

Corporate Law newsletter

Outstanding regulation developments

Financial assets. Resolution of 25 June 2024, of the General Secretariat of the Treasury and International Finance, which publishes the effective annual interest rate for the third calendar quarter of the year 2024, for the purpose of tax classification of certain financial assets. [Full text.](#)

Consumer Affairs. Royal Decree 713/2024, of 23 July, approving the Regulations governing the Consumer Arbitration System. [Full text.](#)

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Other outstanding regulation developments

New energy and social tax measures. Royal Decree-Law 4/2024, of 26 June, extending certain measures to deal with the economic and social consequences derived from the conflicts in Ukraine and the Middle East and adopting urgent fiscal, energy and social measures. [Full text.](#)

Occupational health. Royal Decree 612/2024, of 2 July, amending Royal Decree 665/1997, of 12 May, on the protection of workers against risks related to exposure to carcinogenic agents at work. [Full text.](#)

CNMC. Communication 2/2024, of 2 July, of the National Markets and Competition Commission, publishing guidelines on the resolution of disputes regarding non-payment of wholesale network access services, electronic communications services and associated resources. [Full text.](#)

Transport. Royal Decree 613/2024, of 2nd July, amending Royal Decree 1211/1990, of 28th September, approving the Regulations of the Law on the Organisation of Land Transport. [Full text.](#)

Social Security. Royal Decree 665/2024, of 9 July, amending the General Regulations on Contribution and Settlement of other Social Security Rights, approved by Royal Decree 2064/1995, of 22 December. [Full text.](#)

Employment. Resolution of 15 July 2024, of the Secretary of State for Employment, by which it is

Ministry of Health. Royal Decree 718/2024, of 23rd July, which develops the basic organic structure of the Ministry of Health. [Full text.](#)

Human Rights. Royal Decree 709/2024, of 23rd July, which creates and regulates the bodies for coordination, monitoring and participation in the Second National Human Rights Plan (2023-2027). [Full text.](#)

Grants. Resolution of 23 July 2024, of the Congress of Deputies, ordering the publication of the Agreement on the validation of Royal Decree-Law 4/2024, of 26 June, extending certain measures to deal with the economic and social consequences of the conflicts in Ukraine and the Middle East and adopting urgent fiscal, energy and social measures. [Full text.](#)

Financial sustainability. Resolution of 24 July 2024, of the General Secretariat for Autonomous Community and Local Funding, implementing article 41.1.a) of Royal Decree-Law 17/2014, of 26 December, on measures for the financial sustainability of autonomous communities and local entities and other measures of an economic nature. [Full text.](#)

Emissions. Order TED/803/2024, of 26 July, on the tariffs of the Spanish area of the European Union Emission Allowances Registry within the framework of Law 1/2005, of 9 March, which regulates the greenhouse gas emission allowance trading scheme.

Productivity Council. Royal Decree 758/2024, of 30 July, creating the Productivity Council of Spain. [Full text.](#)

Remarkable resolutions

DGSJFP. Resolution of 26 June 2024. Power of sub-authorisation. [Full text.](#)

The DGSJFP dismisses the appeal brought against the negative qualification note issued by the Commercial Registrar in relation to the sub-powers of attorney clause in a power of attorney deed. In this case, the general attorney of a company, who was empowered to grant powers of attorney, conferred the same powers on a third party, including the power to grant new powers of attorney. The Registrar refused registration on the grounds that an attorney authorised to grant powers of attorney is not entitled to confer this power on the appointed attorney-in-fact, since for this to be possible, the power of attorney should clearly state the power to substitute the power of attorney or to confer this power. In this respect, the DGSJFP recalls the prohibition of sub-authorisation without clear and express authorisation, as provided for in art. 261 CCom. It also points out that the power of attorney implies a relationship of trust between the principal and the attorney-in-fact, and this trust is broken if the attorney-in-fact confers this power on others without clear authorisation from the principal. Consequently, the power to sub-authorise requires an express mention in the original power of attorney and must be interpreted strictly, so that, in case of doubt, powers that are not clearly granted should not be extended. In view of the foregoing, the DGSJFP dismisses the appeal and confirms the qualification note.

DGSJFP. Resolution of 8 July 2024. Transfer of registered office. [Full text.](#)

The DGSJFP dismisses the appeal brought against the refusal by the Commercial Registrar to register the deed of transfer of the registered office of a limited company. The transfer of registered office to a different municipality within the same province was involved. However, the company's articles of association provided that the administrative body

could only transfer the registered office within the same municipal district. The Registrar suspended the registration on the grounds that, according to the articles of association, the administrative body did not have the power to transfer the registered office outside the municipal district. The DGSJFP upheld the Registrar's qualification, as it considered that the articles of association expressly limited the administrative body to transfer the registered office only within the same municipal district. This wording excluded its competence to transfer the registered office within the entire national territory, as established in art. 285 LSC, unless the articles of association indicate otherwise. Therefore, although the law allows the administrative body to transfer the registered office within the country, the articles of association in this case expressly limited this power. Consequently, the DGSJFP dismissed the appeal.

DGSJFP. Resolution of 11 July 2024. Transformation of a civil company into a limited company. [Full text.](#)

The DGSJFP dismissed the appeal filed against the qualification note issued by the Commercial Registrar, in which she suspended the registration of the transformation of a civil company into a limited company. The transformation was rejected on the grounds of failure to incorporate the transformation project, failure to inform the workers' representatives and failure to publish the modification agreement. Against this, the company argued that the regulations on structural modifications did not apply. The DGSJFP confirms that the regulations apply to all transformations that require registration in the Commercial Register, regardless of whether the original company is commercial or civil. Therefore, the abovementioned rules are applicable to the conversion of civil companies into limited companies. Consequently, the DGSJFP dismisses the appeal and confirms the classification.

Relevant case law

Judgment of the Supreme Court (Civil Division) of 22 July 2024. Poster of the lorries. [Full text.](#)

The Supreme Court analyses several appeals in cassation in relation to a claim for payment for the purchase and sale of several lorries. The plaintiff brought an action for damages against a well-known truck manufacturer following the European Commission's decision (Case AT.39824) which recognised collusive practices in breach of Article 101 TFEU by certain truck manufacturers during the years 1997 and 2011, which led to an overcharge for those vehicles. The claim having been dismissed at first instance on the grounds that the action was time-barred, the plaintiff filed an appeal, which was partially upheld by the Provincial Court, ordering the truck manufacturer to pay the plaintiff a sum plus statutory interest from the date of payment of the price of each truck. Both parties filed appeals in cassation against that decision. The Supreme Court first analysed the truck manufacturer's appeal, which argued that the judgment under appeal wrongly presumed that the infringement of competition for which it was penalised necessarily resulted in damage and that, moreover, the action was time-barred on the date on which the claim was brought. The Supreme Court dismissed both grounds in accordance with the case law of the Court itself, stating that the European Commission's Decision is sufficient basis for presuming the existence of the alleged damage and that the applicable limitation period is five years, provided for in art. 74.1 of the LDC, instead of one year, provided for in art. 1968.2 of the CC, and therefore the action could not be considered time-barred. With regard to the plaintiff's appeal, it is argued that statutory interest should have been awarded from the date of

The fact that the acquisition of the lorries was financed makes it impossible or excessively difficult to repair the damage in this case. In this sense, the Supreme Court affirms that in these cases there cannot be a different treatment from that of a purchaser who pays the price in cash and consequently proceeds to uphold the appeal.

Judgment of the Supreme Court (Civil Division) of 9 July 2024. Challenge to corporate resolutions. [Full text.](#)

The Supreme Court upheld an extraordinary appeal for procedural infringement brought in the context of proceedings challenging corporate resolutions. The plaintiff brought an action challenging corporate resolutions, alleging the adoption of a corporate resolution by a fictitious majority of votes, as the shareholders holding a greater number of shares voted against the resolution. Having rejected the claim at first instance in accordance with the doctrine of *actos propios*, the plaintiff filed an appeal, which was fully upheld by the Provincial Court, revoking the resolution adopted by the General Meeting of the Company. Faced with this situation, the respondent filed an extraordinary appeal for breach of procedure for violation of the rules of the Judgment. In its Judgment, the Supreme Court states that, if the same relevant factual and legal circumstances are present as in other previous lawsuits challenging corporate resolutions of the same company, resolved by final judgments, the ruling cannot be based on the existence of a shareholder composition with voting rights different from that which served as the basis for those previous judgments and concludes that the *res judicata* of the judgments handed down on challenges to corporate resolutions will extend to all shareholders, even if they have not litigated.

Review of Interest. Summary of Interest Regulation (EU) 2024/1689 of the European Parliament and of the Council of 13 June 2024 laying down harmonised rules in the field of artificial intelligence.

The approval of Regulation (EU) 2024/1689 of 13 June 2024 on Artificial Intelligence (hereinafter, the "AI Regulation") has established the EU as a leader in the field of AI, as it is the **broadest regulation approved on the subject, aspiring to become a regulatory standard on a global scale.**

This regulation is designed to ensure that artificial intelligence is human-centred, guaranteeing respect for human rights, sustainability, security and the rule of law.

In this context, the IA Regulation **has established a clear definition of an IA System, a general-purpose IA model, as well as the classification of IA models according to their risk,** differentiating and establishing certain requirements and specific obligations for those classified as high-risk systems.

The **scope of application of the IA Regulation** is based on the **impact for the EU market,** thus it will apply to **suppliers who place on the market or put into service IA systems, irrespective of whether they are established in the EU or in a third country;** those **responsible for the deployment of IA systems located in the EU or in a third country,** where the output information generated by the IA system is used in the EU; **importers and distributors of AI systems in the EU;** **manufacturers of products introducing together with their product and name or trademark an AI system in the EU;** **authorised representatives of suppliers not established in the EU;** and **affected persons located in the EU.**

In the same vein, in order not to hinder the development of AI in areas of low impact for the general population, the AI Regulation will not apply to systems for military or defence purposes; scientific research and development purposes; research or testing of systems prior to their introduction to the market; natural persons using AI systems in the exercise of a purely personal activity; certain AI systems released under free licences; and **public authorities or international organisations** for law enforcement and judicial cooperation purposes.

In addition, the IA Regulation, considering that certain practices have an unacceptable risk, **has established as prohibited subliminal, manipulative or deceptive techniques that aim to substantially alter the behaviour of individuals;** the **exploitation of vulnerabilities** of individuals; the **classification of individuals by citizen scoring;** the **prediction of potential criminality;** the **creation of databases through massive facial recognition,** the **inference of emotions** in educational or work centres; **biometric categorisation** to deduce data on individuals; and **real-time remote biometric identification** for law enforcement purposes.

For the same purpose, **fines are set for infringement of the IA Regulation,** differentiating between non-compliance with (i) IA practices; (ii) obligations imposed by the IA Regulation; or (iii) submission of inaccurate, incomplete or misleading information to the authorities.

This Regulation has entered into force on 2 August 2024, however, it will not be applicable for two years, except for the provisions contained in art. 113 of said Regulation.

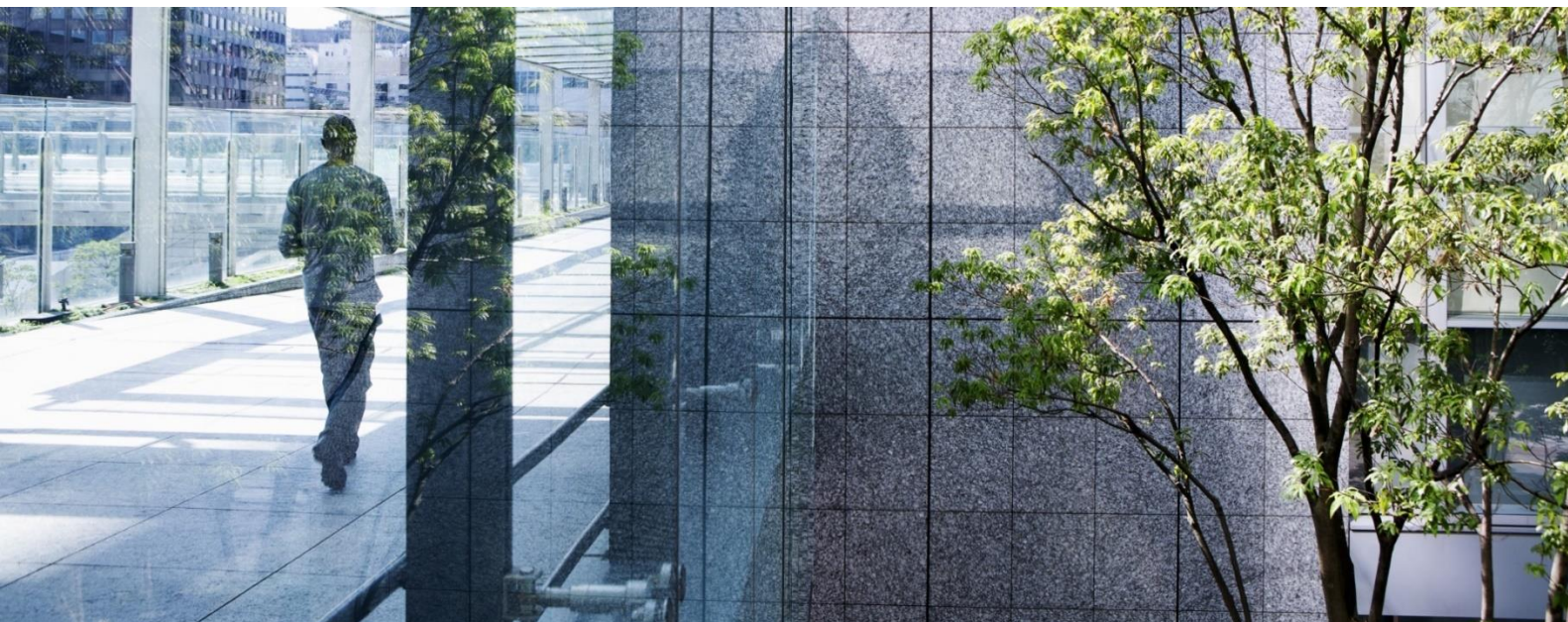
The full text can be found at the following [link](#) .

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