

Spanish Municipal Legislation Involving Questions of Private International Law, 2009¹

I. SOURCES OF PRIVATE INTERNATIONAL LAW

II. INTERNATIONAL JURISDICTION

– Organic Law 1/2009 of 3 November, supplementing the Law reforming procedural law in order to set up the new Judicial Office for which Organic Law 6/1985 of 1 July of the Judiciary was amended (BOE No 266, 4/11/2009).

Note: Article 1(1) amends Article 23(4) (5) of the LOPJ on the extraterritoriality of Spanish criminal jurisprudence based on the universal justice principle.

III. PROCEDURE AND JUDICIAL ASSISTANCE

– Royal Decree 95/2009 of 6 February regulating the system of administrative registers supporting the Justice Administration (BOE No 33, 7/2/2009).

Note: Article 3 regulates access of information from foreign jurisdictional bodies to the *Registro Central de Penados* (central registry of convicted offenders). Article 10 d) provides that in the inscription of precautionary measures, summons, writs of default or non final judgements imposed on legal age persons, European arrest warrants and other particulars issued by Spanish judicial authorities shall also be registered. Article 16 b) provides that those responsible for these registries must inform the authorities of foreign states of convictions, when available, imposed on alien adults or Spaniards. Article 17(5) regulates requests for certificates issued by these registers by Spaniards who are out of the country.

– Royal Decree 863/2009 of 14 May amending Royal Decree 231/2008 of 15 February regulating the consumer arbitration system (BOE No 126, 25/5/2009).

Note: This provision provides new wording for Article 51(2) of Royal Decree 231/2008 (see this same heading of the Account of the 2008 volume of this Yearbook), a precept referring to arbitration in electronic transactions due to problems that the former wording caused with regard to the powers of the Autonomous Communities.

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– Law 13/2009 of 3 November reforming procedural law in order to set up the new Judicial Office (BOE No 266, 4/11/2009).

Note: Having regard to this Account, special mention should be made of Article 15(97) providing new wording for Article 177(1) of the Code of Civil Procedure (international judicial cooperation). Likewise, Article 15(329) amends Article 722 of the Code of Civil Procedure (precautionary measures in arbitration procedures and foreign disputes). Having regard to this provision, also see heading IV of this Account.

– Royal Decree 2002/2009 of 23 December amending the Regulation of the Ministry of Foreign Affairs' Language Interpretation Office approved by Royal Decree 2555/1977 of 27 August (BOE No 309, 24/12/2009).

Note: One of the duties of the Language Interpretation Office is the “translation of diplomatic, consular or administrative documents of the Ministry of Foreign Affairs and Cooperation into Spanish or into other foreign languages and of all those other documents which, coming from high bodies of State, affect the latter's foreign relations and which must officially be on file” (new Article 2(3)).

IV. RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGEMENTS AND DECISIONS

– Law 13/2009 of 3 November reforming procedural law in order to set up the new Judicial Office (BOE No 266, 4/11/2009).

Note: Article 1(11)(12) amends Articles 955 and 956 of the Code of Civil Procedure of 1881 (Order for the enforcement of foreign judgements). Having regard to this provision, also see heading III of this Account.

V. INTERNATIONAL COMMERCIAL ARBITRATION

VI. CHOICE OF LAW: SOME GENERAL PROBLEMS

VII. NATIONALITY

VIII. ALIENS, REFUGEES AND CITIZENS OF EUROPEAN COMMUNITY

– Resolution of 26 December 2008 from the Secretariat of State for Immigration and Emigration calling for the publication of the 19 December 2008 Cabinet Agreement regulating the contingent of non-Community alien workers in Spain for the year 2009 (BOE No 6, 7/1/2009).

– Law 15/2008 of the Autonomous Community of Valencia of 5 December on the integration of immigrants in the Comunitat Valenciana (BOE No 10, 10/1/2009).

– Resolution of 15 December 2008 of the State Public Employment Service publishing the catalogue of occupations for which workers are needed for the first quarter of 2009 (BOE No 19, 22/1/2009).

– Order CUL/174/2009 of 29 January regulating public visits to state-owned museums attached to and managed by the Ministry of Culture and by the National Performing Arts and Music Institute (BOE No 32, 6/2/2009; error correction BOE No 41, 17/2/2009).

Note: Article 4 provides for, inter alia, free-of-charge public visits to the museums listed in this provision for citizens of the Member States of the European Union and of the Latin American countries (letter b) and for legally resident aliens (letter c).

– Resolution of 25 March 2009 of the State Public Employment Service publishing the catalogue of occupations for which workers are needed for the second quarter of 2009 (BOE No 90, 13/4/2009).

– Royal Decree 973/2009 of 12 June regulating professional merchant marine qualifications (BOE No 159, 2/7/2009).

Note: In this provision, special mention should be made of Article 29 (holders of officially recognised foreign credentials), Articles 37 to 39 (recognition of foreign professional credentials) and additional provision ten (medical certificate equivalency).

– Royal Decree 1161/2009 of 10 July amending Royal Decree 240/2007 of 16 February on entry, free movement and residency in Spain of citizens of the Member States of the European Union and of other States party to the Agreement on the European Economic Area (BOE No 177, 23/7/2009).

Note: Concerning Royal Decree 240/2007, see this heading of the Account in the 2008 edition of this Yearbook.

– Royal Decree 1162/2009 of 10 July amending the Regulation laid down in Organic Law 4/2000 of 11 January on the rights and freedoms of aliens in Spain and their social integration approved by Royal Decree 2393/2004 of 30 December (BOE No 177, 23/7/2009).

Note: Concerning Royal Decree 2393/2004, see this heading of the Account in the 2004 edition of this Yearbook.

– Order CUL/2244/2009 of 30 July regulating public visits to the Museo Nacional Centro de Arte Reina Sofia (BOE n. 196, 14/8/2009).

Note: Article 3 provides for free-of-charge public visits for, inter alia, citizens of the Member States of the European Union and the Latin American countries (letter b) and for legally resident aliens (letter c).

– Order PRE/2397/2009 of 10 de September authorising the Ciudad Real Airport as a border post (BOE No 221, 12/9/2009).

– Royal Decree 1516/2009 of 2 October regulating the Community air traffic controller license (BOE No 250, 16/10/2009).

Note: Articles 27 and 28 regulate recognition in Spain of Community air traffic controller licenses.

– Resolution of 30 September 2009 of the State Public Employment Service publishing the catalogue of occupations for which workers are needed for the third quarter of 2009 (BOE No 251, 17/10/2009).

– Law 12/2009 of 30 October regulating the right to asylum and subsidiary protection (BOE 263, 31/10/2009).

– Organic Law 2/2009 of 11 December amending Organic Law 4/2000 of 11 January on the rights and freedoms of aliens in Spain and their social integration (BOE No 299, 12/12/2009).

Note: Organic Law 4/2000 has been amended by Organic Law 8/2000, by Organic Law 14/2003 and now by Organic Law 2/2009. See this heading of the Account of this Yearbook corresponding to 1999–2000 and 2003.

– Order TIN/3498/2009 of 23 December regulating the collective management of contracts at origin for 2010 (BOE No 313, 29/12/2009).

Note: Organic Law 2/2009 (see above under this same heading) has amended, among other of the precepts of Organic Law 4/2000 on the rights and freedoms of aliens in Spain and their social integration, its Article 39 on the contingent of alien workers. This precept empowers the Ministry of Labour and Immigration to approve an annual forecast of occupations and, if relevant, the expected number of job posts which could be covered through the collective management of contracts at origin during a certain period, which shall only be made accessible to alien workers who are not present or residing in Spain. For 2010, this provision established the engagement at origin of steady non-community alien workers.

IX. NATURAL PERSONS: LEGAL INDIVIDUALITY, CAPACITY AND NAME

– Instruction 1/2009 of the National Electoral Board of 20 January 2009 guaranteeing the personal right of resident voters not present to vote by mail (BOE No 19, 22/1/2009).

– Instruction 2/2009 of 2 April 2009 of the National Electoral Board guaranteeing the personal right of resident voters not present to vote by mail (BOE No 94, 17/04/2009).

– Resolution of 30 March 2009 of the Secretariat of State of Universities issuing instructions for access to Spanish universities for the 2009–2010 academic year for students entering from educational systems governed by Article 38(5) of the Education Act, Organic Law 2/2006 of 3 May 2006 (BOE No 98, 22/04/2009).

Note: Article 38(5) of the Education Act, Organic Law 2/2006 regulating university access for students entering from education systems of European Union Member States or other States with which international agreements have been concluded.

X. FAMILY LAW

XI. SUCCESSIONS

XII. CONTRACTS

– Royal Decree 817/2009 of 8 May 2009 partially implementing the Public Sector (Contracts) Act, Law 30/2007 of 30 October 2007 (BOE No 118, 15/05/2009; error correction, BOE No 147, 18/06/2009, BOE No 169, 14/7/2009 and BOE No 239, 3/10/2009).

Note: See Article 15(1), Article 16(1)(7), Article 16(2)(6), Article 17(3) and Article 17(6), all referring to natural and legal foreign persons wishing to contract with the Administration. Also see the second final provision regarding announcement forms in the Official Journal of the European Union.

– The 2010 General State Budget Act, Law 26/2009 of 23 December 2009 (BOE No 309, 24/12/2009; error correction BOE No 313, 29/12/2009).

Note: Additional Provision 22 establishes the upper limit for the 2010 fiscal year for the coverage of newly engaged workers who can be assured by the Compañía Española de Seguros de Crédito a la Exportación, Sociedad Anónima (CESCE).

XIII. TORTS

XIV. PROPERTY

– Royal Decree 716/2009 of 24 April 2009 implementing certain aspects of the Mortgage Market (Regulation) Act, Law 2/1981 of 25 March 1981 and other regulations applicable to the mortgage and financial system (BOE No 107, 2/5/2009).

Note: For the purposes of this Account, a closer look should be taken at Article 2(2) (institutions allowed to participate in the mortgage market), Article 6 (loans and

credits guaranteed by real estate located in other European Union countries) and additional provision one (mortgage transfer certificates).

– Royal Decree 1373/2009 of 28 August 2009 establishing the General Regulation of the Public Administration (Heritage) Act, Law 33/2003 of 3 November 2003 (BOE No 226, 18/9/2009).

Note: We would stress the following precepts of this provision: Article 2(3) (includes actions concerning property and rights located abroad) in the scope of the Regulation; Article 15 (intestates outside of national territory); Article 22(2) (jurisdiction to process and reach agreements on onerous acquisitions of property located abroad); Article 34 (procedure governing the acquisition of property and rights abroad); Article 39 (free of charge acquisitions from the General State Administration of property and rights located abroad); Article 78(2) (conservation, management and administration of heritage property and rights abroad); Article 89 (jurisdiction for the use of property and rights abroad); Article 101 (disposal of real estate abroad); and Sole Repeal Provision (repealing, inter alia, Decree 2926/1965 of 23 September 1965 on the special procedure applicable to State property abroad).

XV. COMPETITION LAW

– Law 1/2009 of 12 February 2009 enacted by the Catalanian Competition Authority (BOE No 74, 27/3/2009).

Note: Paragraphs 1, 2 and 3 of Article 2 regulate the spatial scope of the Catalanian Competition Authority.

– Law 29/2009 of 30 December 2009 amending the legal procedure applicable to unfair competition and to advertising in order to enhance the protection afforded to consumers and users (BOE No 315, 31/12/2009).

Note: Article 33(3)(c) grants active legal capacity against certain acts of unfair competition, including unlawful advertising, in defence of the general, collective or diffuse interests of consumers and users to “organisations of other European Community Member States constituted for the protection of the collective and diffuse interests of consumers and users which are authorised, by virtue of their inclusion on the list published for that purpose in the Official Journal of the European Communities”. Article 37(4) provides that the codes of conduct drawn up by corporations, associations or business organisations, professionals and consumers must set up effective extra-judicial dispute settlement systems meeting the requirements laid down in the Community regulation and communicated to the European Commission in accordance with the provisions of the Council Resolution of 25 May 2000 on a Community-wide network of national bodies for the extra-judicial settlement of consumer disputes or any other equivalent provision.

XVI. INVESTMENTS AND FOREIGN EXCHANGE

– Royal Decree 1/2009 of 23 February 2009 regarding urgent telecommunications matters (BOE No 47, 24/2/2009).

Note: In Article 2, a new paragraph 9 is added from Article 19 of the Private Television Act, Law 10/1988 of 3 May 1988 regulating the acquisition of shares or voting rights by natural or legal persons who are nationals of non-member countries of the European Economic Area.

– Resolution of 17 March 2009 of the Directorate-General of Trade and Investment amending that of 21 February 2002 and the latter's amendments to adapt printed statement forms to the new National Classification of Economic Activities (CNAE-2009) (BOE No 78, 31/3/2009).

– Resolution of 18 June 2009 of the Directorate-General of Trade and Investment amending that of 03 April 2008 concerning form D-4: Annual report regarding investment in Spanish companies with foreign share capital and branch offices, and form D-8: Annual report regarding external investment (BOE No 157, 30/6/2009).

Note: This provision repeals annexes I and II (forms D-4 and D-8) of the Resolution of 03 April 2008 (see this same heading of the Account of the 2008 Yearbook).

– Law 7/2009 of 3 July 2009 on urgent telecommunications matters (arising from Royal Decree-Act 1/2009 of 23 February 2009) (BOE No 161, 4/7/2009).

Note: In Article 2.2, a paragraph 9 is added from Article 19 of the Private Television Act, Law 10/1988 regulating the acquisition of shares or voting rights by natural or legal persons who are nationals of non-member countries of the European Economic Area.

– Law 11/2009 of 26 October 2009 regulating listed public limited real estate investment companies (BOE No 259, 27/10/2009).

Note: Article 3(1)(3) (investment calculation for real estate located abroad) is of particular interest to this Account. Having regard to this provision, also see headings XVIII and XXIII of this Account.

– The 2010 General State Budget Act, Law 26/2009 of 23 December 2009 (BOE No 309, 24/12/2009; error correction BOE No 313, 29/12/2009).

Note: Additional provision 21 stipulates the amounts earmarked in 2010 to foster external Spanish investment.

XVII. FOREIGN TRADE LAW

– Royal Decree 2061/2008 of 12 December establishing the Regulation controlling external trade in defence material, other material and dual-use items and technologies (BOE No 6, 7/1/2009; error correction BOE No 21, 24/1/2009).

– Order ITC/138/2009 of 28 January 2009 regulating different aspects related to the concession of official credit export support through reciprocal interest rate adjustment agreements (BOE No 30, 4/2/2009).

– Order ARM/183/2009 of 4 February 2009 amending Annex IV of Royal Decree 58/2005 of 21 January 2005 ordering the adoption of protective measures against the introduction and dissemination in national territory and within the European Community of organisms which are harmful to plants or plant products and their export and transit to third countries (BOE No 33, 07/02/2009).

– Resolution of 27 January 2009 of the Presidency of the National Tax Administration Agency for the preparation of statistics on commodity trade between Member States (Intrastat System) (BOE No 36, 11/2/2009).

– Order PRE/1263/2009 of 21 May 2009 updating supplementary technical instruction No 2 and 15 of the Explosives Regulation passed by Royal Decree 230/1998 of 16 February (BOE No 124, 22/5/2009).

Note: Regarding Supplementary Technical Instruction No 2, we would stress point 3 referring to the natural or legal persons responsible for the transfer or import of explosives in Spain.

– Order ITC/1549/2009 of 10 June 2009 updating Annex III of Order ITC/4112/2005 of 30 December 2005 setting up the system applicable to the intra-community and international exchange of electricity (BOE No 143, 13/6/2009).

– Order ARM/1671/2009 of 16 June 2009 amending Annexes I, II, IV and V of Royal Decree 58/2005 of 21 January 2005 ordering the adoption of protective measures against the introduction and dissemination in national territory and within the European Community of organisms which are harmful to plants or plant products and their export and transit to third countries (BOE No 152, 24/06/2009).

– Order SAS/3166/2009 of 16 November 2009 replacing the Annexes of Royal Decree 65/2006 of 30 January 2006 which lay down the requirements for the import and export of biological samples (BOE No 286, 27/11/2009).

Note: Concerning Royal Decree 65/2006, see this same heading of the Account in the 2006 edition of this Yearbook.

– Order ARM/3196/2009 of 26 November 2009 amending Annexes II and V of Royal Decree 58/2005 of 21 January 2005 ordering the adoption of protective measures against the introduction and dissemination in national territory and within the European Community of organisms which are harmful to plants or plant products and their export and transit to third countries (BOE No 287, 28/11/2009).

Note: Concerning Royal Decree 58/2005, see this same heading of the Account in the 2005 edition of this Yearbook.

– Order EHA/3422/2009 of 4 December 2009 establishing thresholds regarding the statistics on the trade in commodities between European Union Member States in 2010 (BOE No 306, 21/12/2009).

– Resolution of 15 December 2009 issued by the Department of Customs and Excise Duties of the National Tax Administration Agency containing the instructions for the formalisation of the Single Administrative Document (DUA) (BOE No 314, 30/12/2009).

Note: This provision repeals the Resolution of 15 September 2008 (see this same heading of the Account of the 2008 Yearbook), of the Department of Customs and Excise Duties of the National Tax Administration Agency containing the instructions for the formalisation of the Single Administrative Document (DUA).

Also see above Section XXIII (Tax Law) in this chronicle on Private International Law.

XVIII. BUSINESS ASSOCIATION / CORPORATIONS

– Royal Decree 2062/2008 of 12 December implementing the Cinema Act, Law 55/2007 of 28 December 2007 (BOE No 10, 12/01/2009).

Note: For the purposes of this Account, special mention should be made of Article 2 (scope), Article 8 (certificate of Spanish nationality), Article 11.3 (Entry procedure in the Administrative Register of Cinematographic and Audiovisual Companies located in non-Spanish EU or EEE Member States which intend to apply for state aid), Article 22.1 a) and Article 22.4 [Eligibility requirements for beneficiaries of state aid for non-Spanish companies located in EU or EEE Member States (paragraph 1 a) and films co-produced with foreign companies (paragraph 4)], and Article 28 to 34 (Rules for the production of cinematographic films in co-production with foreign companies).

– Circular 12/2008 of 30 December 2008 of the Spanish National Securities Commission regarding the credit-worthiness of investment service companies and their consolidable groups (BOE No 30, 4/2/2009).

Note: Article 1.4 refers to cases where the term consolidable group of investment service companies refers to companies composed of investment service companies or a consolidable group of investment service companies dominated by one or more foreign entities with its headquarters in a European Union Member State whose core activity is buying stock in investment service companies or financial institutions all of which are of a different nationality.

– Order EHA/251/2009 of 6 February 2009 approving the statistical accounting documentation system for pension fund management institutions (BOE No 40, 16/2/2009).

Note: Special mention should be made of Article 4 regulating the annual statistical accounting information of the pension funds of other Member States of the European Economic Area operating in Spain.

– Law 2/2009 of 31 March 2009 regulating the signing of consumer loans and mortgages and intermediation services for the signing of loan or credit contracts (BOE No 79, 1/4/2009).

Note: Article 3.2 requires companies whose head office is not in Spain and which operate in Spanish territory to enter such company at the attendant Register.

– Law 3/2009 of 3 April 2009 regarding structural changes in trading companies (BOE No 82, 4/4/2009).

Note: Of the many novelties introduced in the corporate sector, special mention should be made of Articles 1 and 2 (material and subjective scope), Article 4, paragraphs 2, 4 and 6, Article 6 and Article 7, paragraph 2 (change in Community corporate figures), Article 27, paragraph 2 (merger of companies of different nationalities), Articles 54 to 67 (intra-Community, cross-border mergers), Article 73, paragraph 2 (spin-offs where different nationalities participate), Article 84 (international global cession), Articles 92 to 103 (international transfer of registered office), and third final provision (amending Law 31/2006 of 18 October 2006 on the involvement of workers in public limited companies and European cooperatives introducing a new Title IV devoted to the intra-Community, cross-border merger of companies).

– Law 11/2009 of 26 October 2009 regulating listed public limited real estate investment companies (BOE No 259, 27/10/2009).

Note: Of particular interest to this account is Article 2.1, paragraphs a) and b), and Article 2.2 (holding of equity investment in other institutions, resident or not in Spanish territory), and Article 4 (mandatory negotiation of SOCIMI shares in a regulated market). Having regard to this provision, also see headings XVI and XXIII of this Account.

– Law 16/2009 of 13 November 2009 on payment services (BOE No 275, 14/11/2009).

Note: This provision regulates payment services rendered in Spanish territory by public organisations, institutions and companies authorised to render payment services in Spain or in any other European Union Member State (see Article 2.9). Of particular interest to this Account are Article 6.2, Article 7.3, Articles 11, 15 and 16, Article 23.4, Article 39.1, Article 51.4 and final provision 7.

– Law 17/2009 of 23 November 2009 on free access to service activities and their discharge (BOE No 283, 24/11/2009).

Note: The aim of this Law is to facilitate freedom of establishment and freedom to provide services by simplifying procedures and fostering a high level of service quality and to prevent the introduction of unwarranted or disproportionate restric-

tions in the operation of service markets. The Law applies to services discharged in return for monetary payment in Spanish territory by service providers established in Spain or in any other EU Member State (services mentioned in Article 2.2 are excluded from its scope).

– Royal Decree 1817/2009 of 27 November 2009 amending Royal Decree 1245/1995 of 14 July 1995 on the creation of banks, cross-border activity and other issues concerning the legal system of credit institutions, and Royal Decree 692/1996 of 26 April 1996 on the legal system of financial credit institutions (BOE No 294, 7/12/2009).

Note: Concerning the now amended provisions, see this same heading of the Account in the 1995–1996 edition of this Yearbook.

– Law 25/2009 of 22 December 2009 amending the different laws adapting it to the Law on free access to service activities and their discharge (BOE No 308, 23/12/2009).

Note: This law partially incorporates Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on internal market services into the Spanish legal system. It also supplements Law 17/2009 of 23 November 2009 (see above in this section) on free access to service activities and their discharge by adapting state legislation with rank of Law to the provisions of the latter. Lastly, it extends the principles of good regulation to sectors not affected by the Directive, eliminating unwarranted or disproportionate requirements or red tape.

– Circular 1/2009 of 18 December 2009 of the Bank of Spain to credit institutions and other supervised entities regarding information on capital structure and shares in credit institutions and their offices, and regarding the executives of supervised institutions (BOE No 315, 31/12/2009).

Note: In its personal scope, this rule includes foreign institutions similar to the Spanish ones likewise included in its scope (rule one, c), rule two, paragraph two, and rule four, No 1 and 2). In contrast, it excludes certain foreign institutions from some of the obligations it imposes (rule three, No 2 and rule five).

– Circular 3/2009 of 18 December 2009 of the Bank of Spain to owners of currency exchange establishments amending Circular 6/2001 of 29 October 2001 on owners of currency exchange establishments (BOE No 315, 31/12/2009).

Also see above Section XXIII (Tax Law) in this chronicle on Private International Law.

XIX. BANKRUPTCY

XX. TRANSPORT LAW

– Order FOM/287/2009 of 9 February 2009 implementing the Regulation of the Land Transport (Organisation) Act in connection with the provision of surety for persons who are not residents in Spanish territory and who commit infringements in Spain in connection with transport (BOE No 41, 17/2/2009).

– Royal Decree 170/2009 of 13 February 2009 on compensation for sea and air transport of the commodities included in Annex I of the Treaty establishing the European Union originating in or destined for the Canary Islands (BOE No 47, 24/2/2009).

– Law 15/2009 of 11 November 2009 on the land transport of goods contract (BOE No 273, 12/11/2009).

Note: Article 2.2 provides that the land transport of goods contract be governed by the international treaties in force in Spain, by European Union rules and by the provisions of this law. Anything not provided for therein will be governed by the regulations on trade contracts. Pursuant to final provision one, paragraph 2, additional provision 10 on international passenger rail service is added to the Railway Sector Act, Law 39/2003 of 17 November 2003.

XXI. LABOUR LAW AND SOCIAL SECURITY

– Resolution of 09 January 2009 of the Directorate-General of Spanish Expatriates Abroad extending the right to health care to all beneficiaries of economic benefits based on need for Spanish nationals residing abroad who provide documentation supporting their status as pensioners on 31 December 2008 (BOE No 19, 22/1/2009).

Note: See Royal Decree 8/2008 of 11 January 2008 regulating benefits based on need for Spanish nationals residing abroad and who have returned (see this same heading in the Yearbook Account of 2008).

– Resolution of 06 April 2009 issued jointly by the Directorate-General of Emigration and the National Social Security Institute amending that of 25 February 2008 regulating the procedure whereby to gain access to health care for Spaniards who have returned and for Spanish pensioners and self-employed workers residing abroad who temporarily return to national territory (BOE No 108, 4/5/2009).

– Law 27/2009 of 30 December 2009 on urgent measures to maintain and foster employment and protection for the unemployed (BOE No 315, 31/12/2009).

Note: Special mention should be made of additional provision four (giving the government up to four months to transpose, having regard to certain lines of action, Directive 2008/104/EC of the European Parliament and of the Council of

19 November 2008 on temporary agency work, and additional provision nine (providing that the government will promote active employment policies focusing on the training of unemployed alien workers and promoting proficiency in the official languages recognised in the Autonomous Community where they are residing).

XXII. CRIMINAL LAW

XXIII. TAX LAW

– Correction of misprints in Law 4/2008 of 23 December 2008 eliminating the Wealth Tax, generalising the system of monthly reimbursement of Value Added Tax and introducing other amendments in the tax regulation (BOE No 62, 13/3/2009).

Note: See Law 4/2008 of 23 December 2008 under this same heading of the Account in the 2008 edition of this Yearbook.

– Order EHA/1729/2009 of 25 June 2009 approving the exemption form for the Value Added and Excise Duty Tax Certificate in the delivery of goods and services performed within the framework of diplomatic and consular relations and actions carried out by international organisations or the armed forces of Member States, other than Spain, forming part of the North Atlantic Treaty Organization, and approving the envelope for postal remittance of the VAT self-assessment (BOE No 157, 30/6/2009).

– Law 11/2009 of 26 October 2009 regulating listed public limited real estate investment companies (BOE No 259, 27/10/2009).

Note: Of particular interest to this Account are Article 8.3 (tax scheme applicable to SOCIMI constituted under European corporate structure and Article 10.1, paragraphs a) and c), Article 10.2, paragraphs a), b) and c), and first transitional provision paragraphs 3 and 4 (tax scheme applicable to members subject to non-resident income tax). Having regard to this provision, also see headings XVI and XVIII of this Account.

– Royal Decree 1676/2009 of 13 November 2009 regulating the Council for the Defence of Taxpayers (BOE No 292, 4/12/2009).

Note: Article 8.2 entitles all natural or legal persons, Spanish or non-Spanish, to seek support from the Council for the Defence of Taxpayers.

– The 2010 General State Budget Act, Law 26/2009 of 23 December 2009 (BOE No 309, 24/12/2009; error correction BOE No 313, 29/12/2009).

Note: Final provision thirteen, paragraph one amends, effective on 1/1/2010, Article 93 (special tax scheme applicable to workers displaced to Spanish territory) of Law 35/2006 of 28 November 2006 on Personal Income Tax and partially amends corporate tax, non-resident income tax and wealth tax laws. Final Provision thirteen paragraph two adds, effective on 1/1/2010 a new transitional provision seventeen

(workers displaced to Spanish territory prior to 01 January 2010), to the aforementioned Law 35/2006.

– Resolution of 23 December 2009 of the Tax Directorate-General regarding the application and interpretation of certain Community Directives regarding matters of Value Added Tax (BOE No 313, 29/12/2009).

Note: This provision is adopted in application of the following Community rules: Council Directive 2008/8/EC of 12 February 2008 amending Directive 2006/112/EC as regards the place of supply of services; Council Directive 2006/112/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC to taxable persons not established in the Member State of refund but established in another Member State; and Council Directive 2008/117/EC of 16 December 2008 amending Directive 2006/112/EC on the common system of value added tax to combat tax evasion connected with intra-Community transactions.

– Resolution of 16 December 2009 of the Under-Secretariat establishing the procedure for the telematic settlement and payment of the code 034 Fee: Fee for export permits for Spanish Historical Heritage property (BOE No 313, 29/12/2009).

Also see above Section XVII (Foreign Trade Law) in this chronicle on Private International Law.

XXIV. INTERLOCAL CONFLICT OF LAWS

– Law 3/2009 of the Autonomous Community of the Balearic Islands of 27 April 2009 amending the compilation of civil law of the Balearic Islands in cases of indignity and disinheritance (BOE No 121, 19/5/2009).

– Law 5/2009 of the Autonomous Community of Catalonia of 28 April 2009 against the negative classification of titles or specific clauses in matters of Catalan law which should be entered in the Land, Business or Real Estate Registry of Catalonia (BOE No 122, 20/5/2009).

– Law 8/2009 of the Autonomous Community of Valencia of 4 November 2009 amending Law 10/2007 of 20 March 2007 on the Economic System relating to Marriage in Valencia (BOE No 301, 15/12/2009).