

## REFORMS TO THE CIVIL CODE OF THE CDMX AND THE LAW OF NOTARIES OF THE CDMX, IN REGARDS OF GRANTING DIGITAL WILLS, DIGITAL CONTENT OF LEGACIES AND OTHERS IN THE FIELD OF CONTRACTS AND CIVIL SOCIETIES

**On August 4, 2021, decrees were published in the Official Gazette of Mexico City (CDMX), which reform and add different provisions to the Civil Code CDMX and the Law of Notaries CDMX, with respect to the use of electronic means in regards of wills, legacies, notarial activity, contracts and civil societies.**

Due to the interest involved in these reforms, we share some of the most relevant. These reforms are impelled by the digital revolution that is being experienced in the Globe, which was greatly accelerated, since Covid-19:

- **Successions. Legacies on digital assets or rights**

On the subject, article 1392 Bis is added to the Civil Code that provides for the possibility of granting legacies on goods or digital rights stored in some electronic equipment, such as: a) email accounts, sites, domains, electronic files and, b) keys and passwords of bank or securities accounts.

This information will be safeguarded by the notary before whom the will is granted. The power of the grantor of the will to appoint a special executor is contemplated, to whom the information corresponding to the access of the goods or digital rights must be provided.

Granting of an open public will before a notary in the field of its digital action (reform that should have been an addition to article 1520 of the Civil Code)

The notary, within the scope of his digital action, and in accordance with the Law of Notaries of CDMX, will draft the clauses of the will according to the will of the grantor and will read them aloud so that he expresses his agreement or, where appropriate, he may also forward the electronic file to the will grantor, so that it is read by himself.

Once the grantor of the will is satisfied, he will inform the notary, and he will proceed to sign the will using his Advanced Electronic Signature recognized in accordance with the Law of Notaries CDMX. The date and time stamped on said signature will be taken as the date and time of the granting of the will.



It should be noted that article 1520 has been repealed since 23 July 2012, in accordance with the Official Gazette of that date. Therefore, there is an inconsistency in the legislative technique, since it should have been considered as an addition and not a reform to a repealed article.

- **Granting of open public will by electronic means**

On this subject, article 1520 Bis is added to the Civil Code, which provides for this option of electronic communication, as long as the grantor of the will is in the following cases:

1. Imminent danger of death;
2. Severe or contagious illness;
3. Have suffered life-threatening injuries; or
4. Be in a place that, due to an exceptional situation, cannot be accessed in person.

- **Proposition and Acceptance of offers (reform of article 1811 of the Civil Code)**

It is established that the proposal and acceptance of an offer made through electronic, optical or any other technology means, will not require prior stipulation between the contracting parties for them to have legal effects.

- **Contracts (amendment to article 1834 of the Civil Code)**

The use of the Advanced Electronic Signature or the Electronic Signature of Mexico City is incorporated in cases where the written form is required for the contract, despite the possibility that it is autograph.

- **Holding of General Shareholders Meetings (amendment to articles 2675, 2677 and 2713 of the Civil Code)**

It is provided that general meetings may be held by means of videoconference that allows communication in real time, as long as the call indicates the electronic means by which it will be held, indicating the electronic address or number of the meeting and, where appropriate, the password. The meeting must be taxed and retained by the administrator or administrative body, as appropriate.

Finally, it is established that the partners may adopt resolutions taken outside the meeting, which will be valid as long as they are taken unanimously and confirmed in



writing in a physical or electronic document, with the advanced autograph or electronic signature of all the partners.

## CONCLUSIONS

We consider commendable the effort of the legislature to try to put the CDMX at the forefront in issues that require a close relationship with technological innovation and that will facilitate the celebration of all kinds of legal acts, such as those that require a formality or solemnity for its granting.

It will be advisable to be aware of the evolution of the digital rights of the people referred to in the aforementioned reforms, in the course of time.

Regarding the granting of the open public will by electronic means, special care must be taken in the way in which the viability of the same is accredited in the light of the requirements established in the corresponding added article.

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