

# Managing civil disputes during COVID-19 crisis

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The outbreak of the COVID-19 has created substantial disruption and uncertainty with respect to civil litigation management. The health crisis linked to the Coronavirus affects procedural deadlines, whether they relate to ongoing proceedings or proceedings to be initiated. Deadlines for the acquisition and extinction of rights and actions also need to be adapted to this pandemic.

## 1. Impact ongoing proceedings

The circular of 14 March 2020 invited French jurisdictions to adopt extraordinary contingency plans to accommodate priority cases<sup>1</sup>.

Monday 16 March 2020 saw the announcement of the immediate closure of all French courts until further notice except those relating to “essential litigation”. In civil matters, as a general rule, all hearings will be systematically postponed. Only absolute civil emergencies, summary proceedings and motions will be handled.

Absent standardized procedure across the jurisdictions, each Tribunal/Court has put its own contingency plan in place.

Before the Paris Judicial Tribunal, messages from the parties’ representatives through the RPVA on line system are not being processed and no formality is required of the parties. However, as a precaution, many lawyers continue to request the referral of cases through the RPVA system and file their briefs following previously established procedural timetables.

As regards civil enforcement procedures, French bailiffs are invited to carry on business as usual, but with caution. Consequently, bailiffs continue to notify documents but such situations may be soon evolving. Postal services are also impacted by the COVID-19 outbreak.

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<sup>1</sup> *Circulaire du 14 mars 2020 relative à l’adaptation de l’activité pénale et civile des juridictions aux mesures de prévention et de lutte contre la pandémie COVID-19*  
<http://circulaire.legifrance.gouv.fr/index.php?action=afficherCirculaire&hit=1&r=44946>

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## 2. Maintenance of Summary Proceedings

On 19 March 2020, the French DACS (Civil Affairs and Seals Directorate) published a document providing further details on how summary proceedings and hearings are to be held and maintained<sup>2</sup>.

It is recalled that Summary Proceeding Judge has to assess the “obvious” – this is why Summary Proceedings can only be heard before the President of the Judicial Tribunal or before another specialized Judge (called the “*Juge des Contentieux de la Protection*”). These Judges may order either (i) in cases of urgency, all measures that do not encounter any serious challenge or which the existence of the dispute justifies (as per Article 834 of French Code of Civil Procedure); or (ii) protective measures or measures to restore the parties to their previous state to avoid an imminent damage or to abate a manifestly illegal nuisance, even where confronted with a serious challenge (as per Article 835 of French Code of Civil Procedure).

The assessment of urgency will be very strict. Based on the nature of the case, the Judge will find urgency only whereby a delayed decision would be detrimental to the parties.

## 3. Postponement of procedural deadlines

To further address the current health and economic crisis, the French government has introduced three bills, including an Emergency Bill submitted to Parliament and adopted on 22 March 2020<sup>3</sup>.

Published on 23 March 2020, Article 11, 2° of the Emergency Bill empowers the government to proceed by way of an order to adapt the rules of procedure – the idea being more precisely “*adapting, interrupting, suspending or postponing time limits provided for on pain of nullity, lapse, foreclosure, prescription, unenforceability, cessation of a measure or forfeiture of a right, termination of an approval or authorization, cessation of a measure, except detention measures and sanctions*”<sup>4</sup>. It is specified that such legal provisions shall be adopted having retroactive effect as of 12 March 2020.

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<sup>2</sup> *Dépêche de la Direction des Affaires Civiles et du Sceaux sur l’audience des référés civils et la conservation des procédures sur requêtes urgentes* [https://www.cnb.avocat.fr/sites/default/files/depeche\\_dacs.pdf](https://www.cnb.avocat.fr/sites/default/files/depeche_dacs.pdf)

<sup>3</sup> *Loi d’urgence pour faire face à l’épidémie de covid-19* [http://www.assemblee-nationale.fr/dyn/15/dossiers/loi\\_urgence\\_epidemie\\_covid-19](http://www.assemblee-nationale.fr/dyn/15/dossiers/loi_urgence_epidemie_covid-19)

<sup>4</sup> *Loi n° 2020-290 du 23 mars 2020 d’urgence pour faire face à l’épidémie de covid-19 (1)* : <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041746313&categorieLien=id>