

## **Periods of Limitation and Other Time Limits in Europe**

A country by country summary of limitation and time limits in Europe

Commercial Law Group



Commercial Law Group

July 2014

[www.clglaw.eu](http://www.clglaw.eu)

## **CONTENTS**

Introduction

Austria

England and Wales

Greece

Italy

Portugal

Republic of Ireland

Scotland

Spain

Switzerland

Scope of this note



- b) if the works council explicitly objects against the termination, but does not sue on request of the employee: employee has 2 weeks within which to sue, after lapse of time period for lawsuit for works council
- c) if the works council explicitly consented to the termination or has not commented on the intended termination within the 1 week comment period, or if there is no works council established in the firm: 2 weeks upon termination

**Sexual harassment: 6 months**

#### Contracts and debts

A party loses its right to enforce payment of a debt or performance of a contract unless a court action or proceedings are commenced in the relevant Court within the following period of time starting on the date of the contract being entered into/due date for payment/performance:

<b>Payment for movables:</b>	<b>3 years, starting on the date of delivery</b>
<b>Payment from sale of real estate:</b>	<b>30 years</b>
<b>Performance of the seller:</b>	<b>30 years</b>

#### Personal Injuries/Death claims

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a Court action or proceedings is commenced in the relevant country within the following period of time:

- a) **3 years after becoming aware of the injuring party and damage;**
- b) **30 years (absolute time limit) if i) the damaged person is not aware of the damage or the injuring party or ii) the damage results from a wilful criminal offence for which the criminal courts are competent, with a legal range of punishment of prison sentence of more than 1 year**

#### Claims that do not involve personal injuries

A party loses his/her right to claim unless a Court action or proceedings is commenced in the relevant country within the following period of time:

- a) **3 years after becoming aware of the injuring party and damage;**
- b) **30 years (absolute time limit) if i) the damaged person is not aware of the damage or the injuring party or ii) the damage results from a wilful criminal offence for which the criminal courts are competent, with a legal range of punishment of prison sentence of more than 1 year**

#### Shipping Claims

A party loses its right to claim damages or compensation for any shipping accident or contract unless the relevant Court action or proceedings are commenced within the following periods of time: **1 year**

Registration of Charges against companies

A Register of Charges showing mortgages and other documents that create Charges against limited companies **is not kept in Austria.**

Claims against the estate of a deceased person

Claims by creditors for debts due by a deceased person must be made and the relevant court action or proceedings within the following period after date of death:

**Generally there are no specific rules available, i.e. applicability of general time limits.**

**In the event of a (public) creditor's convocation (which is mandatory, if the heirs limit their obligations with the value of the assets available in the estate) the court sets a time limit, within which creditors have to file their claims against the estate.**

Claims by a spouse or children in respect of legal entitlement in the estate must be made and the relevant court action or proceedings within the following period after date of death:

**Inheritance suit ("Erbrechtsklage"):**

**30 years;**

**3 years in the event that the lawsuit is connected with the rescission of a last will**

Claim for entitlement to compulsory portion ("Pflichtteilsklage"):

**3 years**

**ENGLAND AND WALES****Preamble**

English law in practice (in common with other jurisdictions) requires that legal proceedings for any legal claims rights or entitlements need to be commenced within a specific timeframe : if any proceedings are issued beyond that point any Defence thereto (based upon time bar) will usually meet with complete success.

For all practical purposes time begins to run from and including the day upon which the claim right or entitlement may be said to have begun.

There are however exceptions; consequently care must be taken to assess the starting point for time running. A cautious and circumspect approach in calculation is advisable.

The concept of *limitation of actions* is founded upon sound policy precepts:

- (a) the need for finity and resolution in any case claim or matter;
- (b) the further need to rid the Courts of stale claims; and

- (c) the consequential need to avoid that detriment that a late claim will inevitably occasion (where memories of important events can be expected to have diminished with the passage of time and material documents may no longer be so easily locatable).

Today there is perhaps a greater premium upon the need to observe limitation periods as it is no longer acceptable under English legal procedure to issue proceedings unless the matter is one of immediate importance or urgency : one must first of all adopt a Pre-Action Protocol and examine closely various forms of Alternative Dispute Resolution. (Going to the Courts in England is very much viewed as an arena of last resort; In complex cases a Protocol might take many months or much longer fully to implement prosecute and conclude.)

The conscientious and competent practitioner will remain alert to the risks attendant upon expiry of the limitation period in the individual case or claim.

Vigilance cannot be gainsaid.

We now turn to the practical application of this important concept.

The periods which follow can properly be said to run from the day upon which it is thought the facts or events giving rise to the claim first arose.

### **1. Contract : 6 years**

The limitation period is six years for actions in respect of simple contracts and of tort.

### **2. Actions under Deed : 12 years**

A Deed in English law is normally a document described as such and signed by the parties thereto (that is, executed in the presence of a witness) and a seal applied thereto. In the case of companies, a seal is not always necessary. Nonetheless a Deed is treated with a recognisable and appreciable degree of solemnity.

The limitation period is twelve years in respect of breach of an obligation contained in a Deed.

### **3. Loans : 6 years or other**

An agreement for a loan (whether written or oral) will usually contain clear terms for repayment.

In the individual case (particularly in relation to oral agreements) care must be taken to establish the precise words employed or the gist of what was agreed in order to establish the date upon which limitation began (or begins) to run.

In many cases time will run (for limitation purposes) from the date on which the repayment of the first instalment of debt fell due; if that be right then in the case of simple contracts (that is no Deed) the period is 6 years; if under Deed, the period is 12 years.

Sometimes the agreement fails to specify the repayment date. In this circumstance (particularly if the debt is very old) care must be taken to see if it can be contended that the loan is repayable on **notice or demand**. If so one may posit that time does not run unless and until either notice (for repayment) or demand is actually served.

### **4. Malicious Falsehood : 1 year**

1 year (Limitation Act 1980).

### **5. Insolvency and Administration : time stops running**

Where a company goes into liquidation, time stops running for limitation purposes. This means that a claim against a company - which is not time-barred when the company goes into liquidation - remains alive.

When a company is in administration, however, the limitation periods of claims against the company continue to run

### **6. Negligence : 6 years**

The English law imbues certain relationships with a duty of care the breach of which will give rise to potential claims in damage e.g. solicitor and client, doctor and patient, accountant and investor.

In the case of solicitors the standard (of the duty of care) applied objectively : it can be said to be that of the *“averagely competent High Street practitioner”*.

Ordinarily the time in which legal proceedings for negligence should be taken runs 6 years from the day when the circumstances giving rise to the claim arose.

### **7. Negligence : Latent Damage (see hereafter)**

On occasion the injured party may be unaware of those circumstances which might lead to such a claim.

Section 14A of the Limitation Act provides a potential open door to cure irreversible detriment arising from a Claimant's ignorance of facts which might merit recompense.

Under Section 14A of the Limitation Act the ordinary limitation period of 6 years is still set to run.

However 14A also allows for a separate limitation period of **3 years**. This may be said to run from the date when the potential Claimant either knew (subjective) or where they ought to have known (objective) the following

- (a) the material facts giving rise to the loss suffered;
- (b) the identity of the potential Defendant;
- (c) the cause of action (that is, that state of affairs or facts said to constitute a case in negligence):

### **8. Fraud and Concealment : date of discovery**

The classic definition of fraud might be put thus : *“I would not have done what I did had I known then what I know now”*.

Section 32 of the Limitation Act provides that the limitation period is not to begin to run until the claimant has discovered the fraud, concealment or mistake, or could with reasonable diligence have discovered it, in either of the following circumstances:

- (a) where an action is based on the fraud (overt dishonesty) of the defendant; or

- (b) where any fact relevant to the claimant's right of action has been deliberately concealed by the defendant.

### **9. Trustees and Fraud : 6 years**

Section 21(1) of the Limitation Act prevents fraudulent Trustees from raising a defence of limitation.

Section 21(3) imposes a six-year limitation period on breach of trust claims for which no provision has been made elsewhere in the Limitation Act.

### **10. Personal Injury : 3 years**

For negligence resulting in personal injury or death, the limitation period is three years from the date of accrual of the action or the date of the claimant's knowledge of damage, whichever expires later (section 11).

### **11. Mortgage Debts : 12 years or 6 years**

The Limitation Act provides for two different limitation periods for mortgage debts:

- (a) twelve years for any action to recover any principal sum secured by a mortgage or other charge on property (whether real or personal). The 12-year period runs from the date the cause of action accrues. The date the cause of action accrues will generally (in relation to the whole of the principal) be when there has been default on repayment of instalments (of interest and/or principal) for two or three months, but this will depend on the terms of the particular mortgage;
- (b) six years for any action to recover arrears of interest (or damages in respect of such arrears) in respect of any sum of money secured by a mortgage or charge (or payable in respect of the proceeds of sale of land). The six-year period runs from the date the interest becomes due (section 20)

### **12. Enforcing a Money Judgment : 6 years**

Section 24(1) of the Limitation Act provides that:

*"an action shall not be brought upon any judgment after the expiration of six years from the date on which the judgment became enforceable".*

### **13. Contribution Claims Against Third Parties : 2 years**

Section 10 of the Limitation Act provides that the claim must be brought within two years from the date on which the person seeking a contribution is

*"held liable ... by a judgment".*

### **14. Defective Premises Act 1972 : 6 years**

Section 1(5) of the Defective Premises Act 1972 provides that the limitation period under that Act runs for six years from the completion of the dwelling.



However, if a person carries out further work to a dwelling, to rectify a defect in its earlier work, then the cause of action accrues (and the six years starts to run) at the time that the further work was finished.

### **15. Employment claim : Unfair Dismissal : 3 months**

A claim for unfair dismissal is a claim brought under statute. The Claimant needs to establish clear criteria to show that his claims amounts to unfair dismissal. Under English statute all claims for unfair dismissal must be issued in and heard before the Employment tribunals.

The employee must bring their claim for unfair dismissal within a period of three months starting with the effective date of termination (EDT) (section 111(2) of the Employment Rights Act 1996).

### **16. Employment Contract : Wrongful Dismissal : 3 months**

Where it is said that an employer has broken a contract of employment (for example by ending it summarily – rather than giving the requisite notice) or has terminated it for an invalid or unsupportable reason then the employee has two options:

(a) to commence a claim before the Industrial Tribunals; or

In relation to (a) if the claim brought within the Employment Tribunals the limitation period is three months.

(This period may be extended by such period as the Tribunal considers reasonable if they are satisfied that it was not reasonably practicable to present the claim within the three months time limit.)

However the Employment Tribunals place a ceiling (i.e. cap) upon awards recoverable by way of damages for wrongful dismissal.

It may be the case that an award at common law would be greater.

Accordingly it may prove feasible to commence proceedings in the Employment Tribunals first of all and thereafter (depending on the outcome) to look to the English Civil Law to recover the balance of one's damages for wrongful dismissal. Accordingly if that path is followed then:

(b) to bring a separate claim for wrongful dismissal in the Civil Courts.

In the Civil Courts the limitation period for a claim for damages for wrongful dismissal is six years.

### **17. Redundancy : 6 months**

The limitation period for the right to a statutory redundancy payment is six months starting with the relevant date.

### **18. Right not to be treated less favourably because of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 13 Equality Act 2010).

**19. Right not to be treated unfavourably because of pregnancy or maternity : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 18 Equality Act 2010).

**20. Right not to be indirectly discriminated against in relation to age, disability, gender reassignment, marriage or civil partnership, race, religion or belief, sex or sexual orientation : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 19 Equality Act 2010).

**21. Right not to be treated unfavourably because of something arising in consequence of a disabled person's disability : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 15(1) Equality Act 2010).

**22. Right not to be discriminated against by a failure to comply with a duty to make reasonable adjustments : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 21 Equality Act 2010).

**23. Right not to be harassed by unwanted conduct related to age, disability, gender reassignment, race, religion or belief, sex or sexual orientation : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 26(1) Equality Act 2010).

**24. Right not to be sexually harassed : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 26(2) Equality Act 2010).

**25. Right not to be treated less favourably for rejecting or submitting to sexual harassment or harassment related to gender reassignment or sex : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 26(3) Equality Act 2010).

**26. Right not to be victimised because of a protected act : 3 months**

3 months starting with the date of the act to which the complaint relates or such other period as the Employment Tribunal thinks is "just and equitable" (section 27 Equality Act 2010).

**27. Right to a sex equality clause (equal pay for equal work) : 6 months**

6 months after termination of employment (in standard cases) (section 66 Equality Act 2010).

**28. Right to a maternity equality clause : 6 months**

6 months after termination of employment (in standard cases) (section 73 Equality Act 2010).

**29. Claim for breach of employment contract : 3 months (Employment Tribunals) or 6 years (Common Law)**

Such claims are ordinarily brought within the Employment Tribunal and must be started within **3 months** from the effective date of termination (EDT) or if that is in doubt calculate the time to run from and including the employee's last working day.

The Employment Tribunals place a ceiling or cap upon compensation recoverable.

Sometime the damages under a breach of contract claim can amount to more.

In that event (usually after having brought their claim in the Tribunal and having had a determination) the disaffected employee can still sue for the balance in common law in the English Courts.

Any common law claims for breach of employment contract are subject to a limitation period of 6 years.

**30. Breach of contract claim by employer : 28 days**

In the Employment Tribunal, 28 days from receipt of employee's claim.

At common law (that is, in the English civil courts) 6 years from breach of contract in England and Wales

Article 4, Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994.

**31. Registration of Charges against Companies : 21 days**

21 days from the date of the charge.

**32. Leasehold Reform Housing and Urban Development Act 1993 : applications for new tenancies**

If a tenant wishes to exercise their right to acquire a new lease (sometimes known as a lease extension), a section 42 notice under the Leasehold Reform Housing and Urban Development Act 1993 needs to be served on the freeholder. Once the notice has been served, the freeholder will have two months to respond with a counter notice.

Between service of the counter notice and a further six months, surveyors from both sides will try to agree between them the premium to be paid by the lessee. If

negotiations fail to produce a conclusion, either side can apply to the Leasehold Valuation Tribunal no sooner than two months but within six months from the service of the counter notice.

### **33. Detailed Assessment of costs**

The general principle in English legal proceedings is that *cost follow the event*.

In other words the party who succeeds - either wholly or in larger part upon their case or claim - is ordinarily entitled to a costs contribution from the losing party (the paying party).

The usual order to make is payment of the receiving party's costs on the *standard basis*. This means a contribution only. As a general *rule-of-thumb* the contribution in the majority of cases is in the region of 60%.

If the Court considers that the conduct of the paying party to have been sufficiently blameworthy or unreasonable it may order costs to be payable on the *indemnity basis*. If a receiving party is so fortunate to obtain an Order upon these terms the percentage contribution rises significantly to in the order of 85%-90%.

If the level of contribution cannot be agreed then the receiving party has the right to ask the Court to assess that costs contribution. This process is known as *detailed assessment of costs*.

Costs assessment takes place before a costs judge (if the costs claim is ordinarily over £50,000 or below that, a costs officer).

A receiving party is under a time limit of 3 months in which to commence the detailed assessment; the period of 3 months runs from the date of the date of the Order containing the award of costs.

(It is still possible to apply for a detailed assessment of costs beyond the 3 month period – however if one does so one is normally deprived of interest on costs for each day of delay. In the current English practice interest on costs is claimable at a most attractive commercial rate : 8% per annum – calculated from the date of the Costs Order to and including the date either of agreement to costs or their certification by the Court.)

#### **Member contact details:**

Kidd Rapinet LLP  
Walsingham House, 35 Seething Lane, London, EC3N 4AH  
Office tel +44 (020) 7925 0303

**Richard Tymkiw, Senior Litigation Partner:**

**E:mail: [rtymkiw@kidddrapinet.co.uk](mailto:rtymkiw@kidddrapinet.co.uk)**

#### **GREECE**

Employment Law

An employee must file a claim to the relevant Court (either Magistrates' court or the court of First Instance) within a period of **5 years** (after the end of the year when the right of claim had arisen) otherwise he/she loses his/her right to claim.

Redundancy and sexual harassment are some of the scenarios where the aforementioned time limit applies. However, claims concerning **unfair dismissal** or **dismissal allowances** must be filled within a period of **3 months** and **6 months** respectively from the date of employee's dismissal.

#### Contracts and debts

A party loses its right to enforce payment of a debt or performance of a contract unless a court action or proceedings are commenced in the relevant Court within the following period of time starting on the due date for payment/performance: **5 years**

#### Personal Injuries/Death claims

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a Court action is commenced within the following period of time: **5 years** (starting on the date, when the event in question occurred).

#### Claims that do not involve personal injuries

A party loses his/her right to claim for damages unless proceedings are commenced within the following period of time: **5 years** (after the date of event).

#### Shipping Claims

A party loses its right to claim damages or compensation for any shipping accident or contract unless the relevant Court action or proceedings are commenced within the following period of time: **5 years**

#### Registration of Charges against companies

A Register of Charges showing mortgages and other documents that create Charges against limited liability companies is not maintained in Greece. Hence, there is **no time limit** for the registration of such charges.

**However, a limited liability company is required as soon as practicable publish any changes to its assets to Government's Gazette.**

#### Claims against the estate of a deceased person

Claims by creditors for debts due by a deceased person must be made and the relevant court action or proceedings within the following period after date of death: **5 years unless the beneficiaries have disclaimed the legacy within a period of 4 months after the death (if that is the case, the creditors have no right to commence proceedings against them).**

Claims by a spouse or children in respect of legal entitlement in the estate must be made and the relevant court action or proceedings within the following period after date of death: **20 years**

Member Details:

Firm Name FOUTSIS AND PARTNERS LAW FIRM  
 Person to Contact Dimitris Foutsis  
 Email [d.foutsis@foutsislaw.gr](mailto:d.foutsis@foutsislaw.gr)  
 Phone Number +30 210 38 37 459

## **ITALY**

### **Employment Law**

An employee must lodge an application with the relevant Tribunal or Court within the following period of time otherwise he/she loses his/her right to claim:-

**Unfair dismissal/redundancy: written request to the employer within 60 days; Court application within the following 180 days.**

**Sexual harassment: 5 years**

As a general rule, time limits for rights of the employee against the employer do not run as long as the employment contract is in force.

### **Contracts and debts**

A party loses its right to enforce payment of a debt or performance of a contract unless a court action or proceedings are commenced in the relevant Court (or a written request is sent to the debtor) within the following period of time starting on the due date for payment/performance:

**General rule: 10 years**

Several exceptions are provided for. The most relevant are the following:

**Rents, interests and other yearly payments, rights of the employee for indemnities due to contract termination, all rights arising from company law: 5 years**

**Fees for professional activity, salaries for periods longer than one month: 3 years**

**Rights arising from insurance contracts: 2 years**

**Claims for defects in works contracts: 2 years**

**Salaries for periods up to one month, prices for the sale of goods to consumers: 1 year**

**Claims for defects in the sales of goods: 1 year**

Personal Injuries/Death claims

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a Court action or proceedings is commenced in the relevant country (or a written request is sent to the person in charge) within the following period of time: **5 years**

**For claims arising from road accidents: 2 years**

Claims that do not involve personal injuries

A party loses his/her right to claim unless a Court action or proceedings is commenced in the relevant country (or a written request is sent to the person in charge) within the following period of time: **5 years**

**For claims arising from road accidents: 2 years**

Shipping Claims

A party loses its right to claim damages or compensation for any shipping accident or contract unless the relevant Court action or proceedings are commenced within the following periods of time: **2 years**

Registration of Charges against companies

- Mortgages and other documents that create Charges against real estate are shown in the Real Estate Registers (*Registri Immobiliari*) (including land and buildings), which applies to real estate owned by both natural and legal persons
- Charges on shares of a limited company are shown in the Register of Enterprises (*Registro delle Imprese*)

There is no special time limit for registration of a Charge in the Real Estate Register, but registration grants a right to prevail upon later registrations, including transfer of the title.

Claims against the estate of a deceased person

Claims by creditors for debts due by a deceased person must be made against the successors within the same time limit as against the deceased person.

Claims by a spouse or children in respect of legal entitlement in the estate must be made and the relevant court action or proceedings are commenced within the following period after date of death: **10 years**.

Member contact details:

**CLG Italia – Studio Legale e Tributario**

Via Rubbiani, 3  
I-40124 Bologna  
tel. +39-051-6449752  
fax +39-051-4127076

Contact – Irene Grassi : [irene.grassi@clgitalia.it](mailto:irene.grassi@clgitalia.it)

## **PORTUGAL**

### **Employment Law**

An employee must lodge an application with the relevant Tribunal or Court within the following period of time otherwise he/she loses his/her right to claim:

### **Dismissal and Redundancy – 60 days after date of dismissal / redundancy**

In Portugal there is a special form for the employee (or his lawyer) to fill and deliver to court, instead of a normal Statement of Claim - Art. 387. Portuguese Labour Code [“CT”]

### **Redundancy, if case of collective redundancies – 6 months**

### **Sexual harassment - 3 years (Art. 29. CT)**

### **Contracts and debts**

A party loses its right to enforce payment of a debt or performance of a contract unless a court action or proceedings are commenced in the relevant Court within the following period of time starting on the date of the contract being entered into/due date for payment/performance:

### **20 years as a general rule, OR**

**5 years** if the debt originates from:

- Perpetual or lifelong rent annuities;
- The rents payable by the tenant, even if paid all at the same time;
- The conventional or legal interest, albeit gross, and dividends of corporations;
- The shares of amortisation of capital payable with interest;
- Overdue alimony;
- Any other periodically renewable benefits.

**2 years** for:

- The payment of debts for food, beverages and accommodation, if provided to students by an establishment that caters specifically to students.
- The payment of debts for services provided by liberal professionals and reimbursement or the expenses incurred.
- The payment of debts for objects sold by merchants to the general public and, if the creditor is an industry professional, the delivery of merchandise, products, the



execution of works and the management of someone else's business, as well as expenses incurred, unless the debt is incurred by another industry professional, for the prosecution of his industry.

(310 Civil Code ["CC"])

**6 months** for payment of debts for food, beverages and accommodation provided to the general public (316 CC)

#### Personal Injuries/Death claims

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a Court action or proceedings is commenced in the relevant country within the following period of time: **3 years** (498. CC)

#### Claims that do not involve personal injuries

A party loses his/her right to claim unless a Court action or proceedings is commenced in the relevant country within the following period of time: **3 years** (498. CC)

#### Shipping Claims

A party loses its right to claim damages or compensation for any shipping accident or contract unless the relevant Court action or proceedings are commenced within the following **3 years** (498. CC)

#### Registration of Charges against companies

A Register of Charges showing mortgages and other documents that create Charges against limited companies is maintained in all/the following countries.

There is a time limit for registration of any Charge in the Register of Charges as follows:

**There is no specific time limit for registering charges. The general rule is 60 days for the registration of any act concerning companies.**

#### Claims against the estate of a deceased person

Claims by creditors for debts due by a deceased person must be made and the relevant court action or proceedings within the following period after date of death: **the same as if the debtor had not died but if the regular deadline occurs after death there is an extended period of 6 months after the heirs have been established, to start the proceedings.** (332. CC)

Claims by a spouse or children in respect of legal entitlement in the estate must be made and the relevant court action or proceedings within the following period after date of death: **2 years for alimony, to oppose disinheritance, or to oppose the will and ask for its annulment, 10 years to accept or repudiate the inheritance and to claim the will is null and void** (2020, 2059, 2167, and 2308 CC)

## **REPUBLIC OF IRELAND**

- **Employment Law Unfair Dismissals Act, 1997**

An employee must lodge a claim to Rights Commissioner or the Employment Appeals Tribunal for unfair dismissal within **6 months** from date of dismissal (can be extended to 12 months in exceptional circumstances).

Note: there is significant legislation in this area so time limits vary considerably under the relevant legislation.

- **Simple contract/account**

A party loses his/her right to enforce payment of a debt or performance of a contract unless court proceedings are commenced in the relevant Court within **6 years**.

- **Personal Injuries claims arising from negligence, nuisance or breach of duty**

A party loses his/her right to claim for personal injuries unless court proceedings are commenced in the relevant Court within **2 years**.

- **Airlines**

A party loses his/her right to claim damages or compensation for any airline accident unless court proceedings are commenced in the relevant Court within **2 years**.

- **Marine damage to vessel, cargo personal injury on board**

A party loses his or her right to bring an action for damage or compensation for personal injuries unless court proceedings are commenced in the relevant court within **2 years**.

- **Registration of Charges against companies**

A Register of Charges showing mortgages and other documents that create Charges against limited companies.

There is a time limit for registration of any Charge in the Register of Charges of **21 days**.

- **Action surviving against the estate of a deceased person**

Proceedings arising from claims surviving against estate of a deceased person must be commenced in the relevant Court within a period of **2 years** from date of death.

Claim by beneficiary to estate of deceased (not founded on fraud) **6 years**.

Claim by personal representative for recovery of asset on behalf of estate of deceased **12 years**.

- **Enforcement of Arbitration Award**

**6 years** when the arbitration agreement is not under seal or **12 years** when the arbitration agreement is under seal.

- **Tort**

- Generally **6 years** (subject to exceptions).

- **Other relevant Periods of Limitation**

- |                                                    |                 |
|----------------------------------------------------|-----------------|
| • Action on a judgment                             | <b>12 years</b> |
| • Interest on a judgment                           | <b>6 years</b>  |
| • Recovery of Land (other than by State)           | <b>12 years</b> |
| • Recovery of Land by State                        | <b>30 years</b> |
| • Arrears of Rent                                  | <b>6 years</b>  |
| • Sale by mortgage                                 | <b>12 years</b> |
| • Arrears of Mortgage Interest                     | <b>6 years</b>  |
| • Recovery of principal monies secured by mortgage | <b>12 years</b> |

## **SCOTLAND**

### **Employment Law**

An employee must lodge an application with the relevant Tribunal or Court within the following period of time otherwise he/she loses his/her right to claim:-

Unfair dismissal, redundancy, sexual harrasment

Contracts and debts

A party loses its right to enforce payment of a debt or performance of a contract unless a court action or proceedings are commenced in the relevant Court within the following period of time starting on the date of the contract being entered into/due date for payment/performance:

Personal Injuries/Death claims

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a Court action or proceedings is commenced in the relevant country within the following period of time:

Claims that do not involve personal injuries

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a Court action or proceedings is commenced in the relevant country within the following period of time:

Shipping Claims

A party loses its right to claim damages or compensation for any shipping accident or contract unless the relevant Court action or proceedings are commenced within the following periods of time:

Registration of Charges against companies

A Register of Charges showing mortgages and other documents that create Charges against limited companies is maintained in all/the following countries.

There is a time limit for registration of any Charge in the Register of Charges as follows:.

Claims against the estate of a deceased person

Claims by creditors for debts due by a deceased person must be made and the relevant court action or proceedings within the following period after date of death:

Claims by a spouse or children in respect of legal entitlement in the estate must be made and the relevant court action or proceedings within the following period after date of death:

**SPAIN****Important Notes:**

**In Spain there are different regional laws concerning the Civil Law. We therefore have to distinguish between general Spanish law, and the law in the following regions: Balearic Islands, Catalonia, Aragon, Navarra, Basque Country, Galicia and some villages in Extremadura. In this publication we will focus on time limits provided by the general Spanish law and by the Catalan law.**

Spanish law also distinguishes between the terms Prescription (“Prescripción”) and Expiration (“Caducidad”). The main differences between those terms is that Prescription, contrary to Expiration, has to be alleged, as it does not operate automatically, and it can be interrupted or suspended.

Unless otherwise stated, this text refers to the actions related to prescription.

### **Spain - General Legislation:**

#### Employment Law

An employee must lodge an application with the relevant Tribunal or Court within the following period of time otherwise he/she loses his/her right to claim:

**Fair / Unfair dismissal / redundancy: expiration action of 20 days (art. 59.3 Statue of Workers Rights)**

**Sexual harassment: 5 years (art. 131 Penal Code)**

#### Contracts and debts

A party loses its right to enforce payment of a debt or performance of a contract unless a court action or proceedings are commenced in the relevant Court within the following period of time starting on the date of the contract being entered into/due date for payment/performance:

**In general, 15 years (art. 1.964 Civil Code – hereafter “Cc”). There may be shorter time limits of only 5 years, for example for the payment of rent, annual payments, or payments that are due after shorter periods of time (art. 1966 Cc). Furthermore there are time limits of only 3 years, for example for the payment of lawyer services (see art. 1967 Cc).**

#### Personal Injuries/Death claims

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a Court action or proceedings is commenced in the relevant country within the following period of time:

**15 years for contractual obligations (art. 1964 Cc) / 1 year for non-contractual obligations (art. 1.968 Cc)**

#### Claims that do not involve personal injuries

A party loses his/her right to claim unless a Court action or proceedings is commenced in the relevant country within the following period of time:

**In general, 15 years (art. 1964 Cc)**

#### Shipping Claims

A party loses its right to claim damages or compensation for any shipping accident or contract unless the relevant Court action or proceedings are commenced within the following periods of time:

**In general, 6 Months (art. 951 Ccom)**

**1 Year for commercial overland transport contracts**

**2 Years for commercial overland transport contracts in case of fraudulent acts or intentional breach of contract. (art. 79.1 of Law 15/2009 Land Transport Law)**

#### Registration of Charges against companies

A Register of Charges showing mortgages and other documents that create Charges against limited companies is maintained in all/the following countries.

There is a time limit for registration of any Charge in the Register of Charges as follows:

**In Spanish law, the registration of a mortgage has constitutive character. This means that a mortgage is void if it is not registered with the Register of Charges. For other material rights the registration has merely declaratory character but is still desirable due to offering enhanced protection against claims of a third party.**

#### Claims against the estate of a deceased person

Claims by creditors for debts due by a deceased person must be made and the relevant court action or proceedings within the following period after date of death:

**In general, 30 Years (art. 1963 Cc), although some Courts consider the prescription time of 15 Years (art. 1.964 Cc) for legal acts (transactions) applicable**

Claims by a spouse or children in respect of legal entitlement in the estate must be made and the relevant court action or proceedings within the following period after date of death:

**30 Years (art. 1963 Cc) after the death of the deceased person.**

#### SPAIN – CATALAN LEGISLATION:

**In general, 10 years (art. 121-20 Catalan Cc)**

**3 Years for: periodical payments which are due annually or in shorter timeframes, payments of work and services, payment of price for sales to consumers and non-contractual obligations. (art. 121-20 Catalan Cc)**

**1 Year for claims related to the right of possession. (art. 121-22 Catalan Cc)**

#### SWITZERLAND

Employment law

An employee must lodge an application with the relevant tribunal or court within the following period of time otherwise he/ she loses his/her right to claim (unfair dismissal, redundancy, sexual harassment):

*Objection is competent until the end of the period of notice, the complaint must be made within 180 days after the notice*

Contracts and debts

A party loses its right to enforce payment of a debt or performance of a contract unless a court action or proceedings are commenced in the relevant court within the following period of time starting on the date of the contract being entered into/due date for payment/performance:

**Art. 127 Code of Obligations - All claims become time-barred after ten years unless otherwise provided by federal civil law.**

**Art. 128 Code of Obligations – The following claims become time-barred after Five years**

1. *claims for agricultural and commercial rent and other rent, interest on capital and all other periodic payment*
2. *claims in connection with delivery of foodstuffs, payments for board and lodging and hotel expenses;*
3. *claims in connection with work carried out by tradesmen and craftsmen, purchases of retail goods, medical treatment, professional services provided by advocates, solicitors, legal representatives and notaries, and work performed by employees for their employers.*

Personal injuries / death claims

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a court action or proceedings is commenced in the relevant country within the following period of time:

**Art. 60 Code of Obligations***G. Time limits*

<sup>1</sup> *A claim for damages or for satisfaction becomes time-barred one year from the date on which the injured party became aware of the loss or damage and of the identity of the person liable for it, but in any event ten years after the date on which the loss or damage was caused.*

*2 However, if the action for damages is derived from an offence for which criminal law envisages a longer limitation period, that longer period also applies to the civil law claim.*

**Claims that do not involve personal injuries**

A party loses his/her right to claim for personal injuries or for compensation in respect of death unless a court action or proceedings is commenced in the relevant country within the following period of time:

- 1. Claims against a decision of the general assembly of a Ltd have to be introduced two months after the decision*
- 2. See contract and debts*

**Shipping claims**

A party loses his/her right to claim for damages or compensation for any shipping accident or contract unless a court action or proceedings are commenced in the relevant country within the following periods of time:

**Art. 454 Code of Obligations***7. Time limits on actions for damages*

<sup>1</sup> *Actions for damages against the carrier become time-barred one year after the scheduled delivery date in the case of destruction, loss or delay and one year after the date on which the goods were delivered to the consignee in the case of damage.*

<sup>2</sup> *The consignee and the consignor may always assert their claims against the carrier by way of defence, provided that objections are lodged within one year and that the claim is not extinguished by acceptance of the goods.*

<sup>3</sup> *The above does not apply to cases of malice or gross negligence on the part of the carrier.*

**Registration of charges against companies**

A register of charge showing mortgages and other documents that create charges against limited companies is maintained in all/the following countries.

There is a time limit for registration of any charge in the register of charges as follows:

*There is no register*

**Claims against the estate of a deceased person**

Claims by creditors for debts due by a deceased person must be made and the relevant court action or proceedings within the following period after date of death:

**Art. 582 Swiss Civil Code**



**Formal call to account**

<sup>1</sup> *In the course of drawing up the inventory, the authority shall make a formal call to account whereby appropriate public notices are issued calling on all creditors and debtors of the deceased, including creditors under a surety, to come forward and register their claims and debts within a specified time limit.*

<sup>2</sup> *Such notices must alert the creditors to the consequences of any failure to register.*

<sup>3</sup> *The time limit for registering must not be earlier than one month from the date of the first public notice.*

Claims by a spouse or children in respect of legal entitlement in the estate must be made and the relevant court action or proceedings within the following period after date of death:

**Art. 600 Swiss Civil Code**

<sup>1</sup> *The right to bring an action for recovery of inheritance against a defendant acting in good faith prescribes one year after the date on which the claimant learned that the property was possessed by the defendant and that he or she has a better claim to it, but in all cases ten years after the death of the deceased or the date on which the will was read.*

<sup>2</sup> *The prescriptive period for the right to bring an action against a defendant acting in bad faith is always 30 years.*

**Final remark**

*The Swiss code for civil procedures provides for two steps. The demand for a conciliation meeting. In 90% of demands, the procedure starts with a conciliation meeting. To preserve the time limits, it's sufficient to send the petitions to the conciliation authority. The delay for the claim is preserved when the registered letter is handed to Swiss post or to a Swiss embassy or consulate. After the conciliation meeting, the plaintiff has to introduce the claim within 3 months. Some exceptions (e.g. claim against a decision of the general assembly) are mentioned in the code.*

**Scope of this Note**

This Note sets out our understanding of the basic law of time limitations in certain matters. It does not cover matters relating to tax or real estate. This Note is not intended to be a full or exhaustive commentary, and as always, there are certain exceptions to rules. Also, there are many other time limits imposed under the law of each of the countries for defending claims, court actions and proceedings, and in many other areas of law. This Note does not constitute legal advice, and in fact, detailed legal advice should always be obtained in any matter or question that arises.

**DISCLAIMER**

Every effort has been made to ensure that the information given above is accurate however no legal responsibility is accepted for any errors or omissions in this information.

30<sup>th</sup> June 2014

Commercial Law Group.  
e-mail us at: [mail@clglaw.eu](mailto:mail@clglaw.eu)  
web site: [www.clglaw.eu](http://www.clglaw.eu)