

## **IV. ANALYTIC SUMMARY**



**Alli Aranguren, Juan Cruz** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **Cambio social e ideológico en la Compilación del Derecho Privado Foral de Navarra. Del tradicionalismo de 1973 al constitucionalismo de 2019.** (Social and ideological change in the Regional Private Law of Navarre. From the traditionalism of 1973 to the constitutionalism of 2019). (Orig. es).

In *Iura Vasconiae*, 17, 57-134.

Abstract: In 1973 Franco enacted the Regulatory Law on Private Law in Navarre, named the Compilation or New Legal Code. It was adapted to historic law and its traditionalistic principles. The transformation of Navarre society, the ideological evolution and the Constitution of 1978 led private institutions to adapt to the new social, ideological and constitutional reality, which took place in successive legal reforms between 1975 and 2019, with ideological debates between traditional and constitutional regional law.

Key-words: Navarre. Private law. Compilation or New Legal Code. Reforms.

**Arroyo i Amayuelas, Esther** (Universitat de Barcelona): **¿Hacia dónde va el Derecho civil europeo? Where is European Civil Law heading?** (Orig. es).

In *Iura Vasconiae*, 17, 525-562.

Abstract: Since 2014, the ambitious project to firstly create a European Civil Code and, then, on a more limited basis, a European Contract Law, has been shelved by European institutions. The legislator has returned to a pointillistic approach, this time through maximum harmonization directives and regulations, with which it tackles the impact of technology and the digital revolution on Private law. It is still necessary a general Contract law that provides consistency. However, while for some academics it is time to bring order and reassess doctrinal text and case law. Others believe that it is necessary to go further in the classical areas of Civil law, and there are even those who are considering the possibility of a European code, but this time for businesses to business relations.

Key-words: Legal Harmonization. European civil code. European Businesses code. Platforms. Robots. European sales. Consumer law. Contract law.

**Chicharro Lázaro, Alicia** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **Consideraciones de Derecho transnacional en la reforma del Fuero Nuevo de Navarra.** (Considerations of Transnational law in the reform of the New Legal Code of Navarre). (Orig. es).

In Iura Vasconiae, 17, 465-494.

Abstract: At present, the political borders of countries are completely open to the rules adopted within different international organisations that States create in order to satisfy their common interests. The provisions of Transnational law project their influence onto national laws, encouraging the change of regimes that do not comply with global requirements. In this regard, the amendment of the Compilation of Regional Civil Law of Navarre in 2019 not only made it possible to align its laws with the rules issued by the European Union, it also enabled the New Legal Code to accommodate legal institutions that are already part of the societies in all our surrounding countries, from the essential provisions on the protection of human rights to the fair Sustainable Development Goals of the 2030 Agenda.

Key-words: Transnational law. Human rights. European Union. 2030 Agenda.

**Delgado Echeverría, Jesús** (Universidad de Zaragoza): **Codificación, Código civil y derechos civiles forales.** (Codification, Civil Code and regional civil rights). (Orig. es).

In Iura Vasconiae, 17, 9-56.

Abstract: The Regional Law 21/2019, of 4 April, amending and updating the Compilation of Regional Civil Law of Navarre or the New Legal Code, closes an historical cycle in Spanish civil law codification. An extensive cycle, given that it began in 1843 (politically, with the end of the First Carlist War), when the first Commission on Codes was established and it focused its work on the institutions and texts of national law: only Castilian or all Spanish laws? In any case, «without prejudice to the constitutional unity of the Monarchy». That was the pending issue until now. And now, what we have in Spain, thanks to the Constitution of 1978, is a Civil Law system that integrates State Law and Regional Laws, all in accordance with the standards of the Codification, produced through the channels provided for in the Constitution and subject to its principles.

Key-words: Civil law. Regional law. Legal codes. New Legal Code. Civil codification. Civil code.

**Egusquiza Balmaseda, María Ángeles** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **La reforma del Libro preliminar del Fuero Nuevo por la Ley Foral 21/2019 de 4 de abril: los clarosucos de la acción legislativa.** (Reform of the Preliminary Book of the New Legal Code through Regional Law 21/2019 of 4 April: the grey areas of legislative action). (Orig. es).

In *Iura Vasconiae*, 17, 227-261.

Abstract: The study examines the meaning of the reform of the preliminary book of the New Legal Code, the mutation of the nature of the Compilation and the constitutional adjustment of the regime of sources and Navarre civil status. The interpretational doubts and practical problems that arise from the innovative concepts of undue influence and the abuse of influence are considered, along with the original development of extinctive prescription and limitation.

Key-words: New Legal Code. Article 149.1.8 of the Spanish Constitution. Sources. Civil status. Undue influence. Abuse of influence. Extinctive prescription and limitation.

**Erice Martínez, Esther** (Audiencia Provincial de Navarra): **Los precedentes inmediatos de la reforma: la Ley Foral 9/2018, de 17 de mayo.** (The immediate precedents of the reform: The Regional Law 9/2018, of 17 May). (Orig. es).

In *Iura Vasconiae*, 17, 177-198.

Abstract: An examination of the precedents of the reform of filiation actions in the New Legal Code; the development of its regulation in regional legislation, the impact on it of Constitutional Court jurisprudence and the needs for reform observed in light of the current principles of family law. All of this gave rise to the principles and content of the reform that was carried out in the Regional Law 9/2018, of 17 May.

Reform of the New Legal Code. Filiation actions. Active legitimation.

**Ezeizabarrena Saenz, Xabier** (Universidad del País Vasco / Euskal Herriko Unibertsitatea): **Los Derechos Históricos de Euskadi y Navarra en la Ley 25/2014, de Tratados y otros Acuerdos Internacionales.** (The Historic Rights of the Basque Country and Navarre in Law 25/2014, on Treaties and other International Agreements). (Orig. es).

In *Iura Vasconiae*, 17, 585-612.

Abstract: This article analyses the different avenues for participation with powers by the Basque Country and Navarre in international and European af-

fairs, with a special emphasis on the possibilities open for the partial and/general update of the Historic Rights of both Autonomous Communities, through Law 25/2014, on Treaties and other International Agreements.

Key-words: Historic Rights. European Law. International Law. Powers of the Basque Country and Navarre. International Treaties and Agreements.

**Galicia Aizpurua, Gorka** (Universidad del País Vasco/Euskal Herriko Unibertsitatea): **Una propuesta doctrinal de reforma del régimen sucesorio del Código civil español.** (A doctrinal proposal for the reform of the succession regime of the Spanish Civil Code). (Orig. es).

In *Iura Vasconiae*, 17, 315-340.

Abstract: This contribution aims to inform about the existence of a legislative proposal to modernise and update the succession regime of the Spanish Civil Code, created out of the initiative of the Association of Professors of Civil Law. It is a prudent and measured proposal that is part of an another more extensive proposal to revise the entire Code that is backed by the Association.

Key-words: Law of succession. Modernisation. Legislative reforms.

**Gil Rodríguez, Jacinto.** (Universidad del País Vasco / Euskal Herriko Unibertsitatea): **El Derecho Civil vasco como «precedente cronológico».** (Basque Civil Law as a «chronological precedent»). (Orig. es).

In *Iura Vasconiae*, 17, 199-226.

Abstract: An assessment of Law 5/2015, of Basque Civil Law in its potential to act as a unifying force for the Autonomous Community, without hiding the discriminatory doubts it seems to perpetuate, noting the encouraging sign of the partial resumption and recycling of our outdated and rigid regional provisions and highlighting that it should not be underestimated despite the fact that we have invested almost four decades in this process, or because, ultimately not a single succession statute has been achieved.

Basque Civil Law. Regional jurisdiction. Succession statute. Freedom of disposition. Limitations. Legislative instruments. Personal autonomy.

**Hualde Manso, Teresa** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **La reforma del Derecho de Bienes en el Fuero Nuevo de Navarra por la Ley Foral 21/2019.** (The reform of Property Law in the New Legal Code of Navarre through Regional Law 21/2019). (Orig. es).

In *Iura Vasconiae*, 17, 379-418.

Abstract: Navarre Civil Law underwent an extensive reform carried out through the Regional Law 21/2019 of 4 April. This reform has had a greater impact on certain matters, mainly the general area of Civil Law, Family Law and Succession Law. However, the reform has also had an impact on the property regime and on rights in rem. This study specifically analyses the paradigmatic reforms on this matter, highlighting the significance of the reformed aspects, their coherence with the regional regime, their innovative nature if applicable and their relationship with registry legislation. The issues addressed are influenced by the reform of Regional Law 21/2019 and they range from the general part of Property Law (as well as the classification of goods, the reform of usucaption, accession and some limitations on ownership) to amendments made to the regime on rights in rem in particular. In short, the study aims to offer a comprehensive and overall view of the implications of the reform of Book III of the New Legal Code or Compilation of the Regional civil law of Navarre.

Key-words: Ownership. Limits. Usucaption. Easements. Rights in rem. Joint ownership. Accession.

**Iriarte Ángel, José Luis** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **Conflictos internacionales e interregionales de leyes. La norma de conflicto.** (International and interregional conflicts of laws. The conflict rule). (Orig. es).

In *Iura Vasconiae*, 17, 495-524.

Abstract: This article examines what the reform of the New Legal Code has meant in terms of domestic and international conflicts of laws and its influence on several specific matters (referral to general State legislation, regional civil status, conflict of mobility, etc.). A special emphasis is placed on the appeal on grounds of unconstitutionality 315-2020 with regard to how it affects Laws 11 and 12 and the reasons why it is considered that this appeal has no legal basis.

Key-words: Conflict of laws. Legal residence. Conflict of mobility. Foreign will. Testamentary appendices. Appeal on grounds of unconstitutionality 315-2020. Inconsistency of it.

**Jimeno Aranguren, Roldán** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **La consideración histórica del Fuero Nuevo en materia de fuentes tras la reforma introducida por la Ley Foral 21/2019.** (The historical consideration of the New Legal Code with regard to sources after the reform introduced by the Regional Law 21/2019). (Orig. es).

In *Iura Vasconiae*, 17, 263-296.

Abstract: The Regional Law 21/2019, of 4 April, introduced some minor changes to the demarcation of historic sources which serve as a basis for the legal tradition of Navarre, deleting the mention of the local legal codes and the Reduced Legal Code (law 1). In the ranking of sources outlined in law 2, custom remains the leading source of Navarre Law. The identification of the sources carried out in the New Legal Code of 1973 was based on the studies carried out mainly by José Yanguas and Miranda, José Alonso and Victoriano Lacarra. The demarcation of legislative sources carried out by these authors very much set the standard for the compilers, who from then on identified most of the institutions of historic origin in Regional civil law.

Key-words: Regional civil law of Navarre. New Legal Code. Sources of Law. Custom. Doctrine.

**Nanclares Valle, Javier** (Universidad de Navarra): **La reforma del Libro Segundo del Fuero Nuevo: donaciones y sucesiones.** (The reform of the Second Book of the New Legal Code: donations and successions). (Orig. es).

In *Iura Vasconiae*, 17, 341-378.

Abstract: The Regional Law 21/2019 has made many reforms to the New Legal Code. This article examines the main reforms made to succession law, where the characteristic freedom to dispose for gain that is inherent to Navarre law has been maintained, while in turn it has been definitively separated from the asset organisation of the stem family and the preservation of the unity and continuity of the household. The result is a reorganisation of succession institutions which combines the preservation of many of them –with tweaks and updates of varying significance–, with the displacement of others and, even, with the elimination of some of historic significance in Navarre law, now replaced by a new regulation which, just like the reform as a whole, is worth studying closely.

Key-words: Unity of the Household. Testamentary capacity. Joint will. Forced share. Maintenance obligation. Usufruct of surviving spouse. Legal succession. Stable couples.

**Ruiz Echeverría, Matías** (Colegio Notarial de Navarra): **La reforma del Libro Primero del Fuero Nuevo de Navarra.** (The reform of the First Book of the New Legal Code of Navarre). (Orig. es).

In *Iura Vasconiae*, 17, 297-313.

Abstract: The First Book of the New Legal Code, devoted to Navarre people, family and households, included notable developments in its 2019 reform, such as a new concept for the special protection of the assets of disabled



and dependent people within families. It also recognised the heterogeneity of family units, as a plural social reality and a manifestation of the fundamental rights and individual freedoms of people, regulating marriage, stable couples, etc. «Paternal authority» becomes «parental responsibility». Different traditional institutions such as the dowry and the thirteen gold coins (arras) given by the bridegroom to the bride were removed.

Key-words: First Book of the New Legal Code. People. Family. Home. Disability.

**Sabater Bayle, Elsa** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **La reforma del Derecho de obligaciones del Fuero Nuevo**. (The reform of the Law of Obligations of the New Legal Code). (Orig. es).

In *Iura Vasconiae*, 17, 419-463.

Abstract: The Law of obligations and contracts is analyzed after the reform of the «Fuero Nuevo» given by the Foral Law 1/2019, of April 4, of Modification and Updating of de Fuero Nuevo to adapt it to social reality.

Key-words: Obligations. Contracts. Stipulations. Book IV of the «Fuero Nuevo» of Navarra. Foral Law 21/2019.

**Vega López, Fernando** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **La protection des pèlerins sur le Chemin de Saint-Jacques-de-Compostelle dans la législation navarraise et castillane, médiévale et moderne**. (The protection of pilgrims on the Way of St. James in medieval and modern Navarre and Castilian legislation). (Orig. fr).

In *Iura Vasconiae*, 17, 565-584.

Abstract: Following an introduction to the issue, this study analyses the different areas of law for the protection of pilgrims on the Way of St. James in the Middle and Modern Ages, consisting of safe-conducts and pilgrimage certificates, the legislation on the dress code and insignia of pilgrims, the so-called «peace of the Way», the freedom of movement and exemption from tolls, the protection of the possessions of pilgrims, the legal proceedings of pilgrims, and the rules on false pilgrims.

Key-words: Legal protection of pilgrims. Way of St. James. Freedom of movement. Medieval legal codes. Compilations of laws. Navarre. Castile.

**Villanueva Latorre, Ana Clara** (Universidad Pública de Navarra / Nafarroako Unibertsitate Publikoa): **Las reformas del Fuero Nuevo (1975-2019)**. (The reforms of the New Legal Code (1975-2019)). (Orig. es).

In *Iura Vasconiae*, 17, 135-175.

The Compilation of Civil Law of Navarre or New Legal Code was the last of the texts on regional or special private law to come into existence. Since its enactment, in 1973, up until last year, 2019, it was only subject to what could be considered a «reform» in 1987 in order to adapt to the Constitution. From then on, the Navarre legislator, despite being aware of the need to carry out a comprehensive reform, used the technique of the special laws to regulate specific matters, and those mainly relating to family law, which should have been included in its text. It is thus possible to state that Navarre civil law has been distanced from social reality. And it can also be said that the main aim of the reform introduced by the Regional Law 21/2019, of 4 April, amending and updating the Compilation of Regional Civil Law of Navarre or the New Legal Code, was to open up and bring the text closer to the reality of the private relations of the citizens of Navarre.

Key-words: Reforms of the New Legal Code. Regional civil law of Navarre. Navarre social reality.