

STATE OF HEALTH EMERGENCY: WHAT ARE THE CONSEQUENCES FOR FOREIGNERS IN FRANCE?

In accordance with the announcements made by the President of the Republic and members of the Government, Act No. 2020-290, known as the "emergency law to deal with the covid-19 epidemic", was adopted on 23 March 2020.

It came into force, after its publication in the Official Journal, on 24 March 2020.

Its Article 4 provides that the state of health emergency is declared **for a period of two months, i.e. until 24 May 2020**. It should be noted that this two-month period may be extended or shortened by decree.

Pursuant to this Act, the Government has issued a series of orders, some of which particularly impacted the situation of foreigners settled in the national territory.

LexCase provides an overview of key measures.

1/ Extension of the validity of documents allowing residence in France

In accordance with the provisions of Article 16 of the Act of 23 March 2020, the Government extends the period of validity of residence documents **expiring between 16 March and 15 May 2020**.

The documents concerned by this extension are:

- Long-stay visas;
- Residence permits, except those issued to foreign diplomatic and consular staff;
- Temporary authorizations of stay;
- Receipts for applications for residence permits (« récépissés »);
- Asylum application attestations.

The period of validity of these documents, which was initially extended by 90 days (article 1 of Ordinance No. 2020-328 of 25 March 2020), has now been extended by 180 days (article 24 of Ordinance No. 2020-460 of 22 April 2020), except for asylum application attestations.

The period of validity of asylum application attestations remains extended by 90 days, as initially provided for in Ordinance No. 2020-328 of 25 March 2020.

This extension is automatic and allows you to maintain all your social rights as well as your right to work.

The presentation of your residence document is sufficient to establish your right to residence with the various institutions requiring a valid residence permit, as well as with your employer.

Please note that foreigners who are currently staying on the national territory under cover of a **short-stay visa** are not covered by the measures extending the validity of documents allowing residence in France.

In the absence of official recommendations from the Minister of the Interior, some Prefectures have taken the initiative to examine applications **for extensions of short-stay visas for persons who have recently arrived in France and who are unable to return to their country of origin.**

There are three cases in which this "impossibility to return to one's country of origin" is characterized:

- CASE N° 1: Your country of origin prohibits entry from France for health reasons;
- CASE N° 2: Your country of origin encounters the same health difficulties as France;
- CASE N° 3: Air links are interrupted between your country of origin and France.

In light of the information available, the application for an extension of your visa will be free of charge and may result, if necessary, in the issue of a temporary authorization of stay for a period of three months in principle.

Please note that the procedures for applying for an extension as well as the list of documents to be provided vary from one Prefecture to another.

Therefore, if you wish to apply for an extension of your short-stay visa, you should first consult the website of the competent Prefecture according to your place of residence.

If your short-stay visa is about to expire and the Prefecture to which you belong has not communicated online about the possibility of extending your short-stay visa, we advise you to contact the competent services using the contact form or the e-mail address given on its website.

2/ Suspension of time limits for processing applications for residence permits

It follows from Article 7 of Ordinance No. 2020-306 of 25 March 2020 on the extension of time limits during the period of the state of health emergency and the adaptation of procedures during this period that :

- The time limit for processing applications for residence permits that were pending on 12 March 2020 is suspended until one month after the end of the state of health emergency, i.e. until 24 June 2020;
- The deadline for processing applications for residence permits submitted after 12 March 2020 is postponed until one month after the end of the state of health emergency, i.e. until 24 June 2020;

- The same rules of suspension and postponement apply to the time limits given to the Administration to verify the completeness of a file or to request additional documents in the context of the examination of a file.
- ii. By way of derogation from the first paragraph of Article L. 252-1 of the same Code, the procedures for a first AME application are aligned with the procedures for a renewal application. **The obligation to physically submit first applications for an AME at the counters of the sickness insurance funds is thus suspended until 31 July 2020.**

It follows from these provisions that **the processing of applications for residence permits is currently suspended or postponed**, and will only resume or begin again until one month after the end of the state of health emergency, i.e. **from 25 June 2020** (unless the period of the state of health emergency is extended or reduced).

Please note that the Health Insurance (Assurance maladie) invites, on its website, the persons concerned to send their first applications or renewal applications **by post**.

3/ Measures taken with regard to State Medical Assistance

4/ Appeals against obligations to leave French territory

By Ordinance No. 2020-312 of 25 March 2020, the Government took various measures to reconcile guarantees of social rights with respect for the health measures taken to deal with the Covid-19 epidemic.

The Government has issued several ordinances adapting the rules applicable before the administrative courts to current health constraints.

Two of these measures relate directly to State Medical Assistance (Aide médicale de l'État - AME):

With regard to appeals against obligations to leave French territory **with a deadline for voluntary departure**, it is provided that **the starting point of the appeal period is postponed until the day after the end of the state of health emergency** (article 15 of Ordinance No. 2020-305 and article 9 of Ordinance No. 2020-427).

- i. By derogation from the second paragraph of Article L. 252-3 of the Social Action and Families Code, rights to State Medical Assistance **expiring between 12 March and 31 July 2020 are extended by three (3) months** from their expiry date;

Be aware this derogation does not apply when the obligation to leave French territory is combined with placement in administrative detention. The 48-hour deadline for appealing to the administrative court remains applicable.

5/ Appeals against refusals to acquire French nationality

a. Appeals against decisions of inadmissibility, refusal or postponement of an application for naturalization or reintegration

As a reminder, in the event of a decision of inadmissibility, refusal or postponement of an application for naturalization or reintegration in French nationality, two types of legal remedies available:

- i. The mandatory prior administrative appeal before the Ministry of the Interior (or hierarchical appeal), which must be sent within two (2) months following notification of the decision;
- ii. The contentious appeal before the Administrative Tribunal of Nantes, which must be sent within two (2) months from the decision of rejection by the Ministry of the Interior or in case of silence of more than four (4) months to the prior administrative appeal.

Pursuant to Article 2 of Ordinance No. 2020-306 of 25 March 2020, appeals that should have been completed between 12 March 2020 and one month after the end of the state of health emergency **will be considered to have been made on time if they are made within a period that cannot exceed, as from the end of the state of health emergency, the time limit legally set for taking action, up to a limit of two months**. These derogations apply to both above-mentioned appeals.

b. Appeals against decisions refusing to register a declaration of nationality

As a reminder, in the event of refusal to register a declaration of French nationality by the district court or the Prefecture, the appeal must be submitted to the competent court of law and be sent within six (6) months following notification of the decision of refusal.

In accordance with Article 2 of the above-mentioned Ordinance No. 2020-306 and Article 2 of Ordinance No. 2020-304 of 25 March 2020, the extension of the time limits for appeal also applies to appeals against decisions refusing to register a declaration of French nationality that should have been made between 12 March 2020 and one month after the end of the state of health emergency.

Here again, **the appeal will be considered to have been made on time "if it is made within a period which may not exceed, as from the end of that period, the legally prescribed time limit for taking action, up to a limit of two months"** (Article 2 of Ordinance No. 2020-306).

THE MOBILITY & IMMIGRATION TEAM



Raphaël Apelbaum

Avocat associé
rapelbaum@lexcase.com



Florence Drapier-Faure

Avocat associé
fdrapier-faure@lexcase.com



Philippe Drouillot

Avocat associé
pdrouillot@lexcase.com



Matthieu Philippe

Avocat of counsel
mphilippe@lexcase.com



Claire Martin

Avocat
cmartin@lexcase.com



Raphaëlle Gatin

Avocat
rgatin@lexcase.com



Lyon
2, rue P^{dt} Carnot · 69002 Lyon
+33 (0)4 37 23 11 11

Paris
17, rue de la Paix · 75002 Paris
+33 (0)1 40 20 22 22

Marseille
38, rue Grignan · 13001 Marseille
+33 (0)4 91 33 22 22