

# ARTICLE

## CLARIFICATION OF THE DECREE OF APRIL 24, 2020 CONCERNING THE END OF THE USPENSION OF CERTAIN TIME LIMITS APPLICABLE UNDER LABOUR LAW

Employment and Social Security Law | 28/04/20 | Marie-Hélène Bensadoun Diane Reboursier Laetitia-Marie Jamet

Remember, a month ago already, the much-commented Order of April 25,2020[1] on the extension of expired time limits provided for the suspension of time limits for many administrative procedures and specified in its article 9 that a special decree would determine the categories of acts or procedures for which time limits would resume.

Since then, many situations have been blocked, both for companies (e.g. application for approval of current contractual termination) and the administration authority itself (e.g. suspended deadline for companies' reply or compliance).

After weeks of uncertainty and mixed messages from some DIRECCTE, the decree n°2020-471 of April 24,2020 derogating, in the field of work and employment, from the principle of suspension of deadlines during the state of emergency in relation to the Covid 19 epidemic, whose deadlines suspended on March 12,2020 entered into force this week end.

The purpose of this decree is to list, exhaustively, in the field of labour law, the acts, procedures and requirements whose deadlines suspended on March 12,2020 **resume from April 26,2020**.

--> This means in practice, that the periods having started to run before March 12,2020 and suspended from this date, resume their course for the time remaining, from April 26,2020.

**e.g.** the period of 15 working days during which the application for approval of a contractual termination (*rupture conventionnelle*) has to be investigated, starting on March 9,2020 and suspended on March 12,2020 resumes its effect from April 26,2020 for the counting of the remaining 12 working days. The deadline will end on May 12,2020 at midnight.

--> Concerning procedures whose time frame should have started between March 12 and April 25,2020, due to the extension of time, the time frame has never started. It must thus be considered that the time limit begins from April 26,2020.

**e.g.** the investigation period of 15 working days of a contractual termination addressed to the DIRECCTE between March 12 and April 25,2020 will starts on April 27 and end on May 15 at midnight.

Unsurprisingly, it mostly concerns investigation and authorization procedures relating to the termination of employment contracts, the duration and organization of work and the health and safety of workers.

Are particularly targeted:

### Regarding the termination of the employment contract:

- The validation or approval by the administration of:
  - Employment safeguard plans.** Note: a slip of the pen has let to consider that the text refers to collective agreements only. However the reference to the article of the labour code as well as the reference to validations and approvals suggests that it will make it possible to set up a ESP by collective agreement or an unilateral decision.
  - Employment safeguard plan** for companies in receivership or in compulsory liquidation.
- The approval of **individual contractual termination** (*rupture conventionnelle individuelle*)
- The validation by the administrative authority of a collective agreement concerning a **collective contractual termination**.

### Regarding the duration and organization of work:

- The time taken by the administration authority to examine the request for a **derogation from the maximum average weekly and/or absolute working time**.
- The decision of the labour Inspector to authorise individualized schedules.
- The decision of the labour Inspector on the application for:
  - authorising to **exceed the maximum daily working time**



exempting from the **minimum daily rest period**

- The exemption granted by the labour inspector authorising work organisation **on a continuous basis** and the allocation of weekly rest in rotation failing an extended collective convention or agreement or a company's convention or agreement;
- The decision of the labour inspector authorising:  
to **exceed the daily working time for night workers** in exceptional circumstances  
a night working period different from that provided in the absence of a conventional provision defining such a night working period.

#### Regarding workers' health and safety

- The employer's implementation period of a formal notice:  
issued by the DIRECCTE finding that the worker is exposed to a **dangerous situation**,  
issued by the labour inspector :

referring to the employer's obligations in terms of **risk assessments and implementation of a prevention**

**plan for the health and safety of the workers, their information and training.**

finding that the worker is **exposed to carcinogenic, mutagenic or toxic chemicals agents.**

- The deadline for the employer to pass on the results of the **verifications and controls he was asked to carry out** and related to workers' working conditions, health and safety on their place of work. This includes requests for ventilation and sanitization conformity of work premises and to verify work equipment and protection means, which will be crucial in the context of progressive "deconfinement" (release from lockdown)
- The decision to authorise **the resumption of work** following a temporary shut down after finding the appropriate measures taken by the employer to end a serious and imminent danger.
- The decision to **resume work** following a temporary shut down after finding the appropriate measures taken by the employer to end a dangerous situation.

Finally note that the decree covers the possibility for the administration to make observations from the filing of an employee saving scheme.

All these exemptions concern, without ambiguity, a gradual return to work after the "deconfinement" and aims to "unblock" procedures permitting to a flexible and safe resumption of the activity.

The decree confirms that many on-site controls are to be expected to be conducted by labour inspectors to ensure that workers' health and safety are guaranteed

*Encl: Annex to the decree listing the category of acts, procedures concerned by the exemption from the principle of suspension of deadlines*

[1] « Ordonnance n°2020-306 du 25 mars 2020 relative à la prorogation des délais échus pendant la période d'urgence sanitaire et à l'adaptation des procédures pendant cette même période ».

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