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New measures approved to deal with judicial activities during the pandemic

Miquel Montaña (Clifford Chance) · Wednesday, April 22nd, 2020

As explained in our blog of 25 March 2020, the declaration of the state of emergency by the Spanish Government on 14 March affected judicial activities in Spain very seriously. For example, Court hearings were suspended, with very few exceptions. Likewise, the periods of time to carry out judicial activities (for example, filing an appeal) were interrupted.

Since then, the “Permanent Commission of the General Council of the Judiciary” (“**CGPJ**”, the organ that governs Judges) has approved some additional measures aimed at preventing the collapse of the judicial machinery.

First, on 13 April, the CGPJ lifted the ban on filing writs at Court by telematic means, effective as of 15 April. However, once the writ has been filed, the ensuing judicial activity will be stayed at the point when it triggers a specific timeframe, unless the case deals with a so-called “essential” matter, a category which does not include patent cases. Thus, this measure allows the filing of the initiating writs of the procedure (e.g. a complaint), their registration and assignment to a competent Court, as well as their processing in accordance with the applicable procedural rules until the moment at which a procedural action triggers a term that must be suspended pursuant to the state of emergency. This rule applies both to first instance proceedings and to the actions of successive instances and before the Supreme Court.

Second, on 20 April, the CGPJ authorized Courts to adopt the necessary measures to serve the judicial decisions handed down during the state of emergency, regardless of whether they deal with “normal” cases or with “essential” cases. Courts will be able to serve all types of decisions on the parties, that is, judgments deciding a case and also procedural decisions. However, in the case of decisions issued in matters which do not belong to the “essential” category, the notification of such decisions will not trigger the lifting of the periods that were suspended under the provisions of Royal Decree 463/2020, of 14 March, which declared the state of emergency. Also, the CGPJ has pointed out that when a notification triggers the opening of a specific timeframe (i.e. a deadline) because the decision deals with an “essential” case, Courts should mention this explicitly when the decision is served on the parties.

Finally, today, the Spanish Government has proposed that Parliament extend the state

of emergency until 11 May 2020. However, this does of course not necessarily mean that Courts will be able to hold hearings immediately after that date. No doubt, the CGPJ will have to approve new measures clarifying when and how normal judicial activity will resume, some of which the CGPJ already advanced to the Spanish Government last Monday.

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