

Spanish Municipal Legislation Concerning Matters of Private International Law, 2001 and 2002

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I. SOURCES OF PRIVATE INTERNATIONAL LAW

II. INTERNATIONAL JURISDICTION

– Resolution of 28 December 2000, by the General Technical Secretariat on the Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters done at Lugano on 16 September 1988 (published in the Official Gazette of the Spanish State on 20 October 1994) (*BOE* 18, 20.1.01).

Note: The Spanish Government communicated its acceptance of the inclusion of Gibraltar in the 1988 Lugano Convention in the terms agreed to with the United Kingdom and expressed in this provision.

– Resolution of 20 February 2001, of the General Technical Secretariat on the agreement relating to the accession of the Kingdom of Spain and the Republic of Portugal to the Convention on Jurisdiction and the Enforcement of Judgements in Civil and Commercial Matters and to the Protocol regarding its interpretation by the Court of Justice with the adaptation introduced by the Convention relative to the accession of the Kingdom of Denmark, of Ireland and of the United Kingdom of Great Britain and Northern Ireland and the adaptations introduced by the Convention relative to the accession of the Hellenic Republic done in Donostia (San Sebastian) on 26 May 1989 (published in the *BOE* on 28 January 1991 (*BOE* 58, 8.3.01).

Note: The Spanish Government removed the reservation it had presented in 1998 and accepted the inclusion of Gibraltar in the 1968 Brussels Convention in the terms agreed to with the United Kingdom and expressed in this provision.

III. PROCEDURE AND JUDICIAL ASSISTANCE

– Act 53/2002, of 30 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.02).

Note: Pursuant to Article 35 the fiscal year fee of the jurisdictional authority in orders involving civil matters and suits under administrative law is created.

IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGEMENTS AND DECISIONS

Also see above Section II (International Jurisdiction) in this chronicle on Private International Law.

V. INTERNATIONAL COMMERCIAL ARBITRATION

VI. CHOICE OF LAW: SOME GENERAL PROBLEMS

VII. NATIONALITY

– Royal Decree 3425/2000, of 15 December, on the inscription of Spanish nationals in the Consular office registries abroad (*BOE* 3, 3.1.01).

Note: Pursuant to Article 2 of this Royal Decree, Spanish nationals who habitually reside abroad and those that transfer their habitual residence outside of Spain must register as residents (see Article 4) or as non residents (see Article 5) at the Consular Office Registry or at the Consular Section of the diplomatic mission corresponding to their place of abode.

VIII. ALIENS, REFUGEES AND CITIZENS OF THE EUROPEAN COMMUNITY

– Error correction of Organic Act 8/2000, of 22 December, on the reform of Organic Act 4/2000, of 11 January, on Rights and Freedoms of aliens in Spain and their Social Integration (*BOE* 47, 23.2.01).

Note: See this same heading in the 1999–2000 edition of this Yearbook.

– Royal Decree 142/2001, of 16 February, setting out the requirements for the standardisation foreseen in transitory provision four of Organic Act 8/2000, of 22 December on the Reform of Organic Act 4/2000, of 11 January, on the rights and freedoms of aliens in Spain and their social integration (*BOE* 44, 20.3.01).

Note: As regards Organic Act 8/2000, see this same heading in the 1999–2000 edition of this Yearbook.

– Order of 20 March 2001, regulating the equivalency scheme of studies carried out in Switzerland with those corresponding to Spanish Compulsory Secondary Education studies and Baccalaureate (pre-university) studies established in accordance with Organic Act 1 /1990, of 3 October, on the General Regulation of the Educational System (*BOE* 86, 10.4.01).

– Order of 20 March 2001, regulating the equivalency scheme of elementary and secondary level studies carried out in the signatory countries of the “Andrés Bello”

Agreement with Spanish Compulsory Secondary Education studies and Baccalaureate (pre-university) studies established under Organic Act 1/1990, of 3 October, on the General Regulation of the Educational System (*BOE* 86, 10.4.01).

– Royal Decree 344/2001, of 4 April, creating the *Consejo Superior de Política de Inmigración* (High Council on Immigration Policy) (*BOE* 83, 6.4.01).

Note: The aim of this body, provided for in Article 68 of Organic Act 4/2000 on the rights and freedoms of aliens in Spain, is to guarantee the proper coordination of public administration initiatives as regards the integration of immigrants.

– Royal Decree 345/2001, of 4 April, regulating the *Observatorio Permanente de la Inmigración* (Standing Immigration Observatory) (*BOE* 83, 6.4.01).

Note: This body is responsible for the collection of data and the analysis and study of the breadth and characteristics of immigration as well as the dissemination of the information obtained with a view to identifying trends and developments and to preparing proposals the aim of which is to channel migratory flows and to integrate foreign residents (Article 1).

– Royal Decree 367/2001, of 4 April, regulating the composition, competencies and operational regime of the *Foro para la Integración Social de los Inmigrantes* (Forum for the Social Integration of Immigrants) (*BOE* 83, 6.4.01).

Note: Pursuant to Article 70 of Organic Act 4/2000 on the rights and freedoms of aliens in Spain, this forum is an advisory, information and consultation body as regards the integration of immigrants. It is comprised of representatives of the public administrations, immigrant associations and social support organisations (interested trade unions and business organisations established in the field of immigration).

– Resolution of 17 April 2001, of the Government Delegation for Alien and Immigration Affairs calling for the publication of the agreement reached by the Council of Ministers of 30 March 2001 approving the Global Programme on the Regulation and Coordination of Alien and Immigration Affairs (*BOE* 101, 27.4.01).

– Royal Decree 411/2001, of 20 April, excluding the profession of specialising generalist nurse from the annexes of Royal Decree 1665/1991, of 25 October, on the recognition of higher education degrees issued in European Union countries and other countries party to the European Economic Area Agreement requiring a minimum of three years of higher education (*BOE* 96, 21.4.01).

Note: As regards Royal Decree 1665/1991, see this same heading in the 1991 edition of this Yearbook.

– Royal Decree 543/2001, of 18 May, on access to public employment with the Central Government and its public organisations of the nationals of other States to which the right to free movement of workers applies (*BOE* 130, 31.5.01; error correction *BOE* 237, 3.10.2001).

– Royal Decree 658/2001, of 22 June, approving Spain's General Statute on the Legal Profession (*BOE* 164, 10.7.01).

Note: Article 13, section 1 letter a) states that to become a member of a Lawyer's Association one of the requirements is to possess Spanish nationality or the nationality of a European Union Member State or a member state of the European Economic Area unless otherwise stipulated in international treaties or agreements or by virtue of legal exemption. Section 2, letter a) of that same Article provides for the possible legal establishment of formulae to be recognised by the rest of the European Union countries guaranteeing standards of preparation for the practice of the profession. Moreover, Article 17, section 1 states that any lawyer who is a member of any Lawyer's Association in Spain may freely render services throughout all national territory, in the rest of the European Union Member States and in other countries in accordance with the regulations in force in this respect. Consequently, lawyers from other countries may practice in Spain in compliance with applicable regulations.

The judgement delivered by Court 3, Section 6 of the Supreme Court on 3 March 2003 declared Article 63, section 1, letter f) of Royal Decree 658/2001 null and void.

– Royal Decree 784/2001, of 6 July, amending the annexes to Royal Decree 1396/1995 of 4 August, amended in turn by Royal Decree 1754/1998, of 31 July, to incorporate into the Spanish legal system European Commission Directive 2000/5/EC, of 25 February 2000, on a second, general recognition system for professional training (*BOE* 171, 18.7.01).

Note: See this same heading in the 1995–1996 and 1998 editions of this Yearbook.

– Royal Decree 864/2001, of 20 July, approving the Regulation on the enforcement of Organic Act 4/2000, of 11 January, on the rights and freedoms of aliens in Spain and their social integration amended by Organic Act 8/2000, of 22 December (*BOE* 174, 21.7.01; error correction *BOE* 240, 6.10.01).

Note: See this same heading in the 1999–2000 edition of this Yearbook.

– Royal Decree 865/2001, of 20 July, approving the Regulation on the recognition of the statute on stateless persons (*BOE* 174, 21.7.01).

– Royal Decree 905/2001, of 27 July, amending Royal Decree 1081/1989, of 28 August, regulating the recognition of certificates, diplomas and other academic degrees in the area of Architecture in the Member States of the European Economic Area as well as the effective exercise of the right to set up a practice and the unhindered rendering of services (*BOE* 189, 8.8.01).

– Royal Decree 936/2001, of 3 August, regulating the permanent practice of law in Spain with a professional diploma issued by another European Union Member State (*BOE*, 186, 4.8.01; error correction *BOE* 220, 13.9.01).

Note: This provision is the transposition into the Spanish legal system of European Parliament and Council Directive 98/5/EC the purpose of which is to facilitate the

permanent practice of law in a Member State different from the one issuing the law degree.

– Order of 25 October 2001, regulating the equivalency regime applicable to studies carried out in the Netherlands with those corresponding to Spanish Compulsory Secondary Education studies and Baccalaureate (pre-university) studies established under Organic Act 1/1990, of 3 October, on the General Regulation of the Educational System (*BOE* 262, 1.11.01).

– Order of 25 October 2001, regulating the equivalency regime applicable to studies carried out in Belgium with those corresponding to Spanish Compulsory Secondary Education studies and Baccalaureate (pre-university) studies established under Organic Act 1/1990, of 3 October, on the General Regulation of the Educational System (*BOE* 262, 1.11.01).

– Order of 25 de October 2001, regulating the equivalency regime applicable to studies carried out in Germany with those corresponding to Spanish Compulsory Secondary Education studies and Baccalaureate (pre-university) studies established under Organic Act 1/1990, of 3 October, on the General Regulation of the Educational System (*BOE* 262, 1.11.01).

– Royal Decree 1316/2001, of 30 November, regulating the reduction of regular air and sea transport fares for residents of the Autonomous Communities of the Canary Islands, the Balearic Islands and the cities of Ceuta and Melilla (*BOE* 300, 15.12.01; error correction *BOE* 28, 1.2.02).

Note: Article 1 establishes that the beneficiaries of said reductions shall be citizens of Spain as well as of any other European Union Member State or of other States party to the European Economic Area Agreement that accredit their status as residents of the Canary Islands, Balearic Islands, Ceuta or Melilla. Pursuant to Article 3, the resident status of the above mentioned citizens who are not Spanish nationals shall be determined by means of their residency card showing the legal domicile giving rise to the right to fare reduction.

– Act 24/2001, of 27 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.01).

Note: Additional provision eighteen amends Article 10 of the Notary Public Act as regards conditions for access and notary public entrance examinations, requiring Spanish nationality or that of any other European Union country (section 1).

– Resolution of 11 January 2002, of the Deputy Secretariat calling for the publication of the agreement reached by the Council of Ministers on 21 December 2001 determining the contingent of foreign non-Community workers for the year 2002 (*BOE* 11, 12.1.02; error correction *BOE* 58, 8.3.02).

– Order PRE/237/2002, of 8 February, dictating general instructions on the liaison visa number as regards alien affairs (*BOE* 37, 12.2.02).

Note: The liaison visa number (Spanish initials NEV) is a code provided for under Article 9 of the Regulation on the enforcement of Organic Act 4/2000 on the Rights and Freedoms of Aliens in Spain (see this same heading in the 1999–2000 edition of this Yearbook) the purpose of which is to facilitate communication between administrative bodies that take part in the issuing of a visa for stay or residence in Spain.

– Order ECD/272/2002, of 11 February, calling for the enforcement of Royal Decree 86/1987, of 16 January, regulating the conditions applicable to the homologation of degrees of higher education issued abroad (*BOE* 40, 15.2.02).

Note: This provision repeals the Order of 9 February 1987 (*BOE* 13.2.87).

– Act 32/2002, of 5 July, amending Act 17/1999, of 18 May, on the Armed Forces Personnel Regime with the aim of giving aliens access to the status of professional land or sea military personnel (*BOE* 161, 6.7.02).

Note: In this same section, see Royal Decree 1244/2002 approving the Regulation providing access to professional land and sea military status to aliens.

– Royal Decree 645/2002, of 5 July, amending Royal Decree 1946/2000, of 1 December regulating the composition and operation of the Inter-ministerial Commission for Alien Affairs (*BOE* 167, 13.7.02).

– Resolution of 30 August 2002, of the Directorate General for Relations with the Justice Administration calling for the administration of aptitude tests in order to gain access to the practice of law and to carry out the duties of solicitor in Spain by citizens of the European Union and of other states party to the European Economic Area Agreement (*BOE* 220, 13.9.02).

Note: This provision is adopted in application of section eleven of the 30 April 1996 Order (see this same heading in the 1996 edition of this Yearbook) implementing Royal Decree 1665/1991, of 25 October, regulating the general system for the recognition of advanced study degrees issued by Member States of the European Union and of the European Economic Area (see this same heading in the 1991 edition of this Yearbook).

– Royal Decree 1051/2002, of 11 October, approving the Regulation of the *Real y Distinguida Orden Española de Carlos III* (Spanish Royal and Distinguished Order of Charles III) (*BOE* 245, 12.10.02).

Note: For the purpose of this chronicle, mention should be made of Article 9 focusing on the awarding of this insignia to individuals of foreign nationality.

– Royal Decree 1244/2002, of 29 November, approving the Regulation on the access of aliens to the status of professional land and sea military (*BOE* 287, 30.11.02).

Note: This provision is based on Act 32/2002 (see this same section above).

– Royal Decree 1281/2002, of 5 December, approving the General Statute on Spanish Court Solicitors (*BOE* 305, 21.12.02).

Note: Article 8 of the General Statute regulates the general conditions to be met to become a court solicitor. One of these conditions is to “possess Spanish nationality or the nationality of one of the Member States of the European Union or of the States party to the European Economic Area Agreement without prejudice to international treaties or conventions or legal dispensation” (letter A). Another of the conditions is to be the “holder of a licentiate degree in Law or of a foreign degree that, in accordance with current legislation, is homologated with the former as well degrees issued by Member States of the European Union allowing for the practice of solicitor duties in said States and that have been recognised in Spain in compliance with applicable provisions” (letter C).

– Order ECD/3305/2002, of 16 December, amending the Orders of 14 March 1988 and of 30 April 1996, calling for the enforcement of Royal Decree 104/1988 of 29 January, on the homologation and validation of non university degrees issued and studies carried out abroad (*BOE* 311, 28.12.02).

IX. NATURAL PERSONS: LEGAL INDIVIDUALITY, CAPACITY AND NAME

– Act 12/2001, of the Autonomous Community of Aragon, of 2 July, on childhood and adolescence in Aragon (*BOE* 189, 8.8.01).

Note: For the purpose of this chronicle, attention should be given to Article 75 on international adoption.

X. FAMILY LAW

– Act 14/2002, of 25 July, on the Advancement, Attention to and the Protection of Childhood in Castilla y Leon (*BOE* 197, 17.8.02).

Note: Articles 109 to 111 deal with international adoption.

– Organic Act 9/2002, of 10 December, amending Organic Act 10/1995, of 23 November on the Criminal Code and the Civil Code on the abduction of minors (*BOE* 296, 11.12.02).

Note: Article 2 calls for the introduction of Article 225 bis in the Criminal Code number three of which foresees the application of a more severe sentence (the upper half of the severity range) when the minor is taken out of the country or when some condition is demanded for his/her safe return. Article 5 calls for the amendment of Article 103 of the Criminal Code introducing measures prohibiting departure from national territory unless judicial authorisation is granted or prohibiting the issuance of a passport to the minor or the withdrawal of such passport in cases in which there is a risk of abduction. Article 6 calls for the introduction of identical measures in Article 158.3 of the Civil Code.

XI. SUCCESSIONS

XII. CONTRACTS

– Order of 21 March 2001, in compliance with the Decision of the Commission of the European Communities of 15 de February 2001 (2001/160/EC), on the enforcement of Council Directive 72/166/EC on the standardisation of Member States' legislations as regards civil responsibility insurance applicable to the circulation of motor vehicles as well as control of the obligation to guarantee this responsibility with respect to the inclusion of Cyprus in the Multilateral Guarantee Agreement (*BOE* 81, 4.4.01).

Note: In conjunction with the extension to Cyprus of compulsory insurance coverage with regard to the civil responsibility of motor vehicles habitually operating in Spain (Article 1), it was established that the Spanish Customs authorities would not monitor the civil responsibility insurance of the vehicles habitually operating in Cyprus (Article 2).

– Royal Decree 1098/2001, of 12 October, approving the general Regulation of the Public Administration Contract Law (*BOE* 257, 26.10.01; error correction *BOE* n. 303, 19.12.01, error correction and errata *BOE* 34, 8.2.02).

Note: In the interest of this Chronicle, mention should be made of Article 74 (discretionary publicity in the "Official Journal of the European Union") as well as of Annex 1 (Registries of European Union Member States and signatories of the Agreement on the European Economic Area).

– Act 23/2001, of 27 December, on the General State Budgets for the year 2002 (*BOE* 313, 31.12.01).

Note: Additional provision eighteen sets the maximum limit of coverage for new export credit insurance contracts excluding the modality of the open export management insurance policy (PAGEX) and policy 100 that can be contracted and distributed by the *Compañía Española de Seguros de Crédito a la Exportación, Sociedad Anónima* (Spanish Export Credit Insurance Company, Public Limited Company, CESCE) for fiscal year 2002.

– Act 34/2002, of 11 July, on the information society and electronic trade services (*BOE* 166, 12.7.02).

Note: Title IV regulates electronic contracting.

– Act 52/2002, of 30 December, on the General State Budgets for the year 2003 (*BOE* 313, 31.12.02).

Note: Additional provision seventeen sets the maximum limit of coverage for new export credit insurance contracts excluding the modality of the open export management insurance policy (PAGEX) and policy 100 that can be contracted and distributed by the *Compañía Española de Seguros de Crédito a la Exportación, Sociedad*

Anónima (Spanish Export Credit Insurance Company, Public Limited Company, *CESCE*) for fiscal year 2003.

XIII. TORTS

– Royal Decree, 7/2000 of 12 January, approving the Regulation regarding civil responsibility and motor vehicle driver's insurance (*BOE* 12, 13.1.01).

Note: This provision implements the Law on civil responsibility and motor vehicle driver's insurance (former Law on the use and driving of motor vehicles). In this respect, see the note attached to Act 30/1995 of 8 November on the regulation and supervision of private insurance, heading XVIII of the 1995–1996 edition of this Yearbook.

– Act 44/2002, of 22 November, on Financial System Reform Measures (*BOE* 281, 23.11.02).

Note: Article 32, section three creates a new Title III in the Law on Civil Responsibility and Insurance covering the driving of motor vehicles. This title is the transposition into the Spanish legal system of the extra judicial compensation system for traffic accidents foreseen in Directive 2000/26/EC (Fourth Directive on motor vehicle insurance).

XIV. PROPERTY

– Act 17/2001, of 7 December, on Trademarks (*BOE* 294, 8.12.01).

Note: For the purpose of this Chronicle, mention should be made of Article 3 (persons legally authorised to register brands or commercial names), Articles 79 to 83 (international trademarks), Articles 84 to 86 (Community trademarks) as well as Additional Provision fifteen (cooperation of the Spanish Patent and Trademark Office with international organisations and foreign offices. See the following provision.

– Royal Decree 687/2002, of 12 July, approving the Regulation for the enforcement of Act 17/2001, of 7 December, on Trademarks (*BOE* 167, 13.7.02).

Note: Title VII deals specifically with international and community trademarks. See the former provision.

XV. COMPETITION LAW

– Royal Decree 1443/2001, of 21 December, implementing Act 16/1989, of 17 July on the Defence of Competition as regards the control of economic agglomerations (*BOE* 16, 18.1.02).

Note: Article 9 regulates the action of the Competition Defence Service in cases in which the European Commission makes referral of a case with Community dimensions.

XVI. INVESTMENTS AND FOREIGN EXCHANGE

– Royal Decree 343/2001, of 4 April, on the application of the prior administrative authorisation regime to “*Iberia, Líneas Aéreas de España, Sociedad Anónima*” (*BOE* 82, 5.4.01).

Note: The purpose of this provision is to make the purchase of stocks subject to administrative authorisation thus controlling the entrance of partners among the shareholders.

– Order of 28 May 2001, establishing the procedures applicable to tax returns on foreign investment and liquidation as well as procedures for the filing of annual reports and authorisation files (*BOE* 134, 5.6.01).

Note: This provision implements Royal Decree 664/1999, of 23 April, on foreign investment (see this same heading in the 1999–2000 edition of this Yearbook).

– Resolution of 30 May 2001, of the Directorate General for Trade and Investment granting approval for the forms to be used for foreign investment tax returns when the party under obligation to file the return is the investor or the company holding foreign stock (*BOE* 140, 12.6.01).

Note: This provision, adopted in implementation of Royal Decree 664/1999, of 23 April, on foreign investment (see this same heading in the 1999 – 2000 edition of this Yearbook), was annulled by the Resolution of 21 February 2002, delivered by the Directorate General for Trade and Investment (*BOE* 64, 15.3.02).

– Resolution of 31 May 2001, of the Directorate General for Trade and Investment dictating instructions for the filing, by financial intermediaries, of tax returns for foreign investment in the form of negotiable securities quoted on the Spanish Market and for Spanish investment in the form of negotiable securities quoted on foreign markets (*BOE* 141, 13.6.01).

Note: This provision was also adopted in implementation of Royal Decree 664/1999, of 23 April, on foreign investment (see this same heading in the 1999–2000 edition of this Yearbook).

– Order of 9 July 2001, on the regulation of payment methods applicable to foreign trade debt (*BOE* 170, 17.7.01).

– Circular 2/2001, of 30 July, on the declaration of transactions and foreign asset and liability balance sheets corresponding to negotiable securities (*BOE* 184, 2.8.01; error correction *BOE* 191, 10.8.01).

– Royal Decree 945/2001, of 3 August, on the financial management of certain funds earmarked for the purchase of military material and services abroad and international agreements subscribed to by Spain within the jurisdictional scope of the Ministry of Defence (*BOE* 214, 6.9.01).

– Royal Decree 1098/2001, of 12 October, approving the General Regulation of the Public Administration Contract Law (*BOE* 257, 26.10.01; error correction *BOE* 303, 19.12.01, error correction and errata *BOE* 34, 8.2.02).

Note: For the purpose of this Chronicle, mention should be made of Additional Provision eleven (contracts signed and enforced abroad may be paid for in the currency agreed to by the parties).

– Resolution of 20 February 2002, of the Directorate General of the Treasury and Financial Policy regulating the Creators of the Public Debt Market of the Kingdom of Spain (*BOE* 49, 26.2.02).

Note: The purpose of the Creators of the Public Debt Market is to favour liquidity of the Spanish foreign debt market and to cooperate with the Treasury in the foreign and domestic dissemination of State Debt.

– Order ECO/2652/2002, of 24 October, implementing the obligation to communicate transactions with certain countries to the Executive Service of the Commission on the Prevention of Money Laundering and Monetary Infractions (*BOE* 260, 30.10.02).

Note: This provision is based on Article 7.2 of Royal Decree 925/1995 approving the Regulation of the Law on certain measures for the prevention of money laundering (see this same heading in the 1995 edition of this Yearbook). Article one of this ministerial Order makes all transactions with Egypt, Philippines, Guatemala, Indonesia, Myanmar (former Burma), Nigeria and the Ukraine subject to compulsory communication.

XVII. FOREIGN TRADE LAW

– Order of 1 February 2001, eliminating the dispatch procedures prior to the import and export of goods (*BOE* 35, 9.2.01).

– Royal Decree 167/2001, of 23 February, partially amending Royal Decree 1027/1989, of 28 July, on the registration of vessels and maritime licensing (*BOE* 48, 24.2.01).

Note: This provision is a new draft of Article 63 of Royal Decree 1027/1989 eliminating the obligation to procure a favourable report from the Ministry of Agriculture, Fisheries and Food for the import and export of fishing vessels. The European Commission considered this requirement as a restriction to trade between Community states.

– Resolution of 25 April 2001, of the Customs and Special Taxes Department of the State Agency for Tax Administration compiling the regulations applicable to statistics concerning the trade of goods among European Union Member States for fiscal year 2001 (*BOE* 104, 1.5.01).

– Resolution of 19 June 2001, of the Customs and Special Taxes Department of the State Agency for Tax Administration regulating the implementation of the New Computerised Transit System (NCTS) in Spain and the creation of national guarantee models presented by insurance companies (*BOE* 165, 11.7.01).

– Order of 21 June 2001, amending some of the annexes attached to Royal Decree 2071/1993, of 26 November, on protective measures against the introduction and dissemination in national territory and that of the European Economic Community of organisms damaging to plants or plant products and of export and transit to third countries (*BOE* 155, 29.6.01).

– Resolution of 5 July 2001, of the Customs and Special Taxes Department of the State Agency for Tax Administration compiling the regulations applicable to statistics concerning the trade of goods among European Union Member States for fiscal year 2001 (*BOE* 182, 31.7.01).

– Resolution of 30 July 2001, of the Customs and Special Taxes Department of the State Agency for Tax Administration amending the Resolution of 4 December 2000, containing instructions for the formalisation of the Single Administrative Document (SAD) (*BOE* 188, 7.8.01).

Note: See in this section the Resolution of 31 July 2002, of the Customs and Special Taxes Department of the State Agency for Tax Administration.

– Resolution of 10 December 2001, of the Customs and Special Taxes Department of the State Agency for Tax Administration updating the integrated tariff (TARIC) (*BOE* 307, 24.12.01).

– Circular of 13 December 2001, of the General Secretariat for Foreign Trade regarding the procedure and processing of imports and the entry of goods and their trade regimes (*BOE* 4, 4.1.02).

– Order of 14 December 2001, establishing the statistical thresholds above which it becomes mandatory to include certain additional data in the intrastat declaration and the statistical assimilation thresholds for said declarations in compliance with Articles 23 and 28 of the Council of the European Communities Regulation EEC 3330/1991 (*BOE* 308, 25.12.01).

– Resolution of 19 December 2001, of the Customs and Special Taxes Department of the State Agency for Tax Administration compiling the regulations applicable to statistics concerning the trade of goods among European Union Member States for fiscal year 2002 (*BOE* 311, 28.12.01).

Note: This provision was amended by the Resolution of 21 August 2002, of the Customs and Special Taxes Department of the State Agency for Tax Administration (see in this section).

– Order of 18 December 2001, setting out the instructions for the presentation of the waybill for maritime traffic (*BOE* 4, 4.1.02).

Note: The waybill is the statement made to Customs showing fulfilment of customs monitoring obligations of goods set out in the Community Customs Code.

This provision was implemented by two Resolutions of 28 February 2002 of the Customs and Special Taxes Department of the State Agency for Tax Administration (*BOE* 75, 28.3.02).

– Order of 18 December 2001, modifying the Order of the Ministry of Economy and Finance of 27 July 1995 establishing the form for the summary declaration regarding maritime traffic (*BOE* 4, 4.1.02).

– Order of 27 December 2001, amending annexes I and II of the Order of 24 November 1998 regulating the procedure and processing of imports and pre-import notifications (*BOE* 19, 22.1.02).

– Act 24/2001, of 27 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.01).

Note: Additional provision twelve prohibits the export or issuance of certain material for paramilitary or security use.

– Order of 28 December 2001, updating the reference codes of the combined nomenclature contained in Act 38/1992, of 28 December, on Special Taxes (*BOE* 5, 5.1.02).

– Order HAC/360/2002, of 19 February, approving form 349 for the summary declaration of intracommunity transactions and setting forth the general conditions and procedures for its telematic presentation and regulating the social collaboration in the telematic presentation of model 347, the annual declaration of transactions with third parties (*BOE* 46, 22.2.02).

– Royal Decree 211/2002, of 22 February, updating certain value amounts contained in Act 36/1994, of 23 December, on the incorporation into Spanish law of Council Directive 93/7/CEE of 15 March concerning the restitution of cultural assets taken illegally from the territory of a European Union Member State (*BOE* 52, 1.3.02).

– Order APA/776/2002, of 8 April, amending certain annexes of Royal Decree 2071/1993 of 26 November, concerning protective measures against the introduction and subsequent dissemination in national territory and that of the European Economic Community of organisms harmful to plants or plant products as well as their export and transit to third countries (*BOE* 88, 12.4.02).

– Order ECO/1101/2002, of 13 May, regulating the telematic filing of certain foreign trade forms (*BOE* 118, 17.5.02).

Note: This provision is in reference to requests for import certificates (Spanish initials *AGRIM*) and export certificates (Spanish initials *AGREX*) for agricultural products and for the Community Import License and the Community Surveillance Document for the import of industrial products.

– Resolution of 31 July 2002, of the Customs and Special Tax Department of the State Tax Administration Agency amending the Resolution of 4 December 2000, setting out instructions for the formalisation of the Single Administrative Document (SAD) (*BOE* 194, 14.8.02).

Note: See above in this same section the Resolution of 30 July 2001, of the Customs and Special Taxes Department of the State Agency for Tax Administration.

– Resolution of 21 August 2002, of the Customs and Special Tax Department of the State Tax Administration Agency amending the Resolution of 19 December 2001, (*BOE* of the 28th) on the preparation and processing of statistics on the trading of goods between Member States of the European Union for fiscal year 2002 (*BOE* 208, 30.8.02).

Note: See the Resolution of 19 December 2001, above in this section.

– Royal Decree 1134/2002 of 31 October, on the issuing of marine fishing sanctions to Spaniards enlisted on ships sailing under a flag of convenience. (*BOE* 262, 1.11.02).

Note: This provision applies to individuals and legal persons of Spanish nationality legally associated with ships from third countries that fail to meet the obligations stemming from conservation and management measures set out in international law and when the flag state fails to exercise its sanctioning authority (see Art. 1).

XVIII. BUSINESS ASSOCIATION/CORPORATIONS

– Act 15/2001, 9 July, on the fostering and promotion of cinema and the audiovisual sector (*BOE* 164, 10.7.01).

Note: In its scope of application Article 1 includes Spanish companies as well as those of European Union State Members and of the European Economic Area established in Spain. Moreover, Article 2 makes reference to the criteria by which the nationality of cinema and audiovisual work is determined.

– Royal Decree 1098/2001, of 12 October, approving the general Regulation of the Public Administration Contract Law (*BOE* 257, 26.10.01; error correction *BOE* 303, 19.12.01, error correction and errata *BOE* 34, 8.2.02).

Note: In the interest of this Chronicle, mention should be made of Articles 9 (capacity to act on the part of non-Spanish companies of European Community Member States); 10 (capacity to act on the part of other foreign companies); and 23 (official translation of the documentation).

– Royal Decree 1123/2001, of 19 October, partially amending the Private Security Regulation approved by Royal Decree 2364/1994, of 9 December (*BOE* 281, 23.11.01).
Note: Additional Provision three states that all references made to nationality and residence in the Private Security Regulation approved by Royal Decree 2364/1994 apply to the nationality of any of the European Union Member States and to that of the States party to the Agreement on the European Economic Area as well as to residency in the territory of said States.

– Organic Act 1/2002, of 22 March, regulating the Right of Association (*BOE* 73, 26.3.02).

Note: Article 9 states that: “Associations constituted in accordance with this Act shall have legal domicile in Spain . . .” (section 1). “Associations that carry out most of their activities in Spanish territory must have legal domicile in Spain” (section 2). “Without prejudice to Community law, in order to be allowed to carry out activities in Spain on a stable and long-term basis, foreign associations must set up a branch office in Spanish territory” (section 3).

– Act 34/2002 of 11 July, on services provided by the information society and electronic commerce (*BOE* 166, 12.7.02).

Note: Articles 2, 3 and 4 refer to service providers subject to this Act regardless of whether they are based in Spain (Art. 2) or not (Arts. 3 and 4).

– Act 50/2002, of 26 December, on Foundations (*BOE* 310, 27.12.02).

Note: Article 6 focusing on the legal domicile of foundations rules that “Foundations that carry out most of their activities in Spanish territory must have legal domicile in Spain” (section 1). It goes on to state that “Foundations that are registered in Spain and carry out their principal activity abroad shall have statutory domicile at the headquarters of their board of trustees within national territory” (section 2). Article 7 regulates foreign foundations.

– Act 53/2002, of 30 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.02).

Note: Article 100, section 1 amends additional provision fifteen, section four, number 1 of Act 27/1992, on State Merchant Marine Ports and states that shipping companies may request inscription in the special Registry provided that their effective control centre is in the Canary Islands or that they have a permanent establishment or branch office in the Canary Islands in the event that said control centre is located in another part of Spain or abroad. Article 100 amends Article 43 of Act 48/1960, on Air Navigation ruling that the public territorial administrations and private individuals and bodies corporate of a European Union Member State must obtain prior authorisation in order to build or participate in the construction of general interest airports.

XIX. BANKRUPTCY

XX. TRANSPORT LAW

– Royal Decree 101/2002, of 25 January, partially amending Royal Decree 1034/1999 of 18 June on compensation for sea and air transport of goods from or to the Balearic Islands (*BOE* 32, 6.2.02).

Note: These provisions call for a system of public assistance the purpose of which is to lower the cost of the transport of goods from the Balearic Islands to any State of the European Union or the European Economic Area and vice versa.

XXI. LABOUR LAW AND SOCIAL SECURITY

– Resolution of 4 September 2001, of the Directorate-General for Migrations Planning establishing a special deadline in the case of Uruguay for the presentation of the certificate of life and income statement for beneficiaries of assistance pensions (*BOE* 236, 2.10.01).

– Royal Decree 1124/2001, of 19 October, by virtue of which unemployment compensation is incorporated into protective initiatives foreseen in Royal Decree 2234/1981, of 20 August, that includes Spanish personnel hired by the Spanish administration abroad in the General Social Security System (*BOE* 260, 30.10.01).

– Act 16/2001, of 21 November, setting up a special process of consolidation and provision of job posts for statutory personnel in the Social Security's health care institutions of the Health Services branch of the National Health System (*BOE* 280, 22.11.01).

Note: In the interest of this Chronicle, mention should be made of Article 3 setting out the requirements for the beneficiaries of the provision which include: being an individual with Spanish nationality or that of a European Union Member State or of a State of the European Economic Area or with the right to free movement of workers in accordance with the European Community Treaty (section 1, letter a); and not being rendered unfit for professional activity or for access to functions or public services in a Member State nor having been dismissed by disciplinary sanction from any of its public administrations or services during the course of the six preceding years (section 1, letter f).

– Royal Decree 1414/2001, of 14 December, amending Royal Decree 728/1993, of 14 May, establishing old age pensions for Spanish emigrants (*BOE* 311, 28.12.01).

– Royal Decree 53/2002, of 18 January, on Passive Class pension reassessment and supplement for the year 2002 (*BOE* 19, 22.1.02).

Note: Article 9 makes reference to the reassessment of pensions recognised under the auspices of Community regulations on Social Security matters.

– Resolution of 16 May 2002, of the Directorate-General for Migrations Planning establishing a special deadline in the case of Brazil for the presentation of the certificate of life and income statement for beneficiaries of assistance pensions (*BOE* 132, 3.6.02).
Note: This provision refers to old age pensions for Spanish emigrants.

– Resolution of 16 May 2002, of the Directorate-General for Migrations Planning establishing a special deadline in the case of Venezuela for the presentation of the certificate of life and income statement for beneficiaries of assistance pensions (*BOE* 132, 3.6.02).

Note: See the note corresponding to the preceding provision.

– Order TAS/1817/2002, of 8 July, declaring that Spaniards residing in Spain and lending their services at the Headquarters of the Joint Sub-regional Command Southwest of the North Atlantic Treaty Organization are to be included within the scope of application of Royal Decree 2805/1979, of 7 December. (*BOE* 170, 17.7.02).

Note: Royal Decree 2805/1979 includes Spaniards working as civil servants or who are employed by intergovernmental international organisations in the general Social Security system.

XXII. CRIMINAL LAW

XXIII. TAX LAW

– Order of 28 February 2001, approving the form used to request refund of value added tax in the case of an entrepreneur or professional not established in the territory of application of said tax. (*BOE* 74, 27.3.01).

Note: The form approved by this provision should be filed by entrepreneurs or professionals established in EU territory as well as by those established in third countries.

– Order of 26 March 2001, approving forms 565 and 567 in pesetas and euros for the statement-payment of the Special Tax on Certain Means of Transport, form 568 in euros for the refund from the resale or shipment of means of transport outside of the territory and for the physical design and logistics for the filing of form 568 in pesetas and in euros in computer readable format (*BOE* 77, 30.3.01).

Note: Form 568 should be filed when the definitive shipment of the means of transport being resold outside of the territory in which the tax applies has been verified. This must take place within four years of the vehicle's first registration.

– Act of the Autonomous Community of Navarra 8/2001, of 10 April, repealing certain precepts of Act 24/1996, of 30 December, on Corporation Tax (*BOE* 117, 16.5.01).

Note: This provision repeals certain fiscal incentives judged by the European Community to be contrary to Community law.

– Order of 24 May 2001, establishing the limits regarding duties and exemptions for diplomatic or consular regimes and international organisations that are referred to in final provision one of Royal Decree 3485/2000, of 29 December (*BOE* 126, 26.5.01; error correction *BOE* 134, 5.6.01).

– Royal Decree 579/2001, of 1 June, amending the Personal Income Tax Regulation approved by Royal Decree 214/1999, of 5 February, concerning exemptions, wages and earnings from economic activities, obligation to file and withholding and the Regulation on Non-resident Income Tax approved by Royal Decree 326/1999 of 26 February concerning withholding (*BOE* 132, 2.6.01).

Note: Article 1 amends Article 5 (exemption of earnings from work carried out abroad) of the Personal Income Tax Regulation. Article 10 amends Article 14, section 3, letter b), (exceptions regarding the obligation to withhold and make payments on account) of the Regulation on Non-resident Income Tax.

– Order of 5 June 2001, clarifying the inclusion of the Tax on Construction, Installations and Works as regards letter B) of section 1 of Article IV of the Agreement between Spain and the Holy See regarding Economic Affairs of 3 January 1979 (*BOE* 144, 16.6.01).

Note: Said inclusion implies the total and permanent exemption from said tax.

– Royal Decree 995/2001, of 10 September, amending the Corporation Tax Regulation as regards special fiscal regimes (*BOE* 218, 11.9.01).

Note: Article 1 amends Title II (“Application of the special regimes of bodies corporate holders of foreign securities and of mergers, demergers, provisions of assets and securities exchange”) of the Corporation Tax Regulation.

– Resolution of 8 October 2001, of the Customs and Special Tax Department of the State Tax Administration Agency setting out the rules for filling out the accompanying documents protecting the movement of products that are the object of special manufacturing taxes, the system for the electronic transmission of circulation documents and the design of certain statements (*BOE* 255, 24.10.01; error correction *BOE* 299, 14.12.01).

Note: See Resolution of 29 November 2002 in this section.

– Act 24/2001, of 27 December, on fiscal, administrative and social order measures (*BOE* 313, 31.12.01).

Note: Article 4 amends Article 24.1 of Act 41/1998 on Income Tax on non-Residents and Tax Rules (see the following provision). Article 11 amends the Second Book (Decision on Imports and Delivery of Goods in the Canary Islands) of Act 20/1991 modifying the fiscal aspects of the Canary Island Fiscal and Economic System.

– Resolution of 29 November 2002, of the Customs and Special Tax Department of the State Tax Administration Agency amending that of 8 October 2001 setting out the rules for filling out the accompanying documents protecting the movement of products that are the object of special manufacturing taxes, the system for the electronic transmission of circulation documents and the design of certain statements (*BOE* 304, 20.12.02).

Note: See the Resolution of 8 October 2001, above in this section.

– Resolution of 5 December 2002, of the Customs and special taxes department of the state agency for tax administration by virtue of which the Integrated Tariff of Application (TARIC) is updated (*BOE* 307, 24.12.02).

Also see above Section XVII (Foreign Trade Law) in this chronicle on Private International Law.

– Act 46/2002, of 18 December, partially reforming Personal Income Tax and amending the Laws on Corporation Tax and non-Resident Income Tax (*BOE* 303, 19.12.02).

Note: Amendments to the Personal Income Tax that are of interest for this chronicle: Article 33 amends Article 67 of the Act regarding Personal Income Tax (Spanish initials *IRPF*) (deduction for double international taxation). Amendments to the Corporation Tax Act: Article 58 amends Article 67 (European groups of economic interest) of the Corporation Tax Act; Article 65 amends Article 121 (inclusion in the tax base of certain positive earnings made by non resident bodies corporate); Article 66 amends Article 129 (bodies corporate that are holders of foreign securities). Amendments to the non-Resident Income Tax are found in Chapter III (Articles 70 to 83).

– Act 49/2002, of 23 December, on the fiscal regime pertaining to non-profit bodies corporate and of fiscal incentives for patronage (*BOE* 307, 24.12.02).

Note: Article 2, letter d) includes among non-profit bodies corporate «the delegations of foreign foundations inscribed in the Registry of Foundations». References are also made to the non-Resident Income Tax in Articles 21, 23, 25, 26 and 27.

XXIV. INTERLOCAL CONFLICT OF LAWS

– Act of the Autonomous Community of the Balearic Islands 18/2001, of 19 December, on Stable Couples (*BOE* 14, 16.1.02).

Note: Article 2, section 2 states that “In order for this Law to apply, at least one of the two members must have regional citizenship in the Balearic Islands and the expressed submission of both members to the system established there under is required.