

The Exaquatúr is one of the most important juridical figures of reform in our internal law, as the present regulation of the articles 951 to 958 of the Law of Civil Lawsuits of 1881, did not include the agreement and coordination with the jurisprudence of the Supreme Court. In short a doctrinal and jurisprudential update has been carried out concerning same.

The concepts have been clearly explained and specified the type of decision subject to the exaquatúr, a new figure is included, the parcial exequatúr, incidental and that of modifications of foreign resolutions, updating the causes of refusal.

Concerning the acknowledgement of a foreign resolution in an incidental manner a reference in art. 44.2 has been avoided of the opening of an incident as per that established in the articles 388 and following of the LEC, thereby allowing that the incidental acknowledgement can be carried out in an easy and simple manner at the source of each proceeding; it will be the sentence that determines the suitability of the document to prove that intended.

*For the first time is considered the necessity to adapt the measures within the foreign sentence that be unknown in the Spanish law (art. 44.4). In this case will be put into practise a measure within Spanish Law with similar effects to reach the same end and interest, **without this adaptation being more effective than those in the Law of the Country of origen.***

With referente to final foreign resolutions concerning matters that due to its own nature are capable of being modified, such as alimony, the decisions of guardianship of underaged children or measures of protection of underaged or handicapped children, it is specifically established in art. 45 that these resolutions may be modified prior acknowledgement of main or incidental status. The parties may choose to modify the foreign sentence through the opening of a new proceeding.

Considered as causes of refusal, with specific referente to the infringement of the Rights of defense of either of the parties, such as a decision pronounced as default if the placing of the lawsuit was not notified in a regular manner and with sufficient time.

*A special rule has been included concerning the recognition of foreign sentences issued in proceedings arising from collective actions. **The principle is of acknowledgement and execution, but with certian special cautions, subject to a strict control of the competence of the Judge at source, as it is required that the competent court of justice in which has been acknowledged the foreign territorial authority is the same to those contemplated in Spanish law, similarity not being sufficient.***

Concerning the execution, it is clearly established that this is only possible after previous obtainment of the exequatúr (art.50), being applicable the LEC, also in the matter of expiry.