

Recovery of Trade Debts in Spain

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A Practice Note providing Spain-specific information on the legal options available to a business creditor looking to recover a trade debt in a business-to-business context, including ordinary legal proceedings, special fast-track procedures (if any), insolvency proceedings and amicable settlement opportunities.

Most businesses are likely to need to pursue an unpaid invoice at some time, regardless of the sector in which they operate.

The process of recovering trade debts can often be tricky when it involves ongoing commercial relationships. Also, customers are sometimes reluctant to deal with businesses that are known for approaching debt recovery aggressively, so pursuing a debt may result in the creditor losing goodwill in the market. However, businesses cannot afford to let their long overdue debts accumulate and eventually turn into bad debts, so quick, assertive action is often required. Understanding the pros and cons of the options available to parties is a crucial part of effectively managing and maintaining a healthy business.

This Note is a quick guide discussing the recovery of a trade debt in a business-to-business context in Spain. It considers the options available to a business creditor seeking payment for goods or services that it has supplied from its customer who refuses to pay despite being legally bound to do so.

It also examines the main options available to a business creditor trying to recover a trade debt in Spain from a business debtor, including ordinary legal proceedings, special fast-track procedures (if any), insolvency proceedings, and amicable settlement opportunities. For a high-level overview of how to recover an outstanding trade debt and the key considerations that may arise across several jurisdictions, see [Recovery of trade debts: a cross-border overview](#).

Recovery of Trade Debts

Main Options

In Spain, the main channels to recover a trade debt include:

- Settlement out of court.
- Arbitration where the debt arises from a contract containing an arbitration clause or the parties agree to submit the specific dispute to arbitration (which is a rare situation in debt recovery matters).
- Notarial procedure for claiming undisputed monetary debts.
- Fast track court proceedings, which include:
 - order for payment proceedings (*procedimiento monitorio*); and

- negotiable instruments collection proceedings (*demanda de juicio cambiario*).
- General court proceedings, which include:
 - oral proceedings (*juicio verbal*); or
 - ordinary proceedings (*juicio ordinario*).
- Insolvency proceedings.
- Cross border proceedings under EU Regulations, such as:
 - European Small Claims Procedure (Regulation 861/2007 of 11 July 2007);
 - EU Order for Payment Procedure (Regulation 1896/2006 of 12 December 2006); or
 - EU Enforcement Order for Uncontested Claims (Regulation 805/2004 of 21 April 2004).

Alternative to Legal Options

In Spain, creditors can use private debt collection companies to recover debts (see [Debt Collection Agencies](#)). A creditor can, alternatively, use a lawyer to negotiate or file a claim for the recovery of its debts. Debt collection fee schemes are freely agreed by the parties, including no-win no-fee schemes.

Whether the Type of Remedy Varies Depending on the Value of the Debt

As a general rule, the types of proceeding open to a creditor mostly depend on the amount of the debt claimed:

- Debts exceeding EUR6,000 follow the rules of ordinary proceedings.
- Debts equal to or below EUR6,000 follow the rules of oral proceedings.

Where a debt is covered by specific rules or is of a specified type, the rules of ordinary or oral proceedings apply, regardless of the amount claimed.

Pre-Action Conduct

Letter Before Claim

Parties are not bound by any mandatory pre-action steps, such as demand letters or alternative dispute resolution (ADR) procedures, before bringing legal proceedings. In practice, it is usual to send demand letters to try to obtain an out of court settlement and avoid litigation, if possible.

Penalties for Non-Compliance

In Spain, there are no mandatory pre-action steps that parties must take, therefore, there are no penalties for non-compliance.

Evaluation of Debtor's Financial Position

Creditors can conduct private research to determine the debtor's financial strength or solvency through:

- Public registries, including the:
 - Commercial Registry to check annual accounts;
 - Real Estate Registry;
 - Registry of Movable Goods; and
 - IP rights registries.
- Online databases (such as Dun & Bradstreet).
- Hiring specialised companies or private detectives.

Limitation Period

The general limitation period to file a debt recovery claim is five years from the date the action can be brought. Specific areas of law may be subject to different limitation periods, but these specific periods are not generally applicable to trade debts. For example, the limitation period concerning claims based on non-contractual liability is one year.

Extension of Limitation Period

A party can interrupt the limitation period on a trade debt by an extra-judicial claim, which can be made by letter.

Competent Court

The civil courts of first instance have jurisdiction to determine debt recovery disputes. There is no limit on the value of the claim that can be brought before the court of first instance.

Specialist Courts

There are no special courts in Spain for trade debt recovery.

Court Proceedings

Starting Court Proceedings

A party begins court proceedings by filing a lawsuit with the competent court, generally using a lawyer (*abogado*) and a court representative (*procurador*). The use of a lawyer and a court representative is generally mandatory, except for oral proceedings below EUR2,000 and order of payment proceedings. In cases where the intervention of a lawyer and court representative is not required, the claimant can use a template lawsuit, available at the relevant courts.

Court Fees

There is no court filing fee for individuals.

Legal entities (that is, not individuals) must pay the following court fees at first instance (unless exempt, see below):

- EUR150 for oral proceedings and proceedings related to bills of exchange, cheques and promissory notes.
- EUR100 for order of payment proceedings.
- EUR300 for ordinary proceedings.

Legal entities that have been granted the right to free legal aid, the Public Prosecutor's Office, the Spanish Parliament, the General State Administration and other public bodies are exempt from paying court filing fees.

Service

The claim is served on the defendant by the court clerk at the defendant's domicile. Where the defendant's domicile cannot be found, the court clerk will notify the defendant of the claim by edicts (published on the court's notice board).

Where judgment is issued in breach of the rules for service of the claim, that is, the defendant was improperly served with the claim, the judgment can be voided. This is an exceptional situation in Spain as notifications are served by the courts, not by private means, so it is rare that claims are considered not properly served.

There are no statutory or legal time limits within which the court must serve the defendant.

Defence

The defendant must file its response within 20 working days of receipt of the claim in ordinary proceedings, and within ten calendar days in oral proceedings.

In ordinary and oral proceedings where the defendant disputes the debt, the defendant must submit a statement of defence containing the procedural and substantial grounds for opposition to the claimant's pleas.

The defendant can admit the debt in its statement of defence. The court then issues judgment ordering payment of the debt. The court does not usually award payment of court costs unless it finds that the defendant acted in bad faith.

The defendant will file any cross-claims together with the statement of defence.

In ordinary or oral proceedings, if the defendant fails to respond to the claim, the defendant is declared in default and the procedure continues until the court issues judgment. The defendant is entitled to appear at any later stage but does not have the right to carry out the procedural steps already expired. Failure to file a defence does not necessarily mean that the court will rule in favour of the claimant.

Later Stages

In ordinary proceedings, the next main step is a preliminary hearing to decide on procedural issues, and to propose and admit evidence. The court takes evidence and closing statements at the main hearing when it will issue the judgment.

There is no preliminary hearing in oral proceedings. Parties propose evidence, which is then admitted by the court at the main hearing.

Summary Proceedings and Lower Value Claims

In Spain, the following fast-track proceedings are available:

- **Order for payment proceedings.** This is a general procedure where the creditor can claim from the debtor the payment of monetary debts (of any amounts) before the court. The amount must be specific, and must be due and payable, as evidenced by documents (such as invoices, correspondence and contracts) reflecting the relationship between creditor and debtor.
- If the debtor does not file an opposition to payment within 20 working days, the court will issue a decision ordering payment that is directly enforceable (on the same terms as a judgment). Ordinary or oral proceedings will follow if the debtor opposes the payment.
- **Negotiable Instruments Collection Proceeding.** This is a specific fast track procedure which can only be used for debts contained in bills of exchange, cheques or promissory notes. The court can order an immediate payment or freeze the defendant's assets.

EU remedies for cross border disputes are available in Spain under the following:

- **European Small Claims Procedure** (EU Regulation 861/2007 of 11 July 2007).

This regulation applies to civil and commercial matters whatever the nature of the court or tribunal. The value of a claim must not exceed EUR2,000 at the time the court or tribunal receives the claim form, excluding all interest, expenses and disbursements. It does not apply to matters concerning:

- the status or legal capacity of natural persons;
- rights in property arising out of a matrimonial relationship, maintenance obligations, wills and succession;
- bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
- social security;
- arbitration;
- employment law;
- tenancies of immovable property, with the exception of actions on monetary claims; or

- violations of privacy and of rights relating to personality, including defamation.

The claimant begins this procedure by filling in standard claim Form A, under Annex I of the European Small Claims Procedure Regulation.

For more information see, Regulation EC 861/2007.

- **EU Order for Payment Procedure** (EU Regulation 1896/2006 of 12 December 2006). This applies to civil and commercial matters in cross-border cases, whatever the nature of the court or tribunal. It does not apply to:
 - rights in property arising out of a matrimonial relationship, wills and succession;
 - bankruptcy, proceedings relating to the winding-up of insolvent companies or other legal persons, judicial arrangements, compositions and analogous proceedings;
 - social security; or
 - claims arising from non-contractual obligations, unless they are the subject of an agreement between the parties or there has been an admission of debt, or they relate to liquidated debts arising from joint ownership of property.

Specifically, the European order for payment procedure is established to collect pecuniary claims for a specific amount that come due at the time the application for an order for payment is submitted. An application is made using standard form A as set out in Annex I to the EU Order for Payment Procedure Regulation.

For more information, see Regulation EC 1896/2006.

- **EU Enforcement Order for Uncontested Claims** (EU Regulation 805/2004 of 21 April 2004).

This regulation creates a European Enforcement Order for uncontested claims to permit, by laying down minimum standards, the free circulation of judgments, court settlements and authentic instruments throughout all member states without the need to bring intermediate proceedings in the member state of enforcement before recognition and enforcement.

For more information, see Regulation 805/1004.

Duration of Proceedings

The actual duration of fast-track proceedings depends on the specific court presiding over the claim, the court's workload and circumstances and whether the defendant opposed the proceedings. Generally, parties can expect a duration of a few months.

Interim Measures

The claimant can request provisional measures (*medidas cautelares*) from the court before or at the time of filing the lawsuit to ensure the effectiveness of the judicial protection sought.

In debt recovery disputes, a claimant can request a specific preventive order to freeze the debtor's assets up to the amount of the claimed debt. To freeze the assets, the court researches the defendant's assets in public registries, financial entities and makes information requests to public bodies and private entities. The court also orders the debtor to disclose assets subject to potential criminal sanctions in case of failure to comply with such request.

Grounds

The main grounds and requirements for obtaining provisional measures are:

- Risk deriving from the procedural delay. The claimant must show that failure to impose a provisional measure would decrease the efficacy of the future judgment, such as the risk of the debtor's imminent insolvency.
- Appearance of legal standing. The claimant must demonstrate prima facie evidence of the good merits of its case.

Final Remedies

The first instance judgment can be enforced provisionally, if a party appeals the court's decision, or finally, where neither party files an appeal. The provisional enforcement is subject to the general procedure for enforcement (see [Enforcement of Judgments](#)).

Enforcement remedies typically consist of freezing and executing the debtor's assets up to the amount of the debt, the late payment interest and the litigation costs incurred by the claimant. (For more information on rules on interests and costs, see [Late Payment Interest](#), [Legal Fees and Costs](#), and [Recovery of Legal Costs in Cases Settled Without Court Action](#).)

Late Payment Interest

The Spanish Act 3/2004 of 29 December, Establishing Measures to Combat Late Payment in Commercial Transactions, implementing EU Directive 2000/35 of 29 June 2000 (Spanish Act 3/2004) regulates late payment interest for commercial debts.

The applicable interest rate is agreed between the parties or, where there is no agreement, is the interest rate applied by the European Central Bank to its most recent main refinancing operations carried out before the first day of the six-month period plus eight percentage points (*Article 7, Spanish Act 3/2004*).

Legal Fees and Costs

Under Article 8 of the Spanish Act 3/2004, the creditor can claim a fixed sum recovery fee of EUR40, plus any other out of court recovery costs that can be evidenced.

Litigation costs generally include:

- Lawyer and court representative's fees.
- Judicial taxes and deposits required for lodging appeals.

- Expert and witness fees, and any other fees for people involved in the procedure.
- Copies, certifications, notes, affidavits and similar documents requested in accordance with the law.
- Duties raised in the conduct of the proceeding (such as public notaries, property, and commercial registries).

(Article 241, Civil Procedure Law.)

Unsuccessful Party Liability for Costs

The unsuccessful party can be ordered to pay costs unless the court finds that there were legitimate doubts in fact or in law as to the validity of the claim or defence. In case of partial acceptance of pleas or dismissal of the claim, each party pays their own costs and shares equally common costs, unless the court finds reasons to impose the costs on one of the parties, such as where a party acted with temerity.

Court's Discretion on Costs

The court has the discretion not to impose costs on the unsuccessful party where, given the complexity of the case, there were legitimate doubts in fact or law.

Recovery of Legal Costs in Cases Settled Without Court Action

Under Article 8 of the Spanish Act 3/2004, the creditor can claim recovery costs (see [Legal Fees and Costs](#)).

Costs-Only Proceedings

There are no specific costs-only proceedings in Spain. Therefore, parties will follow the ordinary or verbal proceedings (depending on the amount or the area of law involved).

Recovery of Legal Costs After Court Proceedings Have Commenced

If the parties settle the dispute and the defendant pays the debt (including claimed recovery costs) before the expiry of the time to file a defence, the court will not order payment of litigation costs unless it finds that the debtor acted in bad faith. If the parties settle and the debt is paid after the opposition period has expired, the court will normally order the defendant to pay the litigation costs.

If the dispute is settled by a mutual agreement of the parties on all the elements of the dispute (including the main debt and other related costs, such as recovery costs), the court will not normally impose the litigation costs on any of the parties. If there remains a disagreement on some of the elements of the dispute (for instance, recovery costs claimed), then the proceedings will continue to decide the non-settled claims.

Recovery of Legal Costs Where Court Proceedings Are Settled During Trial

If the parties settle the dispute before the court issues judgment, the court will award legal costs based on a finding of the defendant's good or bad faith during the proceedings (see [Recovery of Legal Costs in Cases Settled Without Court Action](#)).

If the parties cannot reach a settlement, the court will decide whether to enter and issue judgment. Legal costs will be decided as part of the judgment. If the order to pay costs is not settled by the parties, the creditor party can ask the court to determine the amount of the litigation costs to be paid.

Enforcement of Judgments

The debtor must pay the judgment amount immediately. From the date of the judgment, late payment interests increase by two percentage points until the debt is finally paid up or enforced (*Article 576, Civil Procedure Law*).

Payment in Instalments

In Spain, the judgment does not normally call for payment in instalments (unless set out under the law or contract ordering payment). Where instalments apply, the debtor is deemed to be in default when any of the instalments is not paid by the due date.

Procedure for Enforcement

First instance judgments that are subject to an appeal are provisionally enforceable (typically by freezing the defendant's assets). Where neither party has filed an appeal, the judgment may be finally enforceable.

Monetary debts are enforced as follows:

- The claimant files an enforcement lawsuit for the amount of the debt plus 30% as late payment interests and costs (to be further liquidated).
- The court issues an enforcement order.
- The debtor is notified of the enforcement order (at the debtor's domicile or through the debtor's court agent if the debtor is already represented in court).
- The debtor can file an opposition to enforcement order on very limited grounds.
- Unless the defendant's opposition to the enforcement order is successful, the claimant can request the court to undertake a search of the defendant's assets and execution actions, typically by freezing the assets, until the debt, including late payment interest and litigation costs, is settled in full.

(*Articles 517 to 720, Civil Procedure Act*)

Time Limit

The claimant creditor must enforce the judgment within five years as from the date the judgment becomes final and not subject to appeals.

Time Taken to Determine and Enforce a Debt Recovery Claim

The duration of enforcement proceedings can vary depending on:

- The circumstances of the case.

- The procedural behaviour of the parties.
- The court's circumstances and workload.

The debt recovery process can take from a few months to several years.

Appeals

First instance judgments issued by first instance courts are generally subject to second instance appeals before provincial courts (except judgments issued in oral proceedings for less than EUR3,000, which become immediately final). At a second instance appeal the court can fully review the case and can choose to reverse the decision based on any procedural or substantive law grounds.

Second instance judgments issued by provincial courts can be subject to extraordinary appeals, that is appeals in cassation (*recurso de casación*) and appeals for infringement of procedure (*recurso por infracción procesal*) before the Supreme Court. Appeals in cassation are based on substantial law grounds, while appeals for infringement of procedure are based on procedural law grounds. In both cases the grounds for extraordinary appeals are restricted to certain types of breaches of law that are considered particularly material or serious.

Second instance appeals are heard by provincial courts. Extraordinary appeals (appeals in cassation and appeals for infringement of procedure) by the Supreme Court.

Grounds for Appeal

Grounds for appeal for a judgment at second instance include any substantive, procedural or factual issue that the appellant believes was not correctly addressed in the first instance judgment. The second instance court has full competence to decide on any of these issues.

An appeal in cassation must be based on a breach of the substantive law and can be only brought for:

- A breach of fundamental rights.
- Any breach of substantive law when the amount of the proceedings exceeds EUR600,000.
- Where the amount of the proceedings does not exceed EUR600,000, there must be:
 - a contradiction with the Supreme Court's jurisprudence;
 - a contradictory ruling on the subject of the appeal from the Provincial Courts; or
 - a disputed legal issue related to the application of legislation that has been in force for less than five years.

An appeal for infringement of procedure must be based on a breach of procedural law and can only be brought for:

- A breach of rules on jurisdiction and competence.
- A breach of the procedural requirements of judgments

- A material breach of procedural rules giving rise to a cause of nullity of the judgement or having caused lack of due defense rights to any of the parties.
- A violation of fundamental right to defense in Court as recognised by Spanish Constitution.

Time Limit for Filing Appeal

The appellant must file any second instance and extraordinary appeals within 20 business days of the notice of the appeal by the originating court.

Insolvency Proceedings

Effectiveness of Insolvency Proceedings

A creditor can bring insolvency proceedings against a debtor to attempt to collect the debt. Insolvency legislation in Spain (Royal Legislative Decree 1/2020, of 5 May, approving the revised text of the Insolvency Act) provides incentives to ordinary, non-secured creditors to initiate insolvency proceedings.

Under this legislation, 50% of the debt owed to the creditor is privileged or secured. Also, where a creditor initiates the insolvency proceedings as opposed to the debtor itself, there is a presumption that the debtor has acted fraudulently or with lack of due care. This may allow the creditor to claim against a debtor company's directors personally and claim their personal assets to settle the debt.

These incentives increase the possibility of the creditor totally or partially collecting the debt in insolvency scenarios.

Disadvantages of Issuing Insolvency Proceedings Against Debtors

Insolvency proceedings are often longer and more complex than individual debt recovery proceedings. The outcome may be uncertain and there may be many other creditors involved with a secured interest. The benefits of bringing insolvency proceedings must be carefully assessed on a case by case basis, considering factors such as:

- The availability of assets.
- The nature of the debt (and potential preference applicable).
- The existence and preference of other creditors.
- Creditors take priority as follows:
 - Preferential credits (including credits secured with certain guarantees, salaries, tax and social security).
 - Ordinary creditors (the most usual case for trade debts).
 - Subordinated creditors (such as credits parties related to the debtor).

Insolvency Proceedings and Disputed Debts

Where a debt is disputed, it is recognised by the insolvency receiver in the insolvency proceedings as contingent credit. The creditor is entitled to initiate proceedings for the credit to materialise and become payable (not contingent) before the insolvency court.

Insolvent Debtors

A debtor is deemed insolvent when it cannot regularly pay its debts. In the case of actual insolvency, the debtor must file for insolvency within two months of the date on which it knew or should have known of its inability to pay its debts. The debtor can also file for insolvency in case of imminent insolvency where it anticipates that it will become unable to pay its debts.

For a creditor to bring insolvency proceedings, it must show that:

- It failed to attach any assets, or sufficient assets, to collect the debt.
- Any of the following circumstances is met:
 - debtor's general failure to meet its payment obligations;
 - existing attachments on the debtor's assets that generally affect its business;
 - a general liquidation by the debtor of its assets in circumstances such as unlawful removal, hasty or ruinous liquidation; or
 - debtor's general failure to comply with tax, social security, salary and other employment obligations during the three-month period before the insolvency filing.

Various assets cannot be attached, including:

- Furniture and household goods, clothes, food, fuel and other essentials for debtor and dependent persons to live.
- Books or instruments required for the exercise of the debtor's profession, art or trade.
- Sacred objects and those dedicated to the practice of legally registered religions.

The debtor's wage, salary, pension or other remuneration can only be attached up to the stated minimum wage. During insolvency proceedings, a natural person debtor can draw a maintenance allowance from the state (except as otherwise stated in the event of liquidation) (*Article 123, Royal Legislative Decree 1/2020, of 5 May, approving the revised text of the Insolvency Act*). The amount and frequency are determined by the court that heard the complaint or insolvency proceedings.

Insolvency Law

The Spanish Royal Legislative Decree 1/2020, of 5 May, approving the revised text of the Insolvency Act is the primary legislation on insolvency in Spain.

EU Regulation 2015/848 on Insolvency Proceedings was implemented in Spain by the Spanish Act 22/2003, of July 9, on Insolvency (repealed in 2020 by Royal Legislative Decree 1/2020, of 5 May, approving the revised text of the

Insolvency Act), which substantially mirrors the EU principles and measures. The national legislation applies where the EU Regulation on Insolvency Proceedings is silent or inapplicable.

Insolvency Proceedings Involving Foreign Companies

Insolvency proceedings will generally be opened in the country where the foreign company has its centre of main interests, rather than in the foreign company's country of incorporation. The centre of main interests is the place where the debtor conducts the administration of its interests on a regular basis and that is ascertainable by third parties.

The two main types of insolvency proceeding are main insolvency proceedings and territorial insolvency proceedings.

Spanish courts have jurisdiction to open main insolvency proceedings where the debtor maintains its centre of main interests in Spain.

Where the debtor is a company or legal person, the place of its registered office is presumed to be the centre of its main interests, if there is no proof to the contrary.

Where the debtor is an individual, the individual's habitual residence is presumed to be the debtor's main centre of interests, if there is no proof to the contrary. From an international perspective, the main insolvency proceedings have universal effect. As a general principle, all of the debtor's assets are affected, whether they are located within or outside of the Spanish jurisdiction.

Alternatively, the Spanish courts have jurisdiction to open territorial insolvency proceedings in relation to an establishment located in Spain. An "establishment" means any place of operation where a debtor carries out or has carried out in the three-month period before the application to open main insolvency proceedings, a non-transitory economic activity with employees and assets. Territorial insolvency proceedings are limited only to assets located in Spain.

Both the Spanish Royal Legislative Decree 1/2020, of 5 May, approving the revised text of the Insolvency Act and the EU Insolvency Regulation establish rules to coordinate main insolvency proceedings and territorial insolvency proceedings. The insolvency practitioner in the main insolvency proceedings and the insolvency practitioner in territorial insolvency proceedings concerning the same debtor must cooperate with each other. The practitioners must (and the courts can):

- Exchange information relevant to the other proceedings.
- Explore the possibility of restructuring the debt and, where possible, coordinate the elaboration and implementation of a restructuring plan.
- Coordinate the administration of the realisation or use of the debtor's assets and affairs.

Debt Collection Agencies

In Spain, creditors can use private debt collection companies to recover debts. A creditor can, of course, use a lawyer to negotiate or file a claim for the recovery of its debts. Debt collection fee schemes are freely agreed by the parties, including no-win no-fee schemes.

Steps to Reduce Legal Costs When Recovering Debts

Where the debt is litigated, lawyer's and court representative's fees are normally calculated (usually as a percentage) according to the amount claimed. Therefore, litigation costs do not normally outweigh the amount of the debt.

However, when pursuing a debt out of court, the use of internal credit control and collection departments, and external collection agencies (which work entirely or partially on a success fee basis) can be very efficient to manage recovery costs.

Alternative Dispute Resolution to Recover Trade Debts

There is no developed ADR practice for debt recovery in Spain. Mediation and other ADR systems are not generally used or perceived as effective in this area.

Arbitration is common and well established in Spain as an alternative to litigation before courts for international and complex commercial disputes.

Spain has implemented a modern and well-intended piece of legislation (Act 5/2012, of 6 July, implementing EC Directive 2008/52) on mediation. However, mediation still remains undeveloped in practice. The draft bill for the promotion of mediation is designed to encourage litigants to resort to mediation as an alternative to full litigation.

Other ADR methods are less common in Spain than in Anglo-Saxon legal systems. ADR is not commonly used or considered effective in debt recovery proceedings and disputes.

Currently, parties can freely decide whether to use ADR procedures to settle a debt recovery claim.

The Spanish Government is working on a draft bill to promote mediation. The bill intends to amend the Spanish Mediation in Civil and Commercial Matters Act currently in force to strengthen mediation as an alternative to resolve conflicts quickly and in a more cost-efficient way. The proposed bill would also considerably ease the workload of the courts and improve the speed in which cases can be resolved.

The draft bill would introduce the following measures:

- Mandatory mediation before going to court. Parties would be obliged to attempt mediation to resolve some of the most common civil and commercial disputes before initiating judicial proceedings, such as:
 - claims of less than EUR2,000; and
 - claims arising from commercial contracts such as distribution, agency, franchise or supply of goods and services.

A "mediation attempt" would be understood as, at least, meeting with the mediator to brief the issues and arranging a session to explore resolution. These can take place at the same sitting but must be completed within the six-month period before the creditor files the claim with the court.

- Mediation during court proceedings. Where the parties did not attempt mediation before filing the claim, the court of first instance can decide to refer any civil or commercial matter to mediation depending on the

features of the case. The court must ensure that mediation does not affect rights and obligations that are not available to the parties by virtue of the applicable legislation.

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