

Current Legislation

Coordinator:

Rosana Hallett

Of counsel of GA_P



Contents

I.	Environment	3
II.	Agri-food	4
III.	Intellectual property	4
IV.	Unfair trading practices.....	5
V.	Tax	6
VI.	Companies limited by shares	8
VII.	Real estate.....	9
VIII.	Employment and labour	10
IX.	Audiovisual	12
X.	Telecommunications	12
XI.	Energy.....	13
XII.	Railway sector	16

I. Environment

In this matter, we consider the following to be of interest:

1. **Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and for new light commercial vehicles, and repealing Regulations (EC) No 443/2009 and (EU) No 510/2011.** The fundamental objective of the regulation is to achieve a gradual reduction of CO₂ emissions in the road transport sector from 1 January 2020. This reduction will contribute significantly to achieving the binding target of at least a 40 % domestic reduction in economy-wide greenhouse gas emissions by 2030 prior to achieving the transition to net-zero greenhouse gas emissions by 2050.
2. **Decree 27/2019 of 11 April on Industrial Environmental Protection and Control in the Principality of Asturias¹.** The Principality of Asturias incorporates in its regional regulations EU legislation on industrial emissions, as well as the sectorial rules and regulations on environmental protection (air, water, waste and noise), and establishes a prevention and control system to verify compliance by industrial facilities.
3. **Decree 64/2019 of 9 April on the legal system applicable to the recovery of black slag from the manufacture of steel in electric arc furnaces (Basque Government)².** This decree lists the uses for which black slag obtained in the manufacture of steel is considered suitable for transformation into steel aggregates. The final use must comply with a series of technical environmental and construction requirements and those applicable to the proposed final use.
4. **Decree 55/2019 of April 5 approving the revision of Valencia's Comprehensive Waste Management Plan³.** The new approved waste management plan has as its fundamental basis the management of waste according to the principle of hierarchy defined in EU legislation and the transition towards a circular economy by improving the recovery performance of the current global waste management system.
5. **Decree 53/2019 of 26 March regulating manure management and certification and control procedures (Aragonese Government)⁴.** In order to ensure the sustainability of the livestock sector and contribute to boosting the circular economy in the agricultural sector, the Aragonese Government promotes with this decree a rational use of manure generated in said sectors' facilities as fertilizer. It also regulates a series of control mechanisms in order to prevent the risks and environmental impacts of waste generated by the Aragonese livestock sector.

Ignacio Álvarez Serrano and Paloma Tuñón Matienzo

¹ Decreto 27/2019, de 11 de abril, de Protección y Control Ambiental Industrial en el Principado de Asturias.

² Decreto 64/2019, de 9 de abril, del Gobierno Vasco, del régimen jurídico aplicable a las actividades de valorización de escorias negras procedentes de la fabricación de acero en hornos de arco eléctrico.

³ Decreto 55/2019, de 5 de abril, del Consell, por el que se aprueba la revisión del Plan Integral de Residuos de la Comunitat Valenciana.

⁴ Decreto 53/2019, de 26 de marzo, del Gobierno de Aragón, por el que se regula la gestión de estiércoles y los procedimientos de acreditación y control.

II. Agri-food

In this field we would like to highlight the following:

1. **Royal Decree 284/2019 of 22 April laying down the implementing provisions for European Union legislation in the hops sector and approving the regulatory bases for granting *de minimis* state aid for this sector⁵.** This royal decree provides a certification system for hops and hop products, regulates the recognition of hop producers' organisations and their associations and lays down the requirements for a series of communications which, in accordance with EU legislation, must be issued by breweries, hop producers and regional governments. Finally, the royal decree provides for a series of aid for hop-growing.
2. **Royal Decree 308/2019 of 26 April adopting the quality standard for bread⁶.** This royal decree introduces new concepts and modifies existing ones. It also regulates the artisan production of bread and the marketing of unpackaged bread or bread packaged at the request of the consumer. Finally, certain restrictions that, until now, placed Spanish operators at a competitive disadvantage are eliminated.

José Luis Palma Fernández and Yago Fernández Darna

III. Intellectual property

In connection with this field, the following is noteworthy:

1. **Copyright Act Amendment Act 2/2019 of 1 March 2009⁷.** The transposition of Directive 2014/26/EU of the European Parliament and of the Council of 26 February 2014 on collective management of copyright and related rights and multi-territorial licensing of rights in musical works for online use in the internal market led in Spain to the passage of Act 21/2014 of 4 November and the subsequent adoption of Royal Decree-Law 2/2018 of 13 April. The provisions of Royal Decree-Law 2/2018 are now incorporated in Act 2/2019. In addition, the latter harmonises certain uses of works and renditions in the internal market without the authorisation of the rightholder in favour of certain disabled persons.

⁵ Real Decreto 284/2019, de 22 de abril, por el que se establecen las disposiciones de aplicación de la reglamentación de la Unión Europea en el sector del lúpulo, y se aprueban las bases reguladoras para la concesión de ayudas estatales de *de minimis* destinadas a dicho sector.

⁶ Real Decreto 308/2019, de 26 de abril, por el que se aprueba la norma de calidad para el pan.

⁷ Ley 2/2019, de 1 de marzo, de modificación de la Ley de Propiedad Intelectual.

2. **Regulation (EU) 2019/517 of the European Parliament and of the Council of 19 March 2019 on the implementation and functioning of the .eu top-level domain name and amending and repealing Regulation (EC) No 733/2002 and repealing Commission Regulation (EC) No 874/2004.** One of the main changes introduced concerns the entitlement to be the holder of a .eu domain name, which is now granted to: a) a Union citizen, independently of their place of residence; (b) a natural person who is not a Union citizen and who is a resident of a Member State; (c) an undertaking that is established in the Union; and (d) an organisation that is established in the Union without prejudice to the application of national law.
3. **Royal Decree 306/2019, of 26 April, amending the Regulations for the implementation of the Trade Marks Act 17/2001 of 7 December⁸.** This amendment to the Trade Marks Regulations implements the main changes introduced by Royal Decree-Law 23/2018, of 21 December, transposing directives on trade marks, rail transport and package travel and related travel services, with which Directive (EU) 2015/2436 was transposed.
4. In addition, the directives cited in Part IX (Audiovisual) concerning copyright should be borne in mind.

Ángel García Vidal

IV. Unfair trading practices

In this field we must not forget **Directive (EU) 2019/633 of the European Parliament and of the Council of 17 April 2019 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain.** This Directive establishes a minimum list of prohibited unfair trading practices in relations between buyers and suppliers in the agricultural and food supply chain and lays down minimum rules concerning the enforcement of those prohibitions and arrangements for coordination between enforcement authorities.

Ángel García Vidal

⁸ Real Decreto 306/2019, de 26 de abril, por el que se modifica el Reglamento para la ejecución de la Ley 17/2001, de 7 de diciembre, de Marcas.

V. Tax

In the field of taxation, the following is relevant:

1. In the first place, **Decree Law 8/2019, of 9 May, amending the Legal Entities' Non-Productive Assets Tax Act 6/2017 of 9 May**⁹. The purpose of this tax is to tax non-productive assets and certain rights that fall on these assets that form part of taxpayers' assets, and it is payable throughout the territory of Catalonia. The main change that has been introduced is the self-assessment deadline, from 1 to 30 June of each year, with the exception of the three years already accrued (2017, 2018 and 2019), which must be paid, extraordinarily, between 1 October and 30 November of this year.
2. Similarly, **Decree-Law 1/2019, of 9 April, amending the Recast Version of the provisions passed in Andalusia on the subject of assigned taxes, approved by Legislative Decree 1/2018, of 19 June, for the promotion and revitalisation of economic activity through the reduction of the tax on the aforementioned assigned taxes**¹⁰. This piece of legislation approves measures that affect (a) personal income tax; (b) inheritance and gift tax, giving 99% relief on transfers between spouses and direct relatives, and (c) stamp duty, approving reduced rates in certain cases under the categories of asset transfers for consideration.
3. In the Historical Territory of Biscay, **Foral¹¹ Act 1/2019, of 20 March, on the Gas, Oil and Condensates Extraction Tax**¹². This tax was created by Act 8/2015 of 21 May and is conceived as a direct tax on the extraction of gas, oil and condensates in the concessions for the exploitation of hydrocarbon deposits. The purpose of this piece of legislation is to incorporate the regulation of the aforementioned tax into the tax system of this territory and will take effect as of 30 December 2017.

Also noteworthy is **Foral Act 2/2019, of 20 March, amending Foral Act 4/2016, of 18 May, on the Property Tax**¹³, whereby the specific tax rates applicable to real estate with special characteristics are set out, some technical details are introduced and an exemption is granted from the surcharge on unoccupied residential property intended for public housing of a social nature.

⁹ Decreto Ley 8/2019, de 9 de mayo, de modificación de la Ley 6/2017, de 9 de mayo, del Impuesto sobre los Activos No Productivos de las Personas Jurídicas.

¹⁰ Decreto Ley 1/2019, de 9 de abril, por el que se modifica el Texto Refundido de las disposiciones dictadas por la Comunidad Autónoma de Andalucía en materia de tributos cedidos, aprobado por Decreto Legislativo 1/2018, de 19 de junio, para el impulso y dinamización de la actividad económica mediante la reducción del gravamen de los citados tributos cedidos.

¹¹ Translator's note: "Foral" is the generic name used in Spain for all the institutions of the autonomous administration and legal systems of the former Kingdom of Navarre and the former seigniories of Araba-Alava, Gipuzkoa and Biscay, constituting Navarre and the Basque Country, respectively, which, for various historical vicissitudes, have been maintained.

¹² Norma Foral 1/2019, de 20 de marzo, del Impuesto sobre la Extracción del Gas, Petróleo y Condensados.

¹³ Norma Foral 2/2019, de 20 de marzo, por la que se modifica la Norma Foral 4/2016, de 18 de mayo, del Impuesto sobre Bienes Inmuebles.

In addition, **Foral Act 4/2019, of 20 March, on the Tax Regime of Non-Profit Entities and Tax Incentives for Patronage**¹⁴ is published. This piece of legislation implements the tax rules governing gifts and contributions in favour of entities that qualify as beneficiaries of patronage for the purposes of personal income tax, corporate income tax and non-resident income tax.

4. In the Historical Territory of Gipuzkoa, **Foral Decree 5/2019, of 20 March, amending the Tax Inspection Regulations**¹⁵ has been published. This piece of legislation changes the verification and investigation procedure and makes the necessary adaptations to incorporate the procedures relating to offences against the Public Treasury and the recovery of State aid impinging on the tax field.

Along the same lines, we should also highlight **Foral Decree 6/2019, of 20 March, amending the Tax Infringements and Penalties Regulations**¹⁶ concerning (a) the existence of conduct constituting a criminal offence, (b) the existence of concealment where penalties apply, and (c) the incidence of non-compliance in the keeping of registers by electronic means. It also introduces a penalty for failure to comply with obligations relating to the declaration of assets and rights abroad.

5. In the Historical Territory of Araba-Alava, **Foral Act 10/2019, of 27 March, amending the Personal Income Tax**¹⁷, which expressly mentions the exemption of maternity and paternity benefits received from Social Security public schemes or those received by public employees covered by a Social Security scheme.

We also highlight **Foral Decree 13/2019, of 21 March, approving various amendments to the personal income tax and value added tax regulations**¹⁸. With regard to personal income tax, the percentages of withholding on income from movable capital are equal to those established in the common territory, except when they come from copyright and the taxpayer is not the author. With regard to value added tax, certain changes are made to the information supply system (SII) and to the rules on the taxation and invoicing of services provided by electronic means and telecommunications, radio and television broadcasting services when the recipient is not an employer or self-employed professional.

6. Navarra has published **Foral Act 13/2019, of 22 March, amending Foral Act 27/2018, of 24 December, on the Navarran Government Budget for 2019**, and **Foral Decree-Law 1/2019, of 27 March, partially amending Foral Act 26/2016, of 28 December, on the Corporate Income Tax**¹⁹.

¹⁴ Norma Foral 4/2019, de 20 de marzo, de Régimen Fiscal de las Entidades sin Fines Lucrativos y de los Incentivos Fiscales al Mecenazgo.

¹⁵ Decreto Foral 5/2019, de 20 de marzo, por el que se modifica el Reglamento de Inspección Tributaria.

¹⁶ Decreto Foral 6/2019, de 20 de marzo, por el que se modifica el Reglamento del Régimen de Infracciones y Sanciones Tributarias.

¹⁷ Norma Foral 10/2019, de 27 de marzo, de modificación del Impuesto sobre la Renta de las Personas Físicas.

¹⁸ Decreto Foral 13/2019, de 21 de marzo, por el que se aprueban diversas modificaciones de los reglamentos del impuesto sobre la renta de las personas físicas y del impuesto sobre el valor añadido.

¹⁹ Ley Foral 13/2019, de 22 de marzo, por la que se modifica la Ley Foral 27/2018, de 24 de diciembre, de Presupuestos Generales de Navarra para el año 2019, y el Decreto Ley Foral 1/2019, de 27 de marzo, por el que se modifica parcialmente la Ley Foral 26/2016, de 28 de diciembre, del Impuesto sobre Sociedades.

The latter establishes tax neutrality in operations for the reclassification of shares or units in collective investment schemes for the purposes of personal income tax, corporate income tax and non-resident income tax.

7. Finally, at the EU level, **Regulation (EU) 2019/474 of the European Parliament and of the Council of 19 March 2019 amending Regulation (EU) No 952/2013 laying down the Union Customs Code** has been adopted. It is worth noting (a) the inclusion in the customs territory of the Union, with effect from 1 January 2020, of Campione d'Italia - an Italian enclave in the territory of Switzerland - and the Italian waters of Lake Lugano, as well as (b) the addition of temporary storage to the list of customs formalities covered by the provision of the Code that provides for the extinguishment of a customs debt due to non-compliance where the failure had no significant effect on the correct operation of the procedure concerned, did not constitute an attempt at deception, and the situation was subsequently regularised.

Mariana Díaz-Moro Paraja and Enrique Santos Fresco

VI. Companies limited by shares

The **Decision of the Auditing and Accounting Standards Board (ICAC), of 5 March 2019, implementing the criteria for the presentation of financial instruments and other accounting aspects related to the corporate regulation of companies limited by shares**, was published on 11 March 2019 in the Official Journal of Spain²⁰. This Decision, which came into effect on 12 March, is mandatory for all companies limited by shares applying the Spanish Accounting Plan (PGC) and the Spanish Accounting Plan for Small and Medium-Sized Enterprises (PGC-PYMES), and will apply to annual accounts for years beginning on or after 1 January 2020.

The Decision implements the criteria for the presentation of the financial instruments regulated in the two above-mentioned plans and the criteria for the registration of the numerous accounting implications of the corporate regulation of companies limited by shares included in the Companies Act and in the Commercial Companies (Structural Changes) Act, the following being noteworthy: (a) the general provisions or criteria concerning the presentation of financial instruments and, in particular, definitions of *financial liabilities* and *equity instruments*; (b) the definition of *distributable profit*; (c) the accounting treatment of all contributions, those of shareholders to the capital and other possible contributions of shareholders to equity capital, as well as those of the same shareholders made on account of future capital increases; (d) provisions concerning the accounting for the acquisition and disposal of own shares or of the controlling company, and

²⁰ Resolución de 5 de marzo del 2019, del Instituto de Contabilidad y Auditoría de Cuentas (ICAC), por la que se desarrollan los criterios de presentación de los instrumentos financieros y otros aspectos contables relacionados con la regulación mercantil de las sociedades de capital.

for commitments to acquire (forward contracts) the company's own equity instruments; (e) the problems of restatement of annual accounts and correction of accounting errors; (f) the accounting treatment of directors' remuneration (any directors' remuneration must be recognised as an expense in the profit and loss account, even if it is calculated on the basis of the company's profits or income); (g) clarifications as to the allocation of profit or loss; (h) the accounting recording of capital increases by offsetting debt, so that the increase in equity capital by way of contribution due to a capital increase by offsetting debt will be recorded at the fair value of the debt being cancelled; (k) the accounting treatment of ordinary winding up and liquidation, and (l) the accounting implications of structural changes in commercial companies, including transformation and change of domicile.

Inés Fontes Migallón

VII. Real estate

Of particular note is the **Real Estate Loan Agreements Act 5/2019 of 15 March**²¹, the purpose of which is the transposition of Directive 2014/17/EU of the European Parliament and of the Council of 4 February 2014, and which is applicable to mortgage loans or credits in which the debtor is a consumer or any other natural person. This Act mainly regulates three different aspects: firstly, it lays down rules of conduct and transparency that impose obligations on lenders and credit intermediaries, as well as on their chosen representatives; secondly, it regulates the legal regime of real estate credit intermediaries and real estate lenders; thirdly, it provides for the sanctioning of non-compliance with the obligations contained in the Act. Among the most novel aspects, there is a detailed regulation of the pre-contractual stage, going even beyond the transposition of the European directive, guaranteeing that the borrower can have at his disposal all the necessary information so that the transparency intended in the marketing of mortgage loans can be understood to be fulfilled. Another significant change is the mandatory regulation on the content of certain rights and clauses, which prevents them from being held unconscionable in the future against the interests of the investor. Among the latter, we can highlight: (a) the costs of the contract, in respect of which it is established that the notary, registration and stamp duty costs will be borne by the lender, with the client bearing only the costs of valuation of the property; (b) the origination fee may only be accrued once and will include all costs of studying, processing or granting credit, and (c) interest rate floor clauses are prohibited, although the flow of payments may not be negative. Finally, it should be borne in mind that, in accordance with its transitory provision, this Act will not apply to loan contracts entered into previously, although it will apply in respect of reporting obligations in the case of loan novations or subrogations subsequent to its entry into force.

Marina Martínez Plaza

²¹ Ley 5/2019, de 15 de marzo, reguladora de los Contratos de Crédito Inmobiliario.

VIII. Employment and labour

In the field of employment and labour law, the following rules and regulations deserve particular attention:

1. **Royal Decree-Law 6/2019, of 1 March, on urgent measures to ensure equal treatment and opportunities between women and men in employment and occupation²²**, which introduces, among others, the obligation to draw up and implement an equality plan in companies with fifty or more workers, although they will have three years to regularise this situation. Likewise, another of the most salient developments is the need for companies to keep a salary register with the average values of salaries, salary supplements and extra salary received by their staff, disaggregated by sex and distributed by professional groups, professional categories or jobs that are equal or of equal value. In this regard, where in an undertaking with at least 50 employees the average pay of workers of one sex is 25 per cent or more higher than that of the other, the employer must include in the salary register a justification that the difference is due to reasons unrelated to the sex of the employees. Along with these developments there are changes in respect of other matters: adaptation of the duration and distribution of the working day to make effective the right to a work-life balance, leave for infant care and paternity leave - obligatory for sixteen weeks but fully applicable from 2021 - special arrangements for non-professional carers of dependent persons, absence of both direct and indirect discrimination between women and men in part-time contracts and voidness of the termination of contracts by the employer in the case of female workers on grounds of pregnancy and during the probationary period, unless there are grounds unrelated to pregnancy or maternity.
2. **Royal Decree-Law 8/2019, of 8 March, on urgent measures for social protection and against precarious work in the working day²³**, which has not only introduced numerous measures concerning social security, but also included an extremely important amendment in respect of employment, that of the daily record of working hours. This record must reflect the specific start and end times of each worker's working day, without prejudice to flexible working hours also included thereunder. To this end, and by multi- or single-employer collective agreement or, failing that, decision of the employer after consultation with the statutory body of worker representatives within the company, this recording of working hours shall be organised and documented and shall be kept for four years. However, the Government may establish extensions or limitations in the organization and duration of the working day and breaks, as well as particularities in the obligations to record working hours, for those sectors, occupations and staff categories that so require due to their peculiarities.

²² Real Decreto Ley 6/2019, de 1 de marzo, de medidas urgentes para garantía de la igualdad de trato y de oportunidades entre mujeres y hombres en el empleo y la ocupación.

²³ Real Decreto Ley 8/2019, de 8 de marzo, de medidas urgentes de protección social y de lucha contra la precariedad laboral en la jornada de trabajo.

3. **Royal Decree-Law 5/2019 of 1 March adopting contingency measures for the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union²⁴.** It contains rules on the documentation of frontier workers; on access to and practice of professions and, where appropriate, of the civil service, and on the maintenance of the status of public employees of United Kingdom nationals in the service of the Spanish administration; also, all the transitional regime applicable to the employment of posted workers, the social security regime applicable to United Kingdom nationals and to Spaniards who provide services there and the regulations on access to health care, among other aspects. In the same vein, **Royal Decree 47/2019, of 8 February, approving the offer of public employment for strategic sectors in the face of the withdrawal of the United Kingdom from the European Union²⁵,** was approved.
4. **Decision of the State Secretariat for Migration, of 27 March 2019, publishing the Cabinet Decision of 22 March 2019 approving the Returning to Spain Plan²⁶,** made for the purpose of alleviating the migration crisis suffered between 2009 and 2017. The plan includes fifty measures promoted by ten different ministries which, in many cases, require the institutional cooperation of autonomous communities and town councils, as well as the support of associations of emigrants and returnees and social agents. These fifty measures are grouped into six categories: (a) support for defining a professional project; (b) help in planning the return and settling in; (c) creation of spaces for participation; (d) creation of a positive atmosphere; (e) psychological support; and (f) collaborative management and continuous evaluation of the plan.
5. **Decision of the Directorate-General for the Regulation of Social Security, of 19 March 2019, ordering the procedure for the cessation of the voluntary collaboration of companies in the management of Social Security with respect to pecuniary benefits for temporary disability arising from common illnesses and non-work-related accidents²⁷.** Also, **Order PCI/462/2019, of 17 April, publishing the Cabinet Decision of 1 March 2019 creating the Women's Health Observatory²⁸,** and **Order TMS/397/2019, of 4 April, amending Order TAS/2865/2003, of 13 October, regulating the special pay-in scheme in the Social Security system²⁹,** which seeks to introduce changes for workers aged fifty-five or over included in collective redundancies.

Lourdes López Cumbre

²⁴ Real Decreto Ley 5/2019, de 1 de marzo, por el que se adoptan medidas de contingencia ante la retirada del Reino Unido de Gran Bretaña e Irlanda del Norte de la Unión Europea.

²⁵ Real Decreto 47/2019, de 8 de febrero, por el que se aprueba la oferta de empleo público para los sectores estratégicos ante la retirada del Reino Unido de la Unión Europea.

²⁶ Resolución de 27 de marzo del 2019, de la Secretaría de Estado de Migraciones, por la que se publica el Acuerdo del Consejo de Ministros de 22 de marzo del 2019, por el que se aprueba el Plan de Retorno a España.

²⁷ Resolución de 19 de marzo del 2019, de la Dirección General de Ordenación de la Seguridad Social, por la que se ordena el procedimiento de cese en la colaboración voluntaria de las empresas en la gestión de la Seguridad Social respecto a las prestaciones económicas por incapacidad temporal derivada de enfermedad común y accidente no laboral.

²⁸ Orden PCI/462/2019, de 17 de abril, por la que se publica el Acuerdo del Consejo de Ministros de 1 de marzo del 2019, por el que se crea el Observatorio de Salud de las Mujeres.

²⁹ Orden TMS/397/2019, de 4 de abril, por la que se modifica la Orden TAS/2865/2003, de 13 de octubre, por la que se regula el convenio especial en el sistema de la Seguridad Social.

IX. Audiovisual

The following legislation is particularly relevant in this sector:

1. **Directive (EU) 2019/789 of the European Parliament and of the Council of 17 April 2019 laying down rules on the exercise of copyright and related rights applicable to certain online transmissions of broadcasting organisations and retransmissions of television and radio programmes, and amending Council Directive 93/83/EEC, and Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019 on copyright and related rights in the Digital Single Market and amending Directives 96/9/EC and 2001/29/EC.** In short, these directives aim to harmonise Union law applicable to copyright and related rights in the internal market, taking particular account of new digital and cross-border uses of protected content.
2. **Directive (EU) 2019/770 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the supply of digital content and digital services.** This directive should apply if digital content or services are provided to an audience by signal transmission, such as digital television services.

Ana Isabel Mendoza Losana

X. Telecommunications

In the telecommunications sector we can highlight the following:

1. **Commission Implementing Decision (EU) 2019/784 of 14 May 2019 on harmonisation of the 24,25-27,5 GHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services in the Union.** The frequency band 24.25-27.5 GHz (hereinafter “26 GHz”) offers high capacity for the provision of wireless broadband electronic communications services with 5G technology. In accordance with the European Electronic Communications Code, Member States must allow, by 31 December 2020 at the latest, the use of at least 1 GHz of the 26 GHz frequency band to facilitate 5G rollout, provided that there is clear evidence of market demand and of the absence of significant constraints for migration of existing users or band clearance. This Decision harmonises the essential technical conditions for the availability and efficient use of the 24,25-27,5 GHz frequency band in the Union for terrestrial systems capable of providing broadband wireless broadband electronic communications services. Similarly, by 30 March 2020, Member States shall designate and make available on a non-exclusive basis the 24,25-27,5 GHz frequency band for terrestrial systems capable of providing wireless broadband electronic communications services, in compliance with the

essential technical conditions set out in the Annex to the Decision. Furthermore, depending on the authorisation regime applied in this band, Member States shall analyse whether it is necessary to impose additional technical conditions to ensure the appropriate coexistence of terrestrial systems capable of providing wireless broadband electronic communications services with other services in the band.

2. **Commission Implementing Decision (EU) 2019/785 of 14 May 2019 on the harmonisation of radio spectrum for equipment using ultra-wideband technology in the Union and repealing Decision 2007/131/EC** provides for regulatory limits and identifies mitigation techniques to ensure an efficient usage of spectrum while ensuring coexistence with other spectrum users.
3. **Order ECE/529/2019, of 26 April, putting into operation the Single Information Point provided for in Royal Decree 330/2016, of 9 September, on measures to reduce the cost of deploying high-speed electronic communications networks³⁰.** This information point will allow electronic communications operators to centrally consult relevant information for the deployment of their networks.
4. **Order PCI/487/2019, of 26 April, publishing the 2019 Spanish Cybersecurity Strategy³¹,** approved by the Spanish Security Council. This document sets out seven lines of action and identifies various measures for the implementation of each one of them with the purpose, among others, of strengthening capacities in the face of threats coming from cyberspace, promoting the cybersecurity of citizens and companies and strengthening capacities for the investigation and prosecution of cybercrime, in order to ensure citizen safety and the protection of rights and freedoms in cyberspace.

Ana Isabel Mendoza Losana

XI. Energy

The following developments should be taken into account in this field:

1. **Royal Decree 244/2019, of 5 April, regulating the administrative, technical and financial conditions for self-consumption of electricity³².** This piece of legislation implements Royal

³⁰ Orden ECE/529/2019, de 26 de abril, por la que se pone en funcionamiento el Punto de Información Único establecido en el Real Decreto 330/2016, de 9 de septiembre, relativo a medidas para reducir el coste del despliegue de las redes de comunicaciones electrónicas de alta velocidad.

³¹ Orden PCI/487/2019, de 26 de abril, por la que se publica la Estrategia Nacional de Ciberseguridad 2019.

³² Real Decreto 244/2019, de 5 de abril, por el que se regulan las condiciones administrativas, técnicas y económicas del autoconsumo de energía eléctrica.

Decree-Law 15/2018, of 5 October, on urgent measures for energy transition and consumer protection, which has profoundly modified the regulation of self-consumption in Spain; it repeals Royal Decree 900/2015 and transposes part of the content of Article 21 of Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources, which requires Member States to ensure that consumers are entitled to become renewables self-consumers. Among the main changes is the regulation of various forms of self-consumption (without surpluses and with surpluses covered or not by clearing) and the admission of collective self-consumption and shared use of self-consumption facilities.

2. **Order TEC/271/2019, of 6 March, setting out territorial supplements in the autonomous communities of Andalusia, Aragon, Principality of Asturias, Cantabria, Castile and Leon, Catalonia, Extremadura, Galicia, Madrid, the Region of Murcia and Navarre in relation to electricity access tolls for 2013 and setting out the procedure for the settlement of territorial supplements³³.** In order to implement the Supreme Court rulings of 11 June 2014 and 22 September 2016, this order sets the territorial supplements for 2013 that should have been included in the access tolls (connection charges) of all autonomous communities that applied their own taxes. Once collected, the taxpayers who have been taxed with such taxes in each autonomous community (taxpayers who during 2013 have carried on activities of electricity transmission, distribution and production from renewable energy sources, cogeneration and waste, with feed-in premium - current “specific remuneration” scheme - and additional subsidy payments) will be compensated. It also provides the mechanism for the re-invoicing and regularisation of the amounts paid, including those made under Order ETU/35/2017, of 23 January, setting out territorial supplements in the autonomous communities of Catalonia, La Rioja, Castilla-La Mancha and Comunitat Valenciana, in relation to electricity access tolls for 2013. The regularisation affects each of the owners of the electricity supply points located in the aforementioned autonomous communities that had contracts in effect between 1 January and 31 December 2013. For these purposes, the order regulates a template of informative note that the distributing or commercializing companies must send to those affected.
3. The provision of the interruptible load management service has been regulated by the **Decision of the Directorate-General for Energy Policy and Mines, of 8 March 2019, setting the average energy price to be applied in the calculation of the remuneration for the demand-side interruptible load management service provided by consumers of electricity systems in non-mainland territories to which Order ITC/2370/2007, of 26 July, is applicable during the first quarter of 2019³⁴**; the **Decision of the Directorate-General for Energy Policy and Mines, of 24 April 2019, setting**

³³ Orden TEC/271/2019, de 6 de marzo, por la que se establecen los suplementos territoriales en las comunidades autónomas de Andalucía, Aragón, Principado de Asturias, Cantabria, Castilla y León, Cataluña, Extremadura, Galicia, Madrid, la Región de Murcia y Navarra en relación con los peajes de acceso de energía eléctrica correspondientes al ejercicio 2013 y se establece el procedimiento de liquidación de los suplementos territoriales.

³⁴ Resolución de 8 de marzo del 2019 de la Dirección General de Política Energética y Minas, por la que se fija el precio medio de la energía a aplicar en el cálculo de la retribución del servicio de gestión de la demanda de interrumpibilidad prestado por los consumidores de los sistemas eléctricos de los territorios no peninsulares a los que resulta de aplicación la Orden ITC/2370/2007, de 26 de julio, durante el primer trimestre del 2019.

the average energy price to be applied in the calculation of the remuneration for the demand-side interruptible load management service provided by consumers of electricity systems in non-mainland territories to which Order ITC/2370/2007, of 26 July, is applicable during the second quarter of 2019³⁵; and the Decision of the State Secretariat for Energy, of 24 May 2019, approving the calendar and characteristics of the competitive auction procedure for the assignment of the demand-side interruptible load management service regulated by Order IET/2013/2013, of 31 October, for the delivery period between 1 July and 31 December 2019³⁶.

4. Several statutory instruments have affected the remuneration scheme for the different activities in the electricity sector:
 - Electricity production activity: **Order TEC/427/2019, of 5 April, setting out the values of the remuneration for the operation for the second natural semester of 2018 and approving standard facilities and setting out their appropriate remuneration parameters, applicable to certain facilities for the production of electricity from renewable energy sources, cogeneration and waste³⁷.**
 - Electricity transmission activity: **Order TEC/289/2019, of 6 March, approving standard facilities and unit reference values for investment, operation and maintenance of fixed assets and the structure and working capital costs to be used in calculating the remuneration of companies owning electricity transmission facilities put into service before 2008 in non-mainland and island systems and establishing the remuneration of the transmission facilities of Endesa Distribución Eléctrica, S.L. for the years 2008 to 2011 in the non-mainland and island systems³⁸.**
 - Electricity distribution activity: the **Decisions of the Directorate-General for Energy Policy and Mines, of 3 April 2019, setting out the criteria to be followed by electricity distribution companies for the submission of the audited inventory of electricity distribution facilities put into service before 1 January 2019 and setting out the criteria to be followed by electricity distribution companies for drawing up the external audit report for all facilities put into**

³⁵ Resolución de 24 de abril del 2019 de la Dirección General de Política Energética y Minas, por la que se fija el precio medio de la energía a aplicar en el cálculo de la retribución del servicio de gestión de la demanda de interrumpibilidad prestado por los consumidores de los sistemas eléctricos de los territorios no peninsulares a los que resulta de aplicación la Orden ITC/2370/2007, de 26 de julio, durante el segundo trimestre del 2019.

³⁶ Resolución de 24 de mayo del 2019 de la Secretaría de Estado de Energía, por la que se aprueba el calendario y las características del procedimiento competitivo de subastas para la asignación del servicio de gestión de la demanda de interrumpibilidad regulado en la Orden IET/2013/2013, de 31 de octubre, para el periodo de entrega comprendido entre el 1 de julio y el 31 de diciembre del 2019.

³⁷ Orden TEC/427/2019, de 5 de abril, por la que se establecen los valores de la retribución a la operación correspondientes al segundo semestre natural del año 2018 y por la que se aprueban instalaciones tipo y se establecen sus correspondientes parámetros retributivos, aplicables a determinadas instalaciones de producción de energía eléctrica a partir de fuentes de energía renovables, cogeneración y residuos.

³⁸ Orden TEC/289/2019, de 6 de marzo, por la que se aprueban las instalaciones tipo y los valores unitarios de referencia de inversión y de operación y mantenimiento por elemento de inmovilizado y los costes de estructura y circulante que se emplearán en el cálculo de la retribución de las empresas titulares de instalaciones de transporte de energía eléctrica puestas en servicio con anterioridad al año 2008 en los sistemas extrapeninsulares e insulares y se establece la retribución de las instalaciones de transporte de Endesa Distribución Eléctrica, S. L., para los años 2008 a 2011 en los sistemas extrapeninsulares e insulares.

service in 2018, and for the modification of the remuneration of existing facilities whose remuneration parameters have changed during that year³⁹; and Order TEC/490/2019, 26 April, amending Order IET/2660/2015, of 11 December, approving standard facilities and unit reference values for investment, operation and maintenance of fixed assets and unit remuneration values of other regulated tasks to be used in calculating the remuneration of electricity distribution companies, setting out the definitions of vegetative growth and relevant increase in power and compensation for use and reservation of premises⁴⁰.

Ana Isabel Mendoza Losana

XII. Railway sector

On 16 May, the European Commission approved several implementing regulations that aim to advance the consolidation of the single market for rail transport. These are: **Implementing Regulation (EU) 2019/772, amending Regulation (EU) No 1300/2014 as regards inventory of assets with a view to identifying barriers to accessibility, providing information to users and monitoring and evaluating progress on accessibility; Implementing Regulation (EU) 2019/773 on the technical specification for interoperability relating to the operation and traffic management subsystem of the rail system within the European Union and repealing Decision; Implementing Regulation (EU) 2019/774, amending Regulation (EU) No 1304/2014 as regards application of the technical specification for interoperability relating to the subsystem ‘rolling stock — noise’ to the existing freight wagons; Implementing Regulation (EU) 2019/ amending Regulation (EU) No 454/2011 as regards Change Control Management; Implementing Regulation (EU) 2019/776, amending Commission Regulations (EU) No 321/2013, (EU) No 1299/2014, (EU) No 1301/2014, (EU) No 1302/2014, (EU) No 1303/2014 and (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards the alignment with Directive (EU) 2016/797 of the European Parliament and of the Council and the implementation of specific objectives set out in Commission Delegated Decision (EU) 2017/1474 and Commission (EU) 2016/919 and Commission Implementing Decision 2011/665/EU as regards harmonisation with Directive (EU) 2016/797 of the European Parliament and of the Council and the**

³⁹ Resoluciones de 3 de abril del 2019, de la Dirección General de Política Energética y Minas, por la que se establecen los criterios que deberán seguir las empresas distribuidoras de energía eléctrica para la remisión del inventario auditado de instalaciones de distribución de energía eléctrica cuya puesta en servicio haya sido anterior al 1 de enero del 2019 y por la que se establecen los criterios que deberán seguir las empresas distribuidoras de energía eléctrica para elaborar el informe de auditoría externa para todas las instalaciones puestas en servicio el año 2018, y para la modificación de la retribución de las instalaciones existentes cuyos parámetros retributivos hubieran cambiado durante dicho año.

⁴⁰ Orden TEC/490/2019, 26 de abril, por la que se modifica la Orden IET/2660/2015, de 11 de diciembre, por la que se aprueban las instalaciones tipo y los valores unitarios de referencia de inversión, de operación y mantenimiento por elemento de inmovilizado y los valores unitarios de retribución de otras tareas reguladas que se emplearán en el cálculo de la retribución de las empresas distribuidoras de energía eléctrica, se establecen las definiciones de crecimiento vegetativo y aumento relevante de potencia y las compensaciones por uso y reserva de locales.

implementation of the specific objectives set out in Commission Delegated Decision (EU) 2017/1474; Implementing Regulation (EU) 2019/777, on the common specifications for the register of railway infrastructure and repealing Implementing Decision 2014/880/EU; Implementing Regulation (EU) 2019/778, amending Regulation (EU) No 1305/2014 as regards Change Control Management; and Implementing Regulation (EU) 2019/779, laying down detailed provisions on a system of certification of entities in charge of maintenance of vehicles pursuant to Directive (EU) 2016/798 of the European Parliament and of the Council and repealing Commission Regulation.

Ana Isabel Mendoza Losana