

## Flash Covid-19 - Public Law Team

### Extension of time limits and adaptation of procedures during the health emergency period

#### Focus on town planning

*Order No. 2020-306 of 25 March 2020 relating to the extension of the time limits expired during the period of health emergency and to the adaptation of procedures **clarified the derogating rules applicable to administrative authorisations during this period.***

Faced with the urgent need to combine the imperatives of preserving the legal security of citizens and the requests from local authorities to suspend the time limits for processing applications for planning permission (which have not yet been dematerialised), the Order raises a number of questions that will arise essentially at the end of this period of health crisis.

#### Three points are worth noting at this time:

##### 1.

The first question is essential: while the Order covers the acts of local authorities, permits or public enquiries, it does not cover the town planning code, unlike other codes such as the environment code or the expropriation for reasons of public utility code.

In spite of this silence, we consider that **this Order is applicable to town planning**. This analysis is moreover supported by the presentation report which, unlike other fields, does not exclude planning permission.

##### 2.

There is also the question of the processing of planning permission: **The time limits for administrative action are suspended for the period defined as running from 12 March 2020 until the expiry of a period of one month from the date of cessation of the state of health emergency** (art. 7).

Thus, the periods after which a decision may/must be taken or is implicitly acquired and which have not expired before 12 March 2020 are suspended until the end of this Period. The starting point of similar time periods that should have started to run during the Period are postponed until the end of the Period.

The same applies to the time limits for the same bodies or persons to verify the completeness of a file or to request additional documents in the context of the processing of an application, as well as to the time limits for public consultation or participation.



Finally, the time limits for town planning services to check compliance, which are generated by the filing of declarations of completion of works, are also suspended.

**This system will therefore lead to an accumulation of requests that will have to be examined at the end of this health crisis, which the town planning services will have to anticipate in order to avoid the intervention of numerous implicit decisions of rejection or acceptance that will necessarily be a source of litigation.**

We can therefore only wonder about the means that the administration will have at the end of this crisis to examine (i) town planning applications submitted before 12 March 2020, (ii) town planning applications submitted during the health crisis, (iii) applications that will be submitted classically at the end of the crisis while carrying out possible checks on the conformity of works.

A new adjustment of the deadlines at the end of this crisis will undoubtedly be put in place.

### **3.**

Finally, the health crisis also raises the question of carrying out the work authorized by the permits.

**Indeed, how can substantial work be carried out in order to preserve the validity of the permit during this Period?**

The Order also seems to answer this question by addressing two distinct hypotheses.

Article 3 of the Order deals with administrative measures, and in particular permits, whose term expires during this Period. These permits are automatically extended until the expiry of a period of two months following the end of this Period. This text therefore applies to building permits whose term expires during this Period.

The situation is less clear for permits whose validity period will continue to run (sometimes for only a few weeks) at the end of the Period. While Article 8 refers to periods imposed by the administration to carry out work by putting in place a mechanism for suspension until the end of the Period, its applicability to this situation is not clear since it also refers to controls and implementation of prescriptions.

Moreover, whether or not this article is applicable, the Order creates a disparity between the most urgent situations and those that are slightly less urgent, which is disappointing in that it will not make it possible to take into account the consequences of the crisis on the starting/restarting of the construction works, whatever the moment when this resumption takes place.

If this period of crisis is delicate, it appears essential that the government provides clarifications, and even adopt an additional text to secure the end of the Period for the holders of planning permission.

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**Altana's Public Law team is mobilized and is at your disposal to provide you with information.**

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