



Corporate Law newsletter

Outstanding regulation developments

State Agency for Digital Administration. Royal Decree 1118/2024, of 5 November, approving the Statute of the State Agency for Digital Administration. [Full text.](#)

Bank of Spain. Resolution of 26 November 2024, of the Banco de España, publishing the Agreement with the Association of Registrars of Property, Mercantile and Movable Property of Spain, for access to telematic registry services via API and the periodic supply of information on corporate transactions. [Full text.](#)

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mazars.taxlegal@mazars.es

Other outstanding regulation developments

Urgent measures. Royal Decree-Law 6/2024, of 5 November, adopting urgent measures in response to the damage caused by the Isolated Depression at High Levels (DANA) in different municipalities between 28 October and 4 November 2024. [Full text.](#)

Digital Administration of the State Administration. Royal Decree 1125/2024, of 5 November, regulating the organisation and operational instruments for the Digital Administration of the State Administration. [Full text.](#)

Petroleum products. Resolution of 7 November 2024, of the Directorate General for Energy Policy and Mines, which publishes the new sales prices, before tax, of liquefied petroleum gases through pipelines. [Full text.](#)

Forestry and environmental agents. Law 4/2024, of 8 November, on basic forestry and environmental agents. [Full text.](#)

Subsidies. Royal Decree 1141/2024, of 11 November, regulating the direct granting of certain subsidies in the field of ecological transition for the financial year 2024. [Full text.](#)

Right of defence. Organic Law 5/2024, of 11 November, on the Right to Defence. [Full text.](#)

National Security. Order PJC/1290/2024, of 13 November, which publishes the Agreement of the National Security Council creating and regulating the Specialised Committee against Organised Crime and Serious Crime. [Full text.](#)

Agreements. Resolution of 13 November 2024, of the Instituto de Contabilidad y Auditoría de Cuentas, publishing the Agreement with the Spanish Association of Accounting and Business Administration, to promote the progress of knowledge in the field of corporate information. [Full text.](#)

Foreign exchange market. Resolution of 18 November 2024, of the Banco de España, publishing the euro exchange rates for 18 November 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.](#)

Entities participating in TARGET. Resolution of 18 November 2024 of the Executive Commission of the Banco de España, amending that of 4 July 2022, approving the uniform conditions of participation in TARGET-Banco de España. [Full text.](#)

Wine sector. Royal Decree 1158/2024, of 19 November, implementing certain provisions of the European Union which establish measures to respond to specific problems in the wine sector caused by adverse meteorological phenomena and disturbances in the wine market of the Union. [Full text.](#)

Tobacco. Prices. Resolution of 29 November 2024, of the Presidency of the Tobacco Market Commission, publishing the retail prices of certain tobacco products in Tobacco and Stamp Outlets in the Monopoly area. [Full text.](#)

Remarkable resolutions

DGSJFP. Resolution of October 9th 2024. Deposit of accounts of a Limited Company (BOE November 15th 2024). [Full text.](#)

The DGSJFP dismisses the appeal brought against the qualification note of the Commercial Registrar of Madrid, which refused to file the annual accounts of a company. The refusal was based on two main defects: the failure to present comparative data for the previous year in the accounts for 2023 and the closure of the register due to the failure to file the accounts for 2022. The company's representative argued that it was not possible to include figures for 2022, given that the company did not exist operationally in that year, as it was incorporated in December 2022 and started operations in 2023. However, the DGSJFP confirmed that, in accordance with Article 24 of the Capital Companies Act, companies start their activity from the granting of the deed of incorporation, which implies the obligation to prepare accounts from that moment, even if they have not carried out business operations. It also stressed that the accounts must include comparisons with the previous year, as established in article 35.6 of the Commercial Code, and recalled that failure to comply with this obligation prevents the filing of accounts. For all these reasons, the body rejected the appeal, confirmed the classification and reiterated that compliance with these accounting obligations is essential to guarantee transparency and legal certainty in the commercial sphere, urging the company to regularise its situation in order to proceed with the filing of the accounts with the Commercial Registry.

DGSJFP. Resolution of October 11th 2024. Elevation to public deeds of corporate resolutions (BOE November 15th 2024). [Full text.](#)

The DGSJFP dismissed the appeal filed against the qualification note of the Commercial Registrar of Seville, which had refused the registration of a deed to convert a company's corporate resolutions into a public deed. The Registrar objected to the registration of an article of the articles of association establishing an ancillary service consisting of compliance with a family protocol, the content of which was neither registered nor deposited in the Commercial Register, on the grounds that the content of the protocol was not publicly accessible to third parties interested in acquiring shares in the company. The DGSJFP confirmed that the ancillary provision could be valid in the articles of association, provided that its content is "determinable" and complies with the provisions of Royal Decree 171/2007. In this regard, the DGSJFP stressed that, although family protocols need not necessarily be accessible in their entirety, they must meet certain requirements of determination and basic publicity to ensure that future shareholders are aware of the content of the protocol before acquiring shares. To this end, it concludes that compliance with the principle of transparency must be ensured, without contravening the principles of shareholder autonomy with regard to shareholders' agreements and, therefore, it must be ensured that the ancillary service is sufficiently clearly identified for it to be effective, but without the need to deposit the full protocol in the Commercial Register.

Relevant case law

Judgment of the Supreme Court (Civil Division) of November 4th 2024. Reopening of insolvency proceedings. [Full text.](#)

The Supreme Court dismissed the appeal in cassation filed by a company in a bankruptcy incident related to an act of disposition carried out before the declaration of bankruptcy. In this case, the insolvency administration requested the rescission of a purchase and sale of a vehicle by one of the insolvent companies, which it considered to be a sham, as well as the subsequent donation of the vehicle to a person related to the company. The claim sought the restitution of the vehicle to the active mass. The Barcelona Commercial Court upheld the claim, declaring the sale and the donation null and void. The company appealed, arguing that reintegration actions could only be directed against new or unknown acts at the time of the conclusion of the insolvency proceedings. The Provincial Court dismissed the appeal and upheld the first instance judgment. The Supreme Court, in reviewing the case, clarified that the reopening of the insolvency proceedings, in accordance with article 179.3 of the Insolvency Act, allowed for reintegration actions to be brought against acts prior to the declaration of the insolvency proceedings, even if these had not initially been considered viable. Likewise, the Supreme Court dismissed the appeal, confirming the decision of the Provincial Court, emphasising that the insolvency administration could exercise the reintegration actions, even if they had not been exercised during the initial phase of the insolvency proceedings, and imposing on the appellant the payment of the costs of the proceedings and the loss of the deposit deposited for the appeal.

Judgment of the Supreme Court (Civil Division) of November 6th 2024. Distribution contract. [Full text.](#)

The Supreme Court partially dismissed the appeal for cassation and procedural infringement brought by a company in the distribution sector in a dispute with another company in the same sector. The contract, signed in 2014, was for the distribution of products in the province of Malaga and allowed for unilateral termination by either party with three months' notice. The conflict arose when the distribution company unilaterally withdrew from the contract, which led the other party to sue it. The plaintiff sought compensation for the withdrawal and the payment of outstanding amounts for supplies. The court of first instance partially condemned the defendant company, recognising compensation for withdrawal, although it was considerably less than that requested. Both parties appealed, and the Provincial Court increased the compensation in favour of the plaintiff as it considered that the initial compensation did not adequately cover the damages caused by the unilateral withdrawal from the contract. This judgment was appealed before the Supreme Court on the grounds of procedural errors, such as the lack of moderation of a penalty clause. In relation to which, the Supreme Court concluded that article 1154 of the Civil Code allows for the moderation of a contractual penalty when certain requirements are met and, as this case involved compensation derived from the exercise of the right of withdrawal, and not from a breach of contract, it was not appropriate to apply judicial moderation of the clause, as it was not a penalty clause. The Supreme Court emphasised that respect for the conditions agreed by the parties must prevail, thus ratifying the compensation set by the Provincial Court.

Review of Interest. Resolution of the DGSJFP, of September 9th 2024 (BOE November 6th 2024). Corporate law and telematic filing of annual accounts.

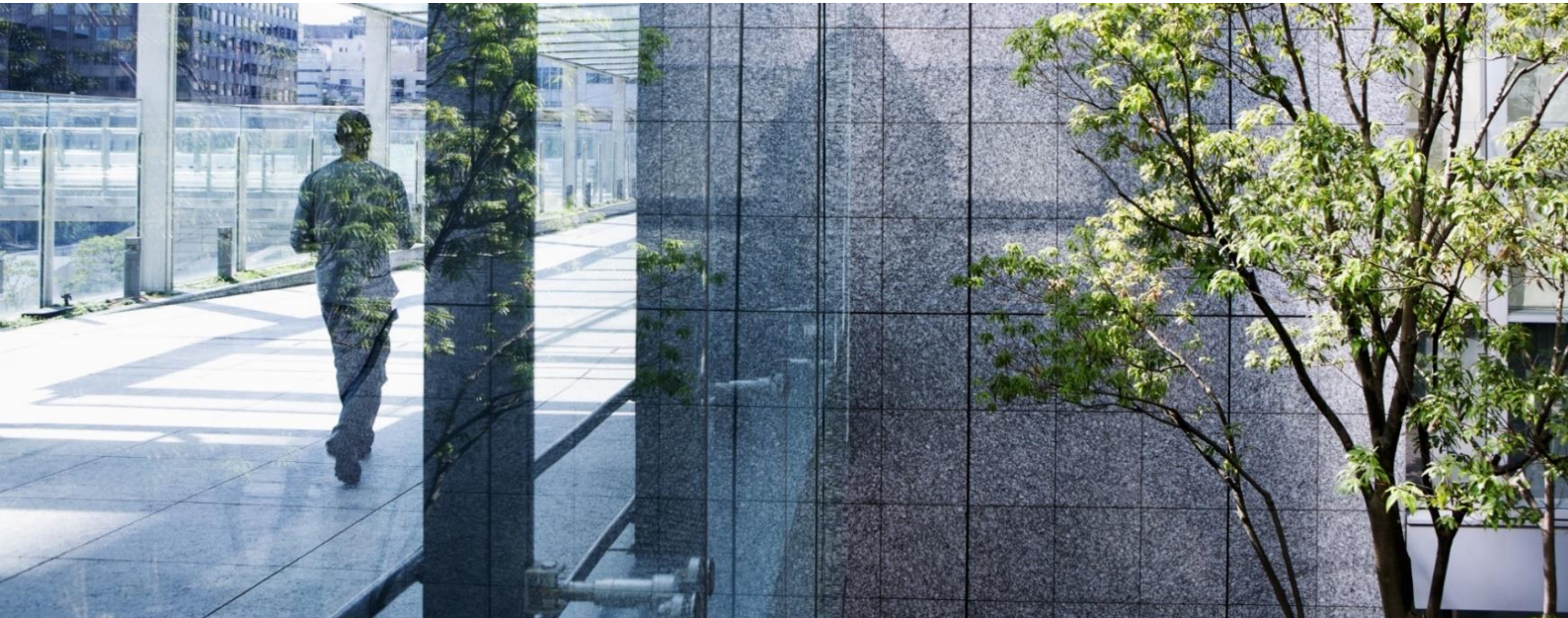
The Directorate General for Legal Security and Public Faith (DGSJFP) issued a relevant resolution on September 9th 2024, in which it ruled on the signature requirements for the telematic filing of annual accounts with the Commercial Registry. The case analysed arose following the [negative classification of the Valencia Mercantile Register, which rejected the filing of the accounts of a company for the 2023 financial year, alleging that the joint administrator had signed the certification of the minutes of the general meeting by handwriting, when, in the opinion of the register, she should have used a qualified electronic signature, as she was the holder of a national electronic identity card \(DNle\)](#). In its ruling, the DGSJFP examines the regulations applicable to the filing of accounts, highlighting articles 279 and 280 of the Capital Companies Act, which establish the documents that must accompany the filing and the powers of registry qualification, respectively. [The DGSJFP argues that the mere possession of a DNle does not mean that the director can use it immediately to sign electronically, as specific equipment and programmes are required, such as smart card readers, appropriate software and technical compatibility](#). Consequently, requiring this signature exclusively from administrators with Spanish nationality could result in discrimination with respect to administrators of other nationalities who do not have a DNle, violating principles of equality in access to the administrative function. Furthermore, the resolution highlights that the technical

requirements for telematic filing must be interpreted in a manner consistent with the possibilities offered by physical filing. In this sense, it concludes that, [just as an electronically signed certification can be accepted for physical filing, an autographically signed certification should also be accepted for telematic filing, without the need to justify the absence of an electronic signature](#). This approach seeks to balance the principles of administrative simplification, transparency and accessibility. In its decision, the DGSJFP not only revokes the classification of the Valencia Commercial Register, but also establishes a fundamental criterion for the treatment of similar cases. It reaffirms that the registry qualification must focus on verifying that the certification of the minutes is duly signed by a member of the administrative body empowered to do so, regardless of whether the signature is handwritten or electronic, provided that the established legal requirements are met. In conclusion, [the Directorate General considers that the negative qualification was inappropriate, as it interpreted the signature requirements for telematic filing in an excessively restrictive manner](#). The ruling represents a significant step towards a more flexible and proportional interpretation of the applicable regulations, underlining the importance of ensuring equal treatment of administrators and of maintaining an appropriate balance between technological advances, administrative simplification and registry transparency. This pronouncement reinforces the rights of directors and consistency in the application of the requirements for the filing of accounts, reaffirming the importance of public disclosure as an essential pillar of commercial transactions.

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 Empananza.

Forvis Mazars is an internationally integrated partnership, specialising in audit, accountancy, advisory, tax and legal services*. Operating in over 90 countries and territories around the world, we draw on the expertise of 40,400 professionals – 24,400 in Mazars' integrated partnership and 16,000 via the Mazars North America Alliance – to assist clients of all sizes at every stage in their development.

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