



Corporate Law newsletter

Outstanding regulation developments

Financial assets. Resolution of 24 September 2024, of the General Secretariat of the Treasury and International Finance, which publishes the effective annual interest rate for the fourth calendar quarter of the year 2024, for the purpose of tax classification of certain financial assets. [Full text.](#)

Electricity production. Royal Decree 962/2024, of 24 September, which regulates the production of electrical energy from renewable sources in installations located at sea. [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

Financial measures. Resolution of 4 September 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, which defines the principle of financial prudence applicable to the debt and derivative operations of autonomous communities and local entities. [Full text.](#)

Petroleum products. Resolution of 9 September 2024, of the Directorate General for Energy Policy and Mines, which publishes the new sales prices, before tax, of liquefied petroleum gases by pipeline. [Full text.](#)

Public accounting. Order HAC/965/2024, of 9 September, amending the Orders of the Ministry of Economy and Finance of 1 February 1996, approving the accounting documents to be used by the General State Administration and the Instruction on accounting procedures to be followed in the execution of State expenditure, Order EHA/2045/2011, of 14 July, approving the Accounting Instruction for the State Institutional Administration, and Order EHA/3067/2011, of 8 November, approving the Accounting Instruction for the General State Administration. [Full text.](#)

Grants. Royal Decree 894/2024, of 10 September, which regulates the direct granting of various subsidies in the field of medicines and health products during the financial year 2024. [Full text.](#)

Organisation. Royal Decree 896/2024, of 10 September, amending Royal Decree 1009/2023, of 5 December, which establishes the basic organisational structure of ministerial departments, and Royal Decree 205/2024, of 27 February, which develops the basic organisational structure of the Ministry of Defence. [Full text.](#)

Administration of Justice. Royal Decree 913/2024, of 17 September, which modifies Royal Decree 95/2009, of 6 February, which regulates the System of administrative registers to support the Administration of Justice. [Full text.](#)

Gas system. Order TED/1013/2024, of 20 September, which establishes the charges of the gas system and the remuneration and fees for basic underground storage facilities for the gas year 2025. [Full text](#)

Transport and sustainable mobility. Resolution of 20 September 2024, of the Undersecretariat, modifying the electronic addresses of the electronic headquarters and the Internet portal of the Ministry of Transport and Sustainable Mobility. [Full text.](#)

Foreign exchange market. Resolution of 23 September 2024, of the Banco de España, publishing the euro exchange rates for 23 September 2024, published by the European Central Bank, which will be considered official exchange rates, in accordance with the provisions of article 36 of Law 46/1998, of 17 December 1998, on the Introduction of the Euro. [Full text.](#)

Relevant case law and resolutions (1/2)

Self-monitoring Jury. Resolution of 13 September 2024. Publicity. [Full text.](#)

The Seventh Section of the Autocontrol Jury has rejected a complaint against an advertisement for potato crisps, broadcast on television and the internet. In the advert, a woman gets her hand trapped in a potato crisp can and, instead of freeing it, continues with her daily activities, such as playing the guitar or combing a friend's hair, using the packaging in a comical way. The complainant considered that this depiction was offensive to people who use prostheses, as, according to him, it could ridicule their situation by presenting the inability to use a hand in a humorous way. In his complaint, he alleged that the advertisement violated the dignity of amputees, suggesting that it was discriminatory. However, the Seventh Section concluded that the ad did not infringe Rule 10 of Autocontrol's Code of Advertising Conduct, which prohibits discriminatory advertising. It stressed that the tone of the advertisement is clearly humorous and absurd, allowing the average viewer to easily distinguish that the situation is a comic exaggeration with no intention of alluding to a disability. It was also noted that the protagonist does not have a disability, and that the absurd situation of getting her hand caught in the packaging is used to emphasise how "irresistible" the chips are, without disparaging people with prostheses. In conclusion, the Jury found that the advertising does not violate the dignity of people with disabilities and does not suggest any discrimination. It therefore decided to reject the complaint as it found no infringement of the applicable advertising rules.

Judgment of the Supreme Court (Civil Division) of 16 September 2024. Loan contract. [Full text.](#)

The Supreme Court has dismissed the appeals in cassation and extraordinary appeal for procedural infringement brought by the defendant, which acted as joint and several guarantor in a loan contract between the plaintiff and a company that defaulted on its obligations. The plaintiff claimed the principal plus interest from the guarantor, due to the default on the loan by the borrower company. At first instance, the claim was dismissed on the grounds that payment could not be demanded from the guarantor without a prior declaration of termination of the loan agreement. However, on appeal, the Provincial Court reversed this decision and sentenced the defendant, arguing that the insolvency of the borrower triggered the early maturity of the debt, allowing the full amount owed to be claimed from the guarantor without the need for a formal termination of the contract. Faced with this situation, the defendant filed an extraordinary appeal for procedural infringement, claiming that the Court had improperly introduced the concept of early maturity due to insolvency, since it was not part of the initial claim. The Court dismissed this allegation, pointing out that early termination had been an issue discussed from the outset, without altering the cause of action or causing the defendant to be defenceless. In the appeal, the defendant argued that the contract did not provide for early maturity and that it should therefore be released from its liability as guarantor. The Supreme Court also rejected these arguments, recalling Article 1129 of the Civil Code. In its ruling, the Supreme Court upheld the decision of the Provincial Court.

Relevant case law and resolutions (2/2)

Judgment of the Supreme Court (Civil Division) of 16 September 2024. Telephony contract. [Full text.](#)

The Supreme Court dismisses the appeal in cassation brought in a dispute arising from the interruption of services on several telephone lines. The plaintiff brought an action against the service provider following the indefinite suspension of the lines without prior notice, requesting the reactivation of the lines or, alternatively, the termination of the supply contract and compensation for the damages suffered due to the interruption. At first instance, the court considered that the claim should be upheld, since the regulations on the rights of users of telecommunications services, in particular the Royal Decree regulating this matter, obliged the operator to re-establish the service or, failing that, to compensate for the damages caused. Consequently, the court ordered the reactivation of the service or, failing that, the termination of the contract, as well as the payment of compensation in accordance with the damages claimed. For its part, the Supreme Court dismissed the appeal against this ruling, concluding that the regulations on telecommunications users' rights are applicable in this case, and that the unjustified interruption of the service constituted a clear breach of contract. Furthermore, it emphasised that the plaintiff's claim could be brought both administratively and civilly, and that the right to compensation was not affected by the presumed tacit termination of the contract. Finally, it ordered the defendant to pay the costs of the appeal and confirmed the forfeiture of the deposit lodged for the formulation of the appeal.

Judgment of the Supreme Court (Civil Division) of 17 September 2024. Right of association. [Full text.](#)

The Supreme Court upheld an appeal in cassation in a dispute concerning the infringement of the right of association. The plaintiff brought an action against an association, requesting to be recognised as a full member with the capacity to vote at general assemblies, arguing that the reform of the articles of association in 2018 eliminated the category of "contingent shareholder" and that he should therefore be admitted as a full member. At first instance, the court dismissed the claim, since, although the category of "contingent member" was eliminated in the new bylaws, it continued to apply to the shareholders who already belonged to it as a "category to be extinguished", i.e. it was maintained for them until their situation changed, but no new shareholders would be admitted. The claimant appealed to the Lugo Provincial Court, which upheld the initial judgment, rejecting his claims. The claimant subsequently lodged an extraordinary appeal for procedural infringement and an appeal in cassation before the Supreme Court. In its judgment, the Supreme Court dismissed the extraordinary appeal for procedural infringement, but upheld the appeal in cassation. The high court concluded that the category of contingent shareholder had been eliminated with the reform of the bylaws in 2018, and that the plaintiff should have been considered a full shareholder, as he met all the necessary requirements. Furthermore, the association was found to have infringed his right by not allowing him to pay the requested membership fee, which affected his fundamental right to participate in the life of the association. As a result, the Supreme Court annulled the resolutions of the assemblies of 10 February 2019, finding that they infringed the applicant's right to participate fully in the association.

Review of Interest. Judgment of the Court of Justice of the European Union, 18 September 2024. Competition law and abuse of dominant position.

The judgment of the General Court of the European Union of 18 September 2024 directly addresses the abuse of a dominant position exercised by a technology company in the online search intermediation advertising sector. The case stems from a decision adopted by the European Commission in 2019, following an in-depth investigation into the company's anti-competitive behaviour. This court case has set an important precedent for the application of [Article 102 of the Treaty on the Functioning of the European Union \(TFEU\)](#) and [Article 54 of the EEA Agreement](#), which are key in the fight against monopoly in the region. This judgment not only clarifies the interpretation of these articles in relation to the practices of dominant technology companies, but also reinforces the principles governing free competition in essential digital markets, such as online advertising.

The ruling focuses on the use of [restrictive contractual clauses](#) imposed on website publishers that used the company's advertising platform, thereby limiting the ability of their competitors to operate. [The exclusivity clause obliged publishers to use only the company's advertising services](#), which has been found to exclude competition and significantly reduce publishers' choice of advertising providers. On the other hand, [the placement clause gave priority to the company's advertisements](#), reserving the most visible spaces on the web pages for its advertising, which harmed the visibility of competitors' advertisements. Finally,

the prior authorisation clause required the company's approval for any change in the way advertisements were presented, which imposed additional restrictions on publishers and made it more difficult for other players to enter the advertising market.

These practices were considered by the European Commission as a clear [abuse of a dominant position](#), as they severely restricted competition and artificially strengthened the company's dominant position in the EEA advertising market. The fine imposed, of a considerable magnitude, underlined the [seriousness of the anti-competitive behaviour](#) and the importance of sanctioning such actions in order to protect competition. The judgment of the General Court of the European Union upholds the Commission's decision, concluding that the company [used its dominant position to exclude competitors and strengthen its monopoly](#) in the online advertising sector. In addition, the imposition of these clauses directly affected [content publishers and consumers by limiting innovation and reducing the choice available](#), which kept prices high in online advertising and harmed consumers.

The court also highlighted the proportionality of the sanctions, noting that the company's practices impacted trade within the EEA and hindered the development of alternatives in the digital advertising market. This judgment [reinforces the importance of antitrust regulation in the European Union](#) and highlights that the misuse of a dominant position can have consequences in key markets such as digital advertising.

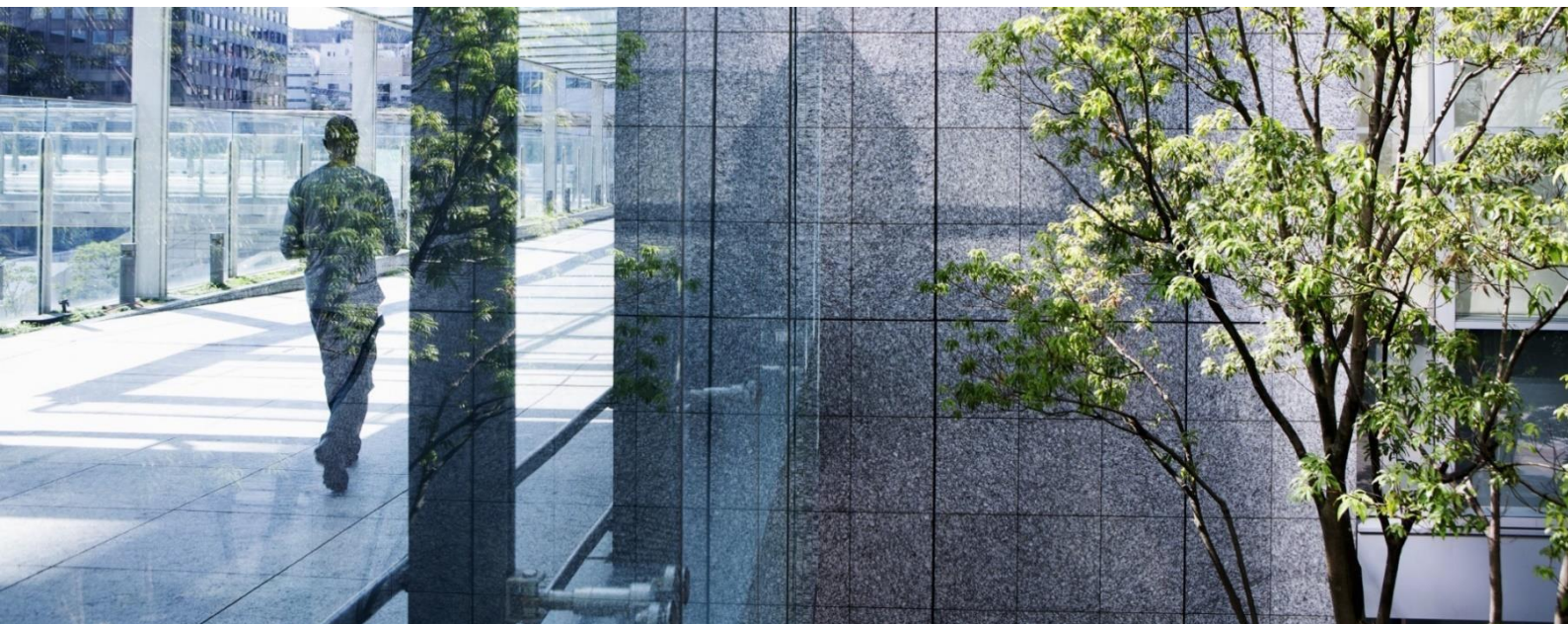
The full text can be found at the following [link](#).

Contact

Clementina Barreda, Partner, Forvis Mazars

Tel: 915 624 030

clementina.barreda@mazars.es



Newsletter coordinated and edited by Clementina Barreda, Ana Ramallo and Elena Emparanza.

Forvis Mazars is the brand name for the Forvis Mazars Global network (Forvis Mazars Global Limited), a leading global professional services network. The network operates under a single brand worldwide, with just two members: Forvis Mazars, LLP in the United States and Forvis Mazars Group SC, an internationally integrated partnership operating in over 100 countries and territories.

The entities of the Forvis Mazars network in Spain (Forvis Mazars Auditores S.L.P; Forvis Mazars Tax & Legal S.L.P.; Forvis Mazars Servicios Profesionales, S.L.P; Forvis Mazars Financial Advisory, S.L) provide audit & assurance, tax, legal, financial, consulting, outsourcing, and sustainability services through 800 professionals in 8 offices.

www.forvismazars.com/es

**forvis
mazars**

