

### Voluntary Jurisdiction Law 15/2015

Voluntary Jurisdiction Law 15/2015, of July 2, 2015, was published in the Official State Gazette on July 3, 2015. The Law was approved by the lower house of the Spanish Parliament on June 18, 2015, in compliance with final provision eighteen of Civil Procedure Law 1/2000, of January 7, 2000, which set the Government the task of laying a bill for this Law before the Spanish Parliament.

The Law will come into force twenty days after its publication in the Official State Gazette, with the exception of certain provisions (on adoption; voluntary auctions before court clerks and notaries; amendments to the Civil Code on the procedural formalities for, and the holding of, civil marriage ceremonies; laws governing agreements with specific religious entities or communities; and amendments concerning marriage certificates and public deeds recording marriage ceremonies), an entry into force which is subject to other conditions, as provided for in final provision twenty-one of the Law.

It sets out transitional provisions for the proceedings in progress when the Law comes into force, proceedings which will continue to be conducted under the previous rules. Special transitional provisions are also set out for intestate estates that will go to the authorities, voluntary auction procedures, adoption and marriage applications, and marriages concluded according to the evangelical, Jewish and Islamic faiths the existence of which is formally recognized in Spain (transitional provisions one to five).

This Law seeks to address the need for renewal on these matters, by providing a systematic set of rules for the various proceedings available in the voluntary jurisdiction, simplifying procedures and creating cheaper and quicker solutions whilst observing safeguards and upholding legal certainty.

As a result of the new legislation and the allocation of functions for some of these matters to notaries and registrars, in addition to judges and court clerks, numerous legal instruments with interrelated contents have been amended. These include the Civil Code; Commercial Code; Civil Procedure Law; Civil Registry Law; Law on the Notarial Profession; Mortgage Law; Law on Chattel Mortgages and Pledges without Transfer of Possession; Public Authority Property Law; Insurance Contract Law; Corporate Enterprises Law; Law on the Protection of Property of Persons with Disabilities; and the Law on certain Fees in the Justice System and of the National Institute of Toxicology and Forensic Science.

The 1881 Civil Procedure Law is now almost definitively repealed; its provisions on voluntary jurisdiction and conciliation hearings had been kept in force until now. The Law also repeals article 316 of the Civil Code, articles 84 to 87 of the Bills of Exchange and Checks Law and any other rules which conflict or are incompatible with it (sole repealing provision).

For reasons related to the legislative structure, the Law does not cover proceedings conducted outside the scope of the court system, and as a result the Law only covers cases falling within the jurisdiction of judges and court clerks. Proceedings over which notaries and registrars have jurisdiction will be governed by the laws on the notary profession, mortgages, corporate enterprises and the commercial registry.

Responsibility for the procedural and technical handling of cases falling within the justice system will lie with court clerks, who will hand down interlocutory orders where appropriate and take decisions on the merits, unless the case (i) affects public interests or the civil status of persons; (ii) requires the specific protection of substantive rules; (iii) may entail acts of disposition or of recognition, creation or extinguishment of personal rights; or (iv) involves the rights of minors or persons whose capacity has been altered by a court, in which event that decision on the merits must be made by a judge.

As mentioned above, the Law confers jurisdiction over certain matters on legal operators who are not part of the court system – notaries and registrars – on account of their proximity to the subject-matter, level of training, experience and ability to provide a speedier and fully effective response to citizens, without diminishing safeguards. In some cases, the jurisdiction of notaries and registrars will share with that of court clerks.

The proceedings in which notaries will wield powers include marriages; separations and divorces by mutual agreement; inheritance-related matters and wills; matters related to the law of obligations, with special reference to deposits and particularly proceedings for the recovery of uncontested monetary debts, which will enable creditors to obtain an extrajudicial enforceable instrument following the appropriate application; and extrajudicial auctions. In commercial matters, notaries will have the power to take measures in relation to commercial deposits, the sale of deposited items, and the robbery, theft, loss or destruction of security instruments, and will be authorized to appoint experts in insurance contracts. Notaries will also have powers in conciliation proceedings, powers which will be shared, with court clerks, and also with commercial and property registrars, according to the subject-matter.

Furthermore, commercial and property registrars will have powers in accord with their areas of expertise. For example, commercial registrars will have powers in relation to the appointment and removal of auditors; capital reductions and disposals of shares; calling of shareholders' meetings; the appointment and removal of liquidators and inspectors; calling of meetings of bondholders; and the creation of bondholder syndicates.

As for property registrars, in addition to the amendments made by the Voluntary Jurisdiction Law to the Mortgage Law and their powers in conciliation proceedings, on June 25, 2015, Law 13/2015 reforming the Mortgage Law was published in the Official State Gazette. Law 13/2015 governs the proceedings laid down in article 198 to article 210, which may affect the physical characteristics of properties (such as first registration, property lines, overstatements or rectifications of area sizes, and the lifting of charges or encumbrances). Proceedings of this kind no longer fall within the scope of the Voluntary Jurisdiction Law and have become registration-related proceedings governed by the Mortgage Law.

The Law operates as a general legal standard within its specific area of control and sets out common rules on the procedural formalities applicable to all of the proceedings governed by it and by other laws. The result is a general voluntary jurisdiction proceeding which applies by default where specific provision is absent from the individual sets of rules governing each particular proceeding.

The Law is divided into nine titles which are briefly outlined below.

## 1. General provisions and common rules

The Preliminary Title and Title I set out the general provisions and common rules on the procedural formalities applicable to voluntary jurisdiction proceedings, defined as proceedings requiring the intervention of a court to safeguard rights and interests under civil and commercial law, where there is no dispute that must be submitted to a contested process.

This first part governs scope; the subject-matter jurisdiction of the courts of first instance and the commercial courts, with judges or court clerks being responsible for taking decisions according to the proceeding in question, and also for determining the territorial jurisdiction (this may not be altered by express or implicit submission); and standing, which includes provision for proceedings to be initiated *ex officio* or at the request of the Public Prosecutor's Office.

Notwithstanding the entitlement of the parties to be represented by a lawyer and a court procedural representative (*procurador*), their participation will only be mandatory in proceedings for which this is expressly provided, when an appeal is filed or from when a proceeding is contested.

The Law sets out general provisions on applications, admissibility, evidence, procedural formalities, procedures to be followed in the event of simultaneous proceedings, joinder, appearances, disposals, appeals and enforcement. These provisions will apply generally to all voluntary jurisdiction proceedings, insofar as no provision is made in the relevant individual sets of rules. The Law also refers back to the Civil Procedure Law for all matters not regulated in the Law itself.

Once a voluntary jurisdiction proceeding has been disposed of and the decision has become final, it is not possible to initiate another proceeding in relation to the same subject-matter unless there has been a change of circumstances. The decision taken in a proceeding will bind any other related steps or proceedings. The same will also apply to proceedings conducted by notaries and registrars over which jurisdiction is shared with court clerks.

A decision on a proceeding does not prevent a subsequent court proceeding being initiated in relation to the same subject-matter. However, any judgment handed down must include a ruling on the confirmation, alteration or revocation of the decision taken in the earlier voluntary jurisdiction proceeding.

As regards the rules under private international law on jurisdiction and applicable law, the Law lays down a general principle referring matters to the treaties and other legal rules in force in Spain.

With respect to the effects and registration of foreign decisions on voluntary jurisdiction, the Law provides that once these decisions have become final, they will take effect and may be registered after receiving the appropriate statutory recognition (the Law also sets out the grounds on which such recognition may be refused). If the decisions concerned are not final, only a provisional noting may be made on the relevant register. The Spanish courts or persons responsible for the public register concerned will also have jurisdiction to recognize these decisions by means of an ancillary procedure, without the need for a specific previous proceeding.

## 2. Voluntary jurisdiction proceedings concerning persons (Title II) and other affected legislation

Title II governs voluntary jurisdiction proceedings concerning persons. Specifically, the following proceedings are covered:

- Court approval or authorization of the recognition of parentage in respect of children born out of wedlock.
- Authorization to appear at trial and for the appointment of a judicial representative.
- Adoption.
- *De facto* guardianship, protection and stewardship.
- Judicial grant of emancipation and of the benefit of legal age.
- Protection of property owned by persons with disabilities.
- Right to honor, privacy and personal portrayal of minors or persons whose capacity has been altered by a court.
- Court approval or authorization for the performance of acts of disposal, encumbrance or other acts relating to the property and rights of minors or persons whose capacity has been altered by a court.
- Declaration of absence and death.
- Removal of organs from living donors.

The new legislation amends the following legal instruments: certain articles of the Civil Code relating to adoption, declarations of absence and death, stewardship, the appointment of judicial representatives and emancipation (articles 173, 176, 177, 181, 183, 184, 185, 186, 187, 194, 196, 198, 219, 249, 256, 259, 263, 264, 265, 299 *bis*, 300, 302, and 314); certain articles of the Civil Procedure Law, adapting them to the new provisions on the appointment of judicial representatives, stewardship and protection (articles 8, 525, 608, 748, 749 and 758); certain articles of the Civil Registration Law (articles 67, 74 and 78) on matters relating to declarations of absence and death; and article 5(2) of Law 41/2003, of November 18, 2003, on the Protection of Property of Persons with Disabilities as well as the Civil Code, the Civil Procedure Law and tax legislation for that purpose.

## 3. Voluntary jurisdiction proceedings concerning the family (Title III) and other affected legislation

Title III governs voluntary jurisdiction proceedings concerning the family, including:

- Dispensation from matrimonial impediment, including dispensation from the impediment determined by the intentional killing of a previous spouse (responsibility previously lay with the Ministry of Justice) and from the impediment determined by family relationship in order to marry. The marriageable age dispensation is also abolished, since the marriageable age is raised from 14 to 16.

- Court oversight in relation to *patria potestas*, for the adoption of specific measures in the event of disagreement in the exercise of *patria potestas* or in the event of the unsatisfactory exercise of guardianship powers or administration powers in respect of the property of a minor or a person whose capacity has been altered by a court.
- Court oversight in cases of disagreement between spouses and the administration of marital property.

The rules introduced by Title III entail a number of technical changes and adaptations to various provisions of the Civil Registry Law (articles 58 to 61 and final provisions two, five and ten, as well as the insertion of final provision five *bis*); the Law on the Notarial Profession (a new Title VII and an additional provision have been inserted); and the laws approving cooperation agreements between the State and the Federations of Evangelical Religious Entities and Jewish Congregations of Spain and the Islamic Commission of Spain (article 7 of those laws), giving these collectives the right to hold religious marriage ceremonies taking effect for civil law purposes.

Changes are also made to the Civil Code (articles 47 to 49, 51 to 53, 55 to 58, 60, 62, 63, 65, 73, 81 to 84, 87, 89, 90, 95, 97, 99, 100, 107, 156, 158, 167, 1377, 1389, 1392 and 1442). Notable among these changes is the new wording of articles 51 and 87 of the Civil Code, which allows couples to be married before a notary or court clerk (article 51) and allows spouses to divorce by mutual agreement by drawing up a settlement before a court clerk or in a public deed before a notary (article 87).

Articles 525, 608, 748, 749, 758, 769, 777, 778 *bis*, 778 *ter*, 778 *quater*, 782 and final provision twenty-two of the Civil Procedure Law have been amended. A new Chapter IV *bis* has been inserted into Title I of Book IV, comprising articles 778 *bis* to 778 *quater*, concerning measures relating to the return of minors in cases of international abduction. This topic is not regulated in the Voluntary Jurisdiction Law and is instead subject to a special standalone proceeding governed by the Civil Procedure Law, following matrimonial proceedings and proceedings involving minors. The Law makes substantial improvements to this special standalone proceeding, for example as regards preventive measures and direct communication between judicial authorities.

The amendment to final provision twenty-two of the Civil Procedure Law regulates measures to facilitate the application in Spain of Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility.

#### **4. Voluntary jurisdiction proceedings concerning inheritance law (Title IV) and other affected legislation**

Title IV governs voluntary jurisdiction proceedings concerning inheritance law matters assigned to the courts.

Some proceedings are reserved to the realm of the courts, such as the submission of executors' accounts and the removal of executors; the authorization of acts of disposition by executors; and the authorization or approval of acceptances or waivers of legacies in the cases determined by the law. Other proceedings are assigned to court clerks, who share jurisdiction with notaries, such as the waiver or renewal of the office of executor or personal representative; the appointment of the personal representative; the appointment and waiver of court-appointed personal representatives; and the approval of the division of the estate carried out by those representatives.

These rules adapt and amend certain provisions relating to inheritance in the Civil Code (articles 681, 689 to 693, 703, 704, 712 to 714, 718, 756, 790, 791, 792, 802, 834, 835, 843, 899, 905, 910, 945, 956 to 958, 1005, 1008, 1011, 1014, 1015, 1017, 1019, 1020, 1024, 1030, 1033, 1057 and 1060), mainly in order to set out the new functions conferred on notaries and court clerks. A number of adaptations have also been made to various provisions of the Law on the Notarial Profession (a new Title VII and additional provision have been inserted) and the Public Authority Property Law (articles 20, 20 *bis*, 20 *ter*, 20 *quater*, final provision twenty-three, twenty-four and final provision two).

## 5. Voluntary jurisdiction proceedings concerning the law on obligations (Title V) and other affected legislation

Title V deals with voluntary jurisdiction proceedings concerning the law on obligations.

In particular, Chapter I governs proceedings to set the time limit for performance of an obligation which, under article 1128 of the Civil Code or any other statutory provision, must be set by a court.

Chapter II concerns proceedings for statutory deposits made before a court.

In line with the foregoing, final provision one amends some of the articles on deposit set out in the Civil Code (articles 1176, 1178 and 1180), adapting them to the new proceedings. Article 1176 of the Civil Code has been amended and now provides that deposits must be left with the court in all cases where the performance of the obligation is rendered more onerous for the debtor for reasons not attributable to him. Article 1178 of the Civil Code has also been amended to state that deposit may be made before a court or a notary, in accordance with the procedure set out in the Voluntary Jurisdiction Law or in the legislation on the notary profession.

Another notable provision change is the amendment to article 1180 of the Civil Code, which has been made more explicit and expressly provides that acceptance of the deposit by the creditor or a court declaration that the deposit is properly made will extinguish the obligation and the debtor may apply for an order to discharge the obligation and, where appropriate, the guarantee.

As regards the law on obligations, the amendments made to the Law on the Notarial Profession, of May 28, 1862, are significant: a new Chapter IV on proceedings relating to obligations has been added to the new Title VII, which governs the involvement of notaries in special certificates and proceedings.

In particular, article 69 of the Law on the Notarial Profession provides that offers of payment and deposits may also be made before a notary and lays down the procedure for doing so.

Article 70 of the Law on the Notarial Profession **governs the proceeding for the notarial recovery of uncontested monetary debts. Under this provision, it is possible to claim, through a notary, monetary debts which are liquid, determined, due and payable, whether debts of a civil or a commercial nature, regardless of their amount and origin, and to obtain a voluntary acknowledgement of payment or, by means of the appropriate proceeding, an extrajudicial enforceable instrument.** This proceeding is particularly important and follows the approach taken in Regulation (EC) No 805/2004 creating a European Enforcement Order for uncontested claims. The following are excluded from the proceeding: debts based on contracts between traders or professionals and consumers or users; debts relating to proportionate shares and participation in expenses of condominium



properties; debts in respect of support for minors or persons whose capacity has been altered by a court or other transactions subject to court authorization; and claims involving the public authorities.

## **6. Voluntary jurisdiction proceedings concerning rights *in rem* (Title VI) and other affected legislation**

Title VI deals with voluntary jurisdiction proceedings concerning rights *in rem*.

Chapter I deals with the grant of court authorization to an usufructuary to take action to recover past-due claims forming part of the usufruct. Chapter II deals with property line proceedings, but only where the properties in question are not registered at the Property Registry. In the case of registered properties, the provisions of mortgage legislation apply. For properties owned by public authorities, the establishment of property lines will be carried out in accordance with the specific legislation applicable to them.

In relation to these matters, Law 13/2015 reforming the Mortgage Law was published in the Official State Gazette on June 25, 2015 and makes provision for the proceedings laid down in articles 198 to 210, which may affect the physical characteristics of properties (such as first registration, property lines, overstatements or rectifications of area sizes, and the lifting of charges or encumbrances), by taking them out of the jurisdiction of the courts.

## **7. Voluntary jurisdiction proceedings concerning voluntary auctions (Title VII) and other affected legislation**

Title VII lays down the rules on voluntary auctions to be carried out by court clerks electronically. It should be noted that:

- These proceedings include disposals by auction of identified assets and rights, outside enforced collection proceedings, at the request of the interested party.
- Jurisdiction will lie with the court of first instance for the owner's domicile or, if there are several owners, the court of first instance for the domicile of any of them. Where real property is concerned, the court of first instance for the place where the property is located will have jurisdiction. There is no requirement for the involvement of a lawyer or court procedural representative.
- All auctions must be carried out electronically on the Auctions Portal of the State Agency of the Official State Gazette, under the responsibility of the court clerk. The relevant provisions of the Civil Procedure Law will apply, provided that they are compatible.

Concerning voluntary auctions, changes have also been made to the Law on the Notarial Profession, of May 28, 1862. Specifically, a new Chapter V has been inserted into the new Title VII (article 72 to article 77), which regulates notarial auction proceedings for auctions carried out before a notary in compliance with: (i) a statutory provision; (ii) a court or administrative decision; (iii) a clause contained in a contract or will; (iv) enforcement of an arbitral award or mediation agreement; (v) a special provision in a public instrument; or (vi) voluntary auctions. In all cases, provided that they are compatible, the rules set out in the procedural legislation governing electronic auctions will apply residually.

## 8. Voluntary jurisdiction proceedings in commercial matters (Title VIII) and other affected legislation

Title VIII regulates voluntary jurisdiction proceedings in commercial matters assigned to the commercial courts, such as:

- The production of accounts by persons required to keep accounting records

Jurisdiction will lie with the commercial court for the domicile of the person required to keep accounting records or of the establishment to which the requested accounts or documents relate. The involvement of a lawyer and court procedural representative is mandatory.

If the person required to produce the records refuses to discharge his duty to cooperate and provide access to the requested documents without good reason, or obstructs or breaches that duty, he may be fined up to €300 per day and be found to have committed an offense of disobeying a judicial authority.

- Calling of annual and special shareholders' meetings

This will apply where the law allows requests for an annual or special shareholders' meeting to be called.

Jurisdiction lies with the commercial court for the place where the entity in question has its registered office and an application may be made by any person with standing to do so under the relevant legislation. The involvement of a lawyer and court procedural representative is mandatory.

In connection with the calling of meetings, amendments are also made to article 169 to article 171 of the Revised Corporate Enterprises Law, concerning the jurisdiction of court clerks and commercial registrars to call a shareholders' meeting of an ordinary nature or under the bylaws, the rules applicable thereto and meetings called in special cases.

- Appointment and removal of liquidators, auditors and inspectors of an entity

This is envisaged for cases where a court clerk is allowed by statute to appoint a liquidator, auditor or inspector. The same procedure also applies for the removal and withdrawal of appointments.

Jurisdiction lies with the commercial court for the place where the entity in question has its registered office and an application may be made by any person with standing to do so under the relevant legislation. The involvement of a lawyer and court procedural representative is mandatory.

In connection with these matters, amendments have also been made to include the powers shared by court clerks and commercial registrars in the following legislation:

Amendment to article 40 of the Commercial Code concerning the obligation of every trader to have their individual or consolidated financial statements audited, as well as other cases provided for by statute, when an order is issued to that effect by the court clerk or commercial registrar for the place where the trader has his registered office following a reasoned request by a person evidencing a legitimate interest.



Amendment to articles 265, 266, 377, 380, 381 and 389 of the Revised Corporate Enterprises Law governing the appointment and removal of auditors, the filling of vacancies and the withdrawal of liquidators and inspectors.

- Reduction of capital stock and the redemption or disposal of shares

The Law states that the standard procedure it contains will apply where statutory law allows an application to be made to a court clerk for a reduction of capital stock or the redemption or disposal of shares in a company. Jurisdiction lies with the commercial court for the place where the entity in question has its registered office and the involvement of a lawyer and court procedural representative is mandatory.

Consistently with the above, articles 139 and 141 of the Revised Corporate Enterprises Law have been amended to provide for the shared powers of court clerks and commercial registrars on the terms laid down therein for the reduction of capital stock, sales of shares and redemption and reduction of capital.

- Court-ordered dissolution of companies

Jurisdiction lies with the commercial court for the place where the company to be dissolved has its registered office and the involvement of a lawyer and court procedural representative is mandatory.

- Calling of meetings of bondholders

This applies where statutory law allows requests for meetings of bondholders to be called. Jurisdiction lies with the commercial court for the place where the bond issuer has its registered office and an application may be made by any person with standing to do so by law. The involvement of a lawyer and court procedural representative is mandatory.

In this connection, amendments have been made to article 422 and article 492 of the Revised Corporate Enterprises Law on the power and obligation to call a meeting of bondholders, conferring jurisdiction on court clerks and commercial registrars.

An amendment conferring powers on commercial registrars has also been made to Law 211/1964, of December 24, 1964, on the issuance of bonds by companies that have not adopted the form of Spanish corporations (*sociedades anónimas*), associations or other legal entities and on the creation of bondholder syndicates

- Robbery, theft, loss or destruction of security instruments and share certificates

These procedures will be conducted where an application is made for the adoption of measures provided for in commercial legislation in cases of robbery, theft, loss or destruction of security instruments or share certificates.

Jurisdiction will lie with the commercial court: for the place of payment in the case of credit instruments; for the place of deposit in the case of deposit instruments; or for the place of the domicile of the issuer where the instruments are marketable securities.

Standing lies with the lawful holders of securities who have been dispossessed of them and those whose instruments have been destroyed or lost. The involvement of a lawyer and court procedural representative is mandatory.

In the case of securities admitted to trading on official secondary markets, the person with standing may report the robbery, theft, loss or destruction of the security instrument to the governing company of the official secondary market for the place of the domicile of the issuer. That company must notify the complaint to the other governing companies, which will publish it on their notice boards to prevent the security or securities in question being transferred. The complaint will also be published in the Official State Gazette and, if the complainant so requests, in a widely-circulated newspaper of his choice. The complainant must request the initiation of the proceeding not later than nine days after the date of submission of the complaint. Otherwise, the prohibition affecting the securities will be lifted.

In this connection, an amendment is made to the Law on the Notarial Profession, of May 28, 1862, making it possible for the lawful holders of securities or share certificates who have been dispossessed of them or whose securities or share certificates have been destroyed or lost to apply to a notary for the adoption of the measures set out in commercial legislation in cases of robbery, theft, loss or destruction. Articles 84 to 87 of the Bills of Exchange and Checks Law have been repealed.

- Appointment of experts in insurance contracts

This proceeding will apply if there is disagreement between the experts appointed by the insurer and the insured to assess the damage caused and where the experts do not agree with the appointment of a third expert. Jurisdiction will lie with the commercial court for the place of the domicile of the insured party and the involvement of a lawyer and court procedural representative is not mandatory. This proceeding may be brought by either party to the insurance contract or by both acting together.

Consequently, an amendment has been made to the sixth paragraph of article 38 of Insurance Contract Law 50/1980, of October 8, 1980, on the appointment of a third expert when there is no agreement between the experts. An amendment has also been made to the Law on the Notarial Profession, of May 28, 1862, to include also the power conferred on notaries in this proceeding.

For proceedings in commercial matters, the amendment to article 79 of the Law on the Notarial Profession, of May 28, 1862, confers jurisdiction on notaries in relation to commercial deposits and the sale of deposited items.

## **9. Conciliation (Title IX) and other affected legislation**

Title IX lays down the legal rules applicable to conciliation and, in particular, provides that:

Conciliation may be attempted in order to reach an agreement to head off legal action. Applications for conciliation will not be accepted in respect of: (i) lawsuits involving minors or persons whose capacity to freely manage their property has been altered by a court; and, (ii) lawsuits involving the central government, the autonomous communities and other public authorities, corporations or similar types of institutions.

Jurisdiction to conduct conciliation hearings will lie with justices of the peace or with the court clerk at the court of first instance or the commercial court (if matters falling within its jurisdiction are involved) for the place where the summoned party has his domicile. However, if the summoned party is a legal entity, jurisdiction also lies at the place where the summoning party has his domicile, provided that at that place the summoned party also has a

representative office, branch, establishment or office open to the public or a representative authorized to act in the name of the entity. The involvement of a lawyer or court procedural representative is not mandatory.

The filing and subsequent admission of the request for conciliation will toll negative and acquisitive prescription periods – on the terms and for the purposes set out by law – from the date of filing. Those periods will start to run again when the decision of the court clerk or justice of the peace has been handed down, bringing the proceeding to an end.

The official copy of the minutes together with the decree of the court clerk or order of the justice of the peace recording the parties' settlement at the conciliation hearing will carry enforcement for the purposes set out in article 517(2)(9) of the Civil Procedure Law (for other purposes, the agreement reached will have the same value and enforceability as an agreement recorded in a formal public document). Enforcement will be carried out in accordance with the provisions set out in the Civil Procedure Law on the enforcement of court-approved agreements, and judgments and jurisdiction for enforcement will lie with the court that conducted the conciliation where the matters involved fall within that court's jurisdiction. In all other cases, jurisdiction will lie with the court of first instance which would have had jurisdiction to hear the claim.

The agreement reached at the conciliation hearing may only be challenged by means of an action for nullity on the grounds which render contracts invalid. Any such action must be brought not later than fifteen days after the hearing and will be conducted in accordance with the procedural formalities applying to lawsuits involving the same subject-matter or amount. Upon evidencing that an action for nullity has been brought, the enforcement of the agreement reached at the conciliation hearing will be stayed until a final decision has been taken.

With respect to conciliation hearings, the final provisions of the Law make the relevant statutory amendments so as to confer powers in this area on notaries and registrars.

Final provision eleven amends the Law on the Notarial Profession, of May 28, 1862, (articles 81, 82 and 83), and inserts additional provision one which also regulates the conciliation proceedings before a notary which may take place in respect of any dispute concerning contractual, commercial, inheritance or family issues, provided that it does not involve matters that cannot be negotiated. The Law specifies that conciliation hearings under this procedure cannot be held in relation to the matters covered in the Insolvency Law .

Mention must also be made of final provision twelve which amends the Mortgage Law and inserts article 103 *bis* on the jurisdiction conferred on registrars to conduct conciliation hearings in respect of any dispute concerning real estate, zoning or commercial issues or any dispute concerning facts or acts that are may be registered at the Property Registry, Commercial Registry or any other registry falling under their remit. Conciliation in respect of these disputes may also be held before a notary or a court clerk, should the interested parties so request.

An amendment is also made to article 395(1) of the Civil Procedure Law so as to provide that, as regards costs in cases of admission of claims, bad faith will, in all cases, be deemed to exist if, before filing the claim, the defendant was served with a valid and justified demand for payment, or if a mediation procedure was initiated or a conciliation application sent to him.

## 10. Other amendments

Lastly, the Law amends the following legal instruments:

- Gender Equality Law 33/2006, of October 30, 2006, in relation to the order of inheritance of titles of nobility. The Law establishes a retroactive transitional period under which its provisions will apply to proceedings which were in progress when it entered into force.
- Articles 86, 87 and 89 of the Law on Chattel Mortgages and Pledges without Transfer of Possession, of December 16, 1954, in relation to extrajudicial sales.
- The Revised General Consumer and User Protection Law and Other Supplementary Laws, particularly article 19(2), to broaden the definition of commercial practices (including those relating to real property and rights and obligations); article 141(a) concerning manufacturers' liability, to provide that the amount of indemnification will be subject to the deduction of an excess in the amount of €500; and article 163 on guarantees for contractual liability in respect of package tours.
- Article 4(1)(e) of Law 10/2012, of November 20, 2012, on Fees in the Justice System and of the National Institute of Toxicology and Forensic Science has been amended to provide a fee exemption for applications for the enforcement of awards made by the Consumer Arbitration Boards and Transport Arbitration Boards (provided that, in the latter case, the amount involved does not exceed €2,000), and for notarized certificates of uncontested debts.

### More information:

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