



COVID-19

Legal Insights no. 18

Law No. 4-A/2020, of April 6th

Law No. 4-A/2020, of April 6, foresees the amendment and complement of the exceptional and temporary regimes applicable to the legal deadlines and proceedings, protection of tenants and public procurement, proceeding to the first amendment to Law No. 1-A / 2020, of March 19th and the second amendment to Decree Law No. 10-A / 2020, of March 13th.

On April 6th, 2020, it was published in the Portuguese Official Gazette the Law No. 4-A/2020, which establishes which foresees the first amendment to Law No. 1-A/2020, of March 19th, which approves exceptional and temporary measures to respond to the epidemiological situation caused by the coronavirus SARS-CoV-2 and the disease COVID-19, and to the second amendment to Decree-Law No. 10-A/2020, of March 13th, which establishes exceptional and temporary measures regarding the epidemiological situation of the new Coronavirus COVID-19.

A) EXCEPTIONAL AND TEMPORARY REGIME APPLICABLE TO LEGAL DEADLINES AND PROCEEDINGS

The aforementioned legal diploma materializes the exceptional and transitional regime regarding the legal deadlines and proceedings, that is already provided for in Law No. 1-A/2020, of March 19th, determining the **suspension of all proceeding and procedural deadlines** until the termination of the exceptional situation of prevention, containment, mitigation and treatment of epidemiological infection caused by SARS-CoV-2 and COVID-19 disease. Such measure includes all the proceeding and procedural acts that must be practiced and that run according to the Judicial Courts, Administrative and Tax Courts, Constitutional Court, Court of Auditors and other jurisdictional bodies, Arbitral Tribunals, Public Prosecutors, Judgments of Peace, alternative litigation resolution entities and tax enforcement bodies.

Law No. 4-A / 2020, of April 6th, **also determines the suspension**, in particular: *(i)* of the term for submitting the debtor to insolvency; *(ii)* any acts to be carried out in the context of the executive process, with the exception of those that cause serious damage to the subsistence of the applicant or whose failure to do so causes irreparable damage, with the particularity that the determination of the damage depends of a previous court decision and *(iii)* eviction actions, special eviction procedures and processes for the delivery of leased property, when the tenant, by virtue of the final judicial decision to be handed down, may be placed in a situation of fragility due to lack of own residence or other imperative social reason.

The rule of **suspension of legal deadlines is not applicable**: *(i)* when there are conditions to continue the processes and practice non-urgent presential and non-presential acts, through computerised platforms that make it possible to perform electronically or through distance communication methods, namely

teleconferencing, video calling or other equivalent; and (ii) when a final sentence is rendered in cases in which the court and other entities consider that it is not necessary to carry out new procedures.

The deadlines related to the practice of acts performed exclusively by electronic means, within the scope of the National Institute of Industrial Property (*"Instituto Nacional da Propriedade Industrial, I. P."*), are also not suspended.

In urgent processes, as already provided for in Law No. 1-A /2020, of March 19th, there are **exceptions to the rule of suspension of the legal deadlines**, that is, the legal deadlines, acts or proceedings of urgent processes are not suspended when it is not possible to ensure, nor is it adequate: (i) their realization through appropriate means of distance communication, namely teleconference, video call or other equivalent and (ii) the performance of proceedings in the processes that involve life, physical integrity, mental health, freedom or immediate subsistence of the intervening parties, provided that does not imply the presence of a greater number of people than the ones foreseen in the recommendations of the health authorities and in accordance with the guidelines established by the competent senior councils.

For the purposes of the legal diploma currently under consideration, the processes and procedures that are considered urgent are: (i) related to the defense of rights, freedoms and guarantees that are infringed or threatened by any unconstitutional or illegal measures; (ii) the urgent shift service; and (iii) the proceedings related to minors at risk or to urgent educational guardianship proceedings and the proceedings and judgments of arrested defendants.

The aforementioned Law extends, with the necessary adaptations, the peculiarities of the urgent procedures to the deadlines for the practice of: (i) administrative, sanctioning and disciplinary procedures and (ii) administrative and tax procedures regarding the practice of acts by private individuals, with the restriction of acts of interposition of judicial appeal, administrative appeal, hierarchical appeal, or other procedures of the same nature, as well as the proceeding or procedural acts subsequent to those.

The legal provisions set out in this chapter began to take effect on March 9th, 2020, with the exception of the rules applicable to urgent procedures and acts performed exclusively electronically within the scope of the National Institute of Industrial Property, which begin to take effect on April 7th, 2020.

B) EXCEPTIONAL AND TEMPORARY REGIME APPLICABLE TO THE PROTECTION OF TENANTS

The aforementioned Law also establishes an exceptional and temporary regime for the suspension of expiration, opposition to renovation and the requirement for building restitution of building foreseen in residential and non-residential lease agreements, adding points b), c) and d) to article 8. of Law No. 1-A/2020, of March 19th.

This legal diploma specifically establishes that the residential and non-residential lease agreements, or their respective renewals, do not cease due to expiration, unless the tenant does not object to the termination.

Additionally, the six-month period foreseen for the return of a leased building based on other cases of expiration other than the one motivated by the end of the period stipulated by the parties or the law, namely, by the death of the tenant, loss of leased thing, verification of the subordinate condition, is suspended if the term expires during the period of time in which the extraordinary measures are in force.

It is also foreseen the suspension of the production of the effects of opposition to the renewal, at the initiative of the landlord, of residential and non-residential lease agreements.

The foreseen suspension measures aim to ensure that the agreements in question remain in effect for up to 60 (sixty) days after the end of the measures for the prevention, containment, mitigation and treatment of the epidemiological infection caused by SARS-CoV-2 and the disease COVID-19, as determined by the public health authority.

The measures provided for in this chapter began to take effect on March 14th, 2020.

C) EXCEPTIONAL AND TEMPORARY REGIME APPLICABLE TO PUBLIC PROCUREMENT

The above-mentioned Law also provides for the application of an exceptional regime applicable to public procurement, which must be combined with what is already foreseen in Law No. 1-A/2020, of March 19th, and Decree-Law No. 10-A/2020, of March 13th.

Regarding the legal deadlines, this Law stipulates that the suspension of the pre-contractual litigation deadlines and the suspension of administrative deadlines related to public procurement procedures, and also that the procedural deadlines foreseen in the Public Contracts Code that were suspended under the application of Law No. 1-A/2020, of March 19th, will resume counting on April 7th, 2020.

To access the full text of Law No. 4-A/2020, of April 6th, please click [here](#).

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