



Corporate Law Newsletter

Outstanding regulation developments

Foreign investments. Royal Decree 571/2023, of 4 July, on foreign investments. [Full text.](#)

Central Register of Real Title Deeds. Royal Decree 609/2023, of 11 July, which creates the Central Register of Real Property Ownership and approves its Regulations. [Full text.](#)

Intellectual Property. Royal Decree 611/2023, of 11 July, approving the Regulations on the Intellectual Property Registry. [Full text.](#)

The present newsletter is merely informative and non-exhaustive and does not constitute any type of legal advice. If you wish to receive the present newsletter, please send an e-mail to the sender: mazars.taxlegal@mazars.es

Other outstanding regulation developments

Medicines. Resolution of 13 June 2023, of the Directorate General of Public Health, validating the Guide for the indication, use and authorisation of dispensing of medicines subject to medical prescription by nurses for: oral anticoagulation. [Full text.](#)

AEPD. Resolution of 29 June 2023, of the Directorate of the Spanish Data Protection Agency, approving the models for the submission of complaints. [Full text.](#)

International adoption. Royal Decree 573/2023, of 4 July, approving the Regulations on International Adoption. [Full text.](#)

Prevention of money laundering. Resolution of 7 July 2023, of the Directorate General of the Treasury and Financial Policy, publishing the Agreement between the Commission for the Prevention of Money Laundering and Monetary Offences and the National Securities Market Commission, for the coordination of their respective actions in matters of supervision and inspection. [Full text.](#)

Employment. Royal Decree 608/2023, of 11 July, which develops the RED Mechanism for Employment Flexibility and Stabilization. [Full text.](#)

CNMV. Financial contracts. Resolution of 11 July 2023, of the National Securities Market Commission, on product intervention measures relating to financial contracts for differences and other leveraged products. [Full text.](#)

Hybrid and electric vehicles. Royal Decree 661/2023, of 18 July, which regulates the direct granting of aid in 2023 for the development of innovative projects related to models, systems and components of hybrid vehicles and battery and hydrogen fuel cell electric vehicles in order to advance in the process of decarbonisation and maintain the competitiveness of the automotive ecosystem. [Full text.](#)

Pension plans and funds. Royal Decree 668/2023, of 18 July, amending the Regulations on pension plans and funds, approved by Royal Decree 304/2004, of 20 February, for the promotion of occupational pension plans. [Full text.](#)

Public procurement. Royal Decree 667/2023, of 18 July, creating the Interministerial Commission for the development and improvement of the inclusion of social clauses in public procurement. [Full text.](#)

Veterinary medicinal products. Royal Decree 666/2023, of 18 July, regulating the distribution, prescription, dispensation and use of veterinary medicinal products. [Full text.](#)

Legal assistance to the State. Royal Decree 649/2023, of 18th July, which implements Law 52/1997, of 27th November, on Legal Assistance to the State and Public Institutions, within the scope of the Office of the State Attorney General. [Full text.](#)

Vocational training. Royal Decree 659/2023, of 18 July, which develops the organisation of the Vocational Training System. [Full text.](#)

Remarkable General Directorate of Legal Security and Public Faith resolutions

DGSJFP. Resolution of June 27th 2023. Annual Accounts. [Full text.](#)

The DGSJFP dismisses the appeal lodged against the negative classification by the Commercial Registrar, rejecting the filing of the annual accounts for failure to attach the certificate of approval of the accounts. In this case, the company submitted the deposit of the accounts to the Registry, but instead of the certificate of approval of the accounts, what was enclosed was a "*certificate for failure to deposit the accounts, pursuant to article 378.5 of the RRM*", on the grounds that the accounts had not been approved. The Registrar therefore suspended the deposit of the accounts, and the interested party appealed against this decision. In this respect, the DGSJFP dismissed the appeal and confirmed the contested qualification note, since in order to deposit the accounts it is absolutely necessary for them to have been approved at the meeting and for the corresponding certificate to be attached. In the event that the accounts have not been approved, the aforementioned art. 378.5 RRM provides for the possibility of a certificate issued by the administrator stating the reason for the lack of approval being entered in the Book of Registrations, solely for the purpose of avoiding the closure of the registry, but the deposit cannot be made.

DGSJFP. Resolution of July 10th 2023. Corporate resolutions without stating the result of the vote. [Full text.](#)

The DGSJFP upheld the appeal lodged against the negative classification of the Commercial Registrar, in relation to a deed of conversion of corporate resolutions into a public deed, on the grounds that the form of adoption of the resolutions of a general meeting was not stated in the certification. The company in question was a limited liability company which adopted a

resolution at a general meeting to accept the resignation of one of the joint and several directors, appointing the remaining director as sole director. In the deed of the public execution of the resolutions, it was stated that they had been adopted unanimously; however, the certification merely stated that "*the members agreed on the following decisions*". Therefore, because the certification did not state how the resolutions were adopted, the Registrar suspended the registration. In this regard, the DGSJFP points out that, in the event of a defect in the certification, this can be rectified in the deed itself, there being no inconvenience in rectifying deficiencies in the certification that is attached to the deed. On this basis, the DGSJFP upholds the appeal and revokes the contested qualification note.

DGSJFP. Resolution of July 11th 2023. Form of convening the General Meeting. [Full text.](#)

The DGSJFP partially upheld the appeal lodged against the negative classification of the Commercial Registrar in relation to a deed of conversion of corporate resolutions into a public deed. The Registrar suspended the registration due to a twofold defect: (i) because the form in which the meeting was called was not stated; and (ii) because there was no 15-day period between the date of the call and the date on which the meeting was held from the date on which the notice was sent to the shareholders. In this respect, the DGSJFP considers that the first of the defects can be remedied, since it is clear from the statements contained in the deed that the notice of meeting was sent by registered letter. As for the second defect, it confirms the criterion followed in previous decisions, whereby the day on which the notice of a general meeting is sent, but not the day on which the meeting is held, is included in the calculation of the period for calculating the term of a notice of a general meeting. By virtue of the foregoing, the DGSJFP upholds the appeal, revoking the first of the alleged defects and confirming the second.

Relevant case law

Judgment of the Supreme Court of June 8th 2023. Life insurance. [Full text](#).

The Supreme Court dismisses the appeal brought by an insurance company against the judgment handed down at second instance, in which it was ordered to pay the amounts provided for in the insurance policy taken out with the plaintiff. In this case, the plaintiff brought an action against the insurer for a claim for payment based on a life insurance policy taken out with an insured capital sum of €12,000, in respect of which the plaintiff was the legatee of the universal and life usufruct of her deceased husband's inheritance. The defendant company opposed the claim, alleging the existence of pathologies prior to the formalisation of the insurance contract which were not indicated in the declaration made at the time of the application for the policy. In this regard, the SC considered that in this case it could not be considered that the omitted health data were causally related to the claim, and that neither did they have the necessary relevance for the assessment of the risk as claimed by the appellant. For all these reasons, the SC dismissed the insurer's appeal, and the insurer was obliged to pay the amounts provided for in the policy.

Judgment of the Court of Justice of the European Union of July 4th 2023. Abuse of dominant position. [Full Text](#).

The CJEU decided on a preliminary ruling and ruled on the possibility of a competition authority of the Member State concerned being able to sanction conduct that is considered contrary to personal data protection rules and thus in breach of the GDPR. In this case, the German competition authority considered that the

authorisation obtained through the acceptance of the general terms and conditions of a company's website which had a dominant position on the market, did not have valid consent under the GDPR. However, given that it is not exclusive that a company has a dominant position and that the persons who have accepted the processing conditions freely exercise their will, the CJEU provides that, in order for the competition authority to prohibit the processing of personal data, the following requirements must be met: (i) it is unlawful competition, (ii) the breach of the data protection regulation is justified and (iii) that the conclusion is derived from the cooperation between the CNMC and the AEPD.

Judgment of the Supreme Court of July 19th 2023. Protection of a trademark. [Full Text](#)

The SC upholds an appeal on cassation on the validity of the registration of a three-dimensional trade mark consisting of a specific shape of a bottle. The SC states that, in general, the technical function of any bottle cannot be appropriable, although, notwithstanding the above, it clarifies that each specific case must be analysed taking into account the specific characteristics involved in order to determine whether the bottle in question has acquired distinctiveness on the market. In such cases in which the average consumer differentiates the bottle from others, such distinctiveness must be recognised and, therefore, it must be accepted that it is a protectable three-dimensional mark. This is precisely what is present in the case under analysis, from which it is concluded that the use by a third party of an identical container infringes the registered trade mark.

Review of Interest: Royal Decree 609/2023, of July 11th, creating the Central Registry of Real Estate Titles and approving its Regulations.

On July 11th Royal Decree 609/2023 was approved, creating the Central Register of Real Property Ownership and approving its operating regulations, which will enter into force on 19 September 2023. The Central Register of Beneficial Ownership ("RCTR") is created in order to comply with the Third Additional Provision of Law 10/2010, of April 28th, on the prevention of money laundering and terrorist financing, as amended by Royal Decree-Law 7/2021, of April 25th, which, in turn, transposed in Spain Directive 2018/843/EU of the European Parliament and of the Council.

It is an [electronic, central and single](#) register for the whole of the national territory, whose management body is the headquarters of the Directorate General for Legal Security and Public Faith of the Ministry of Justice.

The main objective of the RCTL is to collect and publicise information on beneficial ownership for all Spanish legal persons and those entities or structures without legal personality, such as trusts or similar structures, which have their effective seat of management or their main activity in Spain, or which are administered or managed by natural or legal persons resident or established in Spain.

Companies that are not managed or administered from Spain or another EU Member State, nor registered by another EU Member State, but which [intend to establish business relations, carry out occasional operations or](#)

[acquire real estate in Spain](#) will also be subject to the RCTR. The information provided by the entities to the RCTL will be kept and updated for the life of the legal persons or unincorporated structures, and will be maintained for a period of ten years after their extinction. Likewise, in the case of unincorporated entities that intend to establish business relationships in Spain, the information shall be kept and updated for the duration of the business relationship, and shall be maintained for a period of ten years after the termination of the business relationship.

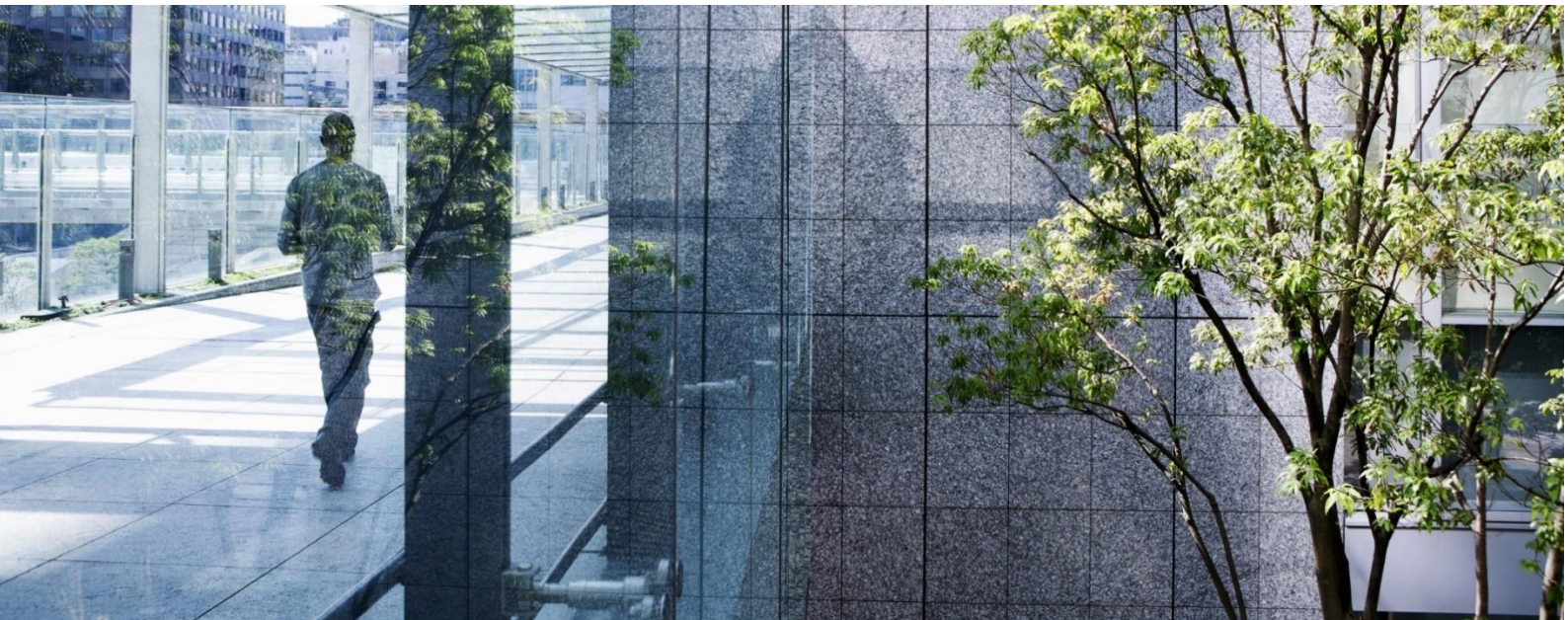
Likewise, access to the information in the RCTL will be [available free of charge and without restriction to the authorities responsible for the prevention](#), detection, investigation and prosecution of terrorist financing, money laundering and related offences, both national and from other Member States of the European Union, as well as to [notaries, registrars and their centralised prevention bodies](#), in the exercise of their functions. It also provides for the possibility of [access to third parties](#) (persons or organisations) who can demonstrate a legitimate interest in their knowledge.

Finally, it should be borne in mind that [failure to comply with the obligation to identify and report in the RCTR](#), either due to lack of identification in the beneficial ownership sheet or due to failure to record the beneficial ownership sheet by omission in the filing of the annual accounts in the case of entities legally obliged to do so, will result in the closure of the register as provided for in [Article 378 of the Companies Register Regulations](#).

The full text can be found at the [following link](#).

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