

SERNAC'S NEW INTERPRETATIVE CIRCULAR ON THE SUSPENSION OF TERMS OF LEGAL, VOLUNTARY AND SATISFACTION GUARANTEES DURING THE HEALTH CRISIS OF COVID-19

On April 9, 2020, the National Consumer Service (SERNAC) published the "**Interpretative Circular on the suspension of terms of legal, voluntary and satisfaction guarantees during the health crisis of COVID-19**". The document seeks to provide a harmonious interpretation of Law No. 19,496, Consumer Protection Act (CPA) and its principles, in the light of the measures adopted as a result of COVID-19 that have affected compliance with obligations arising from consumer contracts.

Among these obligations, SERNAC has focused its analysis on the delivery of mass consumer goods and on the guarantees exercised by consumers, whether legal, voluntary or of satisfaction, given displacement limitations.

The protection of life, safety and health as an interpretative standard for suspending the term applicable to the exercise of consumer rights

SERNAC interprets civil and commercial provisions in harmony with the protection of consumers' rights, advocating the suspension of the calculation of the statute of limitations while displacement restrictions remain in force and there is a risk of affecting their lives, health and safety.

Referring to the rule by which "the limitation period does not apply to those who are unable to exercise the legal action", the Service considers that the limitation period for the exercise of consumer rights arising from the guarantees should be suspended, such as:

- **The legal guarantee** (Articles 19, 20 and 21 of the CPA);
- **Conventional or voluntary guarantees** (Article 21 of the CPA);
- **Extended guarantees, satisfaction guarantees and service guarantees** (Articles 40 and 41 of the CPA).

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With this Circular, SERNAC considers that the exercise of rights emanating from these guarantees are suspended as of March 18, 2020, when the constitutional state of catastrophe due to a public calamity was declared by the authority; extending said suspension until the constitutional state ends.

It should be noted that the suspension of the statute of limitation period does not derive from an express provision of the CPA or the common law, but from an interpretation of the Service based on logical, systematic doctrinal, teleological and consumer protection reasons aimed at protecting weak creditors in the consumer relationship.

As a good practice and in order to speed up the needs of consumers, the establishment of measures to facilitate the withdrawal of products is encouraged, so that consumers can exercise their rights in consideration to their vulnerability as well as to the nature of the goods, insofar as it does not involve additional costs for consumers.

Duty to inform consumers and notify SERNAC

The Service considers that suppliers should inform by all available means and channels the suspension of the guarantee periods, together with the new applicable terms and mechanisms available to consumers to exercise their rights.

In this regard, it is recommended to publish in different media channels available to the provider (website, social networks, e-mails, text messages, among others), indicating the possibilities of enforcing the rights and the respective channels of attention for certain contingencies that may occur.

In addition, in view of these exceptional events, the Service considers that SERNAC should be notified of the preventive, necessary and pertinent measures adopted.

This Circular is already available on SERNAC's website, and can be reviewed at the following [link](#).

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