

Spanish Municipal Legislation Involving Questions of Private International Law, 2010¹

INTRODUCTORY NOTE: This report is collected only with reference to the norm following its publication in the Official Gazette ("BOE"). The content of the norm and, where applicable, the relations with private international law provisions will be available on the blog "Conflictus Legum" (http://conflictuslegum.blogspot.com/), on the date of publication in the BOE. The blog has a Google device for automatic translation into several languages.

I. SOURCES OF PRIVATE INTERNATIONAL LAW

II. INTERNATIONAL JURISDICTION

- Organic Law 6 of 27 July 2010, complementary to Law 31 of 27 July 2010 simplifies the exchange of information and intelligence among security services of European Union member States, amending Organic Law 6 of 1 July 1985 on the Judiciary (BOE n. 182, 28-7-2010).

III. PROCEDURE AND JUDICIAL ASSISTANCE

- The Agreement of 25 February 2010 of the Plenum of the Supreme Judicial Council enacts Regulation 2 of 2010 on the general criteria for homogeneity of the common activities of the services process (BOE n. 62, 12-3-2010).

- Organic Law 4 of 20 May 2010 addresses on the disciplinary system of the National Police (BOE n. 124, 21-5-2010).

IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGEMENTS AND DECISIONS

- Organic Law 3 of 10 March 2010 amends Organic Law 6 of 1 July 1985, the Judiciary, and complementing the enforcement in the European Union of judgments of forfeiture by commission of criminal offenses (BOE n. 61, 11-3-2010).

© Koninklijke Brill NV, Leiden, 2012

¹ This account was prepared at the Faculty of Law of the *Universitat de les Illes Balears* by Dr. Federico F. Garau Sobrino, Professor of Private International Law and Dr. Silvia Feliu Álvarez de Sotomayor, hired lecturer and doctor of Private International Law.

– Law 4 of 10 March 2010 provides for execution in the European Union of forfeiture of judgments (BOE n. 61, 11-3-2010).

V. INTERNATIONAL COMMERCIAL ARBITRATION

VI. CHOICE OF LAW: SOME GENERAL PROBLEMS

VII. NATIONALITY

- The Resolution of 17 March 2010 of the Secretariat which provides for the publication of the Agreement of the Council of Ministers of 22 January 2010, which extends by one year the deadline for exercising the right to opt for Spanish nationality granted in the seventh additional provision of Law 52 of 26 December 2007, by recognising and extending rights and establishing measures for those who suffered persecution or violence during the civil war and dictatorship (BOE n. 72, 24-3-2010).

VIII. ALIENS, REFUGEES AND CITIZENS OF EUROPEAN COMMUNITY

– Royal Decree 1960 of 18 December 2009 regulated the Spanish Resident Councils Abroad (BOE n. 2, 2-1-2010).

– Resolution of 21 December 2009 of the Public Employment Service, which publishes the Catalogue of Shortage Occupation for the first quarter of 2010 (BOE n. 10, 12-1-2010).

– Royal Decree 35 of 15 January 2010 approved the Regulation of entry and promotion and management of educational training in the military (BOE n. 14, 16-1-2010; error correction BOE n. 91, 15-4-2010).

- EDU/473/2010 of February 26 Order establishes the procedure for access to official university degrees to students from foreign educational systems who have completed courses of study comparable to that required for Spanish Bachelor's degree (BOE n. 54, 3-3-2010).

- Royal Decree 459 of 16 April 2010 regulates the conditions for recognition of credentials obtained in non-member states of the European Union to qualify individuals as specialists in the Health Sciences (BOE n. 108, 4-5-2010).

- EDU/1161/2010 Order of 4 May establishes the procedure for access to Spanish universities by students from education systems covered by Article 38.5 of Organic Law 2 of 3 May 2006 on Education (BOE n. 111, 7-5-2010).

296

– Resolution of 29 April 2010 of the Ministry of Education and Training provides instructions for calculating the average grade to be included in the validation of the credentials and the approval of foreign studies and the degrees of Spanish students (BOE n. 113, 8-5-2010; error correction BOE n. 140, 9-6-2010).

- Resolution of May 14 2010 of the Secretary of State for Immigration and Emigration publishes the decision of the Council of Ministers of 14 May 2010, by approving instructions for authorising temporary residence in Spain for individuals of Saharan origin as part of the "Holidays in Peace 2010" (BOE n. 121, 18-5-2010).

– Royal Decree 764/2010 of 11 June develops Law 26 of 17 July 2006 on the mediation of private insurance and reinsurance in terms of statistical and accounting information and business and professional competence (BOE n. 143, 12-6-2010; error correction BOE 159, 1-7-2010).

- FOM/1841/2010 Order of 5 July sets requirements for the certification of civilian providers of training for air traffic controllers (BOE n. 166, 9-7-2010).

- Resolution of 6 July 6 2010 of the General Secretariat of Universities amends Annexes I and IV of the Order EDU/1161 of 4 May 2010, which establishes the procedure for access to Spanish universities by students from educational systems covered by Article 38.5 of Organic Law 2 of 3 May 2006 on Education (BOE n. 167, 10-7-2010).

– EHA/2264/2010 Order of 20 July sets out regulations and technical instructions for the formation of the electoral census of residents of Spain who are nationals of countries with agreements for municipal elections (BOE n. 208, 27-8-2010).

- Resolution of 7 September 2010 of the Electoral Census Office specifies the procedures and approves the application form for registration on the electoral rolls for municipal elections by nationals of European Union member countries (BOE n. 222, 13-9-2010).

- Order ITC/2505/2010 of 22 September regulates the recognition of the professional qualifications of European Union citizens to serve as industrial property agents for one year in Spain (BOE n. 235, 28-9-2010).

– Law 4/2009 of the Autonomous Community of Castilla-La Mancha, 15 October, of Chambers of Commerce and Industry of Castilla-La Mancha (BOE n. 256, 22-10-2010).

- Resolution of 15 October 2010 of the Electoral Census Office specifies the procedures and approves the application form for registration by residents of Spain on the electoral rolls of nationals from countries with arrangements for municipal elections (BOE n. 268, 5-11-2010). - FOM/2872/2010 Order 5 November specifies the criteria for operating licenses for railway staff exercising functions related to traffic safety and for the training centres and medical examinations of such personnel (BOE n. 271, 9-11-2010).

- TIN/3364/2010 Order of 28 December regulates the collective management of contracts originating in 2011 (BOE n. 317, 30-12-2010).

IX. NATURAL PERSONS: LEGAL INDIVIDUALITY, CAPACITY AND NAME

– Instruction 24 February 2010 of the Directorate General of Registries and Notaries, calls for the recognition of the names registered in other European Union member countries (BOE n. 60, 10.3.2010).

– Instruction 5 October 2010 of the Directorate General of Registries and Notaries, governing registration of the parentage of children born through gestation al surrogacy (BOE n. 243, 7-10-2010).

X. FAMILY LAW

– Law 14/2010 of the Autonomous Community of Catalonia 27 May defines the rights and opportunities of children and adolescents (BOE n. 156, 28-6-2010).

– Law 25/2010 of the Autonomous Community of Catalonia 29 July, the second book of the Civil Code of Catalonia on the individual and family (BOE n. 203, 21-8-2010).

- Law 18/2010 of the Foral Community of Navarre 8 November, amends the Regional Law 15/2005 of 5 December, on the advocacy and care for and protection of children and adolescents (BOE n. 315, 28-12-2010).

XI. SUCCESSIONS

XII. CONTRACTS

– Royal Decree 201/2010 of 26 February regulates the exercise of trade duty-free data communication and registration of franchisors (BOE n. 63, 13-2-2010).

XIII. TORTS

XIV. PROPERTY

- Circular 7/2010 Bank of Spain of 30 November, to banks, on development of certain aspects of the mortgage market (BOE n. 296, 6-12-2010).

XV. COMPETITION LAW

- Royal Decree 195 of 26 February 2010 amends Royal Decree 2364/1994 of 9 December, approves the Private Security Regulation to adapt it to changes in Private Security Law 23 of 30 July 1992, Law 25 of 22 December 2009 amends various laws to adapt them to the law on free access to activities (BOE n. 60, 10-3-2010).

– Royal Decree 131 of 12 February 2010 amends Royal Decree 332 of 3 April 1992 permitting private institutions to teach general education, Royal Decree 806 of 28 May 1993, on the regime of foreign schools in Spain, and Royal Decree 321/1994 of 25 February on approval of private schools to provide arts education to adapt them to the Law 17/2009, of 23 November, on free access to activities (BOE n. 62, 12-3-2010).

– Royal Decree 201/2010 of 26 February regulates the exercise of trade duty-free data communication and registration of franchisors (BOE n. 63, 13-2-2010).

- Royal Decree 248/2010 of 5 March amends the regulation of explosives, approved by Royal Decree 230/1998 of 16 February, to accommodate the provisions of Law 17/2009 of 23 November on free access to activities (BOE n. 67, 18-3-2010).

- Royal Decree 249/2010 of 5 March amends certain provisions on energy and mines to the provisions of Law 17/2009 of 23 November 23 on the free access to service activities and exercise, and Law 25/2009 of 22 December which amends various laws to conform to the Law on free access to activities (BOE n. 67, 18-3-2010).

- Royal Decree 245/2010 of 5 March 5 amends the Royal Decree 2245/1986 of 10 October, which approves the Regulations for the Implementation of Patent Law 11/1986 of 20 March (BOE n. 71, 23-3-2010).

- Royal Decree 338/2010 of 19 March amends the Rules on the infrastructure for quality and safety, which were approved by Royal Decree 2200/1995 of 28 December (BOE n. 84, 7-4-2010).

- Royal Decree 339/2010 of 19 March amends Royal Decree 889/2006 of 21 July, regulating State metrological control of measuring instruments to conform to the Law 25/2009 of 22 December, which amends various laws to adapt them to the law on free access to activities (BOE n. 84, 7-4-2010).

– Law 1/2010 of the Autonomous Community of Galicia of 11 February amends various laws of Galicia on imposing Directive 2006/123/EC of the European Parliament and the Council of 12 December 2006 on services in the internal market (BOE n. 86, 9-4-2010).

– Royal Decree 560/2010 of 7 May 7 amends various regulations on industrial safety in accordance with the Law 17/2009 of 23 November on free access to services and activities and exercise, and Law 25/2009 of 22 December, which amends various laws to adapt

300

them to the law on free access to activities (BOE n. 125, 22-5-2010; error correction BOE n. 149, 19-6-2010, BOE n. 207, 26-8-2010).

– Regional Law [Ley Foral] 6/2010 of the Autonomous Community of Navarra (Comunidad Foral de Navarra), 6 April, amends various provincial laws on imposing Directive 2006/123/EC on services in the market (BOE n. 129, 27-5-2010).

- Regional Law [Ley Foral] 7/2010 of Autonomous Community of Navarra (Comunidad Foral de Navarra), 6 April, amends the Regional Law 6/1990 of 2 July, of the Local Government of Navarre to adapt it to Directive 2006/123/EC on services in the market (BOE n. 129, 27-5-2010).

– Law 2/2010 of the Autonomous Community of Cantabria of 4 May, amends Law 1/2002 of 26 February of the Commerce of Cantabria and further rules for its adaptation to Directive 2006/123/EC, the European Parliament and the Council of 12 December 2006 relating to the Services in the Internal Market (BOE n. 131, 29-5-2010).

- Law 3/2010 of the Autonomous Community of Andalusia, 21 May amends various laws for the implementation in Andalusia Directive 2006/123/EC of 12 December 2006, the European Parliament and of Council on services in the Internal Market (BOE n. 151, 22-6-2010).

– Trade Act 2/2010 of the Autonomous Community of Castilla-La Mancha, 13 May, on trading Castilla-La Mancha (BOE n. 178, 23-7-2010).

– Royal Decree 919/2010 of 16 July amends the Regulation on the Law of Land Transport Management to adapt it to the Law 25/2009 of 22 December, which amends various laws to conform to the law on free access to activities and its use (BOE n. 189, 5-8-2010).

– Royal Decree 1000/2010 of 5 August, defines the requirements for obtaining a college visa (BOE n. 190, 6-8-2010).

– Law 33/2010 of 5 August modifies Law 48/2003 of 26 November, on economic and service delivery at ports of general interest (BOE n. 191, 7-8-2010).

Law 7/2010 of the Autonomous Community of Extremadura 19 July modifies Law 3/2002, dated 9 May, on the commerce within the Autonomous Community of Extremadura (BOE n. 192, 9-8-2010; error correction BOE n. 256, 22-10-2010).

– Law 8/2010 of the Autonomous Community of Extremadura 19 July, on the fair activities of the Autonomous Community of Extremadura (BOE n. 192, 9-8-2010).

– Law 7/2009 of the Autonomous Community of Castilla-La Mancha 17 December amends legislation for imposing Directive 2006/123/EC of 12 December, the European Parliament and the Council on the Services in the Internal Market (BOE n. 256, 22-10-2010). – Legislative Decree 3/2010 of the Autonomous Community of Catalonia 5 October, describes to the adequacy of rules with the force of law to the Directive 2006/123/EC of the European Parliament and the Council of 12 December 2006 on services in the internal market (BOE n. 257, 23-10-2010).

 Law 12/2010 of the Autonomous Community of Extremadura 16 November, increases the creation and consolidation of companies in the region of Extremadura (BOE n. 300, 10-12-2010).

- Law 12/2010 of the Autonomous Community of the Balearic Islands 12 November, amends legislation to impose in the Balearic Islands Directive 2006/123/EC of 12 December, the European Parliament and the Council on services in the market (BOE n. 308, 20-12-2010).

– Tourism Law 14/2010 of the Community of Castilla y León, 9 December (BOE n. 317, 30-12-2010).

- Law 43/2010 of 30 December applies to the universal postal service, user's rights and the postal market (BOE n. 318, 31-12-2010).

XVI. INVESTMENTS AND FOREIGN EXCHANGE

- Royal Decree 109/2010 of 5 February, amends various royal decrees on health to conform to the Law 17/2009 23 November, on free access to activities and its use and Law 25/2009 of 22 December, which amends various laws to adapt them to the Law on free access to activities and its use (BOE n. 44, 19-2-2010).

– Law 10/2010 of 28 April is directed towards the prevention of money laundering and financing of terrorism (BOE n. 103, 29-4-2010).

- Order EHA/1464/2010 of 28 May, amends the Order ECO/2652/2002, 24 October, which enforces the obligations of communications operations in specific countries to the Executive Service Commission on the Prevention of Money Laundering and Monetary Offences (BOE n. 138, 7-6-2010).

– Order EHA/1608/2010 of 14 June, on transparency of conditions and information requirements for payment services (BOE n. 148, 18-6-2010).

– Law 11/2010 of 28 June, on reform of financial support for the internationalisation of Spanish companies (BOE n. 157, 29-6-2010).

– Resolution of 1 July 2010 of the Directorate General for Trade and Investment adopts the models of a foreign investment statement when compelled to testify is the investor or company with foreign participation, which replaces previous resolutions on this matter (BOE n. 169, 13-7-2010).

- Circular 5/2010 of 28 September of the Bank of Spain, describes information the potential acquirer must include in the notification referred to in Article 57.1 of Law 26/1988 of 29 July, on the discipline and intervention of banks (BOE n. 246, 11-10-2010).

- Resolution of 1 December 2010 of the Ministry of Economy published the Resolution of the Council of Ministers, establishing specifications for the application of Chapters IV and V to Regulation (EU) No. 961/2010 to the Council of 25 October 2010 concerning restrictive measures against Iran and repealing Regulation (EC) No 423/2007 (BOE n. 294, 4-12-2010).

- Circular 5/2010 of the National commission of the Stock Market 18 November, on information that acquirer must include in the notification referred to in Article 69.4 of the Law 24/1988 of 28 July, of the Stock Market and Article 45.3 of Law 35/2003 of 4 November on Collective Investment Institutions, for the prudential assessment of acquisitions and increased holdings in investment services and management companies by collective investment schemes (BOE n. 296, 6-12-2010).

- Order EHA/3241/2010 of 13 December, approving the list of information to submit in cases of acquisition or increase of shareholdings and for those who intend to perform administrative and management functions in insurance, reinsurance and companies whose principal activity of which is to acquire holdings in such entities (BOE n. 306, 17-12-2010).

– Law 39/2010 of 22 December, addresses the General State Budget for 2011 (BOE n. 311, 23-12-2010).

XVII. FOREIGN TRADE LAW

- PRE/531/2010 Order of February 26, included in Annex I of Royal Decree 2163/1994 of 4 November, which implements the EU harmonised system of authorisation for marketing and use of plant protection products containing multiple active substances (BOE n. 59, 9-3-2010).

- Circular of 1 March 2010, the General Secretariat of Foreign Trade, details the processing of imports and the arrivals of goods and trade regimes (BOE n. 60, 10-3-2010; error correction BOE n. 75, 27-3-2010).

– Royal Decree 200/2010 of 26 February amends Royal Decree 1882/1978 of 26 July on marketing channels for agricultural and fishery products for food and Royal Decree 225/2006 of 24 February, regulating certain aspects of distance sales and registration of distance sales companies for imposing Directive 2006/123/EC of the European Parliament and Council of 12 December 2006 on services in the market (BOE n. 63, 13-3-2010).

– Royal Decree 335/2010 of 19 March regulates custom agents and the right to make customs declarations (BOE n. 90, 14-4-2010).

 Royal Decree Law 6/2010 of 9 April defines measures to boost economic recovery and employment (BOE n. 89, 13-4-2010; error correction BOE n. 93, 17-4-2010, y BOE n. 95, 20-4-2010).

– Royal Decree 563/2010 of 7 May approves the regulation of fireworks and cartridge factories (BOE n. 113, 8-5-2010).

– ARM/2077/2010 Order of 27 July regulates access by vessels of third countries, transit operations, transshipment, import and export of fishery products to prevent, deter and eliminate illegal, unreported and unregulated activity (BOE n. 185, 31-7-2010).

- Resolution of 8 September 2010 of the Department of Customs and Excise of the State Tax Administration Agency amends the 15 December 2009, which set out instructions for execution of the unique SPD Administrative document (BOE n. 225, 16-9-2010).

– Royal Decree 1130/2010 of 10 September amends the Royal Decree 58/2005 of 21 January, by adopting protective measures against the introduction and spread in Spain and the European Community of organisms harmful to plants or plant products, as well as for export and transit to third countries (BOE n. 239, 2-10-2010).

– Order PRE/2851/2010 4 November amends Annex I of Royal Decree 2163/1994 of 4 November, which implements the EU harmonised system for authorisation to market and use pesticides, include active substances cyflufenamid and malathion, suppress tolifluanida as an active substances, specific provisions of the active substance clothianidin, thiamethoxam, fipronil and imidacloprid and expand the use of the active substance penconazole (BOE n. 269, 6-11-2010).

– Law 39/2010 of 22 December addresses the General State Budget for 2011 (BOE n. 311, 23-12-2010).

- Order EHA/3384/2010 of 17 December, sets thresholds for the trading of goods between Member States of the European Union by 2011 (BOE n. 318, 31-12-2010).

Also see above Section XXIII (Tax Law) in this chronicle on Private International Law.

XVIII. BUSINESS ASSOCIATION / CORPORATIONS

Act 1/2010 of 1 March amends the Law 7/1996 of 15 January, the Retail Trade (BOE n. 53, 2-3-2010).

– Law 9/2010 of 14 April regulates the provision of air traffic services, establishing the obligations of civilian providers of such services and specifying minimum working conditions for civilian air traffic controllers (BOE n. 91, 15-4-2010).

– Royal Decree 563/2010 of 7 May, which approves the regulation of fireworks and cartridge factories (BOE n. 113, 8-5-2010).

- Royal Decree 490/2010 of 23 April amends Royal Decree 2062/2008 of 12 December, which implements Cinema Act 55/2007 of 28 December (BOE n. 115, 11-5-2010).

– Royal Decree 559/2010 of 7 May approves the Integrated Industrial Registry Regulations (BOE n. 125, 22-5-2010).

- Royal Decree 712/2010 of 28 May, on legal requirements of payment services and payment institutions (BOE n. 131, 29-5-2010).

- Royal Decree 749/2010 of 7 June amendes the Regulation of Law 35/2003 of 4 November, on Collective Investment Institutions, approved by Royal Decree 1309/2005 of 4 November and other regulations on taxation (BOE n. 139, 8-6-2010).

– Order EHA/1665/2010 of 11 June implements Articles 71 and 76 of Royal Decree 217/2008 of 15 February on the legal regime for investment services firms and other entities that provide investment services for tariffs and standard contracts (BOE n. 152, 23-6-2010; error correction BOE 166, 9-7-2010).

- Order EHA/1718/2010 of 11 June regulates the advertising of banking products and services (BOE n. 157, 29-6-2010).

- Law 12/2010 of 30 June amends Law 19/1988 of 12 July, Auditing, Law 24/1988 of 28 July on the Securities Market and the text Consolidated Corporations Act approved by Royal Decree 1564/1989 of 22 December for its adaptation to Community rules (BOE n. 159, 1-7-2010).

- Royal Decree 1/2010 of 2 July approves the revised text of the Capital Company Act (BOE n. 161, 3-7-2010; error correction BOE n. 210, 30-8-2010).

- Royal Decree Law 11/2010 of 9 July addresses governing bodies and other aspects of the legal status of savings banks] (BOE n. 169, 13-7-2010; error correction BOE n. 173, 17-7-2010).

- Circular 4/2010 of 30 July, of the Bank of Spain addresses on agents of credit institutions and agreements for the regular provision of financial services (BOE n. 188, 4-8-2010; error correction BOE n. 190, 6-8-2010).

 Decree-Law 5/2010 of the Autonomous Community of Catalonia of 3 August modifies the text of the Savings Bank Act of Catalonia, approved by Legislative Decree 1/2008 of 11 March (BOE n. 239, 2-10-2010).

304

 Royal Decree 1593/2010 of 26 November amends Royal Decree 210/2004 of 6 February by establishes a monitoring and information system for maritime traffic (BOE n. 289, 30-11-2010).

Also see above Section XXIII (Tax Law) in this chronicle on Private International Law.

XIX. BANKRUPTCY

XX. TRANSPORT LAW

– Law 11/2010 of the Autonomous Community of the Balearic Islands, from 2 November, addresses the management of shipping in the Balearic Islands (BOE n. 308, 20-12-2010).

– Royal Decree 1737/2010 of 23 December approves the regulation of the inspection of foreign ships in Spanish ports (BOE n. 317, 30-12-2010).

XXI. LABOUR LAW AND SOCIAL SECURITY

- Resolution of 4 January 2010 of the Directorate General of Foreign Spanish Citizenship extends the right to health care for all beneficiaries of need-based financial aid for Spanish residents abroad proving this condition the day 31 December (BOE n. 13, 15-1-2010).

- Royal Decree 103/2010 of 5 February amends the General Regulation on procedures for the imposition of sanctions for violations of social order and the liquidation of quota records of Social Security, approved by Royal Decree 928/1998 of 14 May (BOE n. 47, 23-2-2010).

XXII. CRIMINAL LAW

– Organic Law 5/2010 of 22 June 22 amends the Organic Law 10/1995 of 23 November, Penal Code (BOE n. 152, 23-6-2010).

XXIII. TAX LAW

- Organic Law 1/2010 of 19 February amends the organic law of the Constitutional Court and the Judiciary (BOE n. 45, 20-2-2010).

- Act 2/2010 of 1 March, imposes directives on indirect taxation and amends the Law on Income Tax for Non-Residents to adapt it to the European Community legislation (BOE n. 53, 2-3-2010; error correction BOE n. 128, 26-5-2010). – Royal Decree 191/2010 of 26 February amends the Excise Regulations, approved by Royal Decree 1165/1995, of 7 July (BOE n. 53, 2-3-2010).

- Royal Decree 192/2010 of 26 February amends the Regulation on Value Added Tax, approved by Royal Decree 1624/1992 of 29 December, and the General Rules of operations, management procedures, tax inspection and the development of common rules of procedures for the application of taxes, approved by Royal Decree 1065/2007, of 27 July for the incorporation of certain EU directives (BOE n. 53, 2-3-2010).

- Royal Decree 897/2010 of 9 July amends the Society Tax Regulations approved by Royal Decree 1777/2004 of 30 July, which specified documentation requirements for transactions (BOE n. 167, 10-7-2010).

– Law 39/2010 of 22 December addresses the General State Budget for 2011 (BOE n. 311, 23-12-2010).

– Royal Decree 1789/2010 of 30 December amends the Rules of the Value Added Tax and the Regulation on billing obligations in relation to compliance with certain formal obligations (BOE n. 318, 31-12-2010).

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

XXIV. INTERLOCAL CONFLICT OF LAWS