

La conciliación ante el LAJ como requisito de procedibilidad en la Ley Orgánica 1/2025, de 2 de enero, de medidas en materia de eficiencia del Servicio Público de Justicia**Alberto Martínez de Santos**

Letrado de la Administración de Justicia

Diario LA LEY, Nº 10677, Sección Tribuna, 5 de Marzo de 2025, LA LEY

LA LEY 2442/2025**Resumen**

La [Ley de Jurisdicción Voluntaria 15/2015](#) sustituyó un texto que se remontaba a 1881 para regular la conciliación, pero por diferentes razones no ha servido, ni sirve, para evitar el litigio y antes al contrario, se ha convertido en un acto de comunicación reforzado que en pocas ocasiones tiene eficacia. Partiendo de esta circunstancia se analiza en este trabajo las posibilidades que ofrece la [Ley Orgánica 1/2025](#) para adaptar la conciliación ante el Letrado de la Administración de Justicia a los mandatos de la reforma y, transformarla en un verdadero requisito de procedibilidad.

Palabras clave

[Ley de Jurisdicción Voluntaria](#), Conciliación, MASC, Eficiencia, Procedibilidad.

I. ¿Por qué ha fracasado la conciliación de la Ley 15/2015?

Pocos sospechábamos o, al menos no lo hacía quien redacta estas líneas, que cuando el Legislador en el Preámbulo de la [Ley 15/2015, de 2 de julio, de la jurisdicción Voluntaria](#) (en adelante [LJV](#)) afirmó que en el Título IX se contenía el régimen jurídico del acto de conciliación de forma completa, trasladando y actualizando a esa Ley lo establecido en la anterior [Ley de Enjuiciamiento Civil](#), no hacía otra cosa que indicar al interprete el camino a seguir y que no era otro que el fijado en la [Ley de Enjuiciamiento Civil](#) de 1881, sin variación alguna y, por ende que la inadmisión de plano del [art. 139.1.1 LJV](#) no tendría otro alcance que el literal del mandato, de tal modo que cualquier otra petición, con independencia de su redacción y contenido tendría acomodo en el expediente.

De hecho según la doctrina y, en opinión que comparto, la gran novedad en materia de conciliación residió en que en la [Ley del Notariado](#) y la [Ley Hipotecaria](#) se introdujeron sendos Capítulos, donde se permitía a notarios y registradores realizar también esa labor conciliadora (1).

Cierto es que el art. 139 en su primer apartado dispone que «La utilización de este expediente para finalidades distintas de la prevista en el párrafo anterior y que suponga un manifiesto abuso de derecho o entrañe fraude de ley o procesal tendrá como consecuencia la inadmisión de plano de la petición», pero para llegar a dicha conclusión era imprescindible el empecinamiento del actor en el mal empleo del expediente y, de ahí que el AAP MADRID, Sección 13ª, 85/2020, 4 de junio de 2020 confirmara la inadmisión de una petición formulada por una sociedad contra otra, «*toda vez que ya se habían presentado con antelación cuatro conciliaciones en los años 2007, 2008, 2011 y 2014, todas ellas sin avenencia, ante la oposición de la conciliada*». Concluyó la audiencia que lo que la parte actora estaba pretendiendo con estas actuaciones era evitar una posible prescripción de las acciones que pudiera ejercitar, como indicaba que interpusiera una conciliación cada dos años desde el 2007, es decir, desde hacía doce años sin llegar a la interposición de la demanda correspondiente, lo cual no solo reflejaba un abuso de derecho, sino también un fraude procesal (2).

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