

Covid-19: Rules applicable on the suspension of delays in jurisdictional matters, and temporary adoptions of certain procedural modalities.



The [Grand Ducal Regulation of 25 March 2020](#) (as amended by the Grand Ducal Regulation of 1 April 2020 and by the Grand Ducal Regulation of 17 April 2020) provides for the suspension during the state of crisis (i.e. until 17 2020) of

- delays applicable in proceedings before constitutional, judicial, administrative and military courts during the state of crisis (i.e. until 17 June 2020);
- eviction orders in matters of residential and commercial leases;
- the filing for bankruptcy within 1 month from the date of the cessation of payments.
- the delay of five days for declaration of a child's birth with the civil register of a municipality;
- delays governing the procedure of real estate seizure;
- delays granted by a court during proceedings, i.e. suspension of the delays granted in the written procedure of a "mise en état"; by letter of 27 March 2020, the president of the district court of Luxembourg has stated that, notwithstanding such a suspension, the lawyers are invited to notify their brief in compliance with the timetable determined by the court. However, because of the suspension set forth in the Grand Ducal Regulation of 25 March 2020, the court can neither compel a lawyer to submit his or her brief nor close the instruction of the case;
- fixed delays of foreclosure or expiry governing the submission of any extraordinary or ordinary recourse or appeal against court orders or judgements.

The amendments provided for in the Grand Ducal Regulation of 17 April 2020 provide for additional temporary modalities regarding the holding of public hearings before courts governed by written procedures, such as:

- Cases pending before administrative court subject to the rules of written procedure and ready to be heard by the court, do not, with the litigating parties' consent, need to be heard in a public hearing;
- For cases pending before judicial courts subject to the rules of written procedure and ready to be heard by the court, at least 48 hours before the date fixed for pleadings, the counsel of the litigating parties will be informed of the date of the hearing and of the judge who will be in charge of the case. They will have to inform the court within the same delay whether they wish to plead or not. If they wish to plead the case, the court will notify the exact time of the hearing and the case will then be heard by one judge (instead of three) If they do not wish to plead the case, they only need to provide the court with the original procedural file

and they will be deemed to rely solely on their written submissions. The counsel will be informed in writing of the date on which the judgement will be rendered.

The same rules apply mutatis mutandis for appeal proceedings.

Furthermore, according to the Grand Ducal Regulation of 25 March 2020 delays governing the introduction of first instance proceedings before judicial, administrative and military courts are extended as follows:

- delays which will expire during a state of crisis (i.e. before 24 June 2020) shall be extended for two months from the date of the end of the state of crisis (i.e. until 24 August 2020);
- delays which will expire during the month following the end of the state of crisis (i.e. before 24 July 2020) shall be extended for one month from their expiry date (i.e. 24 August 2020).

In cases of emergency and except in criminal matters, the court may exceptionally, at the request of a litigating party, derogate from the suspension of the deadlines and delays, after having requested the written or oral position of the other party or parties to the proceedings. Such a court decision cannot be appealed.

The suspension of deadlines or delays does not apply to those proceedings listed in the Grand Ducal Regulation of 25 March 2020, such as:

- delays for court appearance; and
- delays in relation to certain criminal procedures.

During the state of crisis, criminal procedures, such as claims for the return of seized objects and requests for release on bail, the request will be judged only on basis of the file without hearing the requesting party, his or her lawyers and the public prosecutor.

During the state of crisis, any temporary goings-out, visits and work activities for prisoners may be restricted or suppressed, but only to the extent that such restrictions or suppressions are necessary in order to contain the spread of COVID-19 in prisons. Such restrictions must be proportionate, limited in time and respectful of human dignity.

The Grand Ducal Regulation of 22 April 2020 provides for the suspension during the state of crisis (i.e. until 24 June 2020) of:

- delays applicable in proceedings before the social security courts;
- delays applicable to informal appeals against presidential decisions (recours gracieux) of social security institutions and the social security supervisory commission,

The suspension of the delays provided for by the Grand Ducal Regulation of 22 April 2020 does not apply to delays of convening (délai de convocation).

In cases of emergency, a derogation to the suspension of delays is possible, provided that the procedure, as laid down by Article 2 of the Grand Ducal Regulation of 22 April 2020 is followed.