

Pérez-Llorca

2021 / 2022

Legislative developments in 2021 and projections for 2022

December 2021

Legislative activity

The COVID-19 pandemic has continued to shape legislative activity in 2021. Numerous legislative measures have been taken, both to mitigate the effects of the pandemic, and also to adapt existing legislation to the situation caused by the pandemic. In addition, there have been noteworthy amendments to the Spanish Companies Act, the Securities Market Act and the Competition Act, as well as the Climate Change and Energy Transition Act.

COVID-19

The main royal decrees-laws that have been approved this year in relation to the situation created by COVID-19 are as follows:

Royal Decree-law 27/2021, of 23 November, extending economic measures to support economic recovery (“**RDL 27/2021**”). Its main purpose was to extend the application of certain measures that were adopted to support Spain’s economic recovery following the COVID-19 pandemic which were due to expire shortly. These include: (i) the extension of the suspension of the liberalisation of certain foreign investments (anti-takeover shield) until 31 December 2022 in certain sectors from EU and EFTA countries in publicly-listed Spanish companies, or in private companies if the value of the investment exceeds EUR 500 million; (ii) the extension of the exemption from the obligation to file for dissolution due to losses provided for in Article 363.1 of the Companies Act applicable to the result of the 2021 financial year; (iii) the extension until 30 June 2022 of the exemption from the duty to file for insolvency and of the non-admission by judges of applications for compulsory insolvency filed since 14 March 2020 (insolvency moratorium); and (iv) the extension of guarantee facilities and recapitalisation funds until 30 June 2022. *More information available [here](#)*

Royal Decree-law 18/2021, of 28 September, on urgent measures for the protection of employment and economic recovery (“**RDL 18/2021**”). *More information available [here](#)*

Royal Decree-law 11/2021, of 27 May, on measures for the protection of employment, economic recovery and the protection of self-employed individuals. *More information available [here](#)*

Royal Decree-law 5/2021, of 12 March, on extraordinary measures to support business solvency in response to the COVID-19 pandemic (“**RDL 5/2021**”). *More information available [here](#)*

Royal Decree-law 3/2021¹, of 2 February, adopting measures to reduce the gender pay gap and other matters related to social security and the economy. *More information available [here](#)*

Royal Decree-law 2/2021, of 26 January, on the reinforcement and consolidation of social measures to protect employment. *More information available [here](#)*

Recovery Plan

The Recovery, Transformation and Resilience Plan was approved by the European Commission on 16 June and includes a set of investments to be made almost entirely between 2021 and 2023, along with an ambitious programme of structural and legislative reforms aimed at addressing Spain’s main challenges. The Plan is based on four pillars: ecological transition, digital transformation, gender equality and social and territorial cohesion, and is the fundamental instrument for the development of the Next Generation EU recovery funds.

¹ In process as a Draft Law.

Commercial

Amendment of the Companies Act and the Securities Markets Act

On 13 April, Law 5/2021, which amends both the Companies Act and the Securities Markets Act, was published in the Official State Bulletin. Some of the key features of Law 5/2021 are that: (i) it allows the general shareholders meeting of limited companies to be held electronically without need of a simultaneous physical meeting, and allows shareholder to attend and vote electronically; (ii) it considers shareholders represented by proprietary directors as related persons to such director; (iii) it introduces loyalty shares into Spanish corporate law; (iv) it furthers the right of companies to identify their shareholders; (v) it explicitly requires directors of listed companies to be natural persons; and (vi) it regulates the position of proxy advisors. *More information available [here](#)* 📄

Securities Markets

New EU recovery prospectus

Regulation (EU) 2021/337, of 16 February 2021, which amends the Prospectus Regulation and the Transparency Directive, was published in the Official Journal of the European Union on 26 February. The main new feature is the creation of a new short-form prospectus to be known as an EU Recovery Prospectus for the public offering of shares or the admission of shares to trading on a regulated market, which, while addressing the economic and financial issues specifically raised by the COVID-19 pandemic, is intended to be easy for issuers to prepare, easy for investors to understand and simple for the competent authorities to examine and approve. *More information available [here](#)* 📄

SPACs

On 2 November 2021, the CNMV published its quarterly bulletin III/2021, which includes a section in which the CNMV sets out the principles that will govern its supervisory activity in relation to IPOs by Special Purpose Acquisition Companies (“SPACs”), and subsequent de SPAC transactions that may be submitted for approval in the coming months, all based on the current legal framework. In this regard, the CNMV stresses that current regulations do not prevent the execution of IPOs and business combinations with SPACs.

Moreover, on 15 July, ESMA published its guidelines for disclosure and investor protection in relation to SPACs.

Finance

Banking directives

Royal Decree-law 7/2021 of 27 April, transposing various European Union directives, introduced the legal amendments resulting from the transposition of Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 (CRD V) and Directive (EU) 2019/879 of the European Parliament and of the Council of 20 May 2019 (BRRD II). Royal Decree 1041/2021 of 23 November completed the transposition of BRRD II into Spanish law. The new regulation includes a unified regime for *cédulas* and other covered bonds, as well as territorial and internationalisation *cédulas*. *More information available [here](#)* 📄

Cross-border distribution of collective investment undertakings

As expected, Directive (EU) 2019/1160 on the cross-border distribution of collective investment undertakings was transposed in 2021 by amending Law 35/2003 of 4 November on Collective Investment Undertakings and Law 22/2014 of 12 November. The law: (i) regulates pre-marketing activities of alternative funds; (ii) aligns notification procedures in cross-border marketing for harmonised and non-harmonised CIS; (iii) simplifies cross-border marketing by removing the physical presence

obligation; and (iv) clarifies requirements for halting the marketing of collective investment funds and alternative funds.

Crowdfunding platforms

Regulation (EU) 2020/1503, on European crowdfunding service providers for business, has been directly applicable since 10 November 2021, and introduced the EU passport for this type of platform.

Restructuring and Insolvency

Measures to facilitate debt restructuring and the reduction of indebtedness

RDL 5/2021 established a direct aid scheme for the self-employed and for companies, and a series of measures for the restructuring of COVID-19 financial debt, including the following: (i) the extension of maturity periods in financing operations that have received a public guarantee; (ii) the maintenance of the public guarantee in the event that the outstanding principal operations are converted into financing operations with a public guarantee; and (iii) the creation of a facility for the restructuring of COVID-19 financial debt. It also introduced a voluntary Code of Best Practices for financial institutions that carry out the operations defined in RDL 5/2021. In addition, it amended several provisions of Law 3/2020, such as those relating to refinancing agreements, establishing a longer deadline for proceeding with the amendment of such agreements and allowing debtors, where appropriate, to enter into negotiations with their creditors to amend their approved agreement or to reach a new one.

Tax

Prevention of tax fraud

In July, Law 11/2021, on measures to prevent and combat tax fraud was adopted, transposing Council Directive (EU) 2016/1164 of 12 July 2016. The regulation tightens the regime for SICAVs to be taxed at 1%, so that in order to reach the required 100 shareholders, only holders of shares of at least 2,500 euros (12,500 euros in SICAVs by compartments) will be counted. In relation to SOCIMIs (Spanish REITs), a special tax of 15% was established on non-distributed profits for the year arising from income that has been taxed under the special regime and is not subject to the reinvestment period, and important changes were included in the area of tax procedures, among others.

More information available [here](#) 

Plusvalía municipal

The Constitutional Court, in its judgment of 26 October 2021, declared unconstitutional and null and void certain articles of the Revised Text of the Law Regulating Local Treasuries (the “**TRLRHL**”), relating to the system for determining the taxable base of the Tax on the Increase in Value of Urban Land (*plusvalía municipal*), thus preventing its enforceability.

As a consequence of the above ruling, Royal Decree-law 26/2021 of 28 November was published, amending the TRLRHL to guarantee the constitutionality of the tax and therefore its enforceability.

More information available [here](#) 

Amendment of the Corporate Income Tax Act and the Non-Resident Income Tax Act

In March, the Corporate Income Tax Act and the Non-Resident Income Tax Act were amended in order to transpose Directive (EU) 2016/1164 in relation to “hybrid mismatches”, through Royal Decree-law 4/2021, of 9 March.

Employment

ERTEs

As foreseen, RDL 18/2021 extended the application of ERTEs (temporary workforce restructuring plans) until 28 February 2022 under certain circumstances. It also supplemented and extended the COVID-19 protection measures for the self-employed. *More information available [here](#)* 📄

Remote working

In light of the new employment situation created by COVID-19, on 9 July, Law 10/2021 on remote working was adopted, which imposes an obligation on companies to enter into written agreements with employees who work remotely on a regular basis (a minimum of 30%) as well as to compensate employees for the costs they incur as a result of working remotely. *More information available [here](#)* 📄

Equal pay and equality plans

On 14 April 2021, Royal Decree 902/2020 on equal pay for women and men entered into force. Companies with between 101 and 150 employees needed to have an equality plan in place by 7 March 2021, and companies that already have equality plans in place need to adapt them within 12 months of 14 January 2021.

Competition

ECN+

In April, the amendment to the Competition Act came into force, transposing the European ECN+ Directive, which, among other aspects: (i) increases the maximum theoretical fines for restrictions of competition in distribution agreements and abuses of dominant position; (ii) grants new powers of investigation to the National Commission on Markets and Competition; and (iii) establishes greater guarantees for companies that are under investigation, with increased powers, a stricter penalty system, and new collaboration mechanisms for such companies.

Consumers and users

RDL 7/2021 transposed 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 and Directive (EU) 2019/771 of the European Parliament and of the Council of 20 May 2019 on certain aspects concerning contracts for the sale of goods. The intention was to make cross-border sales and purchases more secure, especially when they are made online, and to introduce amendments in relation to (i) the supply of digital content and services; and (ii) the sale and purchase of goods.

Intellectual Property and Technology

Copyright

Royal Decree-law 24/2021, of 2 November has incorporated into Spanish law the (i) Directive (EU) 2019/789, 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 (ii) Directive (EU) 2019/790, of 17 April 2019, on copyright and related rights in the Digital Single Market. *More information available [here](#)* 📄

Complementary regulation on personal data

In 2021, Organic Law 7/2021 of 26 May, on the protection of personal data processed for the purposes of the prevention, detection, investigation and prosecution of criminal offences and the imposition of criminal penalties, was approved. The purpose of this law is to establish rules on the protection of natural persons with regard to the processing of personal data by the competent authorities, and it establishes a list of public authorities that are considered to be competent authorities.

Network and information system security

Royal Decree 43/2021, of 26 January, has further implemented the provisions included in Royal Decree-law 12/2018, of 7 September, concerning the security of networks and information systems. *More information available [here](#)* 📄

Standard Contractual Clauses

Commission Implementing Decision (EU) 2021/914, of 4 June 2021, provided standard contractual clauses for the transfer of personal data to third countries in accordance with Regulation (EU) 2016/679, and Commission Implementing Decision (EU) 2021/915 of 4 June 2021 on standard contractual clauses between controllers and processors.

Money laundering and compliance

AMLD V

As planned, RDL 7/2021 transposed, among other European directives, Directive (EU) 2018/843 of the European Parliament and of the Council (AMLD V). The RDL (i) includes new obliged entities; (ii) creates a register of beneficial ownership; (iii) includes new obligations in relation to due diligence measures; and (iv) establishes measures to protect whistle-blowers. *More information available [here](#)* 📄

AMLD VI

Organic Law 6/2021, of 28 April, amending Organic Law 10/1995, of 23 November, on the Criminal Code, transposed Directive (EU) 2018/1673 (AMLD VI) into Spanish law, amending the Criminal Code as follows: (i) including a specific aggravating circumstance for situations in which the crime has been committed by an obliged party under Article 2 of Law 10/2010; and (ii) to punish with the upper half of the penalty when laundered assets are the proceeds of human trafficking, crimes against foreign citizens, prostitution, sexual exploitation and corruption of minors, as well as crimes linked to corruption in business, among others.

Energy

Climate Change and Energy Transition

The newly enacted Law 7/2021, of 20 May, on climate change and energy transition, aims to ensure the objective of greenhouse gas emission neutrality in Spain is achieved by 2050, and create an efficient and renewable energy system, facilitating a just transition and ensuring alignment with public and private objectives. *More information available [here](#)* 📄

Energy

On 26 October, Royal Decree-law 23/2021 was approved, containing a package of measures (i) to mitigate the adverse effects of the increase in electricity and natural gas prices on end consumers and, in particular, on those in a situation of energy vulnerability; and (ii) to increase transparency and supervision in the wholesale and retail electricity and natural gas market.

It also clarifies the scope of application of the “mechanism for reducing the excess remuneration of the electricity market caused by high prices on international markets”, introduced by Royal Decree-law 17/2021. *More information available [here](#)* 

Insurance

Training programmes

On 11 June 2021, the Resolution of the DGSFP of 3 June, establishing the basic principles of training courses and programmes for insurance and reinsurance distributors, was published in the Official State Bulletin and is now in force. This new resolution repeals the Resolution of 18 February 2011, and complements Royal Decree 287/2021 of 20 April on the compilation and submission of statistical and accounting information by insurance and reinsurance distributors. *More information available [here](#)* 

Land planning

LISTA

Law 7/2021, of 1 December, on the Promotion of the Sustainability of the Andalusian Territory, makes urban and land-use planning regulations more flexible, promotes the necessary connection between land-use and urban planning instruments to generate opportunities and investment, and seeks to streamline and clarify urban planning procedures to encourage their application by operators. *More information available [here](#)* 

Others

Statute of the Legal Profession

In March, Royal Decree 135/2021 was approved, approving the General Statute of the Spanish Legal Profession, which updates the regulations in consideration of the current social situation. Highlights of the new statute include: (i) the new professional secrecy regulations; (ii) the establishment of restrictions on advertising; (iii) the strengthening of consumer rights; (iv) the creation of professional protocols for reporting unjustified delays and acts of the courts that have restricted freedom or independence of lawyers to the CGPJ; and (v) the obligation to provide professionals and the public with access to information through the appropriate technological means. *More information available [here](#)* 

Legislative activity planned for 2022

Although the coming year will continue to be marked by the consequences of COVID-19, important regulatory developments are also anticipated, such as the new Securities Market and Investment Services Law, the approval of the labour reform or the reform of the Insolvency Law.

Commercial

Preliminary draft law to promote the start-up ecosystem

On 6 July 2021, the Council of Ministers approved the Draft Law to promote the start-up ecosystem, which aims to establish a specific regulatory framework to support the creation and growth of start-ups in Spain. The Government expects it to enter into force around summer 2022 after its parliamentary approval.

Digitalisation of companies

The transposition of Directive (EU) 2019/1151 on the use of digital tools and processes in the area of company law, which should be a priority and essential to help the nascent economic recovery and improve business competitiveness, is still pending. It is intended to facilitate the incorporation of companies by electronic means and to reduce costs, time and administrative burdens. The deadline for transposition was 1 August 2021.

Law on the creation and growth of businesses

The law aims to promote the creation of businesses and encourage their expansion through regulatory improvements, the elimination of obstacles to economic activities, the fight against commercial delinquency and financial support for business growth. The most important new features introduced by the draft law are: (i) the option to create a limited liability company with a share capital of only 1 euro; (ii) the use of electronic invoicing in transactions between companies and self-employed individuals is promoted as a business digitalisation measure and as a mechanism to combat late payment in commercial transactions; (iii) incentives are included to reduce commercial delinquency, including the average payment period as a requirement for access to subsidies and as a ground for termination and a ground for penalties in public procurement; and (iv) specific instruments for financing business growth are strengthened, making alternative financing mechanisms such as crowdfunding, collective investment and venture capital more flexible.

Foreign investment

The Government submitted a draft regulation for public consultation, the aim of which is, firstly, to develop the aspects of Law 19/2003 as amended by RDL 8/2020, 11/2020 and 34/2020, especially with regard to the introduction of Article 7 bis, relating to the suspension of the liberalisation of the foreign direct investments system in respect of certain assets and foreign investors and, secondly, to update the procedure for declaring foreign investments (both foreign investments in Spain and Spanish investments abroad) in the Investment Register. It is expected to be approved in 2022.

Securities market

New Securities Market and Investment Services Law

The processing of the new Securities Market and Investment Services Law and its three Royal Decrees is expected to commence in relation to: (i) investment services firms; (ii) financial instruments, the securities registration system and market infrastructures; and (iii) the supervisory powers of the CNMV. The new regulation will introduce several European directives into Spanish law (notably the Directive on the prudential system for investment firms, which includes specific solvency obligations

for these entities, and the changes made to the MiFID II Directive to ensure that investment services contribute to the capitalisation of European firms). It also seeks to simplify the process of issuing fixed income securities, which will enhance the competitiveness of Spanish markets for financing investment and business growth.

SPACs

The second final provision of the draft law approving the new Securities Market and Investment Services Law envisages amending the Companies Act to add a new section to Title XIV, which would contain the specific features of the system applicable to SPACs, including details in relation to the statutory right of separation of shareholders, the issue of redeemable shares and the reduction of share capital by way of the repurchase of treasury shares.

CNMV Regulatory Plan

The CNMV has announced that in 2022 it will publish: (i) a circular amending Circulars 5/2013 and 4/2013, to adapt the IAGC's annual remuneration reports to the changes arising from the implementation of Directive (EU) 2017/828 of the European Parliament and the Council of 17 May 2017 amending Directive 2007/36/EC concerning the encouragement of long-term shareholder engagement; (ii) a circular on advertising cryptoassets, to enhance the oversight of the advertising of these products; (iii) a technical guide on the management and monitoring of the liquidity of Collective Investment Institutes; and (iv) a revision of the technical guides for the assessment of the suitability of products for investment services clients, incorporating supervisory experience and taking into account the new ESMA guidelines on the matter, and setting out clear criteria on how institutions should assess the knowledge and experience of their retail clients when providing them with investment services that require it.

Civil and criminal procedure

Preliminary Draft Law on Procedural Efficiency Measures

On 15 December 2020, the Council of Ministers approved the Preliminary Draft Law on Procedural Efficiency Measures for the Public Justice Service. The final text is expected to be approved during the second half of 2022 once the parliamentary stage has been completed.

The main pillars of the reform are: (i) the implementation of alternative dispute resolution measures (the so-called “ADR” or “appropriate means of dispute resolution”) in the context of civil and commercial judicial proceedings; (ii) the reform of procedural laws to streamline the processing of proceedings and the optimisation of appeals, including the amendment of the civil cassation appeal system; and (iii) progress in the digital transformation of justice.

Access to financial information in the investigation and prosecution of serious crime

The preliminary draft organic law aims to regulate the access and use by competent authorities of financial and other information useful for the prevention, detection, investigation and prosecution of criminal offences. It is currently pending.

The regulation will transpose into Spanish law Directive (EU) 2019/1153 of the European Parliament and the Council of 20 June 2019, which establishes a set of regulations to facilitate the use of financial and other information for the prosecution of criminal acts and extends the access of competent authorities to centralised records of bank accounts and payments when it is necessary for the success of a criminal investigation into a serious criminal offence.

Criminal Procedure Law

A new text of the Criminal Procedure Law, currently in draft form, is still expected to be approved during 2022, according to the Recovery, Transformation and Resilience Plan.

Insolvency

Reform of the TRLC

The purpose of the Project to Reform the Consolidated Text of the Insolvency Law approved by the Spanish Council of Ministers on 21 December 2021 is to facilitate the restructuring of viable companies and improve insolvency proceedings, in addition to adding Directive (EU) 2017/1132 (Restructuring and Insolvency Directive) to Spanish legislation. It will also introduce important changes to Spanish pre-insolvency and insolvency legislation. Highlights of the Draft Law include the new regulation of insolvency proceedings without assets, the modification of the system of consequences of insolvency proceedings on certain contracts and, in particular, new developments in the system for the sale of production units in insolvency proceedings and the area of actions for rescission of the debtor's acts. New concepts such as the "Restructuring Plan" are also introduced, new types of debt potentially affected by restructuring plans are established (apart from the much-discussed concept of "financial liabilities"), and certain rights and obligations of shareholders are established in the event of the adoption of measures within the context of a restructuring, including the option of dragging shareholders who are financially "out-of-the-money" into the restructuring plan. Finally, the Project includes new provisions to further improve the "second opportunity regime" relating to the cancellation of debts of bona fide natural persons and individual businessmen to enable them to resume their economic activity without past debts.

Employment

Labour reform

The government is in the final phase of negotiations with the social stakeholders and employers' organisations to reach an agreement before 31 December 2021 to meet the deadlines agreed with the European Commission in the Recovery, Transformation and Resilience Plan. Some of the key aspects of this reform are: (i) extending permanent contracts and regulating temporary contracts; (ii) modernising collective bargaining instruments; and (iii) increasing the effectiveness and efficiency of public employment policies.

Pensions

The draft law on guaranteeing the purchasing power of pensions and other measures to reinforce the financial and social sustainability of the public pension system involves amending the revised text of the General Social Security Law and includes an important part of the recommendations approved by the Toledo Pact last autumn, which are also included in component 30 of the Recovery, Transformation and Resilience Plan. The law establishes a new framework for the revaluation of pensions and incorporates various measures aimed at voluntarily bringing the effective retirement age closer to the ordinary retirement age.

Tax

General State Budgets

The General State Budgets for 2022, like those for 2021, will be the tool that will channel European funds. In terms of tax innovations, highlights include a reduction of the maximum limit on the taxable base for individual contributions to pension plans to 1,500 euros in 2022, the extension of the limit excluding self-employed individuals from the module system, a minimum corporate income tax rate of 15% for taxpayers with a net turnover equal to or greater than 20 million euros or who pay tax under the tax consolidation regime, and an increase in registration tax, among other measures.

Preliminary draft law on the promotion of the start-up ecosystem

On 6 July 2021, the Council of Ministers approved the Draft Bill to promote the start-up ecosystem, which includes important tax measures including the tax treatment of carried interest, reduced corporate income tax and non-resident income tax rates for start-ups, improved deductions for investment in start-ups and improved treatment of stock options.

Intellectual Property and Technology

Patents

The Spanish Patent and Trademark Office (“SPTO”) has submitted to public information a draft law to reform the three main industrial property laws: Law 17/2001 (Trade Marks Act), Law 20/2003 (Industrial Designs Act) and Law 24/2015 (Patents Act). The main purpose of this reform is to update and clarify certain confusing aspects of the current legislation, in order to improve legal certainty and internal coherence between the different laws, although it is true that new legal figures are also incorporated into the Spanish legal system, particularly in relation to industrial designs (with the introduction of “advertising or dissemination licences”) and patents (with the introduction of “provisional applications” and “derived utility models”).

General Telecommunications Law

A new General Telecommunications Law that transposes the Directive establishing the European Electronic Communications Code (2018/1972) is expected to be approved in 2022. The Council of Ministers has sent the draft law amending the current General Telecommunications Law to the Spanish Parliament. The Draft Law was published in the Official Bulletin of the Spanish Parliament on 26 November 2021.

General Law on Audiovisual Communication

On 17 December 2021, the Congress of Deputies agreed to entrust the competent committee with the approval of the General Audiovisual Communication Law, which will transpose the Audiovisual Media Services Directive. This transposition will be extemporaneous, as the deadline for its incorporation into Spanish law expired on 19 September 2020.

Consumers and users

Draft Law on the protection of consumers and users in situations of social and economic vulnerability

This law amends the revised text of the General Law for the Defence of Consumers and Users, as well as the Royal Legislative Decree approving this text. Among other issues, the regulation: (i) introduces the concept of “vulnerable consumer”; and (ii) attributes to companies the responsibility to provide additional support in the information they provide for decision-making, with the aim of ensuring that vulnerable consumers are not limited in their accessibility, as well as providing support to ensure the understanding of the contracts signed by users.

Preliminary draft law amending the revised text of the General Law on the Defence of Consumers and Users and other supplementary laws

This preliminary draft aims to fully transpose Directive (EU) 2019/2161 of the European Parliament and of the Council of 27 November 2019 into national law and to strengthen forms of e-commerce by regulating business behaviour that is harmful to consumers.

Draft Law on Customer Services

In November 2021, the Council of Ministers approved the drafting of the draft law regulating customer services. Among other issues, the regulation will: (i) limit how companies use answering machines to interact with consumers; (ii) guarantee attention to vulnerable people; and (iii) publicise customers' evaluations of the attention received. The text, which has begun to be processed, improves communications between consumers and businesses and establishes obligations in the form of providing information, dealing with incidents and resolving complaints and claims.

Financial customer protection

Although no draft regulation has been published so far, the Recovery, Transformation and Resilience Plan foresees the creation of a new Financial Customer Protection Authority, which will provide a streamlined mechanism to ensure that the financial system fulfils its role in the most efficient way, both with savers and businesses.

Collective actions

The deadline for transposing Directive (EU) 2020/1828 of the European Parliament and the Council of 25 November 2020 on representative actions for the protection of the collective interests of consumers is 22 November 2022. The regulation aims to protect consumers and facilitate their access to justice on the grounds of damage caused by the same unlawful practice, while also preventing the misuse of litigation and establishing two mechanisms for this purpose: (i) the collective action of representation (national or cross-border); and (ii) the entities authorised to exercise it before the courts of European countries.

Compliance

Whistleblower Protection

17 December 2021 is the deadline given to Member States for the transposition of the whistleblower protection directive, which aims to encourage the reporting of breaches of EU law by establishing minimum standards of protection for those who, in the context of their work activities - both in the public and private sector - become aware of such irregularities and wish to report them.

Energy and Environment

National Fund for the Sustainability of the Electricity System

A draft law creating the National Fund for the Sustainability of the Electricity System (the “**FNSSE**”) is currently being processed. The creation of the FNSSE seeks to achieve the sustainability of the electricity system, providing more certainty to the sector to encourage investments for the energy transition. In addition, the aim is to reduce the final price of electricity, establishing the FNSSE as the body responsible for assuming the costs of financing the Specific Remuneration Regime for renewables, cogeneration and waste (RECORE). The main implication of these changes will be that the fixed costs derived from RECORE will be financed by all energy sectors, not just the electricity sector.

CO₂ Payments

The draft law to act on the payments for CO₂ not emitted from the electricity market aims to reduce the high electricity costs borne by end consumers. To this end, the regulation establishes a mechanism whereby CO₂ payments will no longer be granted to non-emitting facilities that began operating before the European agreement on emission rights. The facilities that will be affected by this law will mainly be nuclear power plants, hydroelectric plants and wind farms built prior to the creation of the European CO₂ market on 25 October 2003.

Others

Preliminary draft of the Housing Law

The law is expected to enter into force in the second half of 2022. The text establishes a period of 18 months from the approval of the law until its application, with the aim of defining a reference price index and gathering the necessary statistics to establish the so-called stressed areas. Furthermore, the power to decide whether or not to apply this price control will remain in the hands of the Autonomous Communities. The regulation establishes for the first time a state definition framework for concepts such as stressed market area, decent housing or large housing owner, while allowing the different administrations to act to lower or freeze rental prices or penalise uninhabited properties.

The information contained in this document is of a general nature and does not constitute legal advice.

This document was prepared on 22 December 2021 by Knowledge Management team and Pérez-Llorca does not undertake any commitment to update or revise its contents.

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