
URÍA MENÉNDEZ

Suspension of time limits regarding the
exercise of the right of withdrawal by
consumers

20th March 2020

Suspension of time limits regarding the exercise of the right of withdrawal by consumers

Article 21 of Royal Decree-Law 8/2020, 17 March, on urgent extraordinary measures to address the economic and social impact of COVID-19 (“**RDL 8/2020**”) provides for the suspension of the time periods for the return of products acquired by any means (whether in person or online) while the state of emergency decreed to deal with the crisis caused by COVID-19 is in force. Consequently, it indicates that these periods will resume when Royal Decree 463/2020 of 14 March, declaring the State of Emergency (or its possible extensions), is no longer in force.

Despite the terse nature of this provision and the inaccuracies in its language, it may be understood that it essentially refers to the **time limits placed on the right of withdrawal** (i) recognised by law as pertaining to consumers related to certain types of sales of goods or the contracting of services, as well as those (ii) contractually recognised by the seller or supplier of services to consumers. This is what seems to follow in particular from the last paragraph of Exhibit II of RDL 8/2020, which expressly mentions this right of withdrawal: “(...) Given that the right of withdrawal of consumers with respect to purchased products is usually subject to a time limit, the return periods must be interrupted to ensure that they can exercise it without contravening Royal Decree 463/2020”.

In this respect, it should be kept in mind that the right of withdrawal, which is regulated by Royal Legislative Decree 1/2007, of 16 November, which approved the revised text of the General Law for the Defence of Consumers and Users and other complementary laws (“**RDL 1/2007**”), is envisaged as the power of consumers and users to withdraw from the contract by which he or she has acquired a good or arranged the provision of a service, provided that he or she exercises the aforementioned power within a certain period of time.

In particular, this **legal** right of withdrawal applies to agreements relating to the distance selling of goods—including internet and telephone sales— as well as off-premises sales (with the exception of certain goods and services listed in article 103 of RDL 1/2007) and **must be exercised within 14 calendar days**. That is to say that, during this period, the consumer who has purchased a product (or hired a

service) at a distance or off-premises, may exercise his or her right to withdraw from the sales agreement and, consequently, return the product to the seller and recover the amount paid.

This 14-calendar-day period, which is legally established in order to exercise the right of withdrawal, usually begins, in the case of the sale of goods, on the day on which the consumer or a third party specifically indicated by the consumer (other than the carrier) acquires material possession of the goods purchased, and, in the case of service contracts, on the day the contract is concluded. This is a period of limitation, meaning that after its expiry the consumer forfeits the right to withdraw.

Therefore, in relation to the aforementioned article 21 of RDL 8/2020, **it should be understood that this period of limitation is suspended (even if this provision improperly alludes to interruption) from the moment the state of emergency came into effect (i.e. from Saturday 14 March 2020), and that the period will resume, for the days remaining at the time of its suspension, when the state of emergency ceases to be in force** (i.e. 30 March 2020) or, in the case of extension or extensions by authorisation of Congress, until the date on which this or these end. On this basis, the period within which consumers may exercise their right of withdrawal will be suspended for the duration of the state of emergency and, once the state of emergency has concluded, such period will resume for the number of days remaining at the date of suspension.

Furthermore, it should also be taken into account that the right of withdrawal may have been granted **contractually** by the company to the consumer with regard to types of sale that are not covered by the legal obligation (e.g. sales concluded in a commercial establishment), or for a period that exceeds the minimum term legally established. A reasonable interpretation of article 21 of RDL 8/2020 should lead to the understanding that the suspension also applies to this contractual right of withdrawal and that in these cases the deadlines for exercising this right are therefore also suspended for the duration of the state of emergency.

Leading lawyers



Pablo González-Espejo García

Partner

+34 91 587 08 34

pablo.gonzalezspejo@uria.com



Montiano Monteagudo Monedero

Partner

+34 93 416 55 11

montiano.monteagudo@uria.com



Leticia López-Lapuente

Partner

+34 91 586 00 80

leticia.lopez-lapuente@uria.com



Francisco Javier García Pérez

Senior associate

+34 93 416 55 11

javier.garcia@uria.com

**BARCELONA
BILBAO
LISBOA
MADRID
PORTO
VALENCIA
BRUXELLES
LONDON
NEW YORK
BOGOTÁ
CIUDAD DE MÉXICO
LIMA
SANTIAGO DE CHILE
BEIJING**

www.uria.com

This newsletter provides general information and does not constitute legal advice