

## Summary

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### **1.- Law 36/2011, of 10<sup>th</sup> October, that regulates the social jurisdiction.**

On 11<sup>th</sup> October it was published in the B.O.E. the Law 36/2011, of 10<sup>th</sup> October, that regulates the social jurisdiction. It derogates the Royal Legislative Decree 2/1995 of 7<sup>th</sup> April, which approved the Labour Procedure Law.

The new Law will come into force on 11<sup>th</sup> December 2011. Keeping the same structure of the derogated law, with important modifications, among which we highlight the following:

The unification in the social order due to their specialization of all matters which could be considered as social, in relation to the labour environment, trade-union and social security matters, as well as legal issues relating to working accidents, which until now forced the affected employees to act before the civil, social and administrative orders. The knowledgement of any violation of fundamental rights and public liberties connected with the employment relationship, as the case of work harassment. Also, actions

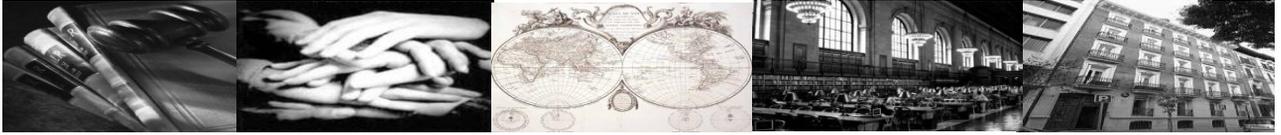
against administrative resolutions in labour and social security matters. However, the Law keeps the exceptions regulated in the Insolvency Law, or the competition of contentious-administrative order regarding collection of contributions.

It extends the scope of cassation appeal for unification of doctrine.

Speed up of the procedure according to the provisions of the Law 1/2000, dated 7<sup>th</sup> January, of the Civil Procedure, in areas as precautionary measures, violation of fundamental rights and public liberties, the reconciliation of personal, familiar and labor life and electoral matters.

It establishes measures and rules regarding accumulation and distribution of matters relating to labour accidents and occupational diseases, and removes unnecessary procedures.

The month of August will be valid for certain procedures and actions.



The mediation and arbitration are included along with the prior conciliation as means to avoid the judicial process.

It modifies the regulation of the supplication appeal to update its limits, and adjust it to the new competences.

It introduces new rules about the burden of proof.

It regulates the claims of self-employed economically dependent employees, in order to improve their legal protection against the decisions of the employer-client.

It establishes as supplementary rules the Civil Procedure and the Contentious-Administrative Jurisdiction Laws.

It entitles the Government to adopt the necessary measures to approve a system of assessment of damages caused by labour accidents and diseases, using a specific compensation scale.

It reinforces the presence of FOGASA and the management entities and collaborators in the oral hearing.

It allows the employees claiming amounts below 6.000€ against their employer, to do so through the monitory procedure.

The Transitory Dispositions regulate proceedings under

development at the date of entering into force of the Law.

## **2.- Law 37/2011, of 10<sup>th</sup> October, of measures to procedural acceleration.**

This Law has as objective to incorporate certain measures to speed up procedures in the civil, criminal and contentious-administrative orders.

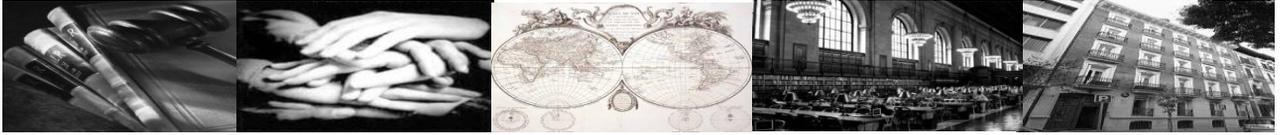
In the criminal order, it regulates questions about the competence of the courts, the defense right of legal persons, intervention in the oral hearing and conformity, as well as default.

In the contentious-administrative order, the law introduces in the summary process the possibility to avoid the celebration of the oral hearing in those appeals that are not going to request evidence process and the defendant Administration does not request it's the celebration.

It increases to 30.000€ the amount for issues that shall be resolved by the summary process.

In relation to court costs, the Law establishes for single or first instance procedures, the criterion of defeat but with the possibility that the court may exonerate of such cost when circumstances recommend not to impose them.

In the civil order, the Law includes under the concept of court costs the tax for the exercise



of jurisdiction, because it is a necessary expense to file a claim.

It extends the monitory procedure to the cases of eviction for nonpayment, so that if the lessee doesn't leave the property, pay or submit opposition within the terms granted they are directly evicted.

It excludes the appeal in oral hearing when the amount does not exceed 3.000€.

It reduces the formalities to process the third party domain claims and better right claims, that now will be resolved by oral hearing, although the latter with a written answer, given the peculiarity of its object.

It introduces the preference in proceedings about capacity, filiation, marriage and minors, in the cases where one of the interested parties is a minor, incapacitated or is in a position of legal absence.

It suppresses the quantitative limits for monitory procedure, making it equal to the European monitory procedure.

### **3.- Law 38/2011, of 10<sup>th</sup> October, to amend insolvency Law 22/2003, 9<sup>th</sup> of June.**

On October 11<sup>th</sup>, 2011, it was published in the Official Gazette, the Law 38/2011, of October 10<sup>th</sup>, amending the law 22/2003 of July 9<sup>th</sup>, of Insolvency. This Law modifies the Insolvency Law with special emphasis on aspects of the labour matters in the Insolvency Procedure.

Among the most relevant matters, it introduces new alternative ways of seeking viability (measures prior the insolvency procedure and refinancing agreements), the impulse of electronic media, simplifying and speeding the proceedings, as well as measures to protect the position of workers.

Summary procedure is impulsed in those cases in which certain circumstances concur

The cases in which a hearing is required in incidents are reduced.

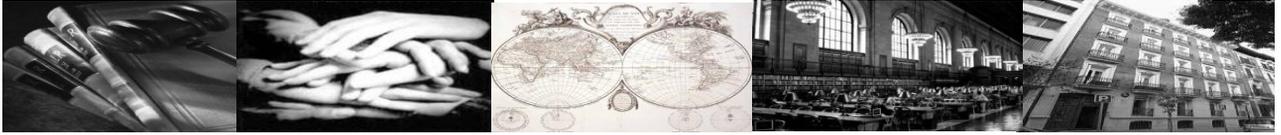
It enhances the functions of the trustee in bankruptcy, increasing the cases when there is only one trustee, and allowing an entity to act as trustee.

It reinforces the bankruptcy of related entities especially with corporate groups, either by their joint request, or later agrupation of procedures.

The VAT Law is amended so that the sale of real estate is liquidated by the acquirer by applying the reversal of the taxpayer.

Articles 8, 44 and 64 of Law 22/2003, on Bankruptcy (LC), and Articles 33.3 of the Workers' Statute (ET) and 208.3 of the General Law of Social Security (LGSS) in concerning the legal status of employment, are amended.

The Bankruptcy Reform Law will come into force on January 1<sup>st</sup>, 2012, except for some provisions, which shall enter into force upon publication.



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