

# *Spanish Legislation Concerning Matters of Private International Law, 2003*

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## **I. SOURCES OF PRIVATE INTERNATIONAL LAW**

## **II. INTERNATIONAL JURISDICTION**

– Act 20/2003, of 7 July, on Legal Protection of Industrial Design (*BOE* 162, 8.7.03).

*Note:* The first additional provision (jurisdiction and procedural rules) is particularly relevant to this review.

– Organic Act 8/2003, of 9 July, Bankruptcy Reform Act amending the *LOPJ*, Organic Act 6/1985, 1 July (*BOE* 164, 10.7.03).

*Note:* The second Article amends, *inter alia*, Article 82 section 4 and introduces a new Article, 86 *bis*, to the *LOPJ*. These new provisions designate the Spanish courts competent to deal with suits brought under Regulation 40/94 on the Community trade mark and Regulation 6/2002 on Community drawings and models. Specifically, the Mercantile Courts of Alicante are competent as Community Trade Mark Courts (first instance), and the Section of the Provincial High Court of Alicante specialising in appeals from judgments of these Mercantile Courts is the Community Trade Mark Court (of appeal).

– Act 22/2003, of 9 July, Bankruptcy (*BOE* 164, 10.7.03).

*Note:* For the purposes of this review, we would highlight Articles 10 (international and territorial competence), 11 (international scope of jurisdiction), 52 (arbitration procedures), 220 to 226 (recognition of foreign insolvency procedures), 227 to 230 (coordination between parallel insolvency procedures). See also section XIX below.

## **III. PROCEDURE AND JUDICIAL ASSISTANCE**

– Order 5/2003, of 28 May, of the General Council of the Judiciary, amending Regulation 5/1995, of 7 June, on accessory aspects of judicial Actions with regard to international jurisdictional cooperation (*BOE* 133, 4.6.03).

– Royal Decree 996/2003, of 25 July, approving the Regulation of Free Legal Aid (*BOE* 188, 7.8.03; correction of errors *BOE* 230, 25.9.03).

– Royal Decree 997/2003, of 25 July, approving the Regulation of the State Legal Service (*BOE* 188, 7.8.03).

*Note:* This decree also regulates the Action of the State Legal Service in connection with foreign courts. In this connection see Article 1.3, points k) and l), Article 3.1, point d), Articles 11.3, 31.5 and 32.2, Article 34, points a) and c), and Articles 35.2, 40.2, 41.3, 43.4, 44.5 and 46.7.

– Act 60/2003, of 23 December, on Arbitration (*BOE* 309, 26.12.03).

*Note:* See section V below.

See also Section XXII (Criminal Law) below.

#### **IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS AND DECISIONS**

– Organic Act 19/2003, of 23 December, amending Organic Act 6/1985 on the *LOPJ*, of 1 July (*BOE* 309, 26.12.03).

*Note:* Section four of the sole Article of this Organic Act repeals section 4 of Article 56 of the Judiciary Act, which awarded to the Civil Division of the Supreme Court objective competence in respect of proceedings for the recognition and enforcement of foreign judgments. Section eleven of the sole Article rewords Article 85 of the *LOPJ*, section 5 of which establishes the objective competence of the Courts of First Instance, absent international provision, to deal with requests for recognition and enforcement of foreign judgments. Finally, the sole repeal provision, point c), repeals the second paragraph of Article 958 of the Civil Procedure Act of 1881. See the following provision.

– Act 62/2003, of 30 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.03).

*Note:* Article 136 redrafts Article 955 of the Civil Procedure Act of 1881, establishing the territorial competence of the Courts of First Instance to deal with requests for recognition and enforcement of foreign judgments. See foregoing provision.

#### **V. INTERNATIONAL COMMERCIAL ARBITRATION**

– Act 60/2003, of 23 December, on Arbitration (*BOE* 309, 26.12.03).

*Note:* The following provisions are of particular interest to this review: Article 1 (scope of application), Article 2 (matters subject to arbitration), Article 3 (international arbitration), Article 8 (courts competent to discharge functions of support and control of arbitration), Article 9, section 6 (form and content of arbitration agreement), Article 34 (rules applicable to underlying issue), Article 39, section 5 (extension of terms in international arbitration), Article 46 (*exequatur* of foreign arbitral decisions).

## **VI. CHOICE OF LAW: SOME GENERAL PROBLEMS**

## **VII. NATIONALITY**

## **VIII. ALIENS, REFUGEES AND CITIZENS OF EUROPEAN COMMUNITY**

– Decision of the Under secretariat, of 14 January 2003, on publication of the Cabinet Resolution, of 27 December 2002, regulating the procedures for recruitment and establishing the number and characteristics of offers of employment issued for the year 2003 to aliens legally resident in Spain and to aliens neither present nor resident in Spain (*BOE* 14, 16.1.03; correction of errors *BOE* 27, 31.1.03).

*Note:* See following provision.

– Decision of the Under secretariat, of 30 January 2003, on publication of the Instructions issued in implementation of the Cabinet Resolution, of 27 December 2002, regulating the procedures for recruitment and establishing the number and characteristics of offers of employment issued for the year 2003 to aliens legally resident in Spain and to aliens neither present nor resident in Spain (*BOE* 27, 31.1.03).

*Note:* See previous provision.

– Royal Decree 178/2003, of 14 February, on entry to and presence in Spain of nationals of Member States of the European Union and of other States that are signatories of the Agreement on a European Economic Area (*BOE* 46, 22.2.03).

*Note:* This provision applies to nationals of Members States of the European Union and of other States that are signatories of the Agreement on a European Economic Area (Article 1.1), and also to certain relatives, irrespective of their nationality, of Spanish nationals and nationals of Members States of the European Union and of other States that are signatories of the Agreement on a European Economic Area (Article 2).

– Royal Decree 253/2003, of 28 February, incorporating European Parliament and Council Directive 1999/42/EC, of 7 June 1999, into the Act of Spain, whereby a mechanism is established for recognition of qualifications in respect of professional Activities referred to in the Directives on liberalisation and transitional measures (*BOE* 52, 1.3.03).

– Order DEF/728/2003, of 25 March, amending Order DEF/600/2002, of 7 March, which regulates the military identity card for personnel of the Armed Forces, the Civil Guard Corps and non-Spanish military personnel posted at International Headquarters located in Spain (*BOE* 79, 2.4.03).

– Royal Decree 862/2003, of 4 July, amending the Regulation on the organisation and regime of the Notarial Profession with regard to accession to the Corps of Notaries (*BOE* 166, 12.7.03).

*Note:* This provision amends, *inter alia*, Article 6 of the Regulation on the organisation and regime of the Notarial Profession. Point a) of this provision allows for participation in the selective tests for accession to the Notarial profession by persons who possess the nationality of a Member State of the European Union or who are in one of the situations listed in Article 1 of Act 17/1993, on accession by nationals of European Union Member States to certain sectors of the civil service.

– Royal Decree 996/2003, of 25 July, approving the Regulation on Free Legal Aid (*BOE* 188, 7.8.03; correction of errors *BOE* 230, 25.9.03).

*Note:* The sole additional provision establishes that this rule will apply to the right to free legal aid in administrative procedures concerning aliens and asylum, without prejudice to the provisions of the specific regulations.

– Royal Decree 1171/2003, of 12 September, incorporating European Parliament and Council Directive 2001/19/EC, of 14 May 2001, into the Act of Spain, whereby directives on professional recognition are amended, as are the relevant transposing royal decrees (*BOE* 225, 19.9.03).

– Organic Act 11/2003, of 29 September, on concrete measures in matters of public safety, domestic violence and the social integration of aliens (*BOE* 234, 30.9.03).

*Note:* The second Article rewords Article 57, sections 4 and 7, Article 61.1 and Article 62.1 of Organic Act 4/2000, of 11 January, on rights and freedoms of aliens in Spain and their social integration (see this same section in the 1999 and 2000 volumes of this Yearbook). See also Organic Act 14/2003 in this section.

– Royal Decree 1325/2003, of 24 October, approving the Regulation on temporary protection in the event of a massive influx of displaced persons (*BOE* 256, 25.10.03).

*Note:* According to the first Article of the Regulation, this regulates the regime of temporary protection in the event of a massive influx of displaced persons from third countries that are not members of the European Union, who cannot return in lasting safe conditions because of the situation in their country of origin and who may in some cases come within the meaning of Article 1.A of the 1951 Geneva Convention relating to the Status of Refugees or other international or national instruments of international protection. This regulation further amends various provisions of Act 5/1984 regulating the right of asylum and the condition of refugee, and of Royal Decree 864/2001, which approved the Regulation implementing Organic Act on rights and freedoms of aliens in Spain and their social integration.

– Act 40/2003, of 18 November, on Protection of Large Families (*BOE* 277, 19.11.03).

*Note:* According to Article 3.2, "... for the purposes of this Act, members of the family unit who are nationals of other countries shall be entitled to recognition of large family status in the same conditions as Spanish nationals, provided that all those

family members included in the count entitling the family to the benefits referred to in this Act are resident in Spain, in the terms laid down in Organic Act 4/2000 of 11 January on rights and freedoms of aliens in Spain and their social integration, as reformed by Organic Act 8/2000, of 22 December, and the relevant implementing regulations”.

– Organic Act 14/2003, of 20 November, on Reform of Organic Act 4/2000, of 11 January, on rights and freedoms of aliens in Spain and their social integration, as amended by Organic Act 8/2000, of 22 December; of Act 7/1985, of 2 April. Regulating the Bases of the Local Regime; of Act 30/1992, of 26 November, on the Legal Regime of Public Administrations and Common Administrative Procedure; and of Act 3/1991, of 10 January, on Unfair Competition (*BOE* 279, 21.11.03).

*Note:* See Organic Act 11/2003 in this section above.

– Act 44/2003, of 21 November, on organisation of health professions (*BOE* no. 280, 22.11.03).

*Note:* Articles 18 and 32 refer to professional recognition of specialist qualifications obtained in foreign States and registration in the National Register of Specialists in Health Sciences of professionals who have secured recognition or homologation of qualifications obtained abroad.

– Royal Decree 1506/2003, of 28 November, laying down guidelines for professional certificates (*BOE* 302, 18.12.03).

*Note:* Article 4 point a) establishes in a general way that persons wishing to take the tests leading to a professional certificate must “. . . be Spanish, a national of one of the European Union countries or a national of another of the States that are signatories of the Agreement on the European Economic Area or an alien in possession of a resident’s and work permit or of the appropriate administrative authorisation depending on the rules applicable to their specific situation”.

– Act 56/2003, of 16 December, on Employment (*BOE* 301, 17.12.03).

*Note:* See particularly: Article 2 point a) (which extends certain general principles of employment policy to nationals of Members States of the European Economic Area and, in the terms laid down in the implementing regulations, to other aliens; Article 9.6 (whereby one of the functions of the National Employment System is to help establish requirements as regards numbers of alien workers); and Article 26.1 (adoption of specific programmes to promote employment, among others, of immigrants).

– Act 57/2003, of 16 December, on measures for the modernisation of local government (*BOE* 301, 17.12.03).

*Note:* This provision amends, among others, Article 18 of Act 7/1985 regulating the Bases of the Local Regime, section two of which is amended to read as follows: “Registration of aliens on the municipal roll shall not constitute proof of legal residence in Spain, nor shall it entitle them to any right not conferred on them by the

Acts currently in force, especially in matters of rights and freedoms of aliens in Spain”.

– Order of 29 December 2003, by the Under-secretariat for publication of the Cabinet decision of 19 December 2003, determining the quota of non-Community alien workers to be allowed in Spain for the year 2004 (*BOE* 313, 31.12.03).

– Act 62/2003, of 30 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.03).

*Note:* Of particular relevance to this review are Articles 39 (amendments to Act 45/1999 on movement of workers within a framework of transnational provision of services) and 48 (raising the fine for persons employing an alien worker without the requisite labour authorisation), the seventh additional provision [aliens legislation not affected by the provisions of chapter III (Measures for application of the principle of equality of treatment) of title II of Act 62/2003], and the fourteenth final provision (granting of visas and driving licences to participants, organisers and relatives of either in the Americas Cup 2007).

## **IX. NATURAL PERSONS: LEGAL INDIVIDUALITY, CAPACITY AND NAME**

– Royal Decree 896/2003, of 11 July, regulating the issue and determining the characteristics of ordinary passports (*BOE* 166, 12.7.03).

## **X. FAMILY LAW**

– Organic Act 11/2003, of 29 September, on concrete measures in matters of public safety, domestic violence and social integration of aliens (*BOE* 234, 30.9.03).

*Note:* Article three rewords Article 9.2 of the Civil Code: “Act applicable to nullity, separation and divorce”. It also amends Article 107 of the Civil Code, which henceforth reads as follows: “1. The nullity of a marriage and its effects shall be determined in accordance with the law applicable to the celebration of the marriage. 2. Separation and divorce shall be governed by the common national law of the spouses at the time suit is filed; absent a common nationality, by the Law of the partners’ habitual place of residence at the said time and, failing the latter, by the Law of the partners’ last common habitual place of residence if one of the spouses is currently resident in that State. Spanish Law shall apply in any event where one of the spouses is Spanish or is habitually resident in Spain: a) if none of the above-cited Laws is applicable; b) if in a suit brought before a Spanish court separation or divorce is sought by both spouses or by one spouse with the consent of the other; or c) if the Laws referred to in the first paragraph of this section do not recognise separation or divorce or do so in a manner that is discriminatory or contrary to public policy.”

## XI. SUCCESSIONS

## XII. CONTRACTS

- Act 23/2003, of 10 July, on Guarantees in the Sale of Consumer Goods (*BOE* 165, 11.7.03).

*Note:* According to Article 13, “the rules for the protection of consumers contained in this Act shall be applicable whatever Law is chosen by the parties to govern the content where a good is to be used, a right is to be exercised or a service is to be provided in any Member State of the European Union, or the contract was entered into wholly or partly in any such State, or one of the parties is a citizen of one of the Member States of the European Union or the legal business has any other analogous connection or close link with the territory of the European Union”

- Act 34/2003, of 4 November, amending and adapting the Community regulations regarding legislation on private insurance (*BOE* 265, 5.11.03).

*Note:* The second Article amends Act 50/1980, on insurance contracts, introducing provisions regarding contracts concluded at a distance, a category expressly including those that involve the use of electronics, telemetric or information technology. In addition, section two of the third Article amends the law on civil liability and insurance in the circulation of motor vehicles, to the effect that the Insurance Clearing Consortium must pay compensation for damage caused in Spain by vehicles which are habitually kept in a third country not a party to the Multilateral Guarantee Agreement and which are not insured. See also sections XVIII and XIX in this Review.

- Act 49/2003, of 26 November, on rural leases (*BOE* 284, 27.11.04).

*Note:* Article 9 section 4 establishes that “. . . foreign persons and entities may not be lessees. Exception is made, however, of: a) Natural and legal persons and other entities which are nationals of Member States of the European Union or the European Economic Area or of countries with which there is an international convention extending the legal regime envisaged to citizens of the countries mentioned. b) Persons who are nationals of any other States and have acquired the status of permanent resident as provided in the Acts on aliens. c) Legal persons and other entities which are nationals of any other States that apply the principle of reciprocity in these matters to Spaniards”.

- Act 61/2003, of 30 December, on the State Budget for the year 2004 (*BOE* 313, 31.12.03).

*Note:* The nineteenth additional provision establishes the upper limit of cover for new export credit policies, excluding the open export management policy (*PAGEX*) and policy 100 options, that can be issued and distributed by the Spanish export credit insurance company *Compañía Española de Seguros de Crédito a la Exportación, Sociedad Anónima (CESCE)* for the year 2004.

### **XIII. TORTS**

### **XIV. PROPERTY**

– Act 20/2003, of 7 July, on Legal Protection of Industrial Designs (*BOE* 162, 8.7.03).  
*Note:* Of interest to this review are Articles 4 (persons who may legitimately register designs) and 24 (right of union priority) and Title IX (international registration of designs).

– Act 33/2003, of 3 November, on Assets of Public Administrations (*BOE* 264, 4.11.03).

*Note:* Of interest to this Review are Articles 118 and 141, which deal respectively with the system of acquisition and disposal by the General State Administration of real property situated abroad and rights in such property.

### **XV. COMPETITION LAW**

### **XVI. INVESTMENTS AND FOREIGN EXCHANGE**

– Order ECO/180/2003, of 22 January, on coverage by the State of risks deriving from foreign trade, foreign investment and economic transactions with the exterior (*BOE* 33, 7.2.03).

– Decision of 5 March 2003, by the Directorate General of the Treasury and Financial Policy, regulating Creators of the Market in Public Debt of the Kingdom of Spain (*BOE* 60, 11.3.03).

– Decision of 26 March 2003, by the Directorate General of Trade and Investment, specifying the standardised models and the instructions that are to be used by financial intermediaries for telematic presentation, as provided in annex I, I.2.3 and in annex II, I.2.3 of Directorate General of Trade and Investment Order, of 31 May 2001, on declarations of overseas investments in negotiable securities listed on Spanish stock markets and of Spanish investments in negotiable securities listed on foreign stock markets (*BOE* 82, 5.4.03).

*Note:* For the Order of 31 May 2001, see this same section in the Yearbook for the years 2001 and 2002.

– Decision of 24 April 2003, by the Directorate General of the Treasury and Financial Policy, partially amending the Decision, of 5 March 2003, regulating Creators of the Market in Public Debt of the Kingdom of Spain (*BOE* 106, 3.5.03).

– Act 19/2003, of 4 July, on the legal regime governing capital movements and economic transactions with the exterior, and on certain measures for the prevention of capital laundering (*BOE* 160, 5.7.03).



*Note:* This regulation repeals Act 40/1979 on the legal regime governing exchange control, with the exception of chapter II in the wording contained in Organic Act 10/1983.

– Act 62/2003, of 30 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.03).

*Note:* The twenty-fifth and twenty-sixth additional provisions introduce amendments to Act 5/1995 on the legal regime governing the disposal of public holdings in certain enterprises. These amendments arise out of a judgment of the Court of Justice of the European Union of 13 May 2003, case C-463/00 (Commission vs. Spain), which declared that certain provisions of Act 5/1995 contravened the terms of the Treaty of Rome on free movement of capital.

## **XVII. FOREIGN TRADE LAW**

– Decision of 16 December 2002, by the Department of Customs and Special Taxes of the State Tax Administration Agency, regarding instructions for the compilation of statistics on exchanges of goods between Member States (Intrastat System) (*BOE* 7, 8.1.03).

– Order ECO/180/2003, of 22 January, on cover by the State of foreign trade-derived risks in connection with foreign investments and economic transactions with the exterior (*BOE* 33, 7.2.03).

– Order HAC/93/2003, of 23 January, setting thresholds for statistics on exchanges of goods between Member States of the European Union (*BOE* 25, 29.1.03).

– Order APA/227/2003, of 4 February, amending certain annexes of Royal Decree 2071/1993, of 26 November, regarding measures to protect against the introduction and distribution in the national territory and the European Economic Community of organisms that are harmful to vegetables and vegetable products and to the exportation and transit thereof to third countries (*BOE* 37, 12.2.03).

– Decision of 11 March 2003, by the Directorate General of the State Tax Administration Agency, amending the Decision of 27 December 1999 introducing a standardised model of guarantee to cover customs and fiscal import debts acquired by declarants represented by Customs Agents when Acting on behalf of their principals (*BOE* 75, 28.3.03).

– Act 8/2003, of 24 April, on animal health (*BOE* 99, 25.4.03).

*Note:* Of interest to this Review are Article 7 (obligations of importers, exporters and carriers among other persons), Article 10 (requirement of prior authorisation for the introduction of infectious material in the national territory) and Articles 12 to 15 (exchanges with third countries).

- Order APA/1145/2003, of 30 April, amending certain annexes of Royal Decree 2071/1993, of 26 November, regarding measures to protect against the introduction and distribution in the national territory and the European Economic Community of organisms that are harmful to vegetables and vegetable products and to the exportation and transit thereof to third countries (*BOE* 113, 12.5.03).
- Decision of 18 June 2003, by the Department of Customs and Special Taxes of the State Tax Administration Agency, issuing instructions for the operation of customs and non-customs warehouses (*BOE* 187, 6.8.03).
- Order ECO/2087/2003, of 9 July, regulating telematic submission of requests for authorisation of economic customs regimes for Active processing and passive processing granted by the Secretariat General for Foreign Trade (*BOE* 176, 24.7.03).
- Order HAC/2696/2003, of 27 August, establishing an early warning system for intra-Community movement of certain products subject to Special Manufacturing Taxes (*BOE* 236, 2.10.03).
- Order HAC/3244/2003, of 19 November, setting thresholds for statistics on exchanges of goods between Member States of the European Union for the year 2004 (*BOE* 282, 25.11.03).
- Decision of 2 December 2003, by the Department of Customs and Special Taxes of the State Tax Administration Agency, amending the Decision of 16 December 2002 regarding instructions for the compilation of statistics on exchanges of goods between Member States (Intrastat System) (*BOE* 312, 30.12.03).
- Decision of 12 December 2003, by the Department of Customs and Special Taxes of the State Tax Administration Agency, updating the Integrated Tariff of the European Communities (TARIC) (*BOE* 311, 29.12.03).
- Decision of 15 December 2003, by the Department of Customs and Special Taxes of the State Tax Administration Agency, setting forth instructions for formalisation of the Single Administrative Document (SAD) (*BOE* 311, 29.12.03).
- Act 62/2003, of 30 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.03).

*Note:* Of interest to this Review is Article 70 (commercialisation of State-owned gaming outside the national territory).

See also Section XXIII (Tax Law) below.

## **XVIII. BUSINESS ASSOCIATIONS/CORPORATIONS**

– Circular 6/2002 to Credit Institutions of 20 December, regarding information on agents of Credit Institutions and agreements for the regular provision of financial services (*BOE* 20, 23.1.03).

– Act 32/2003, of 3 November, on General Telecommunications (*BOE* 264, 4.11.03).  
*Note:* Article 6.1 provides that natural or legal persons who are nationals of a Member State of the European Union, or of a third State provided that the latter is party to an international agreement, may run networks and provide electronic communications service to third parties.

– Act 34/2003, of 4 November, amending the legislation on private insurance and adapting it to the Community norms (*BOE* 265, 5.11.03).

*Note:* Sections 14 *et seq.* of the first Article amend certain provisions of Act 30/1995 on the organisation and supervision of private insurance with regard to the establishment and provision of services by insurance companies. See also sections XII and XIX in this Review.

– Act 35/2003, of 4 November, on Collective Investment Institutions (*BOE* 265, 5.11.03).

*Note:* The following provisions are of interest to this Review: Articles 15 and 16 (cross-border commercialisation of shares and holdings in Collective Investment Institutions), Articles 54 to 56 (cross-border activity by management companies) and Article 85 (sanctions for the commission of very serious infringements by foreign Collective Investment Institutions or Community management companies).

– Act 38/2003, of 17 November, on General Subsidies (*BOE* 276, 18.11.03).

*Note:* Various provisions of this Act stress that a subsidy must come from the European Union or international organisations; see Articles 17, point m), 19.2, 37, points e) and g), 58, point c), and additional provision 18.

– Act 39/2003, of 17 November, on Railway Industry (*BOE* 276, 18.11.03).

*Note:* Article 31 allows international business consortia to bid for infrastructure contracts. The first transitional provision regulates the calendar for opening of the market for international rail freight services. Finally, the second transitional provision deals with the application of the provisions of this Act to entities belonging to other European Union Member States.

– Royal Decree 1497/2003, of 28 November, approving the Regulations of the National Register of Associations and its relations with other registers of associations (*BOE* 306, 23.12.03).

*Note:* Of interest here are Article 2 point g) paragraph 7 and Article 37 section 1 point d), (regulation of registration and incorporation and withdrawal of associations

to and from a federation, confederation or union of associations, or of their membership of international organisations). Also, Article 52 point c) (communication by the National Register of Associations to regional registers of certain Actions taken by state, supra-state or international bodies).

– Act 59/2003, of 19 December, on electronic signatures (*BOE* 304, 20.12.03).

*Note:* The following parts are of interest to this Review: Article 2 (certification service providers subject to this Act), Article 14 (international equivalence of recognised certificates) and Article 26 section three (European, international or Spanish technical rules for certification of a certification service provider).

## **XIX. BANKRUPTCY**

– Act 22/2003, of 9 July, on Bankruptcy (*BOE* 164, 10.7.03).

*Note:* Of interest to this Review are Title IX (on the rules of Private International Law) and Articles 199 *et seq.* See also section II of this Review above.

– Act 34/2003, of 4 November, amending the legislation on private insurance and adapting it to the Community norms (*BOE* 265, 5.11.03).

*Note:* Article one section 17 amends Article 80 of Act 30/1995, on the organisation and supervision of private insurance by introducing provisions regarding means of intervention in the event of adoption of rescue measures or liquidation procedures for insurance companies domiciled in a Member State of the European Economic Area other than Spain, including their branches in Spain or in other European Economic Area member States. See also sections XII and XVIII in this Review.

## **XX. TRANSPORT LAW**

– Royal Decree 91/2003, of 24 January, approving the Regulations governing inspections of foreign vessels in Spanish ports (*BOE* 30, 4.2.03).

– Royal Decree 1249/2003, of 3 October, on formalities of information that may be required of merchant vessels arriving at and leaving Spanish ports (*BOE* 238, 4.10.03).

– Act 29/2003, of 8 October, on improvement of competition and safety conditions in the road transport market, partially amending Act 16/1987, of 30 July, on Organisation of Road Transport (*BOE* 242, 9.10.03).

*Note:* This provision amends Articles 42.1 point a), 141.24.8, 146.5, 147 and 148 of Act 16/1987, which deal with the grant of international road transport licences and authorisations and the relevant system of sanctions.

## **XXI. LABOUR LAW AND SOCIAL SECURITY**

– Royal Decree 1203/2003, of 19 September, amending Royal Decree 996/1986, of 25 April, regulating the constitution of a special agreement for emigrants and children of emigrants (*BOE* 238, 4.10.03).

*Note:* Royal Decree 996/1986 allows the inclusion, under certain conditions, of emigrants and the children of emigrants in the scope of application of the General Social Security Scheme.

– Order TAS/2865/2003, of 13 October, regulating the special agreement on the Social Security System (*BOE* 250, 18.10.03; correction of errors *BOE* 28, 2.2.04).

*Note:* The following provisions of this order are of particular interest: Article 10.2, final paragraph (non-extinction of the special agreement if the party moves abroad), and Articles 15 to 17 (special agreements for emigrants and the children of emigrants and the children of persons resident in Spain and receiving pensions from foreign retirement systems).

## **XXII. CRIMINAL LAW**

– Act 2/2003, of 12 March, amending Act 32/1999, of 8 October, on solidarity with the victims of terrorism (*BOE* 62, 13.3.03).

*Note:* The second Article introduces an additional provision to Act 32/1999, which states that “. . . where any of the acts described in Article 2 section 1 are committed outside the national territory by persons or groups whose terrorist activity is not carried on chiefly in Spain, the Ministry of the Interior may grant exceptional aids to Spanish victims of such acts, in such terms as may be determined by regulation”.

– Organic Act 2/2003, of 14 March, supplementing the Act on the European arrest and surrender warrant (*BOE* 65, 17.3.03).

– Act 3/2003, of 14 March, on the European arrest and surrender warrant (*BOE* 65, 17.3.03).

## **XXIII. TAX LAW**

– Royal Decree 116/2003, of 31 January, amending the Regulations governing the Income Tax on Non-Residents, approved by Royal Decree 326/1999, of 26 February, and Royal Decree 1080/1991, of 5 July, determining the countries and territories referred to by Articles 2 section 3 point 4 of Act 17/1991, of 27 May, on Urgent Fiscal Measures, and 62 of Act 31/1990, of 27 December, General State Budget for 1991 (*BOE* 28, 1.2.03).

– Order HAC/117/2003, of 31 January, approving models for notification to the Tax Administration of changes of residence for the purpose of withholdings on earned income and regulating the manner, place and deadline for such notification (*BOE* 28, 1.2.03).

- Decision of 24 February 2003, by the Directorate General of the State Tax Administration Agency, establishing the rebate tables to be applied by entities authorised to act as collaborating entities in the procedure for Value Added Tax rebates to travellers as regulated in Article 21 paragraph 2 of Act 37/1992, of 28 December, on the Value Added Tax (*BOE* 61, 12.3.03).
  - Decision of 22 April 2003, by the Collection Department of the State Tax Administration Agency, amending Annex 1 of the Decision of 6 May 1993 issuing instructions in connection with payments or requests for rebates on the Personal Income Tax and payments of the Tax on Wealth in the case of residents abroad, and payments resulting from Income Tax declarations of Non-Residents in the case of non-residents having no permanent establishment through a collaborating entity (*BOE* 109, 7.5.03).
  - Order HAC/1149/2003, of 5 May, establishing the general conditions and the procedure for telematic submission, via the Internet, of the documents used in the management of Special Taxes and amending the Order of 22 March 2000, approving the new models of recapitulation lists and the issued magnetic media for accompanying documents, and of accompanying documents received in intra-Community traffic, including simplified versions (*BOE* 114, 13.5.03).
  - Order HAC/2324/2003, of 31 July, establishing detailed rules for application of provisions regarding mutual assistance in tax collection, in implementation of Royal Decree 704/2002, of 19 July, which introduced amendments of certain Community Directives on mutual assistance in tax collection, and in compliance with certain Community Directives on mutual assistance between Member States of the European Union in the collection of certain levies, charges and taxes and other measures (*BOE* 198, 19.8.03).
  - Act 58/2003, of 17 December, on General Taxation (*BOE* 302, 18.12.03).
- Note:* Of interest to this Review are Article 7 section 1 points b) and c) (rules of international and Community origin as sources of the tax system) and the fifth additional provision, paragraph three points f) and g) [information contained in census declarations on the territorial scope (national, European Union, international) of economic Activity, and on resident or non-resident status].  
See also section XVII (Foreign Trade Law) above.

## XXIV. INTERLOCAL CONFLICT OF LAWS

- Act of the Autonomous Community of Andalusia 5/2002, of 16 December, on Unmarried Couples (*BOE* 11, 13.1.03).
- Act of the Autonomous Community of Catalonia 29/2002, of 30 December, first Act under the Civil Code of Catalonia (*BOE* 32, 6.2.03).

*Note:* Section one of Article 111.3 provides that “the civil law of Catalonia is territorially effective, without prejudice to such exceptions as may be established in any matter and to situations that are to be governed by personal statute or other rules of extraterritoriality”. Section three of the same Article provides that “aliens acquiring Spanish nationality remain subject to the Catalan civil law as long as they remain administratively citizens of Catalonia, unless they specify otherwise”. The Constitutional Court, by order of 20.5.03, admitted for consideration an appeal of unconstitutionality lodged by the Prime Minister, and the law was held in suspense at the instance of the appellant (*BOE* 132, 3.6.03). The Constitutional Court partially lifted the suspension by order of 29.10.03 (*BOE*, 276, 18.11.03).

– Act of the Autonomous Community of Aragon 2/2003, of 12 February, on Marital Economic Regime and Widowhood (*BOE* 62, 13.3.03).

– Act of the Autonomous Community of Extremadura 5/2003, of 20 March, on unmarried couples in the Autonomous Community of Extremadura (*BOE* 111, 9.5.03).

– Act 25/2003, of 15 July, approving the amendment of the Economic Agreement between the State and the Foral Community of Navarre (*BOE* 169, 16.7.03; corrections of errors *BOE* 264, 4.11.03, and *BOE* 296, 11.12.03).

*Note:* The parts of interest to this Review are Articles 8 (concepts of fiscal domicile and habitual residence), 9 (levying of the Personal Income Tax), 19 (levying of the Company Tax), 20 and 21 (determination of the territory in which the Company Tax payer operates), 28 to 30 (non-resident Income Tax), 31 (levying of the Tax on Successions and Donations), 33 (levying of the Value Added Tax), 35 (levying of the Special Taxes), 36 (levying of the Tax on Retail Sales of certain Hydrocarbons), 37 (levying of the Tax on Insurance Premiums, and determination of the location of the risk), 38 (levying of the Tax on Capital Transfers and Documented Legal Acts), 40 (levying of the Taxes on Gambling), 41 (levying of Fees), 43 (change of fiscal domicile), 47 (mergers and demergers of companies), 49 (levying of local taxes).