

NEWSLETTER
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LEGISLATIVE UPDATE

1. Spanish Legislation

1.1 - Resolution of 22 January 2019, of the Congress of Deputies, ordering the publication of the Agreement repealing Royal Decree-Law 21/2018, of 14 December, on urgent measures regarding housing and rent.

The Congress of Deputies has agreed to repeal Royal Decree-Law 21/2018 of 14 December on urgent measures in the field of housing and rent, published in the Official State Gazette number 304 of 18 December 2018.

The repeal of the Royal Decree, which has only been in force for about thirty-five days, sows instability and legal insecurity in housing and rent.

One of the main new features was the change in duration from three to five years and even seven years if the lessor was a legal entity. In addition, it limited to the equivalent amount of two monthly instalments the guarantees required outside the deposit. It was also stipulated that the costs of property management and those corresponding to the formalisation of the contract were to be borne by the owner if the latter was a legal person.

Although the repeal of the Royal Decree has been agreed, it has no retroactive effect, so it seems that in principle those lessees who have formalized the lease contracts during the time the Royal Decree remained in force, will enjoy many more rights than the rest, being governed in their relations with the lessor by the Royal Decree not validated.

However, leases entered into after the repeal of the Royal Decree must comply with the clauses established by the previous urban leases law. [See more.](#)

1.2 - Law 24/2018, of 5 December, on Mediation in the Valencia Region.

The purpose of this law is to regulate mediation in the Valencian Community within the scope of its powers, and in accordance with State regulations, promoting access by citizens to this alternative method of conflict resolution. The main objective of this regulation is to implement, develop and promote a legal framework in which to include mediation procedures, present and those that may be established in the future, intra-judicial and extra-judicial, which are developed in the territorial area of the Valencian Community. [See more.](#)

2. European Provisions

2.1 - Implementing Commission Regulation (EU) 2019/66 of 16 January 2019, on the rules on uniform practical arrangements for carrying out official controls on plants, plant products and other objects intended to check compliance with the Union's rules on plant pest-protection measures applicable to such goods. [See more.](#)

2.2 - Implementing Commission Regulation (EU) 2019/103 of 23 January 2019, amending the Implementing Regulation (EU) 2015/1998 as regards clarification, harmonisation and simplification as well as the reinforcement of certain specific aviation security measures. [See more.](#)

3. Administrative Rulings

- 3.1 - Resolution of 8 January 2019, of the Directorate General of the Treasury and Financial Policy**, updating Annex 1 included in the Resolution of 4 July 2017 of the Secretariat-General for the Treasury and Financial Policy, defining the principle of financial prudence applicable to debt and derivative operations of autonomous communities and local entities. [See more.](#)
- 3.2 - Resolution of 2 January 2019, of the Directorate General for Insurance and Pension Funds**, publishing the maximum interest rate to be used in the accounting calculation of the life insurance provision, applicable to financial year 2019. [See more.](#)
- 3.3 - Resolution of 23 January 2019, of the Directorate General for Energy Policy and Mines**, approving the reference prices for calculating the extraction value of gas, oil and condensates for the year 2018. [See more.](#)

4. Judicial Decisions

COURT OF JUSTICE OF THE EUROPEAN UNION: Judgment of the Court of Justice of the European Union, First Chamber, 16 January 2019, Case No C-265/17 P.

Summary: On 15 June 2012, United Parcel Service, Inc. ('**UPS**') notified the European Commission of its proposed acquisition of TNT Express NV ('**TNT**') pursuant to Article 4 of Council Regulation (EC) No 139/2004 of 20 January 2004 on the control of mergers between undertakings.

On 30 January 2013, the Commission declared the notified merger incompatible with the internal market and with the Agreement on the European Economic Area of 2 May 1992 ('**the Decision**'), after having considered that such a concentration would impede effective competition in the market for international small parcel express services in the European Economic Area. This decision was based on an econometric analysis indicating that prices could increase in most of the affected markets.

On 5 April 2013, UPS brought an action before the Registry of the General Court seeking annulment of the Commission's decision alleging infringement of the rights of defence. The General Court upheld the action brought by UPS and annulled the Commission's decision on the ground that the Commission used an econometric model different from the one notified to UPS in the administrative procedure, preventing UPS from commenting on the amendments made and thus infringing its rights of defence.

The Commission appealed on the grounds that it was not obliged to disclose the changes made to the model on which the statement of objections was based, which had been drawn up with the cooperation of the parties involved in the operation. This argument, as we shall see, is rejected by the ECJ as contrary to the principle of respect for the rights of defence and to the provisions of Article 18 of Regulation No 139/2004, which require the Commission to base its decisions only on objections on which interested parties have been able to submit observations.

On 16 January 2019, the ECJ ruled that the econometric models are, by their very nature and function, useful quantitative tools for the Commission's prospective analysis in merger control proceedings.

The ECJ holds that from the perspective of the rights of defence, the failure to communicate an econometric model to the parties to a concentration justifies the annulment of the Commission's decision, irrespective of the prior qualification of this model as an inculpatory or exculpatory document.

The ECJ concludes that the General Court did not err in law in finding that UPS's rights of defence had been infringed and that the Commission's decision should therefore have been annulled because it had not been sufficiently established that, in the absence of that procedural irregularity, the decision would not have had a different content, but that it would have been possible to have had an opportunity, even a reduced one, to prepare its defence better. [See more.](#)

5. Directorate General for Registers and Notaries

5.1- Mortgage loan. Requirements of Law 2/2009. Consult the registry interconnection service.

Resolution of 13 December 2018, of the Directorate General of Registries and Notaries, in the appeal filed against the rating note issued by the Land Registry of Valencia No. 10, which suspends the registration of a mortgage loan deed.

Summary: The Registrar suspends the registration of a mortgage granted by an individual because, after consulting the Registry Interconnection Service, he is the creditor of six other mortgages and does not meet the requirements of the law regulating the contracting with consumers of mortgage loans or credits and intermediation services for the conclusion of loan or credit contracts. [See more.](#)

5.2- Accounts Deposit. Auditor's report.

Resolution of December 10, 2018, of the General Directorate of Registries and Notaries, in the appeal filed against the qualification note issued by the commercial and movable property registry of Ciudad Real, rejecting the deposit of accounts of a company corresponding to fiscal year 2017.

Summary: If an auditor is registered, even if not voluntarily, the deposit is not possible without the auditor's report even though the company may present the abbreviated report. [See more.](#)

5.3- Chattels. Mortgage on ship. Possibility of extrajudicial execution. Resolution of 14 December 2018, of the General Directorate of Registries and Notaries, in the appeal filed against the qualification note issued by the commercial and movable property registrar I of Santa Cruz de Tenerife, refusing the issuance of certification requested under Article 236 of the Mortgage Regulation.

Summary: It is possible the extrajudicial execution of the mortgage on ships in the same terms foreseen for the real estate. [See more.](#)

6. Other Regulations

6.1 Order ECE/27/2019, of 21 January, providing for the creation of State Debt during 2019 and January 2020 and authorising treasury management operations. [See more.](#)

6.2 Order TMS/1426/2018 of 26 December regulating the collective management of contracts at source for 2019. [See more.](#)

The foregoing comments contain informative aspects and do not constitute professional or legal advice, not necessarily including the opinion of the authors.

If you are interested in obtaining additional information or clarification on the content, you can contact Ignacio Aparicio on telephone number +34 963 527 546 or by e-mail:

ignacio.aparicio@AndersenTaxLegal.es