



WHITE PAPER

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Administrative Proceedings in European Countries: COVID-19 Measures at a Glance

As the activity of administrative authorities and courts is directly impacted by measures to slow down the coronavirus (COVID-19) pandemic, many questions arise as to the impact on proceedings and deadlines for private parties.

Every jurisdiction is seeking to ensure both the continued enforcement of regulations and access to justice, including in administrative matters. Will permits and authorizations soon to expire be prolonged? What about deadlines to comply with administrative measures, especially those subject to sanctions? What about statutes of limitation to challenge an administrative decision? Will hearings previously scheduled be maintained? Will pending cases be processed and judgments delivered? Will interim relief still be available?

This *White Paper* offers a quick overview of the current state of play in seven key European jurisdictions: Belgium, France, Germany, Italy, the Netherlands, Spain and the United Kingdom.

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BELGIUM

Administrative Permitting and Enforcement	
Permits and Administrative Decisions	<p>Walloon Region:</p> <ul style="list-style-type: none"> As of 18 March 2020, all time limits set by Walloon decrees and regulations, as well as by royal decrees within the competence of the Walloon Region, are suspended for a period of 30 days (renewable twice). <p>Flemish Region:</p> <ul style="list-style-type: none"> For a period of 120 days (renewable once), environmental licenses and notifications will not be requested by competent authorities in the context of planning permissions for the construction/development of health care (and health care-related) facilities. In other cases, deadlines for an approval regarding the granting of an environmental license are extended by 60 days (30 days where the simplified procedure applies). This extension applies to all license applications submitted (and not completed) on/after 24 March 2020 and will run until 24 April 2020 (may be extended to a later date). During this time period, late or unreleased advice cannot be interpreted as a favorable opinion. The licensing process can therefore continue as ordinarily. Use of permits granted between 24 March and 24 April 2020 may start only 65 days after posting (instead of the usual 30 days). These rules also apply to requests for permit updates.
Enforcement / Administrative Measures	<p>Walloon Region and Brussels:</p> <p>Forced eviction proceedings against natural persons (as opposed to companies) are prohibited in Brussels (until 3 April 2020) and Wallonia (until 5 April 2020).</p>
Court Activity Pending COVID-19 Crisis	<p>Council of State:</p> <p>The court registry (“<i>greffe</i>”) is closed to the public during this period but can be contacted, for extremely urgent matters, by email or by phone.</p> <p>Expected adoption of draft decree:</p> <p>The courts will be allowed to issue decisions without oral arguments. The only exception is if all parties object to a decision made this way. Only then must the case be postponed.</p>
Statute of Limitation	<p>Walloon Region / Council of State:</p> <p>The time limits to file appeals against Walloon administrative acts before the Council of State are suspended from 18 March 2020 for a period of 30 days. The Walloon Government may renew this suspension twice.</p> <p>Expected adoption of draft decree:</p> <p>All judicial deadlines will be extended by one month following the end of the crisis period. This measure is very controversial and may be amended before the decree is adopted.</p>

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Administrative Courts	
Submissions, Instruction and Hearings¹	<p>Council of State: From 16 March to 19 April 2020, hearings will be limited to what is strictly necessary. During this time-frame, only matters of extreme urgency will be registered and processed.</p> <p>Flemish Region: Hearings by the appeal authority regarding the granting of environmental permits shall only be conducted in writing or by conference or video call.</p>
Appeals and Challenges²	<p>Walloon Region: As of 18 March 2020, all time limits are suspended for a period of 30 days (renewable twice) in relation to filing an appeal against an administrative decision issued under Walloon decrees and regulations, as well as by royal decrees within the competence of the Walloon Region.</p> <p>Flemish Region: Time limits (i) to appeal a denial by the licensing authority for an environmental permit and (ii) to issue a decision on such an appeal, have been extended by 60 days.</p> <p>This extension applies to all appeals filed on/after 24 March 2020 and will run until 24 April 2020 (and subject to further extension).</p>
Interim Relief	Urgent interim relief is not impacted.

FRANCE

Administrative Permitting and Enforcement	
Permits and Administrative Decisions	<p>Time limits for the administration to issue a decision, request additional information or declare a submission complete:</p> <ul style="list-style-type: none"> (i) are suspended for the duration of the health emergency period³ plus one month ("Period"), if they have not expired before 12 March 2020; (ii) will start running after the Period, if the time limit was to start after 12 March 2020. <p>Authorizations and permits, as well as prohibition or suspension measures (sanctions expected) due to expire during the Period are automatically prolonged for two months after the end of the Period.</p> <p>Public inquiries opened before 12 March 2020 may be adapted (e.g. via digital means) during the Period.</p>
Enforcement / Administrative Measures	<p>When deadlines to comply with an administrative measure have not expired before 12 March 2020, the time limit is suspended during the Period.</p> <p>When the time limit of an administrative measures is due to commence after 12 March 2020, the time limit will start running only after the Period.</p> <p>Derogations may be adopted by decree for proceedings impacting health, environment and public safety. For example, a decree dated 1 April 2020 provides that some time limits to comply with administrative orders applicable to industrial activities will start running again as of 3 April 2020.</p>
Court Activity Pending COVID-19 Crisis	Administrative courts activities are not suspended.

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Statute of Limitation	<p>If the time limit for an act or submission is due to expire during the Period, the submission shall be considered valid when filed after the end of the Period, provided that: (i) the submission is filed within the applicable statute of limitation, as prolonged by the duration of the Period; and (ii) in any case, not later than two months after the end of the Period.</p> <p>Derogatory limitation periods are provided for certain specific matters (immigration and election law).</p>
Administrative Courts	
Submissions, Instruction and Hearings¹	<p>After 12 March 2020 and until the end of the health emergency period, procedural deadlines regarding the instruction of the matter are suspended.</p> <p>Courts may use any means to provide parties with any document related to any procedure.</p> <p>A judge who is unavailable may be replaced by another judge.</p> <p>Hearings can be held without any audience or via videoconference.</p> <p>Courts can issue decisions in emergency proceedings without a hearing.</p>
Appeals and Challenges²	<p>Please refer to “Statute of Limitation” for time limit to file an appeal.</p> <p>For ordinances issued in an emergency proceeding without any hearing, a special appeal process will be available (and not the ordinary sole and direct appeal before the highest court (“cassation”).</p>
Interim Relief	<p>Interim measures are extended by the duration of the Period (includes court-ordered conservatory measures, investigation or assessment measures, injunctions).</p> <p>Time limits imposed by law or by court order for introducing subsequent applications or substantive proceedings are extended by the duration of the Period.</p>

GERMANY

Administrative Permitting and Enforcement	
Permits and Administrative Decisions	<p>Permits and administrative decisions are formally unaffected.</p> <p>Agencies are generally continuing to work; however, delayed responses may be expected.</p>
Enforcement / Administrative Measures	<p>Enforcement of administrative measures are formally unaffected.</p> <p>Some agencies, however, currently abstain from enforcing less urgent orders.</p>
Court Activity Pending COVID-19 Crisis	<p>German courts remain “open” but shall reduce their public activity wherever possible.</p>
Statute of Limitation	<p>Time limits to challenge an administrative act remain unaffected.</p>
Administrative Courts	
Submissions, Instruction and Hearings¹	<p>Deadlines for submissions are unchanged. However, courts will typically grant extensions more generously, due to the COVID-19 crisis.</p> <p>Oral hearings are generally limited to urgent cases and interim relief proceedings. Most oral hearings shall be rescheduled to an unspecified date.</p>
Appeals and Challenges²	<p>Appeals and complaint procedures remain unaffected. However, oral hearings in appeals procedures are limited to urgent cases.</p>
Interim Relief	<p>Interim relief is unaffected.</p>

ITALY

Administrative Permitting and Enforcement	
Permits and Administrative Decisions	<p>As set out in Article 103, Law Decree no. 18 of 17 March 2020, as amended and supplemented by Article 37, Law Decree no. 23 of 8 April 2020:</p> <p>All administrative terms (mandatory or not, preparatory, sub-terms within a procedure) applicable to administrative procedures before Public Authorities and the adoption of the relevant Authorities' decisions (also in the form of tacit approvals), are suspended from 23 February 2020 to 15 May 2020.</p> <p>Each Authority should adopt measures to minimize the effects of the suspensions, particularly by prioritizing urgent matters. The above does not apply to social security broadly defined, payment of salaries and pensions.</p> <p>The validity of all certificates, permits, concessions, authorizations, licenses of any nature due to expire between 31 January 2020 and 25 April 2020 will be prolonged until 15 June 2020.</p>
Enforcement / Administrative Measures	<p>Disciplinary procedures pending on, or commenced after, 23 February 2020 are suspended until 15 May 2020.</p> <p>The enforcement of eviction orders is suspended until 30 June 2020.</p>
Court Activity Pending COVID-19 Crisis	<p>As set out in Article 84, Law Decree no. 18 of 17 March 2020:</p> <p>Administrative court proceedings are suspended from 8 March 2020 to 15 April 2020, with certain limited exceptions concerning proceedings for provisional relief, which may proceed during the suspension period, provided that provisional relief measures are decided according to a simplified two-step procedure.</p> <p>Cases with oral discussion scheduled between 6 April 2020 and 15 April 2020 may be ruled upon by the court on the basis of pleadings filed thus far, upon the parties' joint request.</p> <p>From 8 March 2020 to 30 June 2020, each administrative court may adopt special measures to carry on court activities.</p> <p>Cases with oral discussion scheduled between 15 April 2020 and 30 June 2020 shall be ruled upon by the court on the basis of pleadings filed thus far and without oral discussion.</p>
Statute of Limitation	<p>Statute of limitations and forfeiture terms are suspended for the period of time during which commencement of court initiatives is prevented due to the emergency legislation or because of specific measures adopted by each court as a result of the emergency legislation, from 8 March 2020 up until 30 June 2020.</p>
Administrative Courts	
Submissions, Instruction and Hearings¹	<p>From 8 March 2020 to 15 April 2020, all trial terms are suspended.</p> <p>As per Article 36, § 3, Law Decree no. 23 of 8 April 2020, terms to commence court proceedings are further suspended between 16 April and 3 May 2020.</p> <p>All hearings are postponed by operation of law after 15 April 2020. Courts are also entrusted with special discretionary powers to postpone hearings after 30 June 2020, and/or to provide for special arrangements to enable hearings to be held.</p>
Appeals and Challenges²	<p>Terms to commence appeal proceedings are suspended from 8 March to 3 May 2020. All appeals and challenges procedural terms other than the term above, are suspended from 8 March to 15 April 2020.</p>
Interim Relief	<p>Proceedings for provisional relief are suspended, unless decided under a special two-step procedure.</p> <p>Consequently, the validity of an order for provisional relief subject to (a possible) appeal period, or whose validity expires in the absence of commencement of proceedings on the merit (or other activities), are extended according to the suspension time.</p>

NETHERLANDS

Administrative Permitting and Enforcement	
Permits and Administrative Decisions	<p>In general, there are currently no changes to permits and administrative decisions.</p> <p>However, some administrative bodies may have adopted special measures. These measures may have consequences for the processing and handling of notifications and/or permit applications. This should be verified with the administrative body concerned.</p>
Enforcement / Administrative Measures	<p>Currently there are no changes to enforcement of administrative measures.</p> <p>Despite the circumstances, administrative bodies will continue to enforce measures. However, due to the circumstances, administrative bodies may be more lenient with deadlines and statutory time limits. This should be verified with the administrative body concerned.</p>
Court Activity Pending COVID-19 Crisis	<p>Administrative courts are currently maintaining a “business as usual” approach. However, court buildings are closed to the public and no hearings shall occur until 28 April 2020, except in urgent cases.</p>
Statute of Limitation	N/A
Administrative Courts	
Submissions, Instruction and Hearings¹	Please refer to “Court Activity Pending COVID-19 Crisis”.
Appeals and Challenges²	Please refer to “Court Activity Pending COVID-19 Crisis”.
Interim Relief	<p>Applications for interim injunctions are still possible; however, such proceedings are primarily conducted in writing.</p> <p>In exceptional cases, an in-person hearing may take place in observance of all guidelines of the National Institute for Public Health and the Environment. Accordingly, a courtroom must provide for sufficient distance between participants, and only strictly necessary parties may be present.</p>

SPAIN

Administrative Permitting and Enforcement	
Permits and Administrative Decisions	<p>Since 14 March 2020, time limits for all procedures of public sector entities have been suspended. These time limits will be resumed upon expiry of the effects of the state of alert or its extensions.⁴</p> <p>(a) Administrative time limits are suspended and deadlines for administrative procedures are interrupted.</p> <p>(b) The time limits and expiry periods of any actions and rights will be suspended.</p> <p>This suspension will affect the entire public sector (i.e., the State Administration, the Administrations of the Autonomous Communities, the Local Administration Entities and the institutional public sector).</p> <p>This suspension shall not affect proceedings and decisions relating to situations closely linked to the events that justified the state of alert.</p>

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Enforcement / Administrative Measures	<p>Time limits for compliance with administrative provisions also have been affected by the suspension since 14 March 2020.</p> <p>In any event, a concerned administrative authority may decide, with reason, to continue the procedure and to adopt such measures as it deems necessary to avoid serious prejudice to the rights and interests of the parties concerned, if the parties agree to such measures or agree that the time limit is not suspended.</p> <p>For example, as certain functions of the CNMV (Spanish Securities and Exchange Commission) are considered indispensable, non-suspension has been decided⁵ for administrative authorization procedures in cases that produce favorable effects for the interested parties.</p>
Court Activity Pending COVID-19 Crisis	<p>Following the declaration of the state of alarm, the Spanish General Council of the Judiciary announced the suspension of all trials, time limits and legal proceedings throughout the national territory.</p> <p>However, the courts will maintain essential services, such as any action of an urgent or unpostponable nature and any judicial action that, if not carried out, could cause irreparable damage.⁶</p>
Statute of Limitation	<p>Periods for time limits and expiry of any administrative actions and rights are also suspended.</p> <p>Time limits will be resumed upon expiry of the effects of the state of alert or its extensions.</p>
Administrative Courts	
Submissions, Instruction and Hearings¹	<p>All court activities considered as non-essential shall be suspended.</p> <p>After 14 March 2020 and during the state of alarm situation, procedural time limits regarding case proceedings are suspended.</p> <p>Any urgent or unpostponable judicial measures shall be carried out.</p> <p>In-person submission of procedural documents is not allowed.</p> <p>Electronic submissions will be accepted only for procedures solely and exclusively concerning procedural actions declared urgent and unpostponable.</p>
Appeals and Challenges²	<p>Time limits provided for appeals and challenges are also interrupted and suspended for all court orders.</p> <p>The calculation of time limits will resume upon expiry of the present royal decree or its extensions.</p>
Interim Relief	<p>In the administrative order, those urgent and unpostponable authorizations, proceedings whose resolution has urgent nature and interim measures that are urgent will be processed.</p>

ENGLAND & WALES

Administrative Permitting and Enforcement	
Permits and Administrative Decisions	<p>Currently, there are no changes to permits and administrative decisions.</p> <p>In terms of the work of the Planning Inspectorate, it has initially suspended site visits, hearings and appeals. It is considering whether certain types of cases can proceed without undertaking a visit.</p> <p>In respect of inquiries and hearings, the Inspectorate is considering the feasibility of utilizing technological solutions to enable events to proceed whilst ensuring fairness for all parties, especially third parties, given that these are public events. In some cases, the Inspector might invite the parties to consider whether the case can be decided on the basis of written submissions following questions that the Inspector might raise.</p>
Enforcement / Administrative Measures	Currently, there are no changes to enforcement of administrative measures.
Court Activity Pending COVID-19 Crisis	<p>The Civil Courts of England and Wales are currently maintaining a “business as usual” approach. New Practice Direction 51Y is in force, confirming that remote hearings will be conducted by audio, telephone or video during the COVID-19 pandemic. Skype for Business has been installed on all judges’ laptops. Recorded hearings will be available for public broadcast, but applications to follow proceedings in real time must be made in writing to the judge’s clerk.</p> <p>Private hearings must be recorded where practicable, in a manner directed by the court. The courts are issuing daily updates to the guidance.</p>
Statute of Limitation	N/A
Administrative Courts	
Submissions, Instruction and Hearings¹	<p>Since 19 March 2020, the court office is closed. Filings and submissions should be sent electronically.</p> <p>In accordance with Practice Direction 51Y, remote hearings will be conducted by audio, telephone or video during the COVID-19 pandemic.</p> <p>On 2 April 2020, Practice Direction 51ZA came into force relating to extension of time limits and clarification of Practice Direction 51Y. It allows the parties to agree an extension up to 56 days without formally notifying the court (rather than the current 28 days), so long as that does not put a hearing date at risk.</p> <p>Any extension of more than 56 days needs to be agreed by the court. The court is required to take into account the impact of the pandemic in considering such applications, as well as applications for adjournment and relief from sanction.</p> <p>This Practice Direction also clarifies that a person seeking permission to listen to or view a recording of a hearing may do so by request and is not required to make a formal application under the Civil Procedure Rules.</p> <p>The Practice Direction ceases to have effect on 30th October 2020.</p>
Appeals and Challenges²	N/A
Interim Relief	<p>Applications for injunctions and committal are considered urgent and so will be prioritized.</p> <p>Where a party is self-isolating and unable to provide a sworn statement or signed document in accordance with court rules, the court will apply the time limits flexibly.</p> <p>Further, an application can be made for permission to submit court documents in an approved form until the original documents can be provided.</p>

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ENDNOTES

- 1 Internal procedural time limits before administrative courts (for submissions, instruction, appearances, hearings, etc.)
- 2 Time limits for appeals, motions, challenges and other recourses
- 3 At this stage, the health emergency period has been adopted for a two-month period from 24 March 2020 (see French law n° 2020-290 of 23 March 2020 *d'urgence pour faire face à l'épidémie de covid-19*)
- 4 *Disposiciones adicionales tercera y cuarta del RD 463/2020*
<https://www.boe.es/bucrisisscar/act.php?id=BOE-A-2020-3692>
- 5 <https://www.boe.es/boe/dias/2020/03/25/pdfs/BOE-A-2020-4063.pdf>
- 6 <http://www.poderjudicial.es/cgpj/es/Poder-Judicial/En-Portada/El-CGPJ-acuerda-la-suspension-de-las-actuaciones-judiciales-y-de-los-plazos-procesales-en-todo-el-territorio-nacional--garantizando-los-servicios-esenciales->

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