



## Corporate Law newsletter

### Outstanding regulation developments

**Subsidies.** Royal Decree 470/2024, of May 7<sup>th</sup>, regulating the direct granting of subsidies to entities related to research and knowledge. [Full text.](#)

**Co-investment Fund.** Resolution of May 24<sup>th</sup> 2024, of the Secretary of State for Trade, publishing the Agreement of the Council of Ministers of April 16<sup>th</sup> 2024, regulating the activity and operation of the Co-investment Fund, F.C.P.J. [Full text.](#)

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## Other outstanding regulation developments

**Postal services.** Royal Decree 437/2024, of 30 April, which approves the Regulations on postal services, in implementation of the provisions of Law 43/2010, of 30 December, on universal postal service, users' rights and the postal market. [Full text.](#)

**Digitalisation.** Royal Decree 473/2024, of 7 May, which regulates the Interministerial Commission for the coordination and monitoring of measures in favour of the connectivity and digitalisation of the economy and society within the scope of the General State Administration. [Full text.](#)

**Ministry of Science, Innovation and Universities.** Royal Decree 472/2024, of 7 May, which develops the basic organic structure of the Ministry of Science, Innovation and Universities. [Full text.](#)

**Indebtedness of the Autonomous Communities.** Resolution of 8 May 2024, of the General Secretariat of the Treasury and International Finance, updating Annex 1 included in the Resolution of 4 July 2017, of the General Secretariat of the Treasury and Financial Policy, defining the principle of financial prudence applicable to the debt and derivative operations of autonomous communities and local entities. [Full text.](#)

**Grants.** Order TDF/435/2024, of 9 May, amending Order ETD/1498/2021, of 29 December, approving the regulatory bases for the granting of aid for the digitalisation of small companies, micro-enterprises and self-employed persons, within the framework of the Agenda España.

Digital 2025, the SME Digitalisation Plan 2021-2025 and the Recovery, Transformation and Resilience Plan for Spain financed by the European Union - Next Generation EU (Digital Kit Programme). Provision 9523 of BOE no. 115 of 2024. [Full text.](#)

**Housing.** Royal Decree-Law 1/2024, of 14 May, extending the measures for the suspension of reposessions of primary residences for the protection of vulnerable groups. [Full text.](#)

**Ministry for Ecological Transition.** Royal Decree 503/2024, of 21 May, which develops the basic organic structure of the Ministry for Ecological Transition and the Demographic Challenge, and modifies Royal Decree 1009/2023, of 5 December, which establishes the basic organic structure of ministerial departments. [Full text.](#)

**Urgent unemployment protection measures.** Royal Decree-Law 2/2024, of 21 May, which adopts urgent measures for the simplification and improvement of the level of unemployment protection assistance and to complete the transposition of Directive (EU) 2019/1158 of the European Parliament and of the Council, of 20 June 2019, on the reconciliation of family and professional life for parents and carers, and repealing Council Directive 2010/18/EU. [Full text.](#)

**Transport.** Royal Decree-Law 3/2024, of 4 June, on measures to promote the use of land public transport by young people for journeys made during the summer period of 2024. [Full text.](#)

## Remarkable General Directorate of Legal Security and Public Faith resolutions

### DGSJFP. Resolution of April 16<sup>th</sup> 2024. Members' right to information. [Full text.](#)

The DGSJFP revokes the qualification note in relation to a company that held a meeting at which an amendment to the articles of association was agreed with the favourable vote of 66.66% of the share capital. The registrar refused registration because he considered that the shareholders' right to information had not been complied with. The DGSJFP establishes that the absence of an explicit mention of the shareholders' right to information in the notice of a meeting does not prevent the registration of the resolutions adopted at that meeting, provided that the shareholders have been able to know the content of the resolutions by other means and provided that this omission does not cause defencelessness or affect their voting decision. In this particular case, it is concluded that all the shareholders were aware of the articles that were to be amended on the basis of the information in the notice of meeting, and therefore, the DGSJSP revokes the registrar's qualification note.

### DGSJFP. Resolution of April 25<sup>th</sup> 2024. Appointment of auditors. [Full text.](#)

The DGSJFP confirms the qualification note in relation to a company which, not being obliged to audit its accounts, submitted a letter in which two auditors stated that they had been appointed as principal and alternate auditors, respectively, for the financial year 2023. The registrar suspended the registration on the ground that (in addition to the fact that the company in question had the register page closed due to lack of

In order for the appointment of auditors to be registered, it is necessary to present the appointment agreement, the acceptance of those appointed, and if the appointment is for a single financial year, it must be specified that it is voluntary, as the company is not obliged to audit its accounts. In view of the above, the DGSJFP dismisses the appeal and confirms the reasons given by the registrar.

### DGSJFP. Resolution of April 23<sup>rd</sup> 2024. Dissolution and Liquidation. [Full text.](#)

The DGSJFP rejects the qualification note of a registrar who suspended the registration of the dissolution and liquidation agreements of a company. In this case, a deed of dissolution and liquidation was filed which included a final liquidation balance sheet reflecting the company's assets in order to determine the assets to be distributed. The registrar indicated that the final liquidation balance sheet contained an error in the liabilities, as it did not include the share capital and all the liability items were zero, not complying with the provisions of articles 58.2 and 247 of the Mercantile Register Regulations. The DGSJFP revoked the qualification note, as it considered that the final liquidation balance sheet did not have to follow the same rules as the balance sheet for the financial year. For the Directorate, the absence of the capital figure in the liabilities is not a defect that prevents registration, as the share capital is mentioned in the body of the deed provided, enabling the registrar to verify it. It therefore decided to revoke the qualification note and to proceed with the registration of the dissolution and liquidation mentioned above.

## Relevant case law

**Judgment of the Supreme Court, Civil Division, of May 14<sup>th</sup> 2024. Insurance contract. [Full text.](#)**

The Supreme Court ruled on the appeal lodged by an insurance company against the judgement of the Provincial Court of Badajoz. The case has its origin in the lawsuit filed by an individual who had taken out a life and disability insurance policy with the insurer and, after being diagnosed with cancer and finding herself absolutely incapacitated, claimed the payment of the insured capital of 135,000 euros. In the first instance, the Court rejected the claim alleging bad faith in the declaration of the risk on the part of the insured, given that she had concealed relevant information about her state of health at the time of taking out the insurance policy. However, the Provincial Court overturned this decision, arguing that there were no specific questions about cancer in the health questionnaire and that the insured had not been acting in bad faith. Faced with this decision, the insurer lodged an appeal in cassation, maintaining that the insured had failed in her duty to declare the risk, essential for the insurer to be able to adequately assess the insured risk. The Supreme Court, after examining the legal and jurisprudential bases on the duty to declare the risk, affirms that this must be understood as a duty to respond to clear and specific questions formulated by the insurer. Therefore, the Supreme Court concludes that no bad faith on the part of the insured had been demonstrated, since the questions in the questionnaire were not specific enough for the insured to consider it relevant to report her anomaly. Consequently, the judgement of the Provincial Court is confirmed, condemning the insurer to pay the insured capital plus interest.

**Judgment of the Court of Justice of the European Union of May 16<sup>th</sup> 2024. Exemption from passenger compensation. Extraordinary circumstances. [Full text.](#)**

The Court of Justice of the European Union (CJEU) examines the question referred for a preliminary ruling concerning the interpretation of Regulation (EC) No 261/2004, which lays down common rules on compensation and assistance to passengers in the event of denied boarding and of cancellation or delay of flights. In this case, the Court examines whether the airport operator's lack of staff responsible for loading baggage can constitute an "extraordinary circumstance" exempting the airline from its obligation to compensate passengers for a long flight delay. In that regard, the CJEU points out that, according to that regulation, an extraordinary circumstance is "a circumstance which is not inherent in the normal exercise of the air carrier's activity and which is beyond its actual control". It also emphasises that for an air carrier to be exempted from the obligation to compensate, it must demonstrate that the circumstance could not have been avoided, even if all reasonable measures had been taken. Finally, the CJEU, after analysing the specific circumstances of the case, concludes that the airport operator's lack of staff in charge of loading baggage may constitute an extraordinary circumstance in certain cases, but the burden of proof is on the air carrier to show that it took all reasonable measures to avoid the delay or minimise its consequences. Consequently, airlines cannot avoid their responsibility to compensate passengers without adequate justification based on concrete evidence.

**Review of Interest. Resolution of April 23<sup>rd</sup> 2024, of the Directorate General for Legal Certainty and Public Faith, referring to the models for the filing with the Companies Registry of the consolidated annual accounts of the parties obliged to publish them.**

On 8 May 2024, the Resolution of 23 April 2024, of the Directorate General for Legal Security and Public Faith (DGSJFP), [was published in the Official State Gazette](#), approving the models for the filing with the Companies Register of the consolidated annual accounts of the entities obliged to publish them.

This Resolution modifies the models approved by the previous Resolution of the DGSJFP, dated 18 May 2023, introducing [changes in accordance with the provisions of the second article and the third additional provision of Law 15/2010, of 5 July, amending Law 3/2004, of 29 December, which establishes measures to combat late payment in commercial transactions.](#)

The second article of Law 15/2010, of 5 July, entrusts the Ministry of Industry, Trade and Tourism with the analysis and specific monitoring of the evolution of payment periods and late payment in commercial transactions, as well as the results of the practice and effectiveness of this Law in the different economic sectors.

For its part, [the third additional provision of Law 15/2010, of 5 July](#), establishes that all commercial companies must expressly include in their annual accounts their average supplier payment period, and that they must publish on their website, if they have one: (i) the average supplier payment

period; (ii) the monetary volume and number of invoices paid in a period shorter than the maximum established in the regulations on late payment; and (iii) the percentage that they represent of the total number of invoices and of the total monetary payments to their suppliers.

In this respect, the new Resolution of 23 April of the DGSJFP introduces the following modifications:

Firstly, [section 31 of the report, which refers to information on payment to suppliers, is modified](#), incorporating information on the number of invoices and their amounts whose payment deadline is within the period established by article 4 of Law 3/2004, of 29 December, and providing information on the percentages that these calculations represent in relation to the total number of invoices and amounts.

Secondly, [new error tests are introduced in order to improve the quality of the IDC2.1 and IDC2.2 group structure identification sheet.](#)

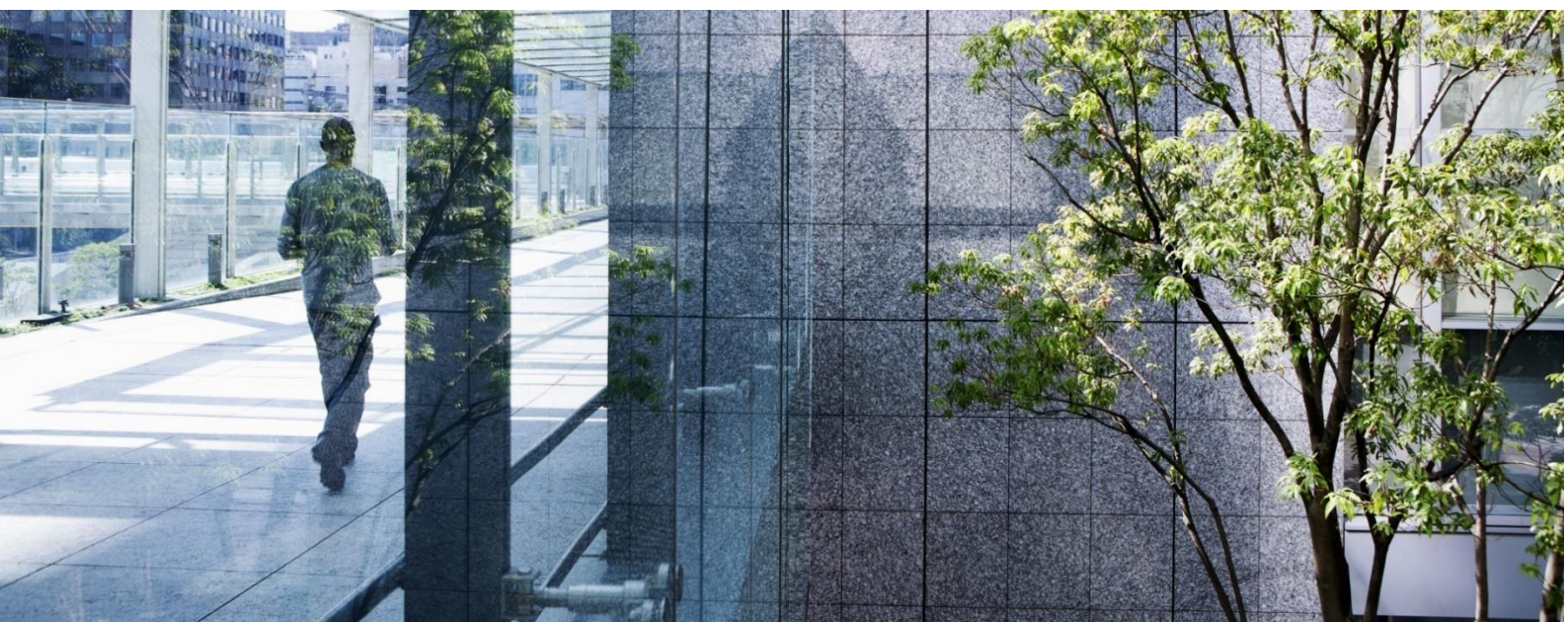
Thirdly, the [rules and technical requirements for the generation of the corresponding electronic file in the case of filing consolidated annual accounts in single European electronic format are established.](#)

[These models are published](#) on the website of the Ministry of the Presidency, Justice and Relations with Parliament and their [use is compulsory](#) for the annual accounts prepared and approved by the obliged parties, which are submitted to the Companies Registry for filing [after the publication of this Resolution in the Official State Gazette.](#)

The full text is available at the following [link](#).

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