

Catalonian Civil Code Reform Allows Pledges to Secure Multiple Obligations

The Spanish financial market has welcomed the reform, which entered into force on 22 May 2019.

On 21 May 2019, the Catalonian legislature passed Decree 9/2019 to modify certain articles of the Catalonian Civil Code. These modifications entered into force the following day.

Constitution of pledge as security of multiple obligations

Before the approval of Decree 9/2019, it was commonly understood that according to Article 569-15 of the Catalonian Civil Code, pledges could not secure multiple obligations. This understanding limited borrowers, as pledged assets could not be granted as security. It also limited secured parties, particularly when a pledge had to secure multiple obligations.

With Decree 9/2019, a pledge can now secure multiple obligations. Under the new regime, the parties can, however, agree not to allow for successive pledges to be granted over a certain asset. The burden of proof of the existing charges over the asset to be pledged falls on the pledger.

Prior in tempore, potior in iure — the priority of the pledges will be determined by the date of their constitution, unless otherwise expressly agreed.

Release payment

With the amendment included under Article 569-13 3 *in fine*, the Catalonian legislature has strengthened the requirement to notify the pledges of credit rights. The Catalonian Civil Code now states that if a debtor whose debt has been pledged pays the original creditor before receiving a notice of pledge, the debtor will be released of its payment obligations.

Conclusion

The Spanish financial market has welcomed this reform because it minimizes the regional differences between the regimes applicable to pledges granted in Spain and provides flexibility to structure security packages.

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