

GARCÍA-GRAELLS ANALYSES PC'S RULING ON DEADLINES INCLUDING NON-COURT DAYS

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Álvaro García Graells analyses the recent ruling of the Provincial Court of Zaragoza regarding

deadlines for filing on non-court days



The Provincial Court of Zaragoza issued a judgement 287/2020, dated 20 November 2020, in which it was established that if the last day of the deadline for filing a claim is a procedurally non-working day, the deadline is not extended until the following working day, as it can be filed telematically.

According to Álvaro García Graells (pictured), founder of Zaragoza-based law firm García-Graells Abogados, after this ruling:

"The foundations of Spanish justice have been shaken by the following: Non- court days become skilful when resources can be presented electronically. Civil Section of Zaragoza Provincial Court in a recent judgment has caused concern among lawyers, assuming in practice that it reduces the deadlines for the submission of appeals."

García Graells continues with the following analysis:

- i. The hearing rejects the filing of a Second Instance Appeal against a community of owners one day after the end of the one-year period at the end of the computation of that period on Sunday. It has considered that with the operating telematic systems it is not necessary to extend the term of presentation of the resource to the next working day, in the case that the day of expiration has fallen in non-court days procedurally, and must respect the substantive deadline
- ii. This is because of the substantive nature of the expiry period and how it must be computed, *"only the time limits which give rise to the same type of action are procedural in nature... among those who are not those who are assigned a certain period for the exercise of the action"*. Since the time limit for the action being brought is that of revocation, to which the right requires a certain time limit, after which the action lapses and the institution of revocation operates, in the field of material or substantive law, but not in procedural law.
- iii. According to Procedural Spanish Law in force, where the judicial offices and the subjects involved in a proceeding are obliged to use telematic or electronic systems, they shall send and receive all written submissions, initiators or not, adding that *"Papers and documents may be submitted in electronic format 24 hours a day of the year" and also "Papers and documents submitted by telematic means shall be automatically received from the same way. If the filing takes place on a day or at a time that is not open for procedural purposes in accordance with the law, it shall be deemed to have taken place on the next working day and at the next working hour."*
- iv. The subject matter of the judgment declared that *"There is now no material problem for the computation of the substantive deadline to be carried out autonomously with respect to the process, and due to the fact that there is now no material difficulty in the submission of briefs at any time and on any day. In short, if the party can present it telematically even if it is in procedurally non-court days, it must present it if it wants to respect the substantive deadline"*

v. Legal Spanish Practice declared that a reasonable interpretation of the rule and of the interests at stake cannot, as a final result, an effect contrary to the fundamental right to effective judicial protection by the courts and tribunals in the exercise of their legitimate rights and interests and the actions brought. The contrary would be to deprive the holder of the subjective right to have all the time granted by law, even if the telematic presentation is available 365 days a year.

vi. Furthermore, this means that lawyers need to work 365 days a year, with the consequent subjection to civil and criminal liability, which demolish the rights to minimum rest, family conciliation rules and court recess. This would inevitably cause a hardship clause and a non-curable breach of the law as a whole.

According to the General Council of Spanish Lawyers, the ruling contradicts up to four rulings of the Supreme Court. The Madrid and Barcelona Bar Associations have also made statements regarding the unacceptable work-related 365 days a year tie for the legal profession.