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# CONSIDERATIONS FOR THE 'JUSTICE WITHOUT LITIGATION' PROJECT AT THE LIGHT OF THE CEPEJ EVALUATION WORK



**JUSTICE  
WITHOUT  
LITIGATION**

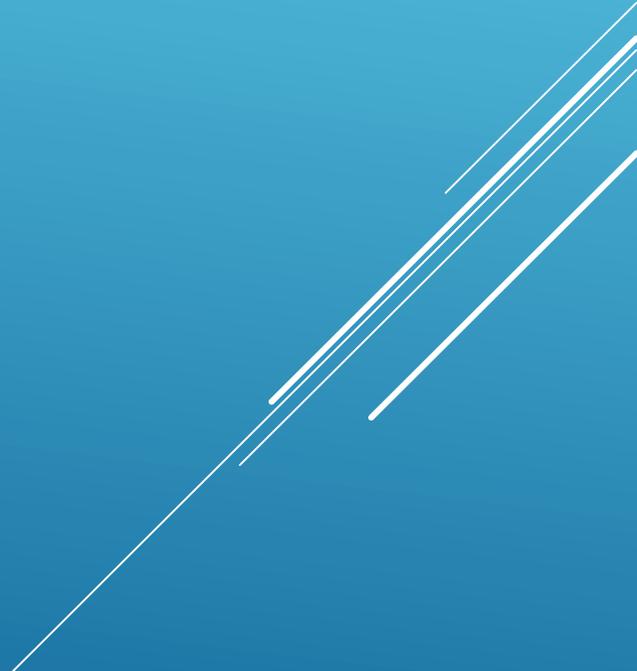
## **CEPEJ Definition of Non-litigious civil (and commercial) cases:**

Court cases that are decided in a specific procedure that does not require two or more opposing parties to prove their rights and claims (there is no dispute between parties). For example, this includes uncontested payment orders, request for a change of name, cases related to enforcement (when are not litigious), divorce cases with mutual consent, etc. A type of cases should be considered non-litigious even when the court is required to conduct a substantive examination of evidence, as long as there is no examination of claims and evidence from two or more opposing parties within the same procedure.

## Questions of the CEPEJ about Notaries:

- ▶ *Number and status of notaries*
- ▶ *Access conditions to the profession*
- ▶ *Are notaries appointed for an undetermined period?*
- ▶ *Activities of notaries.*
- ▶ *Areas of law.*
- ▶ *Use of specialised ICT systems in their activity.*
- ▶ *Use or consultation of electronic registries.*
- ▶ *ICT tools used by notaries in their relations with clients.*
- ▶ *Authority entrusted with supervising and monitoring the notaries' work*
- ▶ *Training*

## ***Activities of notaries.***

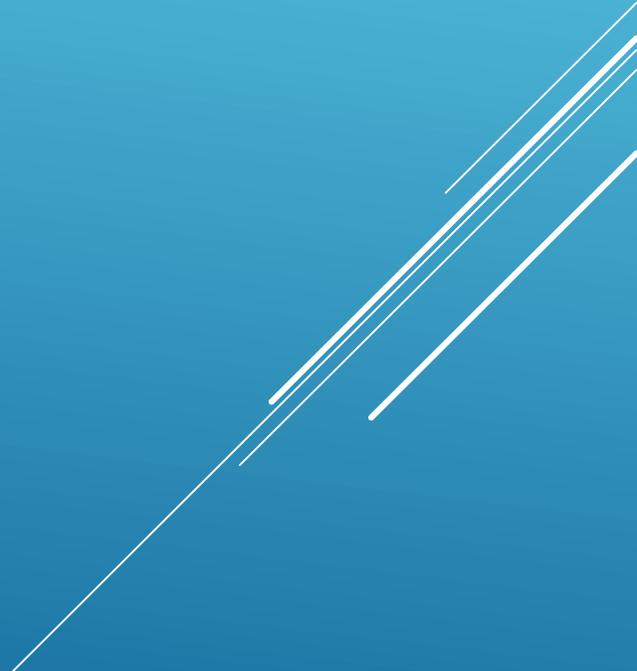
- ▶ Authentication
  - ▶ Certification of signatures
  - ▶ Legalisation of signatures
  - ▶ Legality control of documents
  - ▶ Mediation
  - ▶ Taking of oaths
  - ▶ Non-contentious judicial procedures (as court commissioner in a successions file, divorce, division of estate).
  - ▶ Other judicial functions (for example, payment orders).
  - ▶ Public auctions.
  - ▶ Other (for example collect taxes, run registers).
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The Ministry of Justice of the Kingdom of Spain has concluded a *Preliminary Project of the Law of Digital Efficiency of the public service of Justice*

This bill wants to be the **regulatory framework for the digital transformation of the judicial system**. Its rules are principally addressed to courts and judicial offices.

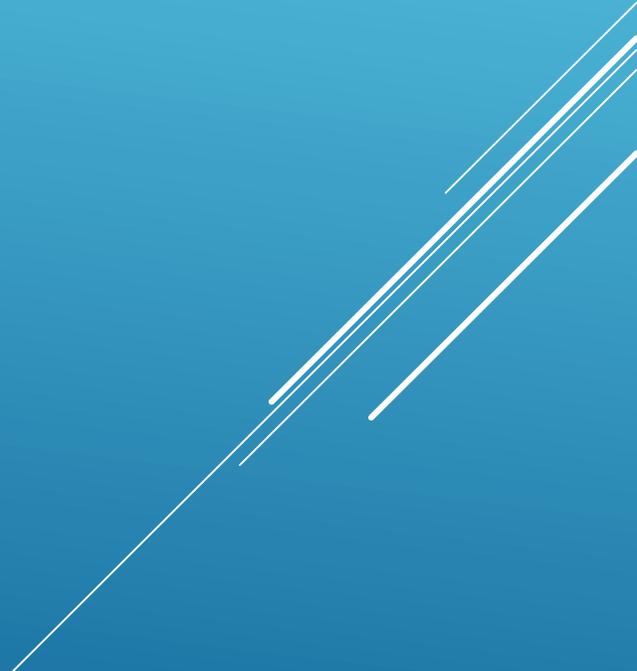
However, it also contains novelties and reforms for the Law of Notaries. For example: electronic protocol, motivated digital consultation of a single electronic index general, possibility of making certain instruments through videoconference.

- ▶ Which indicators can we attend to measure and assess the efficiency, quality and accessibility of the notarial non-contentious proceedings?
  - ▶ How can the CEPEJ help in this task of measuring the efficiency of notarial non-contentious proceedings. How the project *Justice without Litigation for Europe* could eventually be interesting to feed into the work of CEPEJ?
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## ***POSSIBLE INDICATORS***

- ▶ Open data portals, with reusable anonymised information.
- ▶ Digital services to citizens, which facilitate access, as:
  - ❑ Websites with clearly visible and understandable information about the proceedings before Notaries.
  - ❑ Possibility to initiate proceedings online
  - ❑ Possibility for clients to access on electronic form to information about their ongoing proceedings.
  - ❑ Availability of online information about the fees.
  - ❑ Communication technology, in particular videoconferencing, including options for hearing witnesses or experts.
- ▶ Communication adapted to vulnerable persons.
- ▶ Quality Management.

## **TAKING NOTE**

- ❑ Complementary question on data of the notarial non contentious proceedings to calculate efficiency indicators (disposition time, clearance rate).
  - ❑ Fundamental guarantees of notaries,
  - ❑ Functions of notaries.
  - ❑ ICT question regarding Notaries intervention in non contentious proceedings.
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*Thank you very much*

*Danke sehr*

*Muchas gracias*

Juan Fernando Armengot. Ministry of Justice of Spain, Adviser.

European Commission of the Efficiency of Justice, Bureau, GT Eval, National Representative.