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I. Environment

On this subject, below follow new rules and regulations that we consider to be of interest:

1. **Royal Legislative Decree 1/2016, of 16 December, approving the Recast Text of the Integrated Pollution Prevention and Control Act¹.** This delegated act incorporates in a single text the different pieces of legislation with statutory force and effect that have amended the Integrated Pollution Prevention and Control Act 16/2002 since its passage. Most importantly, in Title II of the recast text we find the regulation of different mechanisms for the exchange of information between the Ministry of Agriculture and Fisheries, Food and Environment and the devolved regions (*comunidades autónomas*), as well as the legal regime of the integrated environmental permit (included in Title III) that is granted through a complex administrative procedure where all existing environmental permits are integrated and other mechanisms of environmental intervention are coordinated.
2. **Royal Decree 20/2017, of 20 January, on end-of-life vehicles².** Whilst keeping some elements of the previous legislation, it introduces important innovations: its scope applies to end-of-life vehicles, while the waste generated during their useful life will be governed by the Waste and Contaminated Soil Act 22/2011 of 28 July³ and by the royal decrees (secondary executive legislation requiring the Cabinet's approval) specific to each type of waste. Measures are also taken to avoid double financing of the management of vehicles or their components. Lastly, some provisions on the obligations to which producers and other economic agents are subject are supplemented; the preparation for reuse as treatment is included and the systems of extended producer responsibility are adapted to the provisions of the aforementioned Waste and Contaminated Soil Act 22/2011.
3. Lastly, from among the environmental legislation passed by devolved regions, we must highlight the **Sea Fishing and Aquaculture Act 5/2017 (Region of Valencia) of 10 February⁴.** This piece of legislation seeks, on the one hand, to bring together regional regulation of sea fishing and, on the other, to instigate the protection of fishing resources by adapting regional regulation to the requirements of EU law and incorporating the determinations provided for under the common fisheries policy.

Ignacio Álvarez Serrano y María Pascual Núñez

¹ *Real Decreto Legislativo 1/2016, de 16 de diciembre, por el que se aprueba el Texto Refundido de la Ley de Prevención y Control Integrados de la Contaminación.*

² *Real Decreto 20/2017, de 20 de enero, sobre los Vehículos al Final de su Vida Útil.*

³ *Ley 22/2011, de 28 de julio, de Residuos y Suelos Contaminados.*

⁴ *Ley 5/2017, de 10 de febrero, de Pesca Marítima y Acuicultura de la Comunitat Valenciana.*



II. Agri-food

On account of its special interest, we must point out **Royal Decree 72/2017, of 10 February, approving the quality standard of the different categories of natural cider and cider**⁵. In addition to providing a number of general definitions, this regulation distinguishes different categories of apple musts, cider and natural cider. It also sets out what practices are prohibited and permitted in respect of each such beverage. In this respect, it should be noted that, at the express request of the sector, the Royal Decree restricts the use of additives and flavourings generally permitted by EU legislation in the manufacture of natural cider. Lastly, it regulates the characteristics of the finished products, the information that must be provided to the consumer and the analytical methods for checking the characteristics of the different beverages regulated in the Royal Decree.

José Luis Palma Fernández y Yago Fernández Darna

III. Tax

Quite significant new legislation has also been passed in the field of taxation:

1. On account of its significance, we must draw attention to **Royal Decree Act 1/2017, of 20 January, on urgent measures to protect consumers in terms of interest rate floor clauses**⁶, which introduces a new forty-fifth additional provision in the Personal Income Tax Act 35/2006, of 28 of November, with regards to the tax treatment to be given to unduly paid amounts refunded.
2. We must similarly mention **Order HFP/1978/2016, of 28 December, approving form 231 to file country-by-country reports**⁷, applying for the first time for all accounting periods starting on or after 1 January 2016 and by which entities resident in Spanish territory that control a group and are not at the same time controlled by another entity will be required to file country-by-country reports; the **Decision of the Customs and Excise Duties Department of the Spanish Tax Agency, of 3 January 2017, varying the Decision of 11 July 2014, which contains instructions to complete the Single Administrative Document (SAD)**⁸;

⁵ *Real Decreto 72/2017, de 10 de febrero, por el que se aprueba la norma de calidad de las diferentes categorías de la sidra natural y de la sidra.*

⁶ *Real Decreto Ley 1/2017, de 20 de enero, de medidas urgentes de protección de consumidores en materia de cláusulas suelo.*

⁷ *Orden HFP/1978/2016, de 28 de diciembre, por la que se aprueba el modelo 231 de Declaración de información país por país.*

⁸ *Resolución de 3 de enero del 2017, del Departamento de Aduanas e Impuestos Especiales de la Agencia Estatal de Administración Tributaria, por la que se modifica la de 11 de julio del 2014, en la que se recogen las instrucciones para la formalización del documento único administrativo (DUA).*



Direction 1/2017 of the Directorate-General of the Spanish Tax Agency, of 17 January, quashing Direction 6/2006 of the General Directorate of the Spanish Tax, of 23 November 2006, on the management of payment deferrals and installments⁹; and Order ETU/78/2017, of 31 January, regulating certain aspects related to the tax on the value of extracted gas, oil and condensates and the terms of reference for the determination of compensation to owners of land below which hydrocarbon deposits are being drilled under licence¹⁰.

3. In the international sphere, the **Protocol amending the Convention between the Government of Spain and the Government of the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital and the Protocol thereto¹¹**, made in Madrid on 24 July 1992, was published in the Journal of the Houses of Parliament on 17 February 2017. Of the two, the most recent protocol was made in Madrid on 17 December 2015.
4. In the 'historical territory' of Alava/Araba, we find not only **Tax Emergency Decree 4/2016 of the Alavese Provincial Cabinet, of 14 November, adapting to the Alavese tax legislation several changes made in respect of excise duties¹², but also Provincial Decree 3/2017 of the Alavese Provincial Cabinet, of 14 February, amending the Corporate and Personal Income Tax Regulations¹³**. Among the most salient measures in the Personal Income Tax Regulations, we should note the introduction of a new PAYE case for capital gains from the transfer of entitlements to acquire shares (subscription rights) and that default in the payment of a first installment will determine the collection of the total of the debt by way of enforcement proceedings. As for the Corporate Income Tax Regulations, these now incorporate the regulatory implementation regarding the country-by-country reporting obligation.

⁹ Instrucción 1/2017, de 17 de enero, de la Dirección General de la Agencia Estatal de Administración Tributaria, por la que se procede a dejar sin efecto la Instrucción 6/2006, de 23 de noviembre del 2006, de la Dirección General de la Agencia Estatal de Administración Tributaria, sobre gestión de aplazamientos y fraccionamientos de pago.

¹⁰ Orden ETU/78/2017, de 31 de enero, por la que se regulan determinados aspectos relacionados con el impuesto sobre el valor de la extracción de gas, petróleo y condensados y con los perímetros de referencia para la determinación de los pagos a propietarios de terrenos suprayacentes a concesiones de explotación de yacimientos de hidrocarburos.

¹¹ Protocolo que modifica el Convenio entre el Reino de España y los Estados Unidos Mexicanos para evitar la doble imposición en materia de impuestos sobre la renta y el patrimonio y prevenir el fraude y la evasión fiscal y su protocolo.

¹² Decreto Normativo de Urgencia Fiscal 1/2017, de 24 de enero, del territorio histórico de Álava/Araba, del Consejo de Diputados, que adapta a la normativa tributaria alavesa diversas modificaciones introducidas en el ámbito de los impuestos especiales.

¹³ Decreto Foral 3/2017, de 14 de febrero, del territorio histórico de Álava/Araba, del Consejo de Diputados, que modifica el Reglamento del Impuesto sobre la Renta de las Personas Físicas y del Impuesto sobre Sociedades.



5. In Navarre, we find **Regional Act 25/2016, of 28 December, amending several taxes and other tax measures¹⁴; Regional Act 26/2016, of 28 December, on the Corporate Income Tax¹⁵; Regional Act 27/2016, of 28 December, regulating the Taxes on Gambling in Navarre¹⁶; Regional Act 28/2016, of 28 December, partially amending Regional Act 13/2000, of 14 December, on Tax¹⁷; and Regional Act 29/2016, of 28 December, amending Regional Act 2/1995, of 10 March, on the Local Public Finance Authorities of Navarra¹⁸. Likewise, Navarre Legislative Decree 1/2016, of 28 December, on Tax Harmonization, amending Regional Act 20/1992, of 30 December, on Excise Duties¹⁹, through which the tax on the consumption of alcohol and alcoholic beverages is increased by 5%.**

Mariana Díaz-Moro Paraja y Enrique Santos Fresco

IV. Accounting

Regarding accounting law, the following activity stands out:

1. The **Decision of the Spanish Auditing and Accounting Standards Board²⁰, of 23 December 2016, publishing the alteration of certain technical auditing standards and of the glossary of terms.**
2. The **Decision of the Spanish Office for Public Accounting and Control²¹, of 9 February 2017, altering that of 1 July 2011 approving the adaptation of the Spanish Accounting Plan to the Social Security managerial bodies.**
3. The **Answer of the Spanish Auditing and Accounting Standards Board, of 27 February 2017, to Query 1 on the accounting treatment of the changes made by Royal Decree Act 3/2016, of 2 December, to the tax rules on the impairment of equity securities that affect their reversal and tax deductibility.** This informational reply states that the appropriate accounting treatment consists in considering a fifth part

¹⁴ *Ley Foral 25/2016, de 28 de diciembre, de modificación de diversos impuestos y otras medidas tributarias.*

¹⁵ *Ley Foral 26/2016, de 28 de diciembre, del Impuesto sobre Sociedades.*

¹⁶ *Ley Foral 27/2016, de 28 de diciembre, por la que se regulan los Tributos sobre el Juego en la Comunidad Foral de Navarra.*

¹⁷ *Ley Foral 28/2016, de 28 de diciembre, por la que se modifica parcialmente la Ley Foral 13/2000, de 14 de diciembre, General Tributaria.*

¹⁸ *Ley Foral 29/2016, de 28 de diciembre, por la que se modifica la Ley Foral 2/1995, de 10 de marzo, de Haciendas Locales de Navarra.*

¹⁹ *Decreto Foral Legislativo 1/2016, de 28 de diciembre, de la Comunidad Foral de Navarra, de Armonización Tributaria, por el que se modifica la Ley Foral 20/1992, de 30 de diciembre, de Impuestos Especiales.*

²⁰ *Instituto de Contabilidad y Auditoría de Cuentas.*

²¹ *Intervención General de la Administración del Estado.*



of the tax impairment to be reversed as a permanent upward tax base adjustment for the year that will affect the current tax and, therefore, will not trigger the recording of any deferred tax liability.

Enrique Santos Fresco y Mariana Díaz-Moro

V. Real Estate

Of particular importance is **Judgment no. 26/2017 of the Constitutional Court**, of 16 February 2017, that deems unconstitutional and void the provisions of Provincial Act 16/1989, of 5 July, on the *urban land appreciation tax*²² within the Historical Territory of Guipuzcoa in respect of the determination of the tax base in conveyances for consideration where capital gains are absent.

The Constitutional Court concludes that in the event of no capital gains, or even of capital losses, there are no reasonable grounds for imposing on the taxpayer the obligation to bear the same tax burden as in situations where capital gains have arisen, an outcome which would be at odds with the income principle safeguarded by the Spanish Constitution in art. 31(1).

Marina Martínez Plaza

VI. Employment and labour

We also have interesting developments in employment and labour matters:

1. **Royal Decree 742/2016, of 30 December, setting out the national minimum wage for 2017**²³. Though set at 707.70 €/month (8% more than the previous year), the national minimum wage for 2016 (655.20 €/month) is kept for the purposes of collective agreements that are in effect and use the 2016 amount as a benchmark, unless the concerned parties agree to the application of the new amount.
2. **Royal Decree Act 6/2016, of 23 December, on urgent measures to drive forward the Spanish Youth Guarantee Scheme**²⁴. Seeking to promote the entry of young people in the Spanish Scheme and improve its management and effectiveness, these measures

²² *Impuesto sobre el incremento de valor de los terrenos de naturaleza urbana (that does not tax capital gains as such, but a theoretical 'as of acquisition' increase in the cadastral value of the urban land on which the conveyed property is situated).*

²³ *Real Decreto 742/2016, de 30 de diciembre, por el que se fija el salario mínimo interprofesional para el 2017.*

²⁴ *Real Decreto Ley 6/2016, de 23 de diciembre, de medidas urgentes para el impulso del Sistema Nacional de Garantía Juvenil.*



are intended to contribute towards full and optimal use of employment policy financing instruments.

3. In the end, the lower House has not approved, inasmuch as primary executive legislation, **Royal Decree Act 4/2017, of 24 February, amending the dock workers employment scheme in compliance with the Judgment of the CJEU of 11 December 2014 in Case C-576/13 (infringement procedure 2009/4052)**²⁵. The amendment meant eliminating the special employment rules governing the loading and unloading of ships in State-owned ports so as to enable not only the free hiring of stevedores, but also the incorporation of Port Employment Centres in order to enable regular hiring of stevedores by service licence holders operating as employment businesses. Although the content of the rule will be partially maintained, it is currently pending parliamentary approval.
4. By Decision of the Lower House Commission of 18 October 2016, ratified on 20 December 2016 and published on 22 February 2017, and notwithstanding the dissenting opinion expressed by the Government, a **Private Members' Bill, introduced by the Socialist Party's parliamentary group, on the amendment of article 42(1) of the Workers' Statute (Recast) Act**²⁶ **to guarantee equality in the terms of employment of subcontracted workers**²⁷ shall be taken into consideration for passage by the lower House in plenary session.
5. **Royal Decree 746/2016, of 30 December, on the appreciation of and supplements to public sector pensions and on the appreciation of national insurance pensions and other social security benefits for 2017**²⁸. Amounts are increased by 0.25% compared to 2016.
6. **Order ESS/106/2017, of 9 February, implementing the statutory rules on Social Security contributions, unemployment, protection against cessation of business, the Insolvency Payments Service and vocational training for 2017**²⁹, provides a minimum monthly contribution base of €825.60 and a maximum monthly contribution base of €3,751.20, as a general rule and with an increase of 3% compared to the amounts in force in the previous year.

Lourdes López Cumbre

²⁵ Real Decreto Ley 4/2017, de 24 de febrero, por el que se modifica el régimen de los trabajadores para la prestación del servicio portuario de manipulación de mercancías dando cumplimiento a la Sentencia del Tribunal de Justicia de la Unión Europea de 11 de diciembre del 2014, recaída en el asunto C 576/13.

²⁶ Real Decreto Legislativo 2/2015, de 23 de octubre, por el que se aprueba el texto refundido de la Ley del Estatuto de los Trabajadores.

²⁷ Proposición de ley presentada por el grupo parlamentario socialista sobre modificación del artículo 42.1 del Estatuto de los Trabajadores para garantizar la igualdad en las condiciones laborales de los trabajadores subcontratados.

²⁸ Real Decreto 746/2016, de 30 de diciembre, sobre revalorización y complementos de pensiones de clases pasivas y sobre revalorización de las pensiones del sistema de la Seguridad Social y de otras prestaciones sociales públicas para el ejercicio 2017.

²⁹ Orden ESS/106/2017, de 9 de febrero, por la que se desarrollan las normas legales de cotización a la Seguridad Social, desempleo, protección por cese de actividad, Fondo de Garantía Salarial y formación profesional para el ejercicio 2017.



VII. Telecommunications

In the telecommunications sector there is also new legislation of great interest:

1. **Commission Implementing Regulation (EU) 2016/2286 of 15 December 2016 laying down detailed rules on the application of fair use policy and on the methodology for assessing the sustainability of the abolition of retail roaming surcharges and on the application to be submitted by a roaming provider for the purposes of that assessment**, completes Regulation (EU) No 531/2012 of the European Parliament and of the Council of 13 June 2012 on roaming on public mobile communications networks within the Union and entails the end of roaming surcharges as known until now, although it does not mean a definitive farewell to the application of surcharges for mobile usage outside the State where you have your service contract. The new regulation embraces the principle called "roaming like at home". Thus, from 15 June 2017, operators will not be able to apply a surcharge for the use mobile retail services outside the Member State with which the customer has "stable links".

But the "roaming like at home" principle does not allow unlimited use of roaming services. The "fair use policy", which roaming providers must include in their contracts, justifies a restrictive application of the same.

2. Having the calls for bids failed, Telefónica de España, S.A.U. has been designated the company responsible for providing the various services that make up the universal telecommunications service by means of the appropriate ministerial orders: **Order ETU/1972/2016, of 23 December, designating Telefónica de España, S.A.U. as the company responsible for the provision of the universal telecommunications service element concerning the preparation and delivery of the telephone directory to subscribers of the telephone service available to the public³⁰; Order ETU/1973/2016, of 23 December, designating Telefónica de España, S.A.U. as the operator responsible for the provision of the universal telecommunications service elements concerning the provision of the connection to the public network of electronic communications and the provision of the telephone service available to the public³¹; and Order ETU/1974/2016, of 23 December, designating Telefónica Telecomunicaciones Públicas, S.A.U. as the operator responsible for the provision of the universal telecommunications service element concerning the provision of a sufficient supply of public payphones³².**

³⁰ Orden ETU/1972/2016, de 23 de diciembre, por la que se designa a Telefónica de España, S. A. U., como empresa encargada de la prestación del elemento de servicio universal de telecomunicaciones relativo a la elaboración y entrega a los abonados al servicio telefónico disponible al público de la guía telefónica.

³¹ Orden ETU/1973/2016, de 23 de diciembre, por la que se designa a Telefónica de España, S. A. U., como operador encargado de la prestación de los elementos de servicio universal de telecomunicaciones relativos al suministro de la conexión a la red pública de comunicaciones electrónicas y a la prestación del servicio telefónico disponible al público.

³² Orden ETU/1974/2016, de 23 de diciembre, por la que se designa a Telefónica Telecomunicaciones Públicas, S. A. U., como operador encargado de la prestación del elemento de servicio universal de telecomunicaciones relativo al suministro de una oferta suficiente de teléfonos públicos de pago.



3. In this first quarter of 2017, the prices and terms of Telefónica's NEBA (new wholesale broadband access) service have been revised, through two decisions: **Decision of the Competition and Markets Authority, of 10 January 2017, agreeing on the publication of the decision regarding the approval of the reference offer of the local NEBA service³³**, and **Decision of the Competition and Markets Authority, of 10 January 2017, agreeing on the publication of the decision regarding the revision of the PAI [handover points for traffic] capacity price of the NEBA service³⁴**.
4. The **Decision of the Competition and Markets Authority, of 17 January 2017, publishing the decision regarding the definition and analysis of the retail market for access to the public telephone network at a fixed location (market 1/2007) and of the wholesale market for access and call origination on fixed networks (market 2/2007) and agreeing its notification to the European Commission and the Body of European Regulators for Electronic Communications³⁵**. This decision states that retail markets for access to the public telephone network at a fixed location no longer constitute relevant markets whose characteristics warrant the imposition of specific obligations and therefore are not susceptible to ex ante regulation, in accordance with the provisions in the framework directive and in art. 13(5) of the Telecommunications Act³⁶. Correspondingly, the obligations of Telefónica de España, S.A.U. in relation to the provision of retail services for access to the public telephone network at a fixed location are removed. On the other hand, considering that the wholesale market for access and call origination on fixed networks is a relevant market susceptible of ex ante regulation in which Telefónica de España, S.A.U has significant market power, the specific obligations listed in schedule I to the decision are imposed on this operator.
5. **Royal Decree 123/2017, of 24 February, approving the Regulation on the use of the publicly-owned radioelectric spectrum³⁷**. The main novelty is that it lays down, as a general principle, but for stated exceptions, the possibility of using any frequency band for any radio communication service and with any technology, making its exploitation as flexible as possible. The principle of technology and service neutrality has thus been strengthened.

³³ Resolución de 10 de enero del 2017, de la Comisión Nacional de los Mercados y la Competencia, por la que se acuerda la publicación de la resolución relativa a la aprobación de la oferta de referencia del servicio mayorista NEBA local.

³⁴ Resolución, de 10 de enero del 2017, de la Comisión Nacional de los Mercados y la Competencia, por la que se acuerda la publicación de la resolución relativa a la revisión del precio de la capacidad en PAI del servicio de banda ancha mayorista NEBA.

³⁵ Resolución de 17 de enero del 2017, de la Comisión Nacional de los Mercados y la Competencia, por la que se publica la resolución relativa a la definición y análisis del mercado minorista de acceso a la red telefónica pública en una ubicación fija (mercado 1/2007) y del mercado mayorista de acceso y originación de llamadas en redes fijas (mercado 2/2007) y se acuerda su notificación a la Comisión Europea y al Organismo de Reguladores Europeos de Comunicaciones Electrónicas.

³⁶ Ley 32/2003, de 3 de noviembre, General de Telecomunicaciones.

³⁷ Real Decreto 123/2017, de 24 de febrero, por el que se aprueba el Reglamento sobre el uso del dominio público radioeléctrico.



It clarifies the different types of use (common, special or exclusive) and the various instruments authorising the use of the publicly-owned radioelectric spectrum necessary for each of said uses; the mechanism of the general licence for special use is introduced, which enables its holder to share the use without a limitation on the number of operators or users of certain frequency bands. Regarding the secondary spectrum market, four lawful businesses are regulated: the transfer of licences for the exclusive use of spectrum, the assignment, pooling or sharing of exclusive-use rights and the provision of relevant wholesale services.

Ana I. Mendoza Losana

VIII. Energy

1. First of all, we must highlight the approval of the new rules on pricing in the various business activities and services within the electricity sector:
 - **Order ETU/1948/2016, of 22 December, fixing certain marketing cost values for regulated electricity suppliers to be included when calculating the voluntary price for small consumers of electricity in the period 2014-2018³⁸.**
 - **Order ETU/1976/2016, of 23 December, setting the connection charges for 2017³⁹.**
 - **Decision of the Directorate-General for Energy Policy and Mines, of 28 December 2016, approving for 2017 the consumption profile and the calculation method for energy settlement purposes, applicable to those type 4 and type 5 consumers who do not have time-of-day metering, according to Royal Decree 1110/2007, of 24 August, approving the Unified Regulation of Measurement Points of the Electricity System⁴⁰.**
 - **Decision of the Directorate-General for Energy Policy and Mines, of 23 January 2017, setting the average energy price applicable when calculating the remuneration of the demand-side interruptible load management service**

³⁸ Orden ETU/1948/2016, de 22 de diciembre, por la que se fijan determinados valores de los costes de comercialización de las comercializadoras de referencia a incluir en el cálculo del precio voluntario para el pequeño consumidor de energía eléctrica en el periodo 2014-2018.

³⁹ Orden ETU/1976/2016, de 23 de diciembre, por la que se establecen los peajes de acceso de energía eléctrica para el 2017.

⁴⁰ Resolución de 28 de diciembre del 2016, de la Dirección General de Política Energética y Minas, por la que se aprueba para el año 2017 el perfil de consumo y el método de cálculo a efectos de liquidación de energía, aplicables para aquellos consumidores tipo 4 y tipo 5 que no dispongan de registro horario de consumo, según el Real Decreto 1110/2007, de 24 de agosto, por el que se aprueba el Reglamento Unificado de Puntos de Medida del Sistema Eléctrico.



offered by the consumers of non-peninsular electricity systems to which Order ITC/2370/2007 of 26 July 26 applies during the first quarter of 2017⁴¹.

- **Order ETU/130/2017, of 17 February, updating the remuneration parameters of standard facilities applicable to certain facilities that produce electricity from renewable energy sources, cogeneration and waste, for the purpose of its application to the regulatory half period starting on 1 January 2017⁴².**
 - **Rules Instrument 1/2017 of the Competition and Markets Authority, of 8 February, regulating the application for information and settlement, invoicing and payment procedure of the specific remuneration scheme of facilities that produce electricity from renewable energy sources, cogeneration and waste⁴³.**
2. **Order ETU/35/2017, of 23 January, providing the territorial supplements in the devolved regions of Catalonia, La Rioja, Castilla La Mancha and Comunitat Valenciana, with regards to connection charges for the year 2013⁴⁴** is also of interest.
3. The energy poverty measures are noteworthy. **Royal Decree Act 7/2016, of 23 December, regulating the mechanism for financing the cost of the social energy tariff and other measures to protect vulnerable consumers of electricity⁴⁵**, validated by Decision of the Lower House of 31 January 2017. The new Royal Decree Act amends the Electricity Sector Act 24/2013 of 26 December⁴⁶ with two purposes: that of providing for a scheme to finance the social energy tariff in accordance with EU law and that of providing cover to regulation through rules on certain measures tending to protect the most vulnerable consumers of electricity.

On the subject of energy poverty, two main measures are adopted: (a) the classification of supply to severely vulnerable consumers as essential, with the concomitant prohibition to interrupt the supply by reason of default; and (b) the extension to four months of the period

⁴¹ *Resolución de 23 de enero del 2017, 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 ofrecido por los consumidores de los sistemas eléctricos no peninsulares a los que resulta de aplicación la Orden ITC/2370/2007, de 26 de julio, durante el primer trimestre del 2017.*

⁴² *Resolución de 23 de enero del 2017, 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 ofrecido por los consumidores de los sistemas eléctricos no peninsulares a los que resulta de aplicación la Orden ITC/2370/2007, de 26 de julio, durante el primer trimestre del 2017.*

⁴³ *Circular 1/2017, de 8 de febrero, de la Comisión Nacional de los Mercados y la Competencia, que regula la solicitud de información y el procedimiento de liquidación, facturación y pago del régimen retributivo específico de las instalaciones de producción de energía eléctrica a partir de fuentes de energía renovables, cogeneración y residuos.*

⁴⁴ *Orden ETU/35/2017, de 23 de enero, por la que se establecen los suplementos territoriales en las comunidades autónomas de Cataluña, La Rioja, Castilla La Mancha y Comunitat Valenciana, en relación con los peajes de acceso de energía eléctrica correspondientes al ejercicio 2013.*

⁴⁵ *Real Decreto Ley 7/2016, de 23 de diciembre, por el que se regula el mecanismo de financiación del coste del bono social y otras medidas de protección al consumidor vulnerable de energía eléctrica.*

⁴⁶ *Ley 24/2013, de 26 de diciembre, del Sector Eléctrico.*



to make payment from the first demand letter and until the effective interruption of supply for the remaining categories of vulnerable consumers. However, the system for protection of vulnerable consumers is empty of much content insofar as the piece of legislation leaves up to regulatory implementation the definition of the beneficiary consumers for the two adopted measures.

4. At the regional level, **the Energy Poverty (Alleviation and Reduction) Act 3/2017 of 3 February (Comunitat Valenciana)**⁴⁷ was passed. Energy poverty is associated with social vulnerability and for this reason it will be the social services of the devolved region of Valencia that decide on the existence of this situation in the terms that are defined by regulation. In the event that a regulated supplier of water, electricity, gas or other wants to cut off the supply for reason of non-payment, it must first inform the municipal social services. Energy poverty supplies may benefit from grants annually offered by the regional departments responsible for the implementation of social policies.

Ana I. Mendoza Losana

IX. Intellectual Property

Regarding this matter, we must highlight the following:

1. The Standing Committee of the Spanish Council for the Judiciary, at its meeting held on 21 December 2016, has passed the **Resolution to exclusively assign the determination of civil matters that may arise under the Patents Act 24/2015 of 24 July, under the Trademarks Act 17/2001 of 7 December, and under the Designs (Legal Protection) Act 20/2003 of 7 July to certain courts**⁴⁸. The resolution has been updated by the Standing Committee at its meeting of 2 February 2017, whereby:

⁴⁷ Ley 3/2017, de 3 de febrero, para paliar y reducir la pobreza energética (electricidad, agua y gas) en la Comunitat Valenciana.

⁴⁸ Acuerdo de atribuir en exclusiva el conocimiento de los asuntos civiles que puedan surgir al amparo de la Ley 24/2015, de 24 de julio, de Patentes; de la Ley 17/2001, de 7 de diciembre, de Marcas, y de la Ley 20/2003, de 7 de julio, de Protección Jurídica del Diseño Industrial, a determinados juzgados.



<i>Tribunal Superior de Justicia</i> (Regional High Court of Justice)	Designated court(s)
Catalonia	Barcelona Companies Courts nos. 1, 4 and 5: civil litigation deriving from the Patents Act 24/2015 of 24 July and civil litigation deriving from the Designs (Legal Protection) Act 20/2003 of 7 July.
	Barcelona Companies Courts nos. 2, 6, 8 and 9: civil litigation deriving from the Trademarks Act 17/2001 of 7 December.
Madrid	Madrid Companies Courts nos. 6, 7, 8, 9, 10 and 11: civil litigation deriving from the Patents Act 24/2015 of 24 July, the Trademarks Act 17/2001 of 7 December, and the Designs (Legal Protection) Act 20/2003 of 7 July.
Comunitat Valenciana	Valencia Companies Court no. 2: civil litigation deriving from the Patents Act 24/2015 of 24 July.
	Valencia Companies Court nos. 1 and 3: civil litigation deriving from the Designs (Legal Protection) Act 20/2003 of 7 July and civil litigation deriving from the Trademarks Act 17/2001 of 7 December.

This resolution became effective on 1 April 2017.

2. The Commission Notice on certain articles of Directive 98/44/EC of the European Parliament and of the Council on the legal protection of biotechnological inventions (2016/C 411/03)⁴⁹ states that while the decisions of the European Patent Office (EPO) on the patentability of products obtained by means of essentially biological processes “are in line with the intentions of the drafters of the EPC, it is questionable whether the same result would have been reached in the EU context”. And this is so because “the EU legislator’s intention when adopting Directive 98/44/EC was to exclude from patentability products (plants/animals and plant/animal parts) that are obtained by means of essentially biological processes”.

Following this Commission Notice, the EPO decided to stay all proceedings before examining and opposition divisions in which the decision depends entirely on the patentability of a plant or animal obtained by an essentially biological process.

Ángel García Vidal

⁴⁹ Comunicación de la Comisión sobre determinados artículos de la Directiva 98/44/CE del Parlamento Europeo y del Consejo relativa a la protección jurídica de las invenciones biotecnológicas (2016/C 411/03).



X. Rail

In the rail sector we should note the adoption of **Commission Implementing Regulation (EU) 2017/6 of 5 January 2017 on the European Rail Traffic Management System European deployment plan** (ERTMS), which lays down the timetable for the deployment of the ERTMS on core network corridors and requires the railway infrastructure managers to equip the core network corridors with ERTMS and put ERTMS into operation in those corridors at the latest by the dates specified in Annex I to this Regulation, including in railway stations and junctions.

Ana I. Mendoza Losana

XI. Debt recovery claims in Europe

Regulation (EU) No 655/2014 of the European Parliament and of the Council of 15 May 2014 establishing a European Account Preservation Order procedure to facilitate cross-border debt recovery in civil and commercial matters started to apply last 18 January.

The purpose of the Regulation is to establish a Union procedure enabling a creditor to obtain a European Account Preservation Order which prevents the subsequent enforcement of the creditor's claim from being jeopardised through the transfer or withdrawal of funds up to the amount specified in the Order which are held by the debtor or on his behalf in a bank account maintained in a Member State. It applies only to pecuniary claims in civil and commercial matters in cross-border cases, defined as those where the bank account or accounts to be preserved by the Preservation Order are maintained in a Member State other than the Member State of the court seised of the application for the Preservation Order or the Member State in which the creditor is domiciled. The UK and Denmark did not take part in the adoption of this Regulation and are not bound by it or subject to its application.

The most significant characteristic of this Preservation Order is its enforceability in all Member States (except in the UK and Denmark) without the need for a declaration of enforceability (*exequatur*).

Elisa Torralba Mendiola