

THE NEW DIVORCE IN SPAIN

After the amendment to the Spanish Civil Code (Law 15/2005, July 8, 2005), people are able to apply for divorce or judicial separation three months after the marriage. This means people no longer have to apply for a judicial separation as a step to getting the divorce.

In exceptional cases, when you can prove a risk for your life, physical integrity, freedom, moral integrity or sexual freedom or indemnity or from your children, you will not need to wait for three months in order to apply for judicial separation or divorce.

Another substantial amendment is that you will not need to prove a cause for the judicial separation or divorce and now you will only need to want to get separated or divorced.

Before these amendments, you were obliged to justify one of the causes set out in the Spanish Civil Code.

With these amendments, the judicial separation as a previous step to get divorced has been removed and also de obligation to allege causes for this breach of marriage, reducing to three months the period to demand.

It means that the process to get divorced in Spain has been speeded up substantially, making divorce cheaper as duplication of processes can be avoided, and also there should be a decrease of conflict between the parties during the judicial process.

However, also to be taken into consideration that is when the nationality of the parties is not Spanish.

For example, if they are British, the common national Law will be applied, that is, the Family Law Act from 1996.

Anyway, the Spanish Civil Code will be applied when the petition of judicial separation or divorce is done in a mutual agreement by both spouses or by one of the spouses with the consent of the other one.

You must, of course, take into consideration that this article does not substitute the specialised and professional advice, where we would study your concrete possibilities and we would look for the most convenient choice for your particular case.
