

RocaJunyent Informs

Litigation, Arbitration and Mediation Department

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Legal Transformations: Detailed Analysis of Royal Decree-Law 6/2023

Royal Decree-Law 6/2023 of 19 December, approving urgent measures for the implementation of the Recovery, Transformation and Resilience Plan in the areas of public justice services, civil service, local government and patronage.

On 20 December 2023, Royal Decree-Law 6/2023 was approved, bringing with it important reforms to the Civil Procedure Act and procedural novelties.

The aforementioned Royal Decree is divided into four books, the most important of which is Book I, which includes digital and procedural efficiency measures to facilitate the intervention of citizens in judicial proceedings.

The main reforms are based on the following:

The place of court proceedings and procedural acts by telematic presence:

With regard to the face-to-face mode for the performance of judicial actions and procedural acts, section 2 is amended and a new section 4 is introduced in Article 129 of the Civil Procedure Act.

Accordingly, in proceedings that must be held outside the judicial district, provided that the court has the appropriate means for its use, they may be held by videoconference and judicial proceedings may also be held by videoconference, under the terms established in Article 229 of the Organic Law of the Judiciary.

Minimum amount of the ordinary trial: claims exceeding €15,000 (ex Art. 249.2).

There is a notorious reform with regard to the modification of the amount of the claims by way of the ordinary trial with the modification of article 249.2, increasing the amount to €15,000.00 for the ordinary trial to be processed, except for the exceptions of article 249.1.

Previously, claims in excess of six thousand euros and claims whose economic interest is impossible to calculate, even relatively speaking, were also settled in ordinary proceedings.

The amendment affects, in turn, Article 250, with respect to those procedures in which the verbal trial procedure must be followed and introducing new cases of claims that must be processed specifically through this procedure, regardless of the amount involved.

In accordance with the aforementioned modification to increase the amount of the ordinary trial, those trials which, due to the amount involved, must be followed by means of the verbal trial are increased to €15,000.

Three new specific cases to be followed by oral proceedings have been added, increasing the number of cases from 13 to 16, including the following:

- Lawsuits in which individual actions are brought relating to general contracting conditions in the cases provided for in the legislation on this matter.
- Those in which the actions granted to the Owners' Meetings and to the latter by Law 49/1960, of 21 July, on Horizontal Property, are exercised, provided that they deal exclusively with claims for payment, whatever the amount may be.
- Those in which an action for the division of common property is brought.

There is also an important reform with respect to section 337.1. of the announcement of opinions when they cannot be provided with the claim or with the defence, since, in the previous regulation, the opinions that, if applicable, are intended to be used must

be expressed in one or the other, which must be provided, for their transfer to the opposing party, as soon as they are available, and in any case five days before the start of the hearing prior to the ordinary trial or the hearing in the verbal trial.

On the other hand, with the current reform, if it is not possible for the parties to provide expert opinions prepared by experts appointed by them, together with the claim or defence, they shall state in one or the other the opinions they intend to avail themselves of, which they will have to provide, for their transfer to the opposing party, as soon as they have them, and in any event five days before the start of the hearing prior to the ordinary trial or within thirty days from the filing of the claim or the defence in the oral trial.

This time limit may be extended by the court where the nature of the expert evidence so requires and there is good cause.

The introduction into the oral proceedings of claims in which individual actions relating to general contracting conditions are brought in the cases provided for in the legislation on this matter (250.1.14.) leads, in turn, to the introduction of Article 438 bis in the LEC.

In the case of the claims referred to in Article 250.1.14, without prejudice to the provisions of the first paragraph of Article 438.1, the legal counsel for the Administration of Justice shall inform the court, prior to the admission of the claim, when he or she considers that the claim includes claims that are the subject of previous proceedings brought by other litigants, that it is not necessary to check the transparency of the clause or assess the existence of defects in the contracting party's consent and that the general contracting conditions in question are substantially identical.

This procedure entails, without prejudice to the defendant's defence in accordance with the formalities of Article 404, the court having to be informed in order to be able to rule on similar proceedings on the unfairness of contract terms and the defect of consent, when the plaintiff, defendant and object have the same identity.

The incorporation of this new procedure entails the inclusion of a series of sections which, in summary, establish that the plaintiff and the defendant may request in their statement of claim and defence that the procedure be subject to the regulation of this article, provided that the conditions indicated in the previous paragraph are met.

Once the application and the case have been examined, the court shall issue an order suspending the course of the proceedings until a final judgment has been handed down in the proceedings identified as a witness or, where appropriate, it shall issue an order to continue with the proceedings. In the event that the order granting the suspension has been issued, a copy of those proceedings that are included in the witness proceedings and which, in the opinion of the court, allow the circumstances set

out in the first paragraph to be assessed, shall be sent together with the notification thereof, and shall be attached to the proceedings.

An appeal may be lodged against the order granting the suspension, which shall be dealt with as a matter of priority and urgency.

The approval of the Royal Decree brings with it the modification of a wide variety of articles of the LEC, summarising in this post, those that may be the most important.

The entry into force of these procedural reforms will take place on 20 March 2024, in accordance with Final Provision 9.2.2, which establishes:

However, the provisions contained in Title VIII of Book One and in the first, second and fourth final provisions shall enter into force three months after their publication in the Official State Gazette. The amendments made to the Law on Civil Proceedings are contained in Title VIII of Book One of the Royal Decree.