

COVID-19: government emergency measures to mitigate pandemic's effects on legal delays

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Introduction

Extension of procedural delays

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Emergency Law 2020-290 of 23 March 2020 enabled the government to legislate by virtue of government orders in various areas.

In application of the law, on 25 March 2020 the government adopted and published 25 orders to remedy the consequences of the COVID-19 pandemic.

In particular, the government adopted Order 2020-306 concerning the extension of deadlines which expire during the health emergency period and the adjustment of procedures during the same period.

Order 2020-306 aims to protect certain judicial or contractual delays which expire during or after the period between 12 March 2020 and one month from the end of the state of health emergency (the protected period). Initially, the protected period ran from 12 March 2020 to 24 June 2020; however, it was amended to run until 23 June 2020 by Order 2020-560 dated 13 May 2020.⁽¹⁾

Extension of procedural delays

Order 2020-306, which applies to civil, commercial and public litigation, states that:

Any act, recourse, legal action, formality, registration, declaration, notification or publication prescribed by law or regulation under penalty of nullity, sanction, foreclosure, prescription, unenforceability, inadmissibility, lapse, automatic withdrawal, application of a special regime, nullity or forfeiture of any right whatsoever and which should have been completed during the period mentioned in Article 1 [the protected period] shall be deemed to have been done in time if it has been done within a period which may not exceed, as from the end of that period, the period legally prescribed for taking action, up to a maximum of two months.

The same shall apply to any payment prescribed by law or regulation for the acquisition or retention of a right (Article 2).

In other words, the initial given deadline in which a party should have acted is postponed as of 23 June 2020 until 23 August 2020 at the latest.

Under French law, an appeal must normally be filed within one month of the judgment. As an example, in the case of a judgment issued by a French jurisdiction on 25 February 2020, the party should, in principle, appeal the judgment before 25 March 2020. However, since the deadline to appeal would have expired during the protected period, Order 2020-306 as modified by Order 2020-560 extends the delay and enables the party to appeal the judgment until 23 July 2020 (the protected period plus the time limit for an appeal).

On 17 April 2020 corrective Order 2020-427 specified that Article 2 of Order 2020-306 does not cover "delays of reflection, withdrawal of renunciation prescribed by law or regulation", as well as the delays provided for the reimbursement of sums of money in application of these rights.

Such clarification applies to, among others, real estate law, where non-professional buyers have a right to retract from their offer within 10 days of the notification of the act of sale; such a delay is not extended during the protected period.

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Endnotes

(1) On 11 May 2020 Parliament extended the health emergency period until 10 July 2020. However, in order not to push back the resumption of economic activities, the government adopted Order 2020-560, providing that the protected period will end on 23 June 2020 (subject to exceptions).

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