

## Prima pagină>Dreptul familiei și succesiunea>Divorț și separare legală Divorce and legal separation

Spania

### 1 What are the conditions for obtaining a divorce?

Since the reform introduced by Law 15/2005, there have been no requirements relating to prior separation or statutory grounds to obtain a divorce in Spain. Divorce proceedings may be initiated at the request of one of the spouses only, both of them or one of them with the consent of the other. To obtain a divorce decree it is enough for the following requirements and circumstances to be met:

Three months have elapsed since the celebration of the marriage if the divorce is requested by both spouses or by one with the consent of the other.

Three months have elapsed since the celebration of the marriage if the divorce is requested by only one of the spouses.

Divorce may be applied for without any waiting time after the marriage where there is evidence of a risk to the life, physical integrity, freedom, moral integrity or sexual freedom and integrity of the petitioning spouse or children of both or either of the parties to the marriage.

It follows from the above that it is sufficient for one spouse not to wish to continue the marriage to enable them to petition for and obtain a divorce without the respondent being entitled to oppose it for material reasons, once the above-mentioned period has elapsed and in the last case without even waiting for this period to elapse.

Divorce proceedings may be consensual or disputed.

In the first case, the application must be accompanied by a settlement agreement setting out the measures agreed in relation to the care of children subject to joint parental authority, the exercise of parental authority and, where appropriate, arrangements for children to communicate and stay with the parent who does not habitually live with them, if deemed necessary arrangements for grandchildren to visit and communicate with their grandparents, always taking into account the interests of the children, the arrangements for any pets, taking into account the interests of the family members and the welfare of the animal; the distribution of periods of cohabitation and care where necessary, as well as the costs associated with animal care, use of the home and furnishings, contribution to the costs of marriage and maintenance, as well as the basis for updating them and any guarantees, liquidation where necessary of the matrimonial property regime, and maintenance to be paid, where appropriate, to one of the spouses.

In the second case, the petition must be accompanied by a proposal for the measures that are to govern the effects of the divorce or separation and that will be discussed during the proceedings, and the judicial authority decides if the spouses fail to reach an agreement.

In any case, the courts have jurisdiction to deal with any unemancipated minor children or older children in respect of whom the courts have ordered parental support measures.

If there are no children, jurisdiction is assigned (at the choice of the parties) to the court clerk or notary.

In carrying out the notarial duties assigned to them, diplomatic or consular officials cannot authorise a public deed of separation or divorce.

The regulations on annulment, legal separation and divorce apply to all marriages between persons of the same sex or different sexes, since under Law 13 /2005 marriage is subject to the same requirements and effects whether the two parties are of the same sex or different sexes.

### 2 What are the grounds for divorce?

Since the reform introduced by Law 15/2005, divorce in Spain does not require any grounds, since maintaining the marriage bond is considered to be a manifestation of the free will of the spouses.

The only requirement is that the periods referred to in Section 1 have elapsed.

### 3 What are the legal consequences of a divorce as regards:

#### 3.1 the personal relations between the spouses (e.g. the surname)

The first effect of divorce is that the bond of marriage is dissolved. It terminates the obligation to live together and provide mutual assistance deriving from this bond, and both spouses are free again to contract new marriages.

Spanish law does not require the wife to acquire her husband's surname as a result of marriage, as happens in other countries.

#### 3.2 the division of property of the spouses

Divorce brings about the dissolution of the matrimonial property regime and the liquidation of any joint property that may have accumulated, culminating in the division of the common assets, a process that will be determined by the property regime governing the marriage.

#### 3.3 the minor children of the spouses

Legal separation, annulment and divorce do not absolve the parents from their responsibilities towards their children.

With regard to personal measures concerning the children of the marriage, a decision must be taken on: a) custody of the children, b) parental authority, and c) arrangements for visits and stays. All these measures fall under 'parental responsibility' as referred to in EU instruments.

Parental authority, as a form of parental responsibility, must always be exercised in the interests of the children, according to their personality and respecting their rights, and physical and mental integrity. This includes the following duties and powers: 1. care, custody, food, upbringing and a full education, 2.

representation and management of property, and 3. deciding on the place of habitual residence of the minor, which may be changed only with the consent of both parents or, failing that, by judicial authorisation. Changing the residence of minor children without the consent of both parents may constitute abduction.

In relation to custody, the best interests of the child will determine whether shared or one-parent custody is granted.

Different legislative systems exist in Spain's autonomous communities, which have their own family law rules that must be consulted in each case.

The Civil Code provides that joint custody of children must be granted when requested by the parents in the proposed settlement agreement or when such an agreement is reached during proceedings. If no agreement can be reached, custody may be decided by the court, at the request of one party, following a report by the Prosecution Service (Ministerio Fiscal), based on proper protection of the best interests of the child. Supreme Court case-law has established that joint custody is not an exception, but rather a normal and even desirable measure, in so far as it implements the children's right to contact with both parents, even in crises, provided it is feasible.

As regards maintenance of children of the marriage, the principle is that the parents' split does not absolve them from their responsibilities towards their children and both must contribute to child maintenance. Maintenance covers everything that is essential in terms of food, accommodation, clothing and medical care, upbringing and education while the child is a minor and even subsequently where the child has been unable to complete their education through no fault of their own.

Normally this means that the spouse without custody of the children is required to make maintenance payments to the one who does have custody of them, until they become financially independent or have failed to do so for reasons attributable to them. If joint custody is granted, usually each parent pays the ordinary expenses of the children during the period in which they have them (clothing, food or accommodation), while for the remaining expenses a joint account is opened into which each parent pays monthly contributions or pays in proportion to their financial circumstances. However, if the financial circumstances of the two parents are very different, there is nothing to prevent one parent from giving a sum of money to the other so that the latter can meet the children's expenses during the time that they have the children.

The General Council of the Judiciary (Consejo General del Poder Judicial) has [Tables for determining child maintenance payments in family proceedings](#) and offers an online IT application for easy calculations in each case. These are merely for guidance.

#### **3.4 the obligation to pay maintenance to the other spouse?**

A spouse whose separation or divorce leads to a financial imbalance with respect to the other, so that the spouse in question is worse off than before the marriage breakdown, is entitled to compensation, which may take the form of a temporary or indefinite allowance, or a single payment, as determined in the settlement agreement or in the judgment.

Some territories have special arrangements in this regard.

#### **4 What does the legal term 'legal separation' mean in practical terms?**

Legal separation means that the spouses no longer live together; in other words it terminates the obligation of cohabitation but the marriage bond remains valid. The possibility of tying assets of the other spouse to the exercise of domestic authority also ceases to exist.

#### **5 What are the conditions for legal separation?**

As with divorce, since the reform introduced by Law 15/2005, legal separation in Spain does not require any grounds, since maintaining the marriage bond is considered to be a manifestation of the free will of the spouses.

The only requirement is to observe a minimum length of time after the celebration of the marriage before bringing legal separation proceedings (except in certain cases). These periods are the same as for divorce proceedings, as set out in point 1.

#### **6 What are the legal consequences of legal separation?**

The effects of legal separation are the same as those of divorce: the spouses no longer live together and the other spouse's assets can no longer be tied to the exercise of domestic authority from the date of the final judgment or decree declaring it or once both spouses have given consent in a public deed. The difference is that it loosens the marriage bond but does not dissolve it.

Reconciliation is therefore possible, as the marriage bond has not been dissolved. In order to have legal effect, reconciliation must be notified to the court by both parties separately. At the same time, if the spouses have married under a joint property regime (such as *sociedad de gananciales*, whereby one half of the earnings of each spouse is considered to be owned by the other spouse), this regime is dissolved and replaced by a separation of property regime. Likewise, legal separation (and even de facto separation) puts an end to the presumption of filiation, whereby children born less than 300 days after the separation are presumed to be children of the husband.

#### **7 What does the term 'marriage annulment' mean in practice?**

Marriage annulment (applicable to both same-sex and opposite-sex marriages) entails a court declaration that the marriage contracted suffered from defects that made it ineffective from the outset, the court declaration meaning in effect that the marriage never existed and therefore never had legal effect.

Accordingly, both spouses regain their status of single persons.

It entails the dissolution and liquidation of the matrimonial property regime and an end to the duty of cohabitation and mutual assistance.

In contrast to cases of legal separation or divorce, the non-existence of the marriage means that no compensatory allowance is payable, since this requires a valid marriage to have existed; this situation is mitigated by the possibility of the spouse who had acted in good faith being awarded a payment in damages where the other spouse had acted in bad faith in contracting the marriage.

The legal effects already produced prior to the court judgment annulling the marriage continue to apply to the children. These effects are therefore the same as in cases of separation or divorce.

In addition to the declaration of annulment by a civil court, in Spain recognition is also given to the civil effects of ecclesiastical court decisions declaring the annulment of canonical marriage or pontifical decisions concerning brief, unconsummated marriage, which require a validation procedure (similar to the *exequatur* procedure), this being handled by the Courts of First Instance (*Juzgados de Primera Instancia*) (where they exist, those specialising in family matters). The basis for such recognition lies in the Agreement between the Spanish State and the Holy See concerning legal affairs, signed on 3 January 1979.

#### **8 What are the conditions for marriage annulment?**

The conditions that lead to the annulment of a marriage, in whatever form it was concluded, are as follows:

Absence of consent to marry.

The marriage was contracted despite the existence of one of the impediments to marriage.

A marriage contracted without the involvement of a justice of the peace, mayor or councillor, court clerk, notary or official before whom it is to be contracted, or without the presence of witnesses.

A marriage concluded while being in error as to the identity of the other party or as to such of his or her personal qualities as might have been decisive in giving consent to contracting the marriage.

Marriage contracted under duress or moral coercion.

#### **9 What are the legal consequences of marriage annulment?**

The annulment of the marriage establishes that it has been invalid since it was contracted. As a result, the spouses regain their status of single persons.

However, any effects already produced in an annulled marriage between the time it was contracted and the date of the annulment decree remain valid where the children and the spouse or spouses who acted in good faith are concerned.

When the matrimonial property is liquidated, the spouse who acted in bad faith does not share in any profits of the spouse who acted in good faith.

In addition, if there was cohabitation, the party who had acted in good faith can obtain compensation to correct any financial imbalance that may have been caused by the decree of annulment.

#### **10 Are there alternative non-judicial means for solving issues relating to a divorce without going to court?**

In Spain, family mediation is regulated at state level, in the Law on mediation in civil and commercial matters: [Law 5/2012 of 6 July 2012](#), transposing into Spanish law Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters.

The general principles governing mediation are: voluntary nature and free choice, impartiality, neutrality and confidentiality. In addition to these principles there are rules or guidelines to guide the actions of the parties in mediation, such as good faith and mutual respect, and their duty of cooperation and support to the mediator.

The above-mentioned Law 5/2012 regulates 'mediation in cross-border disputes', meaning those in which at least one of the parties is domiciled or habitually resident in a state other than that in which any of the other affected parties are domiciled, where they agree to resort to mediation or where mediation is mandatory under the applicable law. This also covers conflicts anticipated or resolved by mediation agreement, regardless of the place in which the agreement was made, where, following a change of residence by either party, it is intended to enforce the agreement or some of its consequences in the territory of a different state.

Most autonomous communities have passed family mediation laws. For example: Andalusia – Law 1/2009 of 27 February 2009 on family mediation in Andalusia; Aragon – Law 9/2011 of 24 March 2011 on family mediation in Aragon; Asturias – Law 3/2007 of 23 March 2007 on family mediation; Canary Islands – Law 15/2003 of 8 April 2003 on family mediation; Cantabria – Law 1/2011 of 28 March 2011 on mediation in the Autonomous Community of Cantabria; Castile-La Mancha – Law 4/2005 of 24 May 2005 on the specialist family mediation social service; Castile-Leon – Law 1/2006 of 6 April 2006 on family mediation in Castile-Leon; Catalonia (particularly significant in this autonomous community, as it has developed its legislative competence in this area, providing in Article 233(6) of the Civil Code of Catalonia that the judicial authority may refer the spouses for an information session on mediation, where it considers that given the circumstances of the case it is still possible to reach an agreement); Valencia – Law 7/2001 of 26 November 2001 regulating family mediation in Valencia; Galicia – Law 4/2001 of 31 May 2001 on family mediation; Balearic Islands – Law 14/2010 of 9 December 2010 on family mediation in the Balearic Islands; Madrid – Law 1/2007 of 21 February 2007 on family mediation in Madrid; and the Basque Country – Law 1/2008 of 8 February 2008 on family mediation, through the respective autonomous parliaments.

At state level, Article 770(7) of the [Civil Procedure Law](#) provides that, in matters of separation and divorce, the parties may by mutual consent request a stay of proceedings for the purpose of mediation.

In cross-border matrimonial proceedings, Article 25 of Council Regulation (EU) 2019/1111 of 25 June 2019 applies, which states 'As early as possible and at any stage of the proceedings, the court either directly or, where appropriate, with the assistance of the Central Authorities, shall invite the parties to consider whether they are willing to engage in mediation or other means of alternative dispute resolution, unless this is contrary to the best interests of the child, it is not appropriate in the particular case or would unduly delay the proceedings.'

Mediation is also possible in cases of international child abduction, although here the mediation process must be as fast as possible and any action must be concentrated in the fewest possible sessions. The suspension of the mediation process may never exceed the period provided for by law to resolve the abduction case. If mediation leads to an agreement (which could also cover other matters), it must be approved by the judge, taking into account the legislation in force and the best interests of the child. However, jurisdiction in matters related to child abduction is different from that covering family proceedings; the former is the prerogative of courts in provincial capitals, whereas the latter may be exercised by courts in any judicial district. Consequently, if the agreement covers a variety of matters, it may need to be approved by separate judges (i.e. the court in the provincial capital for matters related to child abduction and the relevant family judge for the other aspects).

In civil proceedings which fall under the jurisdiction of the courts dealing with violence against women (*Juzgados de Violencia sobre la Mujer*), mediation is forbidden.

## **11 Where should I lodge my application (petition) for divorce/legal separation/marriage annulment? Which formalities must be respected and which documents should I attach to my application?**

### **a) Where to lodge my petition**

Once the international jurisdiction of the Spanish courts to hear the case has been established (set out in [Council Regulation \(EU\) 2019/1111 of 25 June 2019](#)) and, where appropriate, jurisdiction to hear the measures supplementary to the ruling on the bond, a petition for divorce, legal separation or marriage annulment (except those processed by a notary in cases of legal separation or divorce by mutual agreement with no minor children involved) has to be filed before the Court of First Instance. In some judicial districts, there are Courts of First Instance specialising in family law. Specifically, this is the Court of First Instance:

In the place where the marital home is located.

If the spouses are living in different judicial districts, the petitioner can choose between the court of:

the last marital home,

or the residence of the respondent,

or if the respondent has no fixed domicile or place of residence, the petition may be filed in the place where the respondent resides or last resided, as the petitioner chooses.

If the respondent has no fixed domicile or place of residence, the petition may be filed in the place where the respondent resides or last resided, as the petitioner chooses.

If jurisdiction cannot be established in this way either, it lies with the Court of First Instance for the applicant's domicile.

Where the petition for divorce or legal separation is filed jointly by both spouses, they can do this before the judge:

for the place where they last lived together,

or for the domicile of either of the petitioners.

Applications to have preliminary provisional measures adopted can be heard by the Judge of First Instance for the applicant's domicile.

In Spain,

[Organic Law 1/2004 of 28 December 2004 on comprehensive protection measures against gender-based violence created the courts dealing with violence against women](#)

with civil jurisdiction for legal separation, divorce and annulment proceedings in cases where one of the parties to the civil proceedings is a woman who is the victim of gender-based violence, as referred to in Article 87 ter(1)(a) of the Judiciary Act, and one of the parties to the civil proceedings is being investigated as the perpetrator, instigator or necessary accomplice in an act of gender-based violence. In that case, the application must be submitted to the court dealing with violence against women hearing the criminal proceedings.

For information on the Spanish judicial institutions and to locate a court, you can consult the [court search engine](#) on the website of the General Council of the Judiciary.

For cases handled by a notary, the relevant public deed must be executed by the notary for the place where the spouses last lived together or the domicile or habitual residence of either of the petitioners.

The Practice Guide for the application of the Brussels IIb Regulation can be found on this page: [EJN's publications](#)

### **b) Formalities and documents**

Where court is the chosen route, the petition for marriage annulment, legal separation or divorce has to be submitted in writing and signed by the petitioner's lawyers (*letrado* and *procurador*). The services of these professionals may be shared where the spouses are filing jointly for legal separation or divorce.

Petitions for legal separation, marriage annulment or divorce must be accompanied by:

The marriage certificate and the birth certificates of any children; it is not sufficient simply to produce the family register (*libro de familia*).

Documents on which the petitioner is basing their case.

Documents required to assess the financial situation of the spouses and, if applicable, of the children, such as tax returns, payslips, bank certificates, title deeds or certificates of registration of property, where the parties are petitioning on matters relating to property.

A parenting plan on measures relating to unemancipated minor children or older children where the courts have ordered parental support measures.

A proposal for a settlement agreement if the legal separation or divorce is being applied for by means of a joint petition.

If the notary is the chosen route (legal separation or divorce by mutual agreement without unemancipated minor children), by law the spouses must be accompanied by a practising lawyer for the execution of the public deed and must provide, in addition to the certificates from the Civil Register, the settlement agreement.

## **12 Can I obtain legal aid to cover the costs of the procedure?**

Spain recognises the right of Spanish citizens, nationals of other European Union Member States and foreigners in Spain to free legal aid if they can prove that they have insufficient means to engage in legal action.

Individuals are entitled to legal aid if they lack sufficient assets and have resources and gross income, calculated annually for all headings and per family unit, that do not exceed the following thresholds:

Twice the public multipurpose income index (IPREM) in force at the time of application for persons who are not members of any family unit.

Two and a half times the public multipurpose income index in force at the time of application where they are a member of any type of family unit of fewer than four people.

Three times this index for family units of four or more people.

### **Calculation of the IPREM**

Calculation of the IPREM: information on the amount of the IPREM and changes to it can be found at: <http://www.iprem.com.es>

The application must be submitted to the Bar Association (Colegio de Abogados) in the same locality as the court or tribunal that will be holding the main hearing, or to the court in the applicant's domicile; in the latter case the judicial body will transmit the application to the territorially competent Bar Association. The Bar Associations are designated as the receiving authority for applications in cross-border disputes. In such disputes, the authority issuing the application is the Bar Association for the habitual residence or domicile of the applicant.

A European citizen whose state is a party to the European Agreement on the Transmission of Applications for Legal Aid may apply to the central authority designated by their country for the implementation of the agreement.

The application must be made before initiating the proceedings or, if the party applying for legal aid is the respondent, before contesting the application.

However, both the petitioner and the respondent may subsequently apply for legal aid after proving that their financial circumstances have changed.

When there are insufficient common assets and one of the spouses is unable to obtain legal aid because the financial position of the other prevents it, the latter may be obliged to bear all or part of the costs of the litigation under a procedure known as '*litis expensas*' (litigation expenses under special arrangements for divorce proceedings).

## **13 Is it possible to appeal against a decision relating to divorce/legal separation/marriage annulment?**

Decisions handed down by Spanish courts in proceedings for legal separation, divorce and marriage annulment are open to appeal. Appeals must be lodged within 20 days before the Court of First Instance which handed down the contested decision, before which the appeal is formally drawn up; the matter falls within the jurisdiction of the corresponding Provincial Court (*Audiencia Provincial*). In certain cases, an appeal in cassation and, where appropriate, an extraordinary appeal for breach of procedure may be brought against the appeal ruling before the Civil Chamber of the Supreme Court.

Appeals against the ruling in accordance with the law will not suspend the effectiveness of the measures approved in the ruling. If the appeal concerns only decisions on measures, the court clerk must declare the decision on annulment, separation or divorce to be final and its entry in the Civil Register will be approved.

In proceedings for legal separation and divorce by mutual agreement, the judgement approving the proposed settlement agreement in its entirety is not open to appeal, except by the Prosecution Service, if it is involved, which may lodge an appeal in the interests of any minor or incapacitated children. If no measure is approved, an appeal may be lodged.

As regards provisional and preliminary measures that a judge may adopt before or during the proceedings for legal separation, annulment or divorce, the decision adopting such measures is not open to appeal, given its temporary validity, since it will be replaced by the judgment handed down in the proceedings for legal separation, annulment or divorce.

## **14 What should I do to have a decision on divorce/legal separation/marriage annulment issued by a court in another Member State recognized in this Member State?**

In this area,

[Council Regulation \(EU\) 2019/1111 of 25 June 2019 on jurisdiction, the recognition and enforcement of decisions in matrimonial matters and the matters of parental responsibility, and on international child abduction \(recast\)](#)

, known as the Brussels IIb Regulation, in force for all Member States with the exception of Denmark, applies.

Council Regulation (EU) 2019/1111 (Brussels IIb Regulation) has replaced Regulation (EC) No 2201/2003 (Brussels IIa Regulation) since 1 August 2022.

Depending on the temporal scope, one instrument or the other must be applied.

If the only aim is to update the data in the Civil Register of a Member State (and of the United Kingdom until 31 December 2020) on the basis of court decisions relating to proceedings for divorce, legal separation or marriage annulment handed down in another Member State, and if, under the legislation of that Member State, those decisions are no longer open to judicial appeal, it is sufficient to submit an application to that effect to the Civil Register, in accordance with the provisions of the applicable Regulation, accompanied by:

a copy of the decision, which should meet the necessary requirements for establishing its authenticity according to the law of the country that issued it;

a certificate conforming to the standardised official model issued by the national court or tribunal or competent authority in the Member State in which the decision was delivered;

if the decision was delivered by default, documents showing that the respondent was duly served with the application.

If seeking to obtain recognition in Spain for a decision in relation to a divorce, marriage annulment or legal separation that was delivered in one of the Member States, with the exception of Denmark, an application for recognition would need to be filed, without any need for the decision in question to be binding in the Member State in which it was delivered (it is sufficient for it to be enforceable in the state of origin), before the Judge of First Instance in the place of residence of the person against whom the application for recognition or for a declaration of non-recognition is being filed. If the respondent does not live in Spain, the application may be filed wherever they are in Spain or in his or her last place of residence in Spain or, failing all the above, in the place of domicile of the petitioner.

The application should be submitted in writing with the services of a lawyer and accompanied by the same documents as in the previous case.

Recognition of a decision may be incidental.

The recognition in Spain of judgments delivered in Denmark is governed by [Law 29/2015 of 30 July 2015 on international legal cooperation in civil matters](#).

The procedure begins with an application being lodged directly with the competent Court of First Instance.

If the only aim is entry in the Civil Register, it is not necessary to obtain prior or *exequatur* judicial approval, as

[Law 20/2011 of 21 July 2011 on the Civil Registry](#) is applicable.

**15 To which court should I turn to oppose the recognition of a decision on divorce/legal separation/marriage annulment issued by a court in another Member State? Which procedure applies in these cases?**

The procedure for applying for a decision not to be recognised is the same as that for applying to have it recognised. If the decision was recognised in accordance with Council Regulation (EU) 2019/1111, an objection can be filed only after notification of the decision granting recognition and an appeal will need to be lodged with the relevant Provincial Court within the statutory deadline.

If the matter concerns a decision delivered in Denmark, the objection has to be filed while it is still before the Court of First Instance while the court is considering the other party's petition for its recognition. In all cases, it is necessary to have the services of a lawyer to formally present the objection.

**16 Which divorce law does the court apply in a divorce proceeding between spouses who do not live in this Member State or who are of different nationalities?**

Following the entry into force of [Regulation \(EU\) No 1259/2010 on 21 June 2012](#), and in accordance with Articles 5 and 8 thereof, the spouses may choose the law applicable to their separation or divorce from among those specified in the Regulation. In the absence of a choice by them, divorce and legal separation will be subject to the law of the state:

where the spouses are habitually resident at the time the court is seized; or, failing that,

where the spouses were last habitually resident, provided that the period of residence did not end more than 1 year before the court was seized, in so far as one of the spouses still resides in that state at the time the court is seized; or, failing that,

of which both spouses are nationals at the time the court is seized; or, failing that,

where the court is seized.

The law applicable to marriage annulment and its effects will be determined in accordance with the law applicable to the conclusion of marriage, in accordance with the Civil Code.

As regards matrimonial property regimes, the applicable law will be determined by [Council Regulation \(EU\) 2016/1103 of 24 June 2016](#) implementing enhanced cooperation in the area of jurisdiction, applicable law and the recognition and enforcement of decisions in matters of matrimonial property regimes, or, if that does not apply, by Article 9(2) of the [Spanish Civil Code](#).

Matters relating to parental responsibility for children are governed under the [Hague Convention of 19 October 1996](#) by the law of the forum.

In the matter of provisional measures, the same law should be applied that governs the legal separation, marriage annulment or divorce in each case, except as regards urgent measures that may be adopted in relation to persons or property located in Spain, even where there is no jurisdiction to hear the case.

The law applicable to maintenance obligations will be determined in accordance with the

[Hague Protocol of 23 November 2007 on the law applicable to maintenance obligations](#).

The law applicable to the matrimonial property regime will be determined in accordance with [Council Regulation \(EU\) 2016/1103 of 24 June 2016](#).

As regards providing evidence of the foreign law in Spain, if this were the case, its content and validity will need to be proved; the Spanish court can establish this by whatever means it deems necessary in order to apply it.

Finally, it must be stressed that proceedings brought in Spain are always governed by Spanish procedural law, regardless of the law applicable to divorce, legal separation or marriage annulment. These procedures are governed by Title I of Book IV of [Law 1/2000 of 7 January 2000 on Civil Procedure](#).

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