

April 27, 2020

The last few weeks, there has been a constant stream of measures implemented due to the COVID-19 crisis. Measures for Belgian courts are no exception, as indicated below.

As a general rule, the Belgian courts and tribunals are closed and only urgent cases are dealt with (e.g. summary proceedings, urgent family matters, etc.). A set of mandatory guidelines for all Belgian courts has been implemented by the College of Courts and Tribunals, but also legislative initiatives. According to Royal Decree no. 2 of 9 April 2020, the written procedure will temporarily become the rule for civil cases (or criminal cases with civil interests) for hearings scheduled between 11 April 2020 up to 3 June 2020. In addition, limitation periods expiring between 9 April 2020 and 3 May 2020 shall be extended.

Mandatory guidelines for all courts and tribunals

In light of the government's lockdown measures, which were extended until 3 May 2020, the College of Courts and Tribunals has now updated the mandatory directives issued on 16 and 18 March 2020. Here are some noteworthy guidelines:

- Access to the court registrars shall be restricted as much as possible (communication by mail, telephone or post);
- Filing of claims and documents must be done online via e-deposit (free of charge);
- Civil cases are handled in accordance with the Royal Decree no. 2 of 9 April 2020 (i.e. introductory hearings are postponed);
- Maximum flexibility shall be requested with regard to deferral requests from lawyers and/or parties;
- The specific measures taken by the respective courts will be made available on their respective webpages;
- These mandatory guidelines take precedence over any other mandatory guidelines.

As mentioned in the previous guidelines from the College of Courts and Tribunals, every court/entity has to take its own specific measures in accordance with the guidelines, which should be checked on a case-by-case basis.

Written procedure

As teleworking is encouraged and physical contact is discouraged in every sector, written procedures will temporarily become the rule in civil cases. The parties must therefore not ask for oral pleadings, nor must the court order them.

This measure impacts the following cases:

- all cases before the courts and tribunals, with the exception of criminal cases, unless they relate solely to civil interests;
- determined for hearing from 11 April 2020 to 3 June 2020; and
- in which all parties have filed written briefs.

However, if all parties object to the written procedure, the case will be postponed indefinitely or to a specific date. If only one party objects, the judge will decide on the nature of the hearing. No appeal is possible against this decision.

Extension of time limits ('termijnen')

As long as the COVID-19 crisis continues, adverse legal consequences should be avoided. For the sake of legal certainty, the government opted for a simple, uniform, 'flat-rate' regime for the extension of time limits.

In order to avoid that the day on which the crisis ends is also the deadline day on which an action should be taken, the government has chosen to extend the limitation periods to one month after the end of the crisis period. This should also help avoid a "bottleneck" effect immediately after the end of the crisis.

It concerns the following periods expiring from 9 April 2020 to 3 May 2020 (this may be extended):

- the limitation periods and other periods for bringing an action before a civil court; and
- the terms of proceedings ("termijn van rechtspleging") or an appeal in the courts and tribunals that have been or will be introduced, with the exception of criminal proceedings, unless these relate solely to civil interests, and disciplinary proceedings.

To date, the end date of this period has been set at 3 May 2020, thus extending the relevant periods up until 3 June 2020, i.e. one month later.

In practice, if a term is extended, the expiry date of any 'subsequent' terms will automatically be adjusted in accordance with the duration of that extension. For example, for a procedural calendar for written briefs with terms on 20 April and 20 May, the term of 20 April will be extended with one month after the end of the crisis period (3 May), and will end on 3 June. The term of 20 May in turn will be extended with the original period between the terms (1 month) to 3 July. Deviation from the aforementioned legal extension is permitted by both parties in common accord.

If you have any further questions on these matters, please do not hesitate to contact your Dentons team!

Your Key Contacts



Yolande Meyvis
Partner, Brussels
D +32 2 552 29 31
yolande.meyvis@dentons.com



Pieter-Jan Aerts
Counsel, Brussels
D +32 2 552 29 34
pieter-jan.aerts@dentons.com