

PRESS RELEASE

The Conseil d'État rules that it must be possible for clients to see their lawyer even after 6pm, in spite of the curfew

The urgent applications judge, ruling on an application by the Montpellier bar association, has ruled that travelling to see a legal professional, particularly a lawyer, must be permitted after 6pm. The judge held the view that failing to provide this exemption during the curfew constitutes a serious and manifestly unlawful breach of the fundamental freedom to exercise their rights in court.

Under the state of emergency declared to tackle the further spread of the Covid-19 epidemic, all travel outside a person's home is prohibited between 6pm and 6am. None of the exceptions provided for under the ban specifically allow people to be outside their home to visit a legal professional or lawyer.

Remote consultations are not sufficient in all cases to guarantee confidentiality between lawyers and their clients

The urgent applications judge found on the one hand, that the absence of any specific exemption for consulting a legal professional after 6pm was such that it was difficult, and in certain cases effectively impossible, to gain access to a lawyer under conditions that comply with requirements for protecting the rights of defence.

In particular, for people whose working hours are restrictive due to the nature of their work, speaking to their lawyer by conference call from home might, even if it were physically possible, not be sufficient to ensure a confidential conversation between the lawyer and their client, particularly in cases involving a family or personal dispute.

The curfew creates an unequal burden for those involved in legal proceedings

The urgent applications judge held first, that in some disputes, such as those between a consumer and a professional or an employee and their employer, the curfew was likely to impose unequal restrictions on the parties. Accordingly, the general exception currently allowing travel for the exercise of a professional activity might allow a professional or head of a business to visit their lawyer's offices for an appointment after 6pm. Conversely, this option was not available to the consumer or employee in dispute with the same professional or business.

As a consequence, the urgent applications judge held that the absence of an exemption allowing people to visit a legal professional, particularly a lawyer, after 6pm for the purpose of acts or procedures that cannot be completed remotely, constitutes a serious and manifestly unlawful breach of the fundamental freedom to exercise their rights in court.

Press contacts

Lorraine Acquier – +33(0)1 72 60 58 42 – lorraine.acquier@conseil-etat.fr

Antoine Sourdril – +33(0)1 72 60 58 41 – antoine.sourdril@conseil-etat.fr

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