

COVID-19 | Litigation

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1. Application of the judicial vacations regime

During the term of the measures implemented by the Portuguese authorities for the prevention, containment, mitigation and treatment of the COVID-19 pandemic, the procedural acts will be subject to the **judicial vacations regime**. The application of this regime entails:

- i) the **suspension of the time periods** for the practice of procedural acts by the parties;
- ii) the **suspension of the acts to be held in person**, such as court hearings and examination of a witnesses.

This suspension, takes effect from 12.03.20 until its ceasing is determined by law.

A. Proceedings subject to the judicial vacations regime

The judicial vacations regime is applicable to the proceedings that take place before the judicial courts, the administrative and tax courts, the Constitutional Court, the Court of Auditors ("Tribunal de Contas") and other jurisdictional bodies, the arbitral tribunals, the Public Prosecutor, the justices of the peace ("Julgados de Paz"), the alternative dispute resolution entities and the tax enforcement bodies.

Administrative, sanctioning and disciplinary procedures initiated by direct, indirect, regional and municipal administration services, and those initiated by administrative entities, namely independent administrative entities (including the Bank of Portugal and the Portuguese Securities and Exchange Commission) are also suspended.

Finally, administrative and tax terms (in this latter case, only for certain types of acts) established in favour of private individuals and procedures running in notary and registry offices are also suspended.

A. Urgent proceedings

The terms for carrying out procedural acts in **urgent proceedings** are also suspended, except in the case of:

- i) urgent acts where **fundamental rights** are at stake, namely procedural diligences concerning minors at risk or urgent educational guardianship proceedings and judgments of imprisoned defendants (provided that their performance does not imply the presence of a number of people higher than the one provided by the recommendations of the health authorities and always in accordance with the guidelines set by the competent higher councils);
- ii) acts that can be performed through means of distance communication (e.g. teleconference or video call).

Urgent proceedings include (i) in civil jurisdiction, precautionary proceedings, insolvency proceedings and proceedings relating to children and young people in danger, among others; (ii) in administrative jurisdiction, *inter alia*, the pre-contractual litigation, the subpoena for the defence of fundamental rights, freedoms and guarantees and, as in civil jurisdiction, the precautionary proceedings; and (iii) in criminal jurisdiction, any proceedings with imprisoned defendants (whether in the investigation phase or in the judicial phase), and those in which a *habeas corpus* application against illegal detention or imprisonment is filed.

2. Eviction actions and special eviction procedures

Eviction actions and **special eviction procedures** are also suspended, as well as the **proceedings for the delivery of leased property** whenever the tenant, due to the final decision to be rendered by the court, may be placed in a situation of fragility due to lack of home-ownership.

3. Limitation and prescription periods

During the pandemic, the **limitation** and **prescription periods** regarding any type of proceedings are also suspended.

4. Just impediment, justification of absences and postponement of procedural acts

Until the cease of the extraordinary measures, a **special regime of just impediment** for the practice of procedural acts to be carried out in person will be in force. The parties, their representatives and other procedural subjects must submit a declaration issued by a health authority attesting the need for a period of isolation due to the possible risk of contagion. This declaration shall also constitute grounds for justifying the non-

attendance to a procedural act, as well as grounds for postponing its realization.

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