

I. Suspension of Time Limits and Proceedings

General Rules

1. Is there an exceptional regime of suspension of time limits in ongoing proceedings and procedures?

Yes. An exceptional regime has entered into force, suspending both proceedings and procedural time limits in "non-urgent" cases running in the following courts and entities:

- Judicial Courts;
- Administrative and Tax Courts;
- Constitutional Court;
- Court of Auditors;
- Other jurisdictional bodies;
- Arbitration Courts;
- Public Prosecution Service;
- Justices of the Peace;
- Alternative Dispute Resolution Entities; and
- Tax enforcement bodies.

As already resulted from Law no. 1-A/2020, this regime also applies to time limits for actions in other proceedings and procedures, namely misdemeanour, sanctioning and disciplinary procedures, which run under the terms of direct, indirect, regional and communal administration services, and other administrative entities.

With the changes introduced by Law no. 4-A/2020, the scope of this new regime was extended and clarified, as described and underlined in the answer to Question 30, below.

2. How does this exceptional regime work?

In "non-urgent" cases, all time limits for proceedings and procedural acts are suspended until the exceptional situation of prevention, containment, mitigation and treatment of the epidemiological infection by SARSCoV-2 and COVID-19 disease, to be decreed by the Government, has ceased.

However, the suspension of the time limits described above does not prevent, in “non-urgent” cases that:

- the same are handled by the Secretary and the Judge and acts are carried out in person and not in person, when all the parties consider they have conditions to ensure their practice via the computer platforms (the CITIUS and SITAF platforms) that allow them to be carried out electronically or through appropriate means of remote communication, such as teleconference, video call or other similar methods;
- a final decision be delivered in those cases in which the court and other entities do not consider it necessary to take further action.

With the amendment introduced by Law no. 4-A/2020, it seems to us that the legislator has chosen to mitigate the regime of suspension of time limits and to provide for the possibility (and not the obligation, in our opinion) of the proceedings to continue if the above assumptions or circumstances are met, so that it will not be a real exception to the regime of suspension.

We would point out, however, that the regime is not entirely free of doubt and may give rise to various interpretations, in particular as to how to determine whether “*all parties agree that they are in a position to ensure their practice through the computer platforms*” and whether there is any onus on lawyers to invoke the existence of conditions or the lack of them.

We therefore advise you to always consult your lawyer, who will assess the situation/term of your case.

“Urgent” proceedings are normally ongoing, which means that proceedings can be initiated, are being processed and time limits are running (see answers to Questions 9 to 13).

3. What happens to the current limitation and prescription periods?

They are suspended. According to Article 7(3) of Law no. 1-A/2020 (which in this part has not been amended): “The exceptional situation shall also cause the suspension of limitation and prescription periods relating to all types of proceedings and procedures” and shall take precedence over any regimes which set maximum mandatory limitation or prescription periods.

However, here too the law can be interpreted in different ways, and there are those who believe that the suspension only covers time limits relating to proceedings already ongoing (i.e. procedural time limits) or, at the very most, time limits relating to specific, even future, proceedings and procedures.

There are also those who argue that this regime will only benefit holders of rights whose limitation or prescription periods have expired in the last three months. Therefore, we advise you to always consult your lawyer.

4. I was summoned to a lawsuit. Are the time limits to contest suspended?

In **"non-urgent"** cases, yes.

In **"urgent"** cases, no.

However, as explained in the answer to Question 2, it is not without doubt whether lawyers may be forced to invoke and justify the lack of conditions to ensure the practice of acts through computer platforms (CITIUS and SITAF) or if this is to be presumed (as it seems to us to be the case), so you should always consult your lawyer.

5. Can sentences be delivered?

Yes, and these can be notified to the parties. The current wording of the law now provides that the suspension of time limits (in **"non-urgent"** cases) does not prevent *"a final decision from being rendered in cases where the court and other entities do not consider it necessary to take new steps."*

6. I have been notified of a judgment or other judicial decision. Is the time limit for appealing suspended?

It depends on the type of case concerned:

- The time limits for appealing **"non-urgent" cases** are suspended until the termination of the exceptional regime in force is declared, but this does not prevent *"the progress of proceedings and the practice of in-person and non-presence non-urgent acts when all the parties consider that they have the conditions to ensure their practice through the computer platforms (...)"*.

- The time limits for appeals in **"urgent" cases** continue to run normally.

However, regarding **"non-urgent" cases**, the combination of the suspension of time limits and the admissibility of the practice of acts "*as long as all the parties believe they have the conditions to ensure their practice through the computer platforms...*" continues to raise doubts, so you should always consult your lawyer.

7. What happens to the appeals submitted?

Appeals in "urgent" cases continue to be processed and decided normally, without suspension of time limits.

In "non-urgent" cases, if the appeal is ready to be decided, there is nothing to prevent it from being assessed. However, if the appeal has been submitted recently (in a "non-urgent" proceedings) and there is a counterparty, the time limits for the counterpart to reply are suspended.

According to our interpretation of the law, if the counterparty believes that, despite the suspension of time limits, it is able to reply to the appeal and if it does so, the appeal can be processed.

8. Can sentences already delivered that condemn in payment be enforced?

Yes, it is possible to initiate the enforcement proceedings, but most of the acts to be performed in this type of proceedings are suspended, such as acts related to sales, creditor's competition, real estate deliveries and seizure or preparatory seizure procedures.

Thus, only acts which non-performance would cause irreparable loss to the creditor or threatens his/her livelihood can be performed and always upon previous decision by a Judge.

Urgent Proceedings

9. What are urgent proceedings?

These are cases considered urgent by law, such as cases with arrested defendants, domestic violence cases, insolvencies, special revitalisation proceedings, proceedings contesting the regularity and legitimacy of dismissal and protective orders.

10. Are the time limits for urgent proceedings also suspended?

No, these terms run normally. The amendments introduced by Law no. 4-A/2020 to article 7 of Law no. 1-A/2020 have changed the paradigm on the processing of urgent proceedings, the terms of which, in the previous wording of no. 5, were, as a rule, suspended, and it is now provided, in the current wording of no. 7 of the same article, that "Urgent proceedings shall continue to be processed, without suspension or interruption of terms, acts or steps", and the following should be noted:

- In proceedings requiring the physical presence of the parties, their representatives or other procedural participants, the performance of any proceedings and procedural acts shall be carried out by appropriate means of communication at a distance, such as teleconference, video call or other equivalent;
- When it is not possible to carry out the proceedings requiring the physical presence of the parties, their representatives or other procedural participants in accordance with the previous point, and the life, physical integrity, mental health, freedom or immediate subsistence of the participants is at stake, the proceedings may be carried out in person, provided that this does not involve the presence of more persons than those envisaged by the recommendations of the health authorities and in accordance with the guidelines laid down by the competent Supreme Councils;
- Where it is neither possible nor appropriate to ensure that the acts are carried out or that the steps are taken in accordance with the above paragraphs, the suspension arrangements provided for non-urgent proceedings shall also apply to those proceedings.

The new wording of paragraph 8 of Article 7 of Law no. 1-A/2020 further clarifies that the following are also considered urgent for the purposes of implementing the above-mentioned regime:

- The proceedings and procedures for the defence of rights, freedoms and guarantees injured or threatened with injury by any unconstitutional or illegal measures, referred to in Article 6 of Law no. 44/86 of 30 September 1986 (Regime of the state of siege and the state of emergency), in its current wording;
- The urgent service provided for in Article 53(1) of Decree-Law no. 49/2014 of 27 March (Rules applicable to the organisation and operation of the courts), in its current wording;
- Such proceedings, procedures, acts and diligences, as may be necessary to avoid irreparable harm, in particular those relating to minors at risk or to educational tutelary proceedings of an urgent nature and the proceedings and trials of imprisoned defendants.

11. How do I know that the time limits for one of these urgent cases are not suspended?

As the answer to the previous question shows, the suspension of time-limits in urgent proceedings is the exception, so, as a rule, time-limits are not suspended.

Thus, if there is any diligence or act which cannot be carried out using remote communication or, when this is not possible, in person, the Court should declare whether such circumstances determine the application of the suspension regime provided for non-urgent proceedings.

In any event, you should always confirm this information with your lawyer and/or with the registry of the Court.

12. From which date does this amendment concerning the time limits for urgent procedures apply?

The new wording of Article 7 of Law no. 1-A/2020, regarding urgent proceedings, is effective from the date of entry into force of Law no. 4-A/2020, that is, from 7th April 2020.

II. Procedural Diligences

General Rules

13. I have been notified to attend or participate in an act or diligence. Should I go to court or do as requested on the appointed day?

Depends on the type of proceedings. You may only have to go to Court if it is an "urgent" proceeding.

In "non-urgent" cases, if the act or diligence can be carried out by teleconference or video call and all the parties consider there are conditions to ensure its practice, you will have to do as requested.

In other words, you will not go to the Court, but the act takes place at a distance, by videoconference or video call.

In practice, to determine whether the act takes place (or not) you will have to check, on a case-by-case basis, with your lawyer or with the Court.

In "urgent" proceedings, the act will be carried out through appropriate means of remote communication, such as teleconference or video call.

If it is not possible to proceed with the act at a distance, the act may be carried out in person, as long as it does not involve the presence of more people than foreseen by the recommendations of the health authorities and in accordance with the guidelines established by the Superior Councils of the Magistracy and the Public Prosecution Service, in the following "urgent" cases:

- Cases where life, physical integrity, mental health, freedom or immediate subsistence of the stakeholders is at stake.
- The proceedings, act or diligence is intended to avoid irreparable harm, as in cases concerning minors at risk, in educational tutelary processes of an urgent nature and in proceedings and trials of imprisoned defendants.
- Proceedings and procedures to defend the rights, freedoms and guarantees injured or threatened with injury by any unconstitutional or illegal measures related to the state of emergency.

- Urgent proceedings, acts or diligences provided for in the Code of Criminal Procedure (involving accused minors, for example), the law on international judicial cooperation in criminal matters, the law on mental health, the law on the protection of children and young people in danger and the legal regime for entry, stay, exit and expulsion of foreigners from national territory.

Finally, if it is still not possible or appropriate to carry out the act, it will be suspended until this exceptional regime is revoked. This implies that the act will not take place.

In practice, to determine whether the act will take place and how it will take place, you will have to inquire, case by case, with your lawyer or with the Court.

14. If I am subject to compulsory isolation, am I obliged to attend an act or diligence that takes place and for which I have been notified?

No. The parties and lawyers may claim fair hindrance and must submit a declaration of health authority attesting to compulsory isolation.

In practice, considering the current context, it seems to us that there is nothing to prevent that only the situation of compulsory isolation is invoked and that the declaration to which the law refers is joined only afterwards (when feasible).

15. Will the scheduled trials take place?

In “non-urgent” cases, in principle, no. Several trials have already been unscheduled.

However, trials may take place in some cases, as described in the answer to Question 13.

Some Types of Proceedings in Particular

16. May I propose a protective order?

Yes, it is possible to propose a protective order, which will be normally carried out.

If the physical presence of the parties or their lawyers is required, the act shall be carried out through appropriate remote means of communication, such as teleconference or video call.

If it is not possible to proceed at a distance, the act may be carried out in person, provided that it does not involve the presence of more people than those envisaged by the recommendations of the health authorities and in accordance with the guidelines laid down by the supreme councils of the Magistracy and the Public Prosecution Service in the urgent cases indicated in the answer to Question 13.

Finally, if it is still not possible or appropriate to carry out the act, it will be suspended until this exceptional regime is revoked. This implies that the act will not take place.

17. Can I be evicted from my residence during these exceptional measures?

Paragraph 11 of Article 7 (which corresponds, with slight alterations, to paragraph 10 of the original version of Law no. 1-A/2020) aims at the protection of tenants and determines that the following actions and proceedings are suspended whenever by virtue of the final judicial decision to be rendered, the tenant may be placed in a situation of fragility due to the lack of own habitation or *for another imperative social reason* (this last extract was added by Law no. 4-A/2020):

- Eviction proceedings;
- Special eviction procedures;
- Procedures for delivery of leased property.

On the other hand, paragraph a) and the regime provided for in paragraph b) (now paragraph e) of Article 8 of Law no. 1-A/2020 have been maintained and are therefore also suspended:

- The effects of the terminations of housing and non-housing leases made by the landlord;
- Foreclosures on real estate that is the permanent residence of the foreclosed person.

With the amendments introduced by Law no. 4-A/2020 is still suspended:

- The termination of housing and non-housing leases, unless the tenant does not oppose the termination;
- The effects of the revocation, the opposition to the renewal of housing and non-housing leases made by the landlord;

- The time limit indicated in Article 1053 of the Civil Code, if the expiry of this time limit occurs during the period in which the said measures take effect.

Although the Law makes the suspension of eviction proceedings dependent on the tenant's susceptibility to being placed in a situation of fragility, it seems to us that, in the current context, all the actions and procedures that could result in the eviction/removal of his/her housing (own or leased) should be considered suspended.

It should be noted that this suspension regime was extended by Law no. 4-A/2020 and applies not only during the validity of "*the prevention, containment, mitigation...*" but also "*until sixty days after the termination of such measures*".

18. Can I contest my eviction in court?

As stated in the answer to Question 17, eviction actions are suspended and no action or procedure to contest is expected during this period.

Should you still receive any summons or notification to which you wish to respond, you may do so, and it is suggested that you always consult your lawyer.

19. What happens to actions related to the legality of a dismissal?

Actions to contest the legality and regularity of the dismissal which have been communicated in writing to the employee and which are based on disciplinary dismissal, inadaptation or dissolution of the job are of an urgent nature, therefore the respective time limits are not suspended.

The acts and diligences relating to these proceedings should continue to be carried out, applying the same as referred to in the answer to Question 13.

20. Can I contest my dismissal in court?

Yes. You may submit an appeal against dismissal on the appropriate Form, in accordance with the law, if you wish to contest a dismissal decision that has been notified to you in writing and is based on disciplinary dismissal, inadaptation or dissolution of the job. As mentioned, this action is of an urgent nature and therefore the respective time limits are not suspended.

For this purpose, you can consult your lawyer or the Public Prosecutor's Office.

21. I am a creditor of an amount that was not paid to me and I want to use the order for payment procedure or the court. Can I do that?

Yes, you can submit a legal action and/or an order for payment procedure, as the case may be, through the computer application of the Courts - CITIUS. However, the process will be suspended, after the summons/notification, until this exceptional regime is declared terminated by Government decree.

22. Can enforcement officers make seizures in the context of enforcement proceedings?

Only in exceptional cases and by prior judicial decision.

With the changes introduced by Law no. 4-A/2020, it is foreseen that all acts to be carried out in the executive process are suspended (namely sales, creditor's competition, judicial deliveries of real estate, seizure procedures and their preparatory acts) with the exception of those which non-performance would cause irreparable damage to the creditor or threatens his/her subsistence and the recognition of this damage depends on a prior judicial decision.

23. Can the seizure of salaries that are already in progress continue?

Yes. In the case of seizures of salaries that are already in progress and therefore do not require a new procedural act, we consider that they can continue since the law states that "*Any acts to be performed*" are suspended. We admit, however, that there may be different interpretations on this matter.

24. Can bank balance seizures be made?

In principle not.

Seizure of bank balances and other acts of seizure or preparatory acts may only be carried out if they are intended to avoid serious damages to the livelihood of the creditor or irreparable damage and always subject to a prior judicial decision.

25. Are there sales of seized assets like cars and real estate?

In principle not.

As described in the answer to Question 22, such acts may only be carried out if they are intended to avoid serious damage to the livelihood of the creditor or irreparable damage and always subject to a prior judicial decision, otherwise they shall be suspended.

26. I have a company in a difficult economic situation, can I apply for a Special Revitalization Process (PER)?

Yes. PER can still be requested through the Courts' platform (CITIUS). As it is an urgent process, it will be proceeded normally, without suspension or interruption of time limits, acts or diligences.

In steps requiring the physical presence of the parties, their representatives or other procedural participants, the process described in the reply to Question 13 shall be followed.

Thus, the proceedings will be conducted normally and the suspension regime will only apply if it is necessary to carry out an investigation requiring the physical presence of the parties, representatives or other intervening parties and if it is not possible to ensure that it is carried out by remote or face-to-face means of communication.

27. May I submit my company to insolvency?

Yes. You can submit your company to insolvency through the Courts' Platform (CITIUS). However, the time limit for submission to insolvency (within 30 days of becoming aware of the insolvency situation) is suspended.

If, however, you wish to submit your business to insolvency while this exceptional regime is in force, the proceedings will be processed normally, with the constraints indicated in the answer to Question 13, since this is an urgent procedure.

III. Duration and Scope of the Exceptional Regime

28. When did this exceptional regime begin?

This regime took effect on March 9th and applies to the time limits in progress on that date, with exception of the change in the regime applicable to the time limits for "urgent" proceedings now introduced by Law no. 4-A/2020, which only takes effect from the date of entry into force of this law, that is, from April 7th, 2020.

29. When will this exceptional regime end?

When its termination is declared by decree.

30. Does this exceptional regime apply to other proceedings and procedures?

Yes, it also applies to the following time limits:

- Procedures running in notary and registry offices, including inventory processes, divorce by mutual consent, acquisition of nationality, etc.;
- Misdemeanour, sanctioning and disciplinary proceedings, including the acts of judicial challenge of final or interlocutory decisions that run in terms of direct, indirect, regional and local administration services and other administrative entities, namely independent administrative entities, including the Competition Authority, the Insurance and Pension Funds Supervision Authority, Banco de Portugal and the Securities Market Commission, as well as the procedures that run in terms of professional public associations (such as professional associations);
- Administrative and tax time limits regarding the practice of individuals' acts, covering here only the acts of judicial challenge, free complaint, hierarchical appeal or other procedures of identical nature and all subsequent acts.

31. Are there any processes and procedures to which the suspension of time limits does not apply?

Yes. In addition to the above described regarding "urgent" cases, the amendments introduced by Law no. 4-A/2020 stipulate that the suspension of time limits does not apply to:

- i) pre-contractual litigation provided for in the Code of Procedure in Administrative Courts;
- ii) time limits for public procurement procedures, namely those set out in the Public Procurement Code, and also;
- iii) time limits for the carrying out of acts performed exclusively by electronic means within the scope of the attributions of the Instituto Nacional da Propriedade Industrial, I. P..

32. How will I know about the end of the suspension of time limits?

The exceptional regime will when it is declared to be terminated by a decree of the Government, and then the regime of procedural time limits provided for in Articles 138 et seq. of the Code of Civil Procedure applies, i.e. the time limits are continuous and suspend, however, during the judicial vacation period (with the exception of the time limits for urgent cases that are not suspended).

We recall, however, that the suspension provided for in Article 8 of Law no. 1-A/2020 (as amended by Law no. 4/2020) applies not only for the duration of the "*preventive measures...*" but also until 60 days after their termination - see answer to Question 17.

33. Is there any exemption from legal costs applicable because of COVID-19?

So far, no exceptional measure has been adopted concerning the payment of legal costs, so that the costs due will still have to be paid, without prejudice to the possible suspension of the time limit for this purpose, depending on the procedure to which they refer, as indicated above.

The Litigation Team

www.pintoribeiro.pt