

PETS ON FAMILY LAW IN SPAIN

The Law 17/2021, of 15 of December has amended several articles of the Spanish Civil Code and Law of Civil Procedure to pay regard to the **welfare requirements of animals.**

In accordance with the European Convention for the Protection of Pet Animals of 1987 and article 13 of the Treaty on the Functioning of the European Union, the new Law 17/2021 takes into account **that animals are sentient beings and have a special relationship with man.**

Article 333 bis of the Civil Code says that animals are sentient beings. The legal rules for movables and goods would only be applicable to animals as far as they are compatible with their nature and their protection regulations. If an injury upon a pet has caused its death or damage in its physical or mental health, the pet's proprietor has a right to compensation.

The Law of Civil Procedure has been amended to stipulate that pets cannot be seized in enforcement proceedings, because they are not goods. The proceeds of pets can be seized.

Animals do not fit anymore in the legal concept of movables or goods.

The new law affects the **Spanish Family Law and Law of Successions.**

On divorce or legal separation or children's arrangements the court must rule the custody of pet animals taking into account the family members' best interest and the welfare requirements of animals. The court must also rule the right of access to pets and the payments of their maintenance costs.

Children shared custody will not be granted by the court in case of domestic abuse upon the spouse or children. Ill treatment or violence inflicted on animals with the intention to cause pain or control the spouse or children will be regarded as domestic abuse.

In the liquidation of the matrimonial property regime, pets are not goods but sentient beings and therefore they cannot not be divided as any other asset (f.i. sale it and share the profit). If the spouses cannot agree to sell the pet or who has the pet's custody, the judge will decide the pet's destiny taking into account the coproprietors interest and the animal's welfare. The judge can share between the proprietors the pet's custody and care and the pet's costs.

On successions article 914 bis of the Civil Code rules that in the absence of testament, the pet will be given to the inheritor that requests it. If there is not an agreement on succession the pet will be given to a third person (t.i. Animal Protection Society) until the inheritors find an agreement. If there is not an agreement the judge will decide the pet's destiny paying regard to the **welfare requirements of animals.**

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