1. **Introduction**

In 1956, when the first law on land was issued, the problems Spain faced were the creation of land reserve for public use, arbitrary construction on the city outskirts, and land speculation. As the law developed, the first two problems have been increasingly regulated and reduced, while the latter is still a current concern with (the real estate market). In addition, the environment has also become a main concern: there is an increasing erosion and desertification of the soil, especially as a result of severe droughts and wildfires, which leads to the loss of fertile soil and agricultural problems.

The law on land, which can be considered as the main, basic legislation at state level when it comes to land in Spain, has satisfactorily evolved since 1956. In the first place, the nationalization of urban planning in Spain has been seen as the result of the Spanish Civil War, which had destroyed most of the urban heritage at the time. This led, among other things, to the introduction of the first law on land in 1956 during the Francoist regime. This law was firstly reformed in 1975; after the promulgation of the Spanish Constitution, it was reformed again in 1990. In 1997, It was almost entirely derogated by the Constitutional Court, in response to the appeals of numerous Autonomous Communities for unconstitutionality. There was an attempt to create a new law in 1998; however, in 2001, the Constitutional Court derogated part of it once again, hence the new reform in 2007. Nowadays, the current legislation is the Royal Legislative Decree 7/2015 of the Law on Land and Urban Recovery.

Regarding the land governance system, Spain regulates matters at a national level (the State), but also at an autonomic level (the Autonomous Communities), which are in turn composed of sub-units.

1. **Overview of Important Land Legislation and Regulations**

There are six articles in the Spanish Constitution that refer to property and land law. Article 33 mentions the right to private property; article 45 refers to the environment and natural resources; article 47 states the right to adequate housing; article 132 refers to State property and public domain; article 148 lists the competences of the Autonomous Communities, and article 149 lists the State’s competences, both of which include land-related competences.

These articles are indeed implemented by a wide range of legislation: at the national level by the State’s legislature and executive, and at the autonomic level by the Autonomous Communities.

At the state level, some relevant laws regarding this matter are, among many others: on land law, the consolidated text of the Law on Land and Urban Recovery, and with regards to the environment, the Environmental Impact Assessment Law. The law of the consolidated text aims to guarantee the equality between land-related rights and duties, a sustainable development of the urban environment, and the legal framework of the land, as stated in the preamble of the legislation in question.

In addition, at the autonomic level, each autonomous community has approved its own legislation on land planning, urban planning, and environmental protection.

The Spanish Civil Code of 1889 is organized in four different books. The second book, the book of the goods, their property and their modifications; is at the same time divided into other eight different titles. These eight titles talk about the different property rights, such as property, ownership, usufruct and servitude. They also talk about the different rights of accession to both movable and immovable goods.

The Ley del Cadastro Inmobiliario is the law in which the different registration procedures are stated, and it acts into line with the Property Register institution. The aims of this national-level legislation are to regulate and organize in the most effective way the different rights that people can have over certain goods, both movable and immovable. Spain has like that a consensual transfer of property system, both a contract and the registration of the transfer needed to be done in order for it to be valid.

In 2015 after a legislative reform, land law was united in Ley de rehabilitación, regeneración y renovación urbanas, and given the name of Ley del suelo y rehabilitación urbana. The law of 2015 regulates the basic conditions which guarantee a fair exercise of the land rights and a fulfilment of the constitutional duties related with land in the national territory. It also establishes the financial and environmental standards of its juridical status and the heritage duty of the public authorities in this matter.

1. **Land Transfer, Allocation, and Lease**

The law on land does touch upon expropriation in article 42, yet only on the grounds of urban and territorial planning. The complete regulation of this aspect is found in the titulo VI of the Ley del suelo y rehabilitación urbana of 2015 in accordance with Ley de 16 de Diciembre de 1954 sobre Expropiacion forzosa (Law on compulsory expropriations). This piece of legislation distinguishes two main possible procedures: a general one, and an exceptional, urgent one. The former consists of four general steps (Title II). Firstly, the social interest/public utility of the prospective expropriation must be established and declared (art. 9). Once this has been established, it must be determined which of the assets or rights are strictly indispensable to achieve the goal of the expropriation (art. 15). After that, a just price must be specified (art. 25); lastly, the payment must take place within six months (art. 48), before the actual expropriation can be carried out (art. 51). Needless to say, the articles in between each step elaborate on further requirements, as well as exceptions and problems that might occur throughout the procedure.

In addition, the rules intended for the exceptional procedure can be found throughout Title III. The legislation in question is a rather clear and thorough one that leaves no room for vagueness.

With regards to leasing, it is regulated by the Spanish Civil Code (arts. 1542-1582), and by the Law 29/1994 on Urban Leases and the Law 49/2003 on Rural Leases. There is no specific procedure as the law allows for freedom of contract; general terms are simply defined, as well as exceptional cases and potential problems. It is regulated in so far as necessary, in a very clear and precise manner.

In Spain, the sale of goods, both movable and immovable are regulated in the 4th book of the Civil Code, which is called “Of obligations and contracts”. Article 1445 describes what a sale and purchase contracts are. From then on articles 1445 to 1456 explain the different nature and shape that these specific contracts must have. There is actually no specific requirement for the sale and purchase or lease contract of an immovable. Instead, Spanish civil law only takes into consideration the common requirements for a contract, which for a transfer of property are object, cause and consent. As long as these are met, parties can include other specific conditions in their contracts. The process of selling itself is found in Article 1145 of the Civil Code, which also states who has the capacity of buying (Art. 1459). When it comes to special cases of sale, such as social purpose, references are found on Articles 49 and 50 of the Ley del suelo y rehabilitación urbana of 2015. As far as sale is concerned, the law does provide the individuals with the right to be informed about the value of the immovable property in question prior its acquisition/transmission.

1. **Land tenure classifications**

The right of land ownership is defined in article 350 of the Civil Code.

In the Spanish civil code, two types of land properties are defined, public and private (Art. 338 Civil Code). Public land is defined in Articles 339 and 344 and are the properties with a public interest. State land is defined under articles 340 and 341 of the civil code. These are the properties belonging to the state but do not fulfil the Public land requirements, therefore they have a private property status. Private land is defined in article 345 of the Spanish civil code.

Registering property rights such as the aforementioned is obligatory and is governed under Capitulo IV of Ley de Suelo y Rehabitiación Urbana 2015.

The Spanish Civil Code determines that assets may belong to the public domain, or be private property per article 338. From article 339 to article 345, these concepts are further elaborated upon, clearly determining what kinds of assets belong to which category. For example, article 339 determines which assets are considered to belong to the public domain: public land (beaches, paths, bridges), as well as anything that belongs to the state that is not of common use (anything that is used to increase the national wealth, for example). Article 340 also indicates that anything that belongs to the State and falls outside of the examples cited in article 339 is considered to be private property. As article 345 additionally reads, private property is what belongs particularly to the citizens, the State, the Provinces and the Municipalities.

Article 10 of the Civil Code indicates that anything that concerns property and other rights on immovable property is technically regulated according to the law of the area where they are situated. At a state level, however, article 65 of the Law on Land proceeds to list in detail what can be registered in the Land Registry. As article 66 indicates, it can be done generally by means of an administrative certificate issued by the relevant urban-planning body; this certificate must include the concerned individuals, rights and property.