

**I'M A WOMAN,
I LIVE WITH
MY PARTNER
AND I WANT
TO GET
SEPARATED
OR DIVORCED**

Ajuntament de
Barcelona



WHAT SHOULD I DO?

What should I do? **What should I consider when making the decision?** What needs to be regulated, i.e. legally organise? **What's the difference between separation and divorce?** Is my relationship an unmarried partnership? **Does an unmarried breakup need to be regulated?** How should

the custody of children we have together or recognised by my partner be exercised? **Do I have the right to alimony?** And do I have the right to compensation on the grounds of work? **What is the parenting plan?** What child support do the children we have together, have a right to, if I assume the custody of the minors? **What visiting regime should be applied?** What is a mutually agreed divorce? **Will I have to go to court?**

It is likely that as a woman you have asked yourself these and other questions when deciding to separate or divorce from the person to whom you are married (man or woman) or your unmarried partner.

You should be aware that the act which traditionally gives rise to a family is marriage, however, considering new forms of cohabitation, the family model has changed over time and the law also recognises the rights and responsibilities of:

- **unmarried partnerships**
(stable partnerships or recognised unmarried partnerships, whether or not they are registered)
- **single-mother families**
(families consisting of mother and children)
and single-father families
(families consisting of father and children)

MARRIAGE

If you were married in Catalonia or elsewhere in Spain, or if you were married abroad or are a foreigner, you should know that the court which should hear your divorce proceedings is the one which corresponds to your last address as a married couple.

Getting married has a number of effects on finances and property. These consequences are regulated by a set of standards known as the **marital financial regime**.

The married couple comes to an agreement on this marital financial regime at the time of the marriage or later (so-called postnuptial agreements).

If there is no agreement between the couple, persons with Catalan civil citizenship who cohabit and marry in Catalonia are subject to the financial regime of separation of asset. Separation of assets means that each spouse freely disposes of the ownership and administration of their assets, both from before the marriage and acquired during the marriage. However, each person is responsible for their own debts.



A **STABLE PARTNERSHIP**, whether consisting of persons of the same or opposite sex, is that which has the following characteristics: it consists of two persons of legal age, who live a lifestyle similar to marriage provided that the cohabitation lasts for more than two consecutive years, have a child together, or formalise their relationship by public deed. Remember that in the case of forming a stable partnership, you can also process and regulate the effects of the breakup judicially.

It should be noted that, in Catalonia, **Law 25/2010 of 29 July (the second book of the Civil Code of Catalonia) in relation to persons and family**, does not require stable cohabitation as a partnership to be entered into a registry; therefore, your case could be that of a **STABLE PARTNERSHIP – UNREGISTERED UNMARRIED PARTNERSHIP**.

If you are **MARRIED** you may be wondering what the **difference is between SEPARATION and DIVORCE**.

It should be noted that both **SEPARATION** and **DIVORCE** can be by **MUTUAL AGREEMENT** between the spouses or we may be **DISPUTED**, in which case it will have to go to court if it has been filed by one of the spouses without the consent of the other.

As a woman you should be aware that even if the separation or divorce is of mutual agreement it is always advisable to have a solicitor to represent you and this should not be same person who is representing your spouse or partner. In this manner your rights will be better protected.



It is recommendable for you **never TO SIGN** any agreement in private or any type of document without having it previously assessed.

You should know that separation does not terminate the marriage, meaning that spouses can live separately but if they do not divorce they cannot remarry. In the case of divorce the matrimonial bond is broken and the spouses are free to remarry.

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In the case of both separation and divorce and also separation of a stable partnership, **it is necessary to regulate a number of issues.**

They can be regulated by a mutual regulatory agreement, or else a judge will make the necessary decisions; if minors are involved, the public prosecutor will intervene and make a decision mainly in relation to the following issues:

- **If you have minor children:**
 - The **parenting plan must be regulated.** This is a document attached to the agreement which describes the commitments made by the parents in relation to the custody, care and education of the children. Remember that if there is no agreement with the other parent in relation to the commitments on the custody, care and education of the children, a judge with the intervention of the Public Prosecutor will make the decisions on this subject.
 - So-called **child support** is the amount to be paid as support for the children. This sum will depend on the financial capability of the member of the separated couple obliged to provide it and the needs of the minors.
- **Assignment or distribution of use of the family home.**
- **The alimony, if applicable.**
- **Financial compensation on the grounds of work, if applicable.**
- **The settlement of assets, if applicable.**

As a woman, **you should know that you have the right to ALIMONY** regulated by Law 25/2010 of 29 July (the second book of the Civil Code of Catalonia) in relation to persons and family.

This compensation is provided to **reduce the financial instability caused by separation or divorce.**

It has a limit: the standard of living during marriage and which the person obliged to provide alimony can maintain. Therefore, as a woman, you have the right to alimony if your financial situation has been impaired as a result of separation or divorce.

On the other hand, it may be the case that you have the right to **FINANCIAL COMPENSATION ON THE GROUNDS OF WORK.** This is a right which corresponds to you in the case of separation of assets, where you have worked considerably more than your spouse or partner at home and without pay, and if, as a result of the tasks carried out at home, your spouse has obtained a higher increase in assets than you. This is in relation to cases where your spouse has progressed professionally and financially while you were working at home, often, with the responsibility of caring for the children.



URGENT SITUATIONS

There are cases where the sentimental breakup occurs suddenly, with one of the spouses or members of the partnership leaving the home as cohabiting becomes unbearable.



You should note that it is not advisable to leave the home while you do not hold the ownership of the home, unless your physical or mental well-being is threatened or in danger. In this case, if you consider it necessary, you can report it to the autonomous Police - *Mossos d'Esquadra*.

You should be aware that as a woman, if you are a victim of gender violence by your spouse, ex-husband or person to whom you are linked or have been linked due to a sentimental relationship, and a report has been made to these effects, then the Courts for Violence Against Women is the competent authority for dealing with subjects of the family rights and voluntary jurisdiction, as well as the regulation of the custody of minors, divorce, separation, etc.



PROVISIONAL MEASURES (URGENT)

These are ones that should be requested from the **Family Court** in the case of separation or divorce in which there is no type of judicial regulation. These measures can regulate situations in relation to the following cases:

- if the father is obliged to provide child support for the children
- if the children have stayed with you or you have left with them
- deciding when and how the children will live
- deciding whether you should be paid any kind of alimony (child support in the Provisional Measures) or compensation on the grounds of work
- etc.

These measures remain in force as long as corresponding request for separation, divorce and/or custody of minors is presented before the competent judge within 30 days of their adoption.

A situation of urgency or need must be demonstrated in order for them to be processed.

You should know that if the obliged person does not comply with the sentence requiring him to provide child support for his children or alimony you can use a legal procedure known as **judgement enforcement** which enables you to recover the outstanding payments.

In any case, you can report these non-compliances to the autonomous Police - *Mossos d'Esquadra*.



For further information,
you can visit us
for advice at the
**Information and Support
Points for the Women
of Barcelona.**

You can find our
contact details at:
barcelona.cat/dones

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