by public announcement, a petition to set aside the default judgment may be filed within 30 days of the date on which the defendant became aware of the default judgment or of the enforcement proceedings initiated to enforce the default judgment. If another default judgment is made against the defendant after proceedings are reopened, the defendant may file an appeal against that judgment only on the basis of failure to verify the required conditions for the default judgment to be made.

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