

## *Spanish Municipal Legislation Concerning Matters of Public International Law, 2010*

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This survey covers aspects of Spanish municipal legislation relating to Public International Law. Only relevant aspects are quoted or mentioned, with an unofficial translation or a reference to the *Boletín Oficial del Estado* (Official Journal of the State).

### I. INTERNATIONAL LAW IN GENERAL

### II. SOURCES OF INTERNATIONAL LAW

– Resolution of 12 February 2010 passed by the Spanish Technical Secretariat-General on implementation of Article 32 of Decree 801/1972 regulating the activity of the State Administration regarding international treaties (*BOE* n. 47, 23.02.10).

*Note:* This Resolution provides for publication, in the public interest, of communications of third State actions regarding multilateral treaties to which Spain is party and received by the Spanish Ministry of Foreign Affairs and Cooperation from 1 September 2009 to 31 December 2009.

– Resolution of 14 June 2010, passed by the Spanish Technical Secretariat-General on implementation of Article 32 of Decree 801/1972 regulating the activity of the State Administration regarding international treaties (*BOE* n. 151, 22.06.10).

*Note:* This Resolution provides for publication, in the public interest, of communications of third States actions regarding multilateral treaties to which Spain is party and received by the Spanish Ministry of Foreign Affairs and Cooperation from 1 January 2010 to 30 April 2010.

– Resolution of 5 October 2010, passed by the Spanish Technical Secretariat-General on implementation of Article 32 of Decree 801/1972 regulating the activity of the State Administration regarding international treaties (*BOE* n. 250, 15.10.10).

*Note:* This Resolution provides for publication, in the public interest, of communications of third States actions regarding multilateral treaties to which Spain is party and received by the Spanish Ministry of Foreign Affairs and Cooperation from 1 May 2010 to 31 August 2010.

### III. THE RELATIONSHIP BETWEEN INTERNATIONAL LAW AND MUNICIPAL LAW

– Royal Decree 1616/2010, of 7 December, amending the Royal Decree 95/2006, of 3 February, creating the Commission for the Commemoration of the Bicentennial of the Constitution of 1812 (*BOE* n. 310, 22.12.10).

### IV. SUBJECTS OF INTERNATIONAL LAW

### V. THE INDIVIDUAL AND INTERNATIONAL LAW

#### 1. Aliens

– Instruction of 24 February 2010, by the Directorate General for Registries and the Notarial Corps, on recognition of surnames registered in the Civil Registries of other European Union Member States (*BOE* n. 60, 03.10.10).

*Note:* Pursuant to the principle of priority of Community Law, the doctrine established by the Decision of the Court of Luxembourg of 14 October 2008 in the Grunkin-Paul case must prevail over the application of the rules of Spanish internal law, pursuant to which the name and surnames of Spanish nationals, even if they also have another nationality, are regulated by Spanish law (cf. Art. 9 no. 1 and no. 9 del of the Civil Code), basically incorporated into this matter by Article 109 of the Civil Code, and Article 55 of the Civil Registry Act, and appropriate articles of the Civil Registry Regulation (also as provided by the International Commission on Civil Status Convention No. 19, done in Munich on 5 September 1980, in force for Spain since 1 January 1990, on the law applicable to surnames and forenames).

The purpose of this Instruction is to answer questions that may arise in the practical application of the doctrine arising from said Decision, by setting forth the criteria and guidelines for registration practice in regard to this matter, to foster the advisable uniformity and desirable legal certainty in the scope of the action performed by the persons in charge of Spanish Civil Registries.

– Act 10/2010, of 7 May, on receipt of persons who are immigrants and/or returnees to Catalonia (*BOE* no. 139, 8.06.10 and *corr. of errors* *BOE* n. 178, 23.07.10).

– Royal Decree 793/2010, of 16 June, regulating the awarding of a direct subsidy to the Autonomous Community of the Canary Islands for the transfer and reception of non-accompanied alien minors (*BOE* n. 149, 19.06.10).

– Act 21/2010, of 7 July, on access to public health care provided by the Catalanian Health Service (*BOE* no. 191, 07.08.10).

*Note:* Article 2. *Persons entitled to health care.*

1. The following persons are entitled to health care provided by the Catalanian Health Service:

- a) Persons registered as residents in any municipality of Catalonia and persons temporarily therein, who are entitled to health care under the National Health System, in accordance with the basic law of the State;
- b) Nationals of countries that are not members of the European Union, pursuant to Article 12 of Organic Act 4/2000, of 11 January, on the rights and freedoms of aliens in Spain and their social integration;
- c) Persons not covered by the above paragraphs who are entitled to health care pursuant to European law or international law and conventions.

2. Also entitled to health care under the Catalanian Health Service are persons belonging to any of the following groups:

- a) Persons registered as residents in any municipality of Catalonia who show that they do not have access to public health care from any entity other than the Catalanian Health Service;
- b) Persons belonging to groups at risk of social exclusion, whether registered as residents in a municipality of Catalonia or not.

### Article 3. *Emergency Health Care*

Persons who are in Catalonia and do not belong to any of the groups defined in Article 2 are, in any event, entitled to emergency health care if they develop serious diseases or have accidents, whatever the cause may be, and to the continuity of such care until medical release, notwithstanding that such persons or, when appropriate, any third parties obligated legally or contractually to cover the cost, may have to cover the cost of the care received.

– Order EHA/2264/2010, of 20 July, setting forth rules and technical instructions to constitute the electoral census of residents in Spain who are nationals of other countries having agreements in regard to municipal elections (*BOE* n. 208, 27.08.10).

– Order ITC/2505/2010, of 22 September, regulating the recognition of the professional qualification of European Union citizens to practice as industrial property agents in Spain (*BOE* n. 235, 28.09.10).

## 2. Human Rights

– Act 6/2009, of 17 December, on the Statute of Extremadurans Abroad (*BOE* n. 13, 15.01.10).

– Organic Act 2/2010, of 3 March, on sexual and reproductive health and voluntary interruption of pregnancy (*BOE* n. 55, 04.03.10).

*Note:* Protection of this area of personal autonomy holds special significance for women, for whom pregnancy and motherhood are situations that profoundly affect their lives on

all levels. The special relationship between women's rights and protection of sexual and reproductive health has been set forth by a number of international texts. The United Nations Convention on the Elimination of All Forms of Discrimination against Women, adopted by the UN General Assembly through Resolution 34/180, of 18 December 1979, establishes in its Article 12 that "States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning". Furthermore, the Beijing Platform for Action agreed at the IV United Nations Conference on Women in 1995, acknowledged that "the human rights of women include the right to have control over and freely and responsibly decide in regard to their sexuality, including their sexual and reproductive health, free from pressure, discrimination and violence". In the European Union, the European Parliament has approved Resolution 2001/2128(INI) on sexual and reproductive health and associated rights, containing a set of recommendations to Governments of Member States in regard to birth control, unwanted pregnancy, and emotional and sex education based, among other considerations, on its finding of large inequalities among European women in regard to access to reproductive health services, birth control and voluntary interruption of pregnancy depending on income level and country of residence.

For its part, the Convention on the Rights of Persons with Disabilities of 13 December 2006, ratified by Spain, establishes the obligation of the States Parties to respect the rights of persons with disabilities "to freely and responsibly decide the number of children they want to have [...], to have access to age-appropriate information and reproductive and family planning education and the means necessary to enable them to exercise these rights", as well as to "retain their fertility on an equal basis with others".

This Act attempts to bring our regulatory framework in line with the consensus in international community on this subject by updating public policy and instituting new sexual and reproductive health care services. The Act arises out of the conviction, based on the best scientific knowledge, that appropriate emotional-sexual and reproductive education, universal access to effective clinical reproduction planning practices through the incorporation of latest generation birth control, whose effectiveness is underwritten by scientific evidence, in the portfolio of common services provided by the National Health System and the availability of sexual and reproductive health programs and services, is the most effective way to prevent sexually transmitted diseases, unwanted pregnancies and abortions, especially among young persons.

The Act deals with the protection and guarantee of rights relating to sexual and reproductive health in their entirety. It incorporates the World Health Organization health, sexual health and reproductive health definitions into our system and provides for a set of actions and measures to be adopted in the healthcare and educational sectors. It also sets forth new regulation of voluntary interruption of pregnancy outside the Penal Code that, following the standard most widely used in the countries in our political and cultural context, seeks to adequately guarantee and protect the current rights and interests of women and of prenatal life.

– Royal Decree 203/2010, of 26 February, approving the Regulation for the prevention of violence, racism, xenophobia and intolerance in sport (*BOE* n. 59, 09.03.10).

- Order VIV/561/2010, of 1 February, implementing the technical document on basic conditions of accessibility and non-discrimination for access and use of developed public spaces (*BOE* no. 61, 11.03.10).
  - Act 3/2009, of 23 December, amending the Act on Care and Protection of Children and Adolescents (*BOE* n. 65, 16.03.10).
  - Act 1/2010, of 26 February, of the Autonomous Community of the Canary Islands on equal treatment between women and men (*BOE* n. 67, 18.03.10 and *corr. of errors* *BOE* n. 100, 26.04.10 and *BOE* n. 144, 14.06.10).
  - Resolution of 17 March 2010, of the Subsecretary, publishing the Council of Ministers Agreement of 22 January 2010, that extends by one year the period in which to exercise the right to Spanish citizenship set forth in the Seventh Additional Provision of Act 52/2007, of 26 December, that recognises and extends rights and establishes measures in favour of persons who suffered persecution or violence during the Civil War or the Dictatorship (*BOE* n. 72, 24.03.10).
  - Act 4/2010, of 17 March, on popular consultations via referendum (*BOE* n. 93, 17.04.10).
  - Act 2/2010, of 11 March, on Rights of Citizens in their relations with the Administration of the Community of Castile and Leon and on Public Management (*BOE* n. 100, 26.04.10).
  - Resolution of 22 March 2010, Publishing the Agreement of the Council of Ministers of 5 March 2010, to adapt rail transport to the Regulation (CE) n.º 1371/2007, of the European Parliament and of the Council of 23 October 2007 on rail passengers' rights and obligations (*BOE* n. 106, 1.05.10).
  - Act 2/2010, of 8 April, on rights and guarantees concerning the dignity of the individual in the process of death (*BOE* n. 127, 25.05.10).
  - Foral Act 5/2010 of the Autonomous Community of Navarre, of 6 April, on universal accessibility and design for all persons (*BOE* n. 128, 26.05.10).
- Note:* This Act by the Autonomous Community of Navarre is based on Act 51/2003, of 2 December, on Equal Opportunity, Non Discrimination and Universal Access by Persons with Disabilities, and contemplates the creation of a second generation regulation after having laid the foundation of equality under the previous regulation on accessibility, having established the specific needs of persons with disabilities but aiming towards continued betterment of their rights and broadening the areas and relations in which they can be involved. It is necessary to refer to International Law dealing with this subject, which includes, among others the International Convention of the UN on the Rights of Persons with Disabilities of 13 December 2006, our country's own domestic law, which protects and guarantees the rights of persons with disabilities in all areas

of life, education, health, work, culture, leisure, and social and economic participation, portraying accessibility as a factor that cuts across each area. Of special importance is this legal instrument that acknowledges the relevance of accessibility to the physical, social, economic and cultural, health, educational, digital and communications environment to enable persons with disabilities to be able to fully enjoy all their human rights and fundamental freedoms.

– Act 14/2010, of 27 May, on rights and opportunities for children and adolescents of the Autonomous Community of Catalonia (*BOE* n. 156, 28.06.10).

– Act 16/2010, of 3 June, amending Act 21/2000, of 29 December, on the right to information concerning patient health and autonomy, and to clinical documentation (*BOE* n. 156, 28.06.10).

– Act 5/2010, of 21 June, of the Canary Islands to promote citizen participation (*BOE* n. 168, 12.07.10).

– Act 7/2010, of 30 August, regulating guaranteed citizen income of Castile and Leon (*BOE* n. 235, 28.09.10).

– Act 8/2010, of 30 August, regulating the healthcare system of Castile and Leon (*BOE* n. 235, 28.09.10).

– Act 9/2010, of 30 August, on the right to housing in the Community of Castile and Leon (*BOE* n. 235, 28.09.10).

– Act 36/2010, of 22 October, on the Fund to Promote Development (*BOE* n. 257, 23.10.10).

*Note:* Article 1. *Object of the Act.*

1. This Act is for the purpose of creating and establishing the legal framework of the Fund for Development Promotion (hereinafter, FONPRODE) as an instrument of development cooperation managed by the Ministry of Foreign Affairs and Cooperation through the Secretariat of State for International Cooperation. The FONPRODE is a fund without separate legal status as referred to in Article 2.2 of the General Budget Act 47/2003, of 26 November.

2. The purpose of the FONPRODE is to eradicate poverty, reduce social inequalities among persons and communities, achieve gender equality, defend human rights and promote sustainable human development in impoverished countries.

– Order EDU/2949/2010, of 16 November, creating the Forum for Educational Inclusion of Students with Disabilities and establishing its scope of action, structure and operation (*BOE* n. 279, 18.11.10).

*Note:*

Therefore, keeping in mind the principles of the United Nations International Convention on the Rights of Persons with Disabilities, of 13 December 2006, signed by Spain

on 30 May 2007 and ratified on 3 December of that same year, whose purpose is to promote, protect and ensure the enjoyment of all human rights and fundamental liberties by persons with disabilities, on equal footing with everyone else and without any type of discrimination, it appears appropriate to create a single space in which students with disabilities from all the areas of study in the Spanish educational system can be represented.

This Forum is established by joining two entities together: the Commission on Education and Occupational Training and the Commission on Universities; to exercise the ordinary functions of the Forum in their respective areas of jurisdiction.

– Royal Decree 1527/2010, of 15 November, regulating the Commission on Guarantees for the Donation and Use of Human Cells and Tissue and Registration of Research Projects (*BOE* n. 294, 04.12.10).

– Act 13/2010, of 24 November, on the Extremadura Youth Council (*BOE* n. 303, 14.12.10).

– Foral Act (Navarra) 18/2010, of 8 November, amending Act 15/2005, of 5 December, of the Community of Navarre on the promotion, care and protection of children and adolescents (*BOE* n. 315, 28.12.10).

– Foral Act 17/2010, of 8 November, on the rights and obligations of persons in regard to health in the Community of Navarre (*BOE* n. 315, 28.12.10).

– Royal Decree 1791/2010, of 30 December, approving the University Student Statutes (*BOE* n. 318, 31.12.10).

## VI. STATE ORGANS

### 1. Central organs

– Royal Decree 1960/2009, of 18 December, setting up the Councils for Spanish citizenship abroad (*BOE* n. 2, 2.01.10).

– Order PRE/261/2010, of 29 January, regulating the Ministerial Commission on Electronic Administration of the Ministry of the Presidency (*BOE* n. 38, 12.02.10).

– Organic Act 1/2010, of 19 February, amending Organic Acts on the Constitutional Tribunal and on the Judiciary (*BOE* n. 45, 20.02.10).

– Royal Decree 136/2010, of 12 February, amending Royal Decree 772/1999, of 7 May, regulating the submission of applications, written documents, and communications to the General State Administration, the issuance of copies of documents and the return of originals, and the running of registry offices (*BOE* n. 49, 25.02.10).

- Royal Decree 137/2010, of 12 February, establishing criteria for issuing communications to interested parties as set forth in Article 42.4 of the Act 30/1992, of 26 November, on the Legal Regulations Governing Public Administrations and Common Administrative Procedure (*BOE* n. 49, 25.02.10).
- Royal Decree 444/2010, of 11 April, declaring official mourning over the death of the President of the Republic of Poland, Mr. Lech Kaczynski (*BOE* n. 88, 12.04.10).
- Order PRE/1009/2010, of 23 April, regulating the Electronic Registry of the Ministry of the Presidency (*BOE* n. 100, 26.04.10).
- Order PRE/1010/2010, of 23 April, creating the Electronic Site of the Ministry of the Presidency (*BOE* n. 100, 26.04.10).
- Act 6/2010, of 26 March, on the procedure for designating the Senators to represent the Regional Government of Catalonia in the Senate (*BOE* n. 100, 26.04.10).
- Royal Decree 494/2010, of 30 April, amending Royal Decree 1370/2008, of 1 August, concerning the organisational structure of the Presidency of the Government (*BOE* n. 110, 6.05.10 and *corr. of errors* *BOE* n. 111, 7.05.10).
- Royal Decree 495/2010, of 30 April, on the basic organisational structure of ministerial departments (*BOE* n. 110, 6.05.10 and *corr. of errors* *BOE* n.111, 7.05.10 and *BOE* n. 131, 29.05.10).
- Order PRE/1329/2010, of 20 May, publishing the Agreement concerning the Second National Plan for the Alliance of Civilizations (*BOE* n. 125, 22.05.10).
- Act 3/2010, of 5 May, on Electronic administration of the Comunitat Valenciana (*BOE* n. 131, 29.05.10).

– Royal Decree 763/2010, of 11 June, amending Royal Decree 639/2009, of 17 April, setting up the Government Delegate Commissions (*BOE* n. 143, 12.06.10).

*Note:* In view of the numerous and complex effects of climate change on health, it is considered appropriate to amend said Royal Decree to include the Minister of Health and Social Policy as a member of Government Delegate Commission for Climate Change.

Furthermore, in regard to participation by Secretaries of State, it is considered appropriate to include the Secretariat of State for International Cooperation, in order to reinforce the cross-border, global perspective that is required in dealing with issues relating to climate change. The Secretariat of State on Trade is also added to the Delegate Commission, in view of its involvement in different domestic and international fora, and lastly, the Secretariat of State for Transportation is included in substitution for the Secretariat of State for Planning.

– Royal Decree 869/2010, of 2 July, amending Royal Decree 495/2010, of 30 April, on the basic organisational structure of ministerial departments (*BOE* n. 161, 03.07.10).



- Royal Decree 929/2010, of 23 July, amending Royal Decree 542/2009, of 7 April, restructuring ministerial departments (*BOE* n. 181, 27.07.10).
  - Reform of the By-Laws of the Senate on the use of the official languages of Autonomous Communities in its activities (*BOE* n. 181, 27.07.10).
  - Royal Decree 940/2010, of 23 July, amending Royal Decree 495/2010, of 30 April, on the basic organisational structure of ministerial departments (*BOE* n. 181, 27.07.10).
  - Royal Decree 941/2010, of 23 July, amending the Statute of the Spanish Agency on International Development Co-operation adopted by Royal Decree 1403/2007, of 26 October (*BOE* n. 181, 27.07.10).
  - Royal Decree 942/2010, of 23 July, on restructuring the different functional areas covered by the Government Delegations (*BOE* n. 189, 05.08.10).
- Note:* This Royal Decree refers to Royal Decree 1330/1997, of 1 August, on the integration of peripheral and structural services of the Government Delegations, in regard to the legal framework of the integrated services, whereby this text is applicable to the area and premises of Labour and Immigration and, therefore, to the Alien Offices that are part thereof.
- These provisions involve the necessary amendment of the Regulation of Organic Act 4/2000, of 11 January, on the rights and freedoms of aliens in Spain and their social integration, as approved by Royal Decree 2393/2004, of 30 December, that establishes the inclusion of the Alien Offices under the Secretariats General of the Delegations and Deputy Delegations of the Government.
- Order AEC/2172/2010, of 13 July, on the creation, election and functioning of the Council for Spanish citizenship abroad (*BOE* n. 192, 09.08.10).
  - Royal Decree 1160/2010, of 17 September, on the Institute of Spain (*BOE* n. 227, 18.09.10).
  - Royal Decree 1162/2010, of 17 September, amending Royal Decree 1039/2009, 29 June, concerning the organisational structure of the Presidency of the Government and amending Royal Decree 438/2008, of 14 April, on the basic organisational structure of ministerial departments (*BOE* n. 227, 18.09.10 and *corr. of errors* *BOE* n. 229, 21.09.10).
  - Royal Decree 1203/2010, of 24 September, on the basic organisational structure of Ministry of Justice and amending Royal Decree 869/2010, of 2 July, modifying Royal Decree 495/2010, of 30 April, on the basic organisational structure of ministerial departments (*BOE* n. 233, 25.09.10).
  - Royal Decree 1227/2010, of 1 October, amending Royal Decree 1130/2008, on the Basic organisational structure of the Ministry of Environment and Rural and Marine Affairs abroad (*BOE* n. 239, 02.10.10).

- Royal Decree 1226/2010, of 1 October, on the Basic organisational structure of the Ministry of Industry, Tourism and Trade (*BOE* n. 240, 04.10.10).
- Order AEC/2629/2010, of 7 October, creating and regulating the Electronic Registry of the Ministry of Foreign Affairs and Cooperation (*BOE* n. 247, 12.10.10).
- Order AEC/2630/2010, of 7 October, creating the Electronic Site of the Ministry of Foreign Affairs and Cooperation (*BOE* n. 247, 12.10.10).
- Royal Decree 1313/2010, of 20 October, restructuring ministerial departments (*BOE* n. 255, 21.10.10).
- Resolution of 21 October 2010, amending the Annex of the Agreement of the *Consejo de Ministros* of 21 December 2001, on the numerals of the Orders published into the “*Boletín Oficial del Estado*” (Official Journal of the State) (*BOE* n. 256, 22.10.10).

#### Table of Ministerial Codes

Ministries	Code
Foreign Affairs and Co-operation.....	AEC
Justice.....	JUS
Defence.....	DEF
Economy and Finances.....	EHA
Internal Affairs.....	INT
Housing.....	FOM
Education.....	EDU
Labour and Immigration.....	TIN
Industry, Tourism and Trade.....	ITC
Environment, Agriculture and Fisheries.....	ARM
Presidency.....	PRE
Public Administration.....	TAP
Culture.....	CUL
Health, Social Policy and Equality.....	SPI
Science and Innovation.....	CIN

- Royal Decree 1331/2010, of 22 October, establishing the Government Delegate Commissions (*BOE* n. 257, 23.10.10).
- Royal Decree 1287/2010, of 15 October, on the basic organisational structure of the Ministry of Defence (*BOE* n. 257, 23.10.10).
- Royal Decree 1366/2010, of 29 October, on the basic organisational structure of ministerial departments (*BOE* n. 267, 04.11.10).
- Royal Decree 1443/2010, of 5 November, on the basic organisational structure of the Ministry of Environment, Agriculture and Fisheries (*BOE* n. 269, 06.11.10).

– Agreement of 16 November 2010, by the Standing Committee of the Senate, creating the Electronic Site of the Senate (*BOE* n. 283, 23.11.10).

– Act 38/2010, of 20 December, amending Act 8/1994 that regulates the Mixed Committee for the European Union, to reinforce the functions assigned to said Mixed Committee (*BOE* n. 309, 21.12.10).

*Note:* Two new Chapters with three new articles will be added after Article 7, with the following text:

“THIRD CHAPTER (NEW)

Regulation of appearances by the Government before the Mixed Committee on the European Union.

Article 8. (new).

Based on half-yearly meeting schedule of the Council of the European Union, the Standing Committee of the Mixed Committee for the European Union shall determine the Cabinet Members, Ministers and senior officials who will need to appear before said Committee in advance of the Council meeting, in order to set forth the Government's position on the items included in the agenda for the Council meeting.

Article 9 (new).

At the end of each half-year presidency of the Council of the European Union, the Minister of Foreign Affairs and Cooperation or the Secretary of State for the European Union shall appear before the Mixed Committee for the European Union to report on progress achieved during the presidency.

CHAPTER FOURTH (NEW)

Regulation of participation and appearances by Autonomous Governments before the Mixed Committee for the European Union.

Article 10 (new).

1. Members of the Governments of the Autonomous Communities and the Autonomous Cities of Ceuta and Melilla – Presidents or appropriate Members of the Executive Council – may ask to appear before the Mixed Committee for the European Union to report on the impact of the actions of European Union institutions and proposed legislative acts and other documents emanating from European Union institutions, pursuant to Article 3.b) of this Act, on matters in which they hold some type of authority.

2. The appearances referred to in paragraph 1 of this Article shall be determined by the Standing Committee of the Mixed Committee for the European Union or at the request of two parliamentary groups.”

## 2. Diplomatic Relations

– Royal Decree 345/2010, of 19 March, setting up the Section of Defence at the Permanent Diplomatic Mission of Spain in the Republic of India (*BOE* n. 83, 06.04.10).

- Order AEC/2656/2010, of 1 October, amending the territorial competence of the Technical Co-operation Offices of the Spanish International Cooperation Agency for Development at Spain's Permanent Diplomatic Missions in the People's Republic of Vietnam and the Federal Democratic Republic of Ethiopia (*BOE* n. 250, 15.10.10).

### **3. Consular Relations**

- Order AEC/1943/2010, of 18 June, eliminating the Honorary Vice-consular Office of Spain in Moura (Portugal) (*BOE* n. 174, 19.07.10).
- Order AEC/2718/2010, of 15 September, eliminating the Honorary Vice-consular Office of Spain in San Felipe (Chile) (*BOE* n. 256, 22.10.10).
- Order AEC/2756/2010, of 13 October, eliminating the Honorary Vice-consular Office of Spain in Villa María (Argentina) (*BOE* n. 261, 28.10.10).
- Order AEC/2757/2010, of 15 October, amending Order AEC/59/2006, of 19 January, setting up the consular office, as a General Consulate, in Saint Petersburg and the Order of 25 April 1997, setting up the consular office, as a General Consulate, in Moscow (*BOE* n. 261, 28.10.10).
- Orders creating the following Honorary Consular Offices:

#### **Portugal:**

- Elvas, Order AEC/1943/2010, of 18 June (*BOE* n. 174, 19.07.10).

#### **Saudi Arabia:**

- Al-Khobar, Order AEC/3039/2010, of 11 November (*BOE* n. 286, 26.11.10).

#### **Ukraine:**

- Yalta, Order AEC/3175/2010, of 24 November (*BOE* n. 299, 09.12.10).

#### **United States:**

- Little Rock (Arkansas); New Orleans (Louisiana); Jackson (Mississippi) and Nashville (Tennessee), Order AEC/472/2010, of 16 February (*BOE* n. 54, 03.03.10).

## **5. Relations with International Organizations**

### **6. Other Organs of the State**

- Act 14/2009, of 30 December, amending Act 7/1995, of 6 April, on the Regulation of Tourism in the Canary Islands (*BOE* n. 64, 15.03.10 and *corr. of errors* *BOE* n. 160, 02.07.10).

- Royal Decree 370/2010, of 26 March, enlarging the property assigned to the services transferred to the Autonomous Community of Castile and Leon by Royal Decree 1504/1984, of 8 February, on environmental protection (*BOE* n. 77, 30.03.10).
- Royal Decree 371/2010, of 26 March, increasing the financial means assigned to the services transferred to the Autonomous Community of Castile and Leon by Royal Decree 1187/2001, of 2 November, in regard to the management performed by the Instituto Nacional de Empleo (National Employment Institute), in the area of labour, employment and training (*BOE* n. 77, 30.03.10).
- Royal Decree 372/2010, of 26 March, enlarging the property assigned to the services transferred to the Autonomous Community of Castile and Leon by Royal Decree 1340/1999, of 31 July, in regard to non-University education (*BOE* n. 77, 30.03.10).
- Royal Decree 250/2010, of 5 March, increasing the financial means assigned to the services transferred to the Autonomous Community of Aragon by Royal Decree 300/1998, of 27 February, in regard to occupational training for employment (*BOE* n. 78, 31.03.10).
- Royal Decree 252/2010, of 5 March, transferring functions and services from the State Administration to the Autonomous Community of Aragon, in regard to second and third category radioactive facilities (*BOE* n. 78, 31.03.10).
- Royal Decree 254/2010, of 5 March, on increasing the personnel, enlarging the property and increasing the financial means assigned to the services transferred to the Autonomous Community of Aragon by Royal Decree 1702/2007, of 14 December, in regard to the provision of personal, material and financial means for the running of the Administration of Justice and the increase in property from Royal Decree 1070/1984, of 8 February, on protection of minors (*BOE* n. 78, 31.03.10).
- Royal Decree 489/2010, of 23 April, on amendment of the rights and obligations of the State Administration that were transferred to the Autonomous Community of Andalusia by Royal Decree 1666/2008, of 17 October, on water resources and use in regard to the waters of the Guadalquivir basin that flow through the entire territory of the Autonomous Community of Andalusia (*BOE* n. 99, 24.04.10).
- Royal Decree 753/2010, of 4 June, on the increase of the property assigned to the services transferred to the Autonomous Community of Galicia by several Royal Decrees on transfer of functions and services (*BOE* n. 154, 25.06.10).
- Royal Decree 826/2010, of 25 June, augmenting of the functions and services transferred to the Autonomous Community of the Canary Islands in regard to agriculture, the Spanish Agricultural Guarantee Fund: functions relating to the Specific System of Supply for the Canary Islands (*BOE* n. 157, 29.06.10).

- Act 9/2010, of 7 July, on the designation of Senators to represent the Valencian Community (*BOE* n. 187, 03.08.10).

*Note:* “Article 4. *Requirements for candidates*

1. Any person with Valencian political status, who meets the requirements established by the Organic Act on the general electoral system and who possesses none of the premises for ineligibility set forth in said Act may be designated a Senator in representation of the Valencian Community.

2. Also ineligible are the following:

- (...) 13. Members of the European Parliament

14. Members of the European Commission

15. Senior officials appointed by Council of Ministers Decree

16. Anyone who holds a function or position conferred on them and remunerated by a foreign state.”

- Act 26/2010, of 3 August, on the legal system and procedure of the public administrations in Catalonia (*BOE* n. 203, 21.08.10).

- Royal Decree 1087/2010, of 3 September, approving the Regulation that regulates the Local Security Boards (*BOE* n. 229, 21.09.10).

- Royal Decree 1163/2010, of 17 September, enlarging the property assets assigned to the services transferred by the Administration of the State to the Autonomous Community of Cantabria by Royal Decree 817/2007, of 22 June, on the provision of personnel, material and financial means for running the Administration of Justice (*BOE* n. 237, 30.09.10).

- Decree 132/2010, of 4 October, on elections to the Catalonia Parliament and its dissolution (*BOE* n. 241, 05.10.10).

- Act 7/2010, of 29 September, setting up several agreements between different Autonomous Communities for the establishment of Joint action programs in several matters (*BOE* n. 251, 16.10.10).

*Note:* This is an Agreement of the Autonomous Community of La Rioja with several Autonomous Communities on different subjects contained in Annexes (shelters for women affected by gender-based violence, tourism, health issues, children’s centre...).

- Organic Act 8/2010, of 4 November, amendment of the Organic Act 5/1985, of 19 June, on General Elections, and the Organic Act 2/1979, of 3 October, on the Constitutional Tribunal (*BOE* n. 268, 05.11.10).

- Royal Decree 1596/2010, of 26 November, regulating the granting of direct subsidy to Spanish entities abroad to provide for needs arising from damage suffered on their premises as a result of catastrophic events (*BOE* n. 289, 30.11.10).

*Note:*

Act 40/2006, of 14 December, on the Statute of Spanish Nationals Abroad, enacted pursuant to Article 42 of the Spanish Constitution, sets forth the legal framework that

guarantees Spanish nationals abroad the exercise of their constitutional rights and obligations on terms of equality with Spanish nationals who reside in Spain.

According to its Article 3, one of the goals of this Act is to “promote and consolidate the formation of associations of Spaniards abroad, fundamentally supporting the creation and maintenance of Spanish Centres and Associations through the activities carried out therein, aimed at providing social and cultural programs and aid to their members and informing and advising them on their return, notwithstanding the activities carried out by the Autonomous Communities with authorities in these areas.”

Three catastrophic events of special importance took place after the call issued in 2010, resulting in major damage to the sites of some of the Spanish centres located in the affected places:

First, there was an earthquake in Chile in February, that registered 8.8 on the Richter scale, and a subsequent tidal wave along the country’s coast, that caused major damage to the *Círculo Español* (Spanish Circle) in Santiago de Chile, the Spanish Centres in Talca, Concepción, Rancagua and Chillán and the Spanish Stadiums in Linares and Chiguayante.

Second, there were the catastrophic torrential rains in April in Río de Janeiro (Brazil) and subsequent landslides that caused serious damage to the *Casa de España* (House of Spain) in that city.

Lastly, there was Hurricane Karl in September that devastated the premises of the *Deportivo Hispano Mexicano* (Hispanic-Mexican Sport Club) in Veracruz.

– Royal Decree 1745/2010, of 23 December, enlarging the property transferred to the Autonomous Community of Extremadura by several Royal Decrees on the transfer of functions and services (*BOE* n. 316, 29.12.10).

## VII. TERRITORY

– Act 3/2010, of 26 March, amending Act 10/1998, of 5 December, on Territorial Planning of the Community of Castile y Leon (*BOE* n. 100, 26.04.10).

– Act 14/2010, of 5 July, on geographical information infrastructure and services in Spain (*BOE* n. 163, 06.07.10).

– Act 44/2010, of 30 December, on Canary Island waters (*BOE* n. 318, 31.12.10).  
Single Article. *Canary Island Waters*

1. In accordance with Article 2 of the Autonomy Statute of the Canary Islands, a perimeter line is drawn connecting the most prominent points of the islands making up the Canaries archipelago, following the overall shape of the archipelago, as established in the Annex to this Act. The waters falling inside the line are to be named Canary Island waters and constitute the special maritime space of the Autonomous Community of the Canary Islands.

2. The exercise of State or regional authority over Canary Island waters and, where appropriate, the remaining maritime spaces surrounding the Canary Islands over which the Spanish State has sovereignty or jurisdiction shall take into account the distribution

of authorities constitutionally and statutorily established for both such maritime areas and land areas.

Single Additional Provision. *Respect for International Law*

The drawing of the line around the perimeter shall not change the delimitation of the maritime zones of the Canary Islands as established under Spanish law by virtue of existing International Law.

First Final Provision. *Regulatory implementation*

Upon report by the Government of the Canary Islands, the Government is empowered to set forth any and all regulations as may be necessary to implement this Act.

## 1. Air

– Order PRE/23/2010, of 15 January authorising the Huesca-Pirineos Airport as a border post (*BOE* n. 14, 16.01.10).

– Royal Legislative-Decree 1/2010, of 5 February, regulating the provision of air traffic services, established the obligations of civilian providers of such services and determining certain working conditions for civilian air traffic controllers (*BOE* n. 31, 5.02.10).

– Order ITC/313/2010, of 12 February, adopting the ETSI TS 101 671 technical specification “Lawful Interception (LI), Handover interface for the lawful interception of telecommunications traffic” (*BOE* n. 43, 18.02.10).

– Act 5/2010, of 17 March, amending Act 48/1960, of 21 July, on Air Navigation (*BOE* n. 67, 18.03.10).

*Note:* This reform of the Air Traffic Act seeks to strike a fair balance between the interests of the domestic economy and the rights of owners of underlying property, in conformity with recent Resolution A35/5 of the 35th Assembly of the International Civil Aviation Organization (ICAO) and international and community regulations.

With this in mind, the State is obligated to ensure compliance with the noise targets set forth under state regulations in the communities in the proximities of airports, as well as to establish noise easements, with appropriate corrective measures, in the event such targets are exceeded. The aviation authority and the airport manager are also obligated to constantly evaluate the impact caused by the infrastructure and to adopt the necessary measures to make efficient use compatible with the rights of the owners and occupants of the underlying property.

Finally, the Transitional Provision of the Act extends the applicability of these measures to already existing airports and to the existing legal situations in which owners and occupants of the underlying property may already be. Furthermore, in the main airports under State jurisdiction, the deadline for approving the appropriate noise easements that up to now was 2020, has now been shortened to six months from now.

– Act 9/2010, of 14 April, regulating the provision of air traffic services, establishing the obligations of civilian providers of such services and setting forth specific working conditions for civilian air traffic controllers (*BOE* n. 91, 15.04.10).



- Order ITC/1878/2010, of 5 July, regulating the provision of in-flight mobile communications services in aircraft (*BOE* n. 169, 13.07.10).
- Order PRE/2506/2010, of 23 September, authorising the Castellón Airport as a border post (*BOE* n. 235, 28.09.10).
- Act 3/2010, of 22 June, on Aeronautical Facilities pertaining to the Community of Madrid (*BOE* n. 238, 01.10.10).

### VIII. SEAS, WATERWAYS, SHIPS

- Act 22/2009, of 23 December, on sustainable regulation of fishing in continental waters (*BOE* n. 5, 18.01.10).

- Order PRE/262/2010, of 5 February, approving regulations for port calls by Navy ships at general use ports (*BOE* n. 38, 12.02.10).

*Note:* These regulations shall be applicable to port calls by Navy ships at general use ports in times of peace and under normal circumstances. They shall be applied to all types of port calls, including port calls by ships involved in international exercises or operations. They shall also be applicable to warships belonging to foreign navies making official calls or participating in international exercises or operations in which the Spanish State is a participant, with the exclusion of nuclear-powered ships, that shall be governed by specific legislation.

Furthermore, Order 25/1985, of 23 April, approving the rules for foreign warships at Spanish ports or moorings and their transit through Spanish territorial waters in times of peace, and the specific international conventions as may exist with certain countries, shall be applicable to ships belonging to foreign navies.

- Act 2/2010, of 18 February, on fishing and maritime activities of the Autonomous Community of Catalonia (*BOE* n. 63, 13.03.10).

- Act 4/2010, of 8 June, on the waters of the Autonomous Community of Andalusia (*BOE* n. 174, 19.07.10).

- Order ARM/2077/2010, of 27 July, to control access by third-country ships, transit operations, transshipment, import and export of fishing products to prevent, deter and eliminate unlawful, undeclared, unregulated fishing (*BOE* n. 185, 31.07.10).

- Resolution of 5 October 2010, by the Directorate General of the Merchant Marine, publishing the Agreement by the Council of Ministers of 20 August 2010 approving the National Special Services Plan for Saving Human Life at Sea and Combating Marine Environmental Pollution for the 2010/2018 period, to be revised in 2013, and enter into force starting 2014, based on the budgetary scenario at that time (*BOE* n. 285, 25.11.10).

- Royal Decree 1593/2010, of 26 November, amending Royal Decree 210/2004, of 6 February, establishing a system for monitoring and reporting on maritime traffic (*BOE* n. 289, 30.11.10).
- Act 11/2010, of 16 November, on fishing and aquiculture in Extremadura (*BOE* n. 300, 10.12.10).
- Act 10/2010, of 11 November, amending Act 2/2004, of 21 April, creating the Coast Guard of Galicia (*BOE* n. 303, 14.12.10).
- Act 11/2010, of 2 November, Regulating maritime transport in the Balearic Islands (*BOE* n. 308, 20.12.10).
- Act 41/2010, of 29 December, on marine environmental protection (*BOE* n. 317, 30.12.10).
- Royal Decree 1737/2010, of 23 December, approving the Regulation for inspection of foreign ships at Spanish ports (*BOE* n. 317, 30.12.10).

## IX. INTERNATIONAL SPACES

## X. ENVIRONMENT

### 1. General

- Royal Decree 2035/2009, of 30 December, enlarging the property and increasing the financial means covered by the services transferred to the Autonomous Community of Aragon, approved by Royal Decree 778/2006, of 23 June, on increasing the functions and services of the State Administration in regard to the conservation of nature (Parque Nacional de Ordesa and Monte Perdido) (*BOE* n. 4, 5.01.10).
- Act 1/2010, of 2 March, declaring the natural park of “Laguna Negra y Circos Glaciares de Urbión” (Soria) (*BOE* n. 70, 22.03.10).
- Royal Decree 341/2010, of 19 March, developing some information obligations concerning activities for the allocation of greenhouse gas emission rights (*BOE* n. 71, 23.03.10).
- Royal Decree 251/2010, of 5 March, increasing the financial means and enlarging the property covered by the services transferred to the Autonomous Community of Aragon by Royal Decree 778/2006, of 23 June, on the conservation of nature (Parque Nacional de Ordesa y Monte Perdido) (*BOE* n. 78, 31.03.10).
- Act 1/2010, of 5 February, amending the Act of the Principality of Asturias 12/2002, 13 December, setting up the Parque Natural de las Fuentes del Narcea, Degaña e Ibias (*BOE* n. 81, 03.04.10).

- Act 1/2010, of 11 March, amending Act 16/1994 of 30 June, on Environmental Protection of the Basque Country (*BOE* n. 93, 17.04.10).
- Act 5/2010, of 28 May, amending Act 4/2000, of 27 June, declaring the Parque Natural de Fuentes Carrionas y Fuente Cobre-Montaña Palentina (Palencia) (*BOE* n. 144, 14.06.10).
- Act 15/2010, of 28 May, establishing the Natural Park of the Montgrí, the Medes Islands and the Lower Ter, two partial nature preserves and one complete nature preserve (*BOE* n. 156, 28.06.10).
- Act 13/2010, of 5 July, amending Act 1/2005, of 9 March, regulating greenhouse gas emission rights trading, to improve and broaden the general system of emissions trading and include aviation in same (*BOE* n. 163, 06.07.10).
- Act 7/2010, of 14 July, on the meadowlands of the Autonomous Community of Andalusia (*BOE* n. 193, 10.08.10).
- Act 9/2010, of 30 July, on waters, for Andalusia (*BOE* n. 208, 27.08.10).
- Royal Decree 1164/2010, of 17 September, enlarging the property covered by the services transferred by the State Administration to the Autonomous Community of Cantabria by Royal Decree 1585/2006, of 22 December, on the conservation of nature (Santoña Wetlands Nature Preserve) (*BOE* n. 237, 30.09.10).
- Act 6/2009, of 17 December, creating the Water Agency of Castile-La Mancha (*BOE* n. 256, 22.10.10).
- Act 9/2010, of 4 November, on waters of Galicia (*BOE* n. 292, 03.12.10).
- Royal Decree 1599/2010, of 26 November, enlarging the property covered by the services transferred to the Regional Government of Catalonia by Royal Decrees 1950/1980, of 31 July and 1555/1994, of 8 July, on the Conservation of Nature (*BOE* n. 310, 22.12.10).
- Royal Decree 1740/2010, of 23 December, enlarging the functions and services of the State Administration transferred to the Autonomous Community of Cantabria, in regard to the conservation of nature (Peaks of Europe National Park) (*BOE* n. 316, 29.12.10).
- Royal Decree 1741/2010, of 23 December, enlarging the functions and services of the State Administration transferred to the Autonomous Community of the Principality of Asturias, in regard to the conservation of nature (Peaks of Europe National Park) (*BOE* n. 316, 29.12.10).
- Royal Decree 1742/2010, of 23 December, increasing the functions and services of the State Administration transferred to the Community of Castile y Leon, in regard to the conservation of nature (Peaks of Europe National Park) (*BOE* n. 316, 29.12.10).

- Royal Decree 1743/2010, of 23 December, increasing the financial means covered by the services transferred to the Autonomous Community of the Canary Islands by Royal Decree 1550/2009, of 9 October, in regard to the conservation of nature (Teide, Timanfaya, Caldera de Taburiente and Garajonay National Parks) (*BOE* n. 316, 29.12.10).
- Royal Decree 1744/2010, of 23 December, enlarging the property covered by the services transferred by the State Administration to the Autonomous Community of Extremadura by Royal Decree 1594/1984, of 8 February, in regard to the conservation of nature (*BOE* n. 316, 29.12.10).
- Order ARM/3367/2010, of 22 December, establishing the organisation of the Red Rural Nacional (National Rural Network) (*BOE* n. 317, 30.12.10).
- Act 40/2010, of 29 December, geological storage of carbon dioxide (*BOE* n. 317, 30.12.10).
- Act 15/2010, of 10 December, preventing light pollution and promoting energy saving and efficiency in lighting installations pertaining to the Community of Castile y Leon (*BOE* n. 317, 30.12.10).

## 2. Fauna and Flora

- Act 4/2010, of 4 June, of the Canary Islands Catalogue of Protected Species (*BOE* n. 150, 21.06.10).
- Act 28/2010, of 3 August, amending article 6 of the Act on animals protection, adopted by Legislative Decree 2/2008 (*BOE* n. 205, 24.08.10).

*Note:* Subparagraph f is added to Article 6, paragraph 1 as follows:

“f) Bullfights and spectacles with bulls that include the animal’s death and application of goading (pica), banderillas and the sword, as well as spectacles with bulls of any type that take place either inside or outside bullrings, except for the events with bulls referred to in paragraph 2.”

Subparagraph a under Article 6, paragraph 2 of the consolidated text of the Act on the Protection of Animals, approved by Legislative Decree 2/2008, is eliminated and the paragraph reads as follows:

“2. Excluded from this ban are events with bulls that do not involve the animal’s death (correous) on the dates and in the places where they are traditionally held. In these cases, it is prohibited to inflict harm on the animals.”

- Royal Decree 1130/2010, of 10 September, amending Royal Decree 58/2005, of 21 January, adopting measures to protect against the introduction or dissemination on national territory and the European Community of organisms that are harmful to plants or plant products, as well as their export and transit to third countries (*BOE* n. 239, 02.10.10).

- Act 34/2010, of 1 October, on the regulation of traditional events with bulls (Autonomous Community of Catalonia) (*BOE* n. 257, 23.10.10).
- Order ARM/3023/2010, of 24 November, amending the Order ARM/3054/2008, of 27 October, establishing specific measures to protect against bluetongue (*BOE* n. 285, 25.11.10).
- Order ARM/3373/2010, of 27 December, establishing measures to protect against bluetongue (*BOE* n. 317, 30.12.10).

## XI. LEGAL ASPECTS OF INTERNATIONAL COOPERATION

### 1. General Provisions

- Foral Act 4/2010, of 6 April, amending Foral Act 5/2001, of 9 March, on Development Cooperation, of the Autonomous Community of Navarra (*BOE* n. 128, 26.05.10).
  - Royal Decree 794/2010, of 16 June, regulating subsidies and grants in the area of international cooperation (*BOE* n. 154, 25.06.10).
- Note:* All provisions of equal or lesser rank that are in opposition to this Royal Decree are hereby abolished, particularly Royal Decree 259/1998, of 20 February, establishing the special rules for international cooperation grants and subsidies.
- Act 11/2010, of 16 July, regulating the Statute of Valencian Voluntary Workers (*BOE* n. 194, 11.08.10).

### 2. Military and Defence Cooperation

### 3. Cultural Cooperation

- Royal Decree 102/2010, of 5 February, regulating the teaching covered by the Agreement between the Government of Spain and the Government of France on dual Bachiller and Baccalaureate certificates in Spanish schools (*BOE* n. 62, 12.03.10).
  - Royal Decree 131/2010, of 12 February, amending Royal Decree 332/1992, of 3 April, on permits for private schools to provide teaching under the general system, Royal Decree 806/1993, of 28 May, on foreign schools in Spain, and Royal Decree 321/1994, of 25 February, on permits for private schools to provide teaching in the arts, to conform to Act 17/2009, of 23 November, on freedom to provide services and their exercise (*BOE* n. 62, 12.03.10).
  - General Act 7/2010, of 31 March, on Audiovisual Communication (*BOE* n. 79, 01.04.10).
- Note:* Article 38. *Freedom to receive services provided within the European Economic Space.*

1. Freedom is guaranteed to receive throughout Spanish territory audiovisual services whose providers are established in a Member State of the European Economic Space, provided they do not technically interfere with the broadcasts of providers established under Spanish jurisdiction. In the context of the European Convention on Transfrontier Television and to channel the right to European cultural and linguistic diversity, the broadcast and reception of programs broadcast by Hertzian waves shall be made possible in all areas bordering on a European Union country, ensuring for such purpose the appropriate planning of the radio-electric spectrum in transfrontier zones.

On an exceptional basis and pursuant to the provisions in Article 2 of Directive 89/552, the competent State audiovisual authority may limit such freedom of reception when the audiovisual services seriously and repeatedly violate Spanish law in regard to protection of children. Furthermore, if the audiovisual communication service is on demand, freedom of reception may be limited for reasons of public order, security or health, or to protect consumers.

2. Accreditation of such measures must be carried out by the competent State audiovisual authority through appropriate examination procedures.

However, before adopting such measures, the Commission and the State to whose jurisdiction the service provider is subject must be notified of the intention to adopt measures. In the event of a negative decision, any measures taken must be urgently curtailed.

Article 39. *Audiovisual Communication services directed totally or mainly at Spanish territory.*

The competent State authority may adopt measures to protect Spanish law, in agreement with the procedure set forth in the previous Article, when an audiovisual communication service provider established in another State of the European Union directs its service totally or mainly at Spanish territory.

– Royal Decree 365/2010, of 26 March, regulating the assignment of Digital Terrestrial Television multiples after cessation of analogical terrestrial television broadcasting (*BOE* n. 81, 03.04.10).

– Act 2/2010, of 31 March, on protection and revitalization measures of the historical city of Valencia (*BOE* n. 100, 26.04.10).

– Royal Decree 691/2010, of 20 May, regulating High Definition Digital Terrestrial Television (*BOE* n. 134, 2.06.10).

– Resolution of 31 May 2010, by the Secretariat of State for Education and Occupational Training, correcting errors in the Resolution dated 29 April 2010, that set forth instructions for the calculation of the average grade that should appear in credentials for convalidating and homologating foreign studies and diplomas with the Spanish *bachillerato* diploma (*BOE* n. 140, 9.06.10).

– Act 17/2010, of 3 June, on Catalan sign language (*BOE* n. 156, 28.06.10).

- Resolution of 6 July 2010, by the Secretariat General for Universities, amending Annexes I and IV of Order EDU/1161/2010, of 4 May, that establishes the procedure for access to the University in Spain by students from educational systems to which Article 38.5 of Organic Act 2/2006, of 3 May, on Education is applicable (*BOE* n. 167, 10.07.10).
  - Order EDU/2157/2010, of 30 July, regulating the mixed curriculum of education covered by the Agreement between the Government of Spain and the Government of France regarding the dual Bachiller and Baccalaureate diploma at Spanish schools, and the requirements for obtaining them (*BOE* n. 191, 07.08.10).
  - Act 20/2010, of 7 July, on cinema in the Autonomous Community of Catalonia (*BOE* n. 191, 07.08.10).
  - Order EDU/2503/2010, of 16 September, regulating the criteria and procedures for signing cooperation agreements with institutions responsible for the foreign schools set forth in Royal Decree 1027/1993, of 25 June, that regulates educational activity abroad (*BOE* n. 235, 28.09.10 and *corr. of errors* *BOE* n. 260, 27.10.10).
  - Act 35/2010, of 1 October, on the Aranese Occitanian language in Aran (*BOE* n. 279, 18.11.10).
- Note:* The current system of the Occitanian language being co-official has important implications in relation to the application of the European Charter for Regional or Minority Languages. Given the formula for ratification of this international treaty used by the Spanish State in 2001, that refers to the languages declared official by the autonomy statutes, the level of protection of the Occitanian spoken in Aran has increased substantially as a result of the 2006 Statute.
- Order EDU/3122/2010, of 23 November, regulating the supplementary teaching of Spanish Language and Culture to Spanish students who are residents abroad, and establishing the curriculum for same (*BOE* n. 292, 03.12.10).

#### 4. Tariffs and Trade Cooperation

- Order ARM/462/2010, of 23 February, amending Annexes II, III and IV of Royal Decree 58/2005, of 21 January, adopting protective measures against the introduction and dissemination in national territory and the European Community of organisms that are harmful to plants and plant products, as well as their export and transit to third countries (*BOE* n. 53, 02.03.10).
- Circular of 1 March 2010, by the Secretariat General for Foreign Trade, on the procedure and processing of imports and the entry of goods and their trade regimes (*BOE* n. 60, 10.03.10).
- Royal Decree 200/2010, of 26 February, amending Royal Decree 1882/1978, of 26 July, on marketing channels for agricultural and fish food products and Royal Decree

225/2006, of 24 February, regulating certain aspects of distance selling and registration in the Registry of Distance Sales Enterprises, to adapt it to Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (*BOE* n. 63, 13.03.10).

– Order TIN/771/2010, of 15 March, applying and developing Royal Decree 1678/2009, of 13 November, providing measures to facilitate the adaptation of workers in the toy manufacturing sector to structural changes in world trade (*BOE* n. 76, 29.03.10).

– Order TIN/772/2010, of 15 March, applying and developing Royal Decree 1679/2009, of 13 November, providing measures to facilitate the adaptation of workers in the furniture manufacturing sector to structural changes in world trade (*BOE* n. 76, 29.03.10).

– Royal Legislative-Decree 8/2010, of 20 May, adopting extraordinary measures to reduce public deficit (*BOE* n. 126, 24.05.10 and *corr. of errors* *BOE* n. 127, 25.05.10 and *BOE* n. 128, 26.05.10).

– Resolution of 27 May 2010, publishing the validation Agreement of the Royal Legislative-Decree 8/2010, of 20 May, adopting extraordinary measures to reduce public deficit (*BOE* n. 133, 1.06.10).

– Royal Decree 824/2010, of 25 June, regulating pharmaceutical laboratories, manufacturers of active ingredients for pharmaceutical use and foreign trade in medicines and research on medical drugs (*BOE* n. 165, 08.07.10).

– Royal Decree 862/2010, of 2 July, amending Royal Decree 1226/2006, of 27 October, regulating the activities and running of the fund for investment abroad and the fund for investment abroad by small and medium companies (*BOE* n. 171, 15.07.10).

– Act 34/2010, of 5 August, amending Act 30/2007, of 30 October, on Public Sector Contracts, Act 31/2007, of 30 October, on contract procedures in the water, energy, transport, and postal services sectors, and Act 29/1998, of 13 July, regulating the Administrative Contentious Jurisdiction to adapt it to Community law in the first two areas (*BOE* n. 192, 09.08.10).

– Royal Decree 1709/2010, of 17 December, amending the Royal Decree 163/2008, of 8 February, establishing the limits of the economic promotion zone of the Principality of Asturias (*BOE* n. 307, 18.12.10).

– Royal Decree 1710/2010, of 17 December, amending the Royal Decree 165/2008, of 8 February, establishing the limits of the economic promotion zone of the Autonomous Community of the Region of Murcia (*BOE* n. 307, 18.12.10).

– Royal Decree 1711/2010, of 17 December, amending the Royal Decree 172/2008, of 8 February, establishing the limits of the economic promotion zone of the City of Ceuta (*BOE* n. 307, 18.12.10).



- Royal Decree 1712/2010, of 17 December, amending the Royal Decree 173/2008, of 8 February, establishing the limits of the economic promotion zone of the City of Melilla (*BOE* n. 307, 18.12.10).

## 5. Financial and Tax Cooperation

- Resolution of 27 October 2009, by the Under Secretariat, establishing the procedure for settlement and payment by telematic means of the code 060 fee “Fee for foreign health controls on meat and animal products of non-community countries” (*BOE* n. 31, 5.02.10).

- Resolution of 23 December 2009, by the Under Secretariat, establishing the procedure for settlement and payment by telematic means of the code 058 fee “International traveller vaccination fee” (*BOE* n. 31, 5.02.10).

- Act 2/2010, of 1 March, transposing certain Directives in the field of indirect taxation and amending the Act on the Tax on the Income of Non-Residents to adapt it to Community law (*BOE* n. 53, 02.03.10 and *corr. of errors* *BOE* n. 128, 26.05.10).

- Order EHA/664/2010, of 11 March, approving Form 202 for making interim on payments of the Tax on Corporations and the Tax on the Income of Non-Residents for permanent establishments and entities under the system of compensation of income constituted abroad with presence on Spanish territory, and establishing the general terms and procedure for telematic submission (*BOE* n. 67, 18.03.10).

- Order EHA/1608/2010, of 14 June, on the transparency of terms and information requirements applicable to payment services (*BOE* n. 148, 18.06.10).

*Note:* The adoption of Directive 2007/64/CE by the European Parliament and the European Council, of 13 November 2007, on payment services in the internal market, requires financial transparency rules to be extended to the payment services market. The ultimate goal of Community law is true integration of the single payment services market, and for this to come about it is essential to provide an appropriate way to protect users of payment systems. The provisions contained in its Title III are for this purpose.

Act 16/2009, of 13 November, on payment services, transposed the provisions of the Directive that required legal status into the Spanish legal system. These included the provisions contained in Title III of same that provide general obligations in regard to transparency and information on the terms and requirements applicable to generic payment services under the system of resolution and amendment of framework contracts. Nonetheless, it leaves the specification of these general obligations to subsequent regulatory development by the Ministry of Economy and Finance.

- Legislative Decree 3/2010, of 29 May, on urgent cost-containment and tax measures to reduce the public deficit (*BOE* n. 156, 28.06.10).

- Foral Act 12/2010, of 11 June, adapting the special public deficit reduction measures to the Community of Navarre (*BOE* n. 156, 28.06.10).

- Act 11/2010, of 28 June, reforming the system of financial support for the internationalisation of Spanish companies (*BOE* n. 157, 29.06.10).
- Act 16/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Catalonia and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 18/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Andalusia and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 19/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of the Principality of Asturias and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 20/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Cantabria and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 21/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of La Rioja and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 22/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of the Region of Murcia and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 23/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Valencia and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 24/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Aragon and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 25/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Castile-La Mancha and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 26/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of the Canary Islands and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).

- Act 27/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Extremadura and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 28/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of the Balearic Islands and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 29/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Madrid and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 30/2010, of 16 July, on the system of transfer of State taxes to the Autonomous Community of Castile y Leon and setting the scope and terms of such transfer (*BOE* n. 173, 17.07.10).
- Act 6/2010, of 11 June, regulating the participation by local entities in the taxes of the Autonomous Community of Andalusia (*BOE* n. 174, 19.07.10).
- Act 8/2010, of 15 October, on tax measures of the Autonomous Community of La Rioja (*BOE* n. 268, 05.11.10).
- Resolution of 2 November 2010, by the Presidency of the State Agency for Tax Administration, amending Resolution of 21 September 2004, establishing the structure and territorial organization of the Tax Agency, and the Resolution of 21 March 2006, establishing the territorial scope of the Tax Agency Offices (*BOE* n. 274, 12.11.10).

## **6. Sea Traffic and Transport**

## **7. Air Traffic and Transport**

- Royal Decree 1919/2009, of 11 December, regulating air traffic safety in civilian air shows (*BOE* n. 16, 19.01.10).
- Royal Decree 1952/2009, of 18 December, adopting requirements regarding flight time and activity limits and rest requirements for crew serving in aircraft engaging in commercial air carriage (*BOE* n. 24, 28.01.10).
- Order FOM/3717/2009, of 30 December, partially amending Annex I of the Decree 1675/1972, of 26 June, approving the fees to be applied for use of the network of air traffic aids (Eurocontrol) and amending the interest rate for delayed payment of such fees (*BOE* n. 24, 28.01.10).
- Resolution of 11 February 2010, by the Congress of Deputies, ordering the publication of the Agreement on convalidation of Royal Legislative-Decree 1/2010, of 5 February, regulating the provision of air traffic services, establishing the obligations of the civilian

providers of such services and setting forth specific working conditions for civilian air traffic controllers (*BOE* n. 43, 18.02.10).

– Order PRE/1366/2010, of 20 May, amending the Regulation on Air Traffic Operations, adopted by Royal Decree 1489/1994, of 1 July (*BOE* n. 130, 28.05.10).

*Note:*

Since unmanned aircraft systems/vehicles cannot be kept separate from the rest of the users of airspace, according to “see and avoid” rules such flights must be segregated in time and/or space from all other aerial activity.

Furthermore, a military authority must be established as responsible for authorising the operation of unmanned military systems/vehicles.

– Royal Decree 629/2010, of 14 May, amending Royal Decree 389/1998, of 13 March, regulating the investigation of civil aviation accidents and incidents, to change the composition of the Civil Aviation Accident and Incident Investigation Commission (*BOE* n. 134, 2.06.10).

– Order PRE/1491/2010, of 8 June, amending Order of 18 January 1993, on no-fly and flight-restricted zones (*BOE* n. 141, 10.06.10).

– Royal Decree 1611/2010, of 3 December, transitionally granting the air traffic control powers held by the publicly-owned entity, AENA, to the Ministry of Defence (*BOE* n. 294, 04.12.10).

– Royal Decree 1673/2010, of 4 December, declaring the state of alarm in order to normalise the essential service of air transport (*BOE* n. 295 (extraordinary number), 04.12.10).

*Note:* Article 19 of the Spanish Constitution sets forth that all Spanish nationals have the right to freely circulate in national territory. Said right is also recognised for all persons in the International Treaties and Agreements to which Spain is a party.

The special circumstances that arose from the closing of Spanish airspace as a result of the situation caused by the abandonment by air traffic controllers of their obligations, prevent the exercise of said fundamental right and cause the paralysis of an essential public service to society, the service of air transport. This unquestionably amounts to a public calamity of enormous magnitude owing to the very large number of persons affected, the scope of the rights violated and the seriousness of the damages caused.

In order to return to a normal situation in the provision of said public service and re-establish fundamental citizen rights that are today being violated, and having failed in all attempts to put an end to the existing state of public catastrophe, it is necessary to proceed to declare a State of Alarm in order to do overcome the obstacles preventing the safe and continued provision of such services.

The measures contained in this Royal Decree are the ones that are necessary to deal with the situation and are proportional to the extreme gravity of same.

Therefore, upon proposal by the First Vice President of the Government and Minister of the Interior, of the Minister of Defence and the Minister of Public Works and Infrastructure, and after deliberation in the Council of Ministers at its meeting of 4 December 2010,

## I HEREBY PROVIDE:

Article 1. *Declaration of the State of Alarm.*

As provided in Article 4 paragraph c. in relation to paragraphs a. and d. of Organic Act 4/1981, of 1 June, on States of Alarm, Exception and Siege, a State of Alarm is hereby declared for the purpose of dealing with the situation of the paralysis of the essential public service of air transport.

Article 2. *Territorial scope.*

The declaration of the State of Alarm affects all the control towers throughout national territory pertaining to the network and the control centres managed by the publicly-owned company “Aeropuertos Españoles y Navegación Aérea (AENA)”.

Article 3. *Subjective Scope.*

As provided in Articles 9.One and 12.Two of Organic Act 4/1981 in relation to Article 44 of Act 48/1960, of 21 July, on Air Traffic, all air traffic controllers in service to AENA are hereby, during the duration of the State of Alarm, considered military personnel as set forth by Article 10. One of said Organic Act and therefore under the direct orders of the authorities designated in this Royal Decree, and subject to criminal penalties and military discipline pursuant to Article 8.5 of Organic Act 13/1985, of 9 December.

Article 4. *Licences, clearances and notations.*

The civilian air traffic controllers in service to AENA shall retain all the powers inherent in the licence, clearances, notations and medical certificates in their name, although they shall exercise said functions, in any event, under the organisation and supervision of the Air Force.

Article 5. *Duration.*

The duration of the State of Alarm declared by this Royal Decree is fifteen calendar days.

Article 6. *Government-delegated authority.*

The Chief of Staff of the Air Force and the military authorities he designates shall adopt the pertinent decisions in compliance with the provisions of Article 3 of this Royal Decree.

Single Transitory Provision. *Processing Procedures.*

Any proceedings referred to in Article 3 of this Royal Decree that are initiated and not terminated during the State of Alarm shall continue to be processed after said State of Alarm is over, and subject to labour or administrative legislation.

Final Provision. *Entry into force.*

This Royal Decree shall enter into force the moment it is published in the “Boletín Oficial del Estado” (Official State Gazette).

Given at the Embassy of Spain in Buenos Aires, on 4 December 2010.

- Resolution of 16 December 2010, by the Congress of Deputies ordering the publication of the agreement to authorise the extension of the state of alarm declared by Royal Decree 1673/2010, of 4 December (BOE n. 307, 18.12.10).
- Royal Decree 1717/2010, of 17 December, extending the state of alarm declared by Royal Decree 1673/2010, of 4 December (BOE n. 307, 18.12.10).

- Order FOM/3352/2010, of 22 December, setting forth the airports managed by the publicly-owned company *Aeropuertos Españoles y Navegación Aérea* for the selection of new civilian providers of aerodrome air traffic control services (*BOE* n. 316, 29.12.10).

## 8. Road Traffic and Transport

- Act 15/2009 of 11 November on the hiring of land transport (*corr. of errors BOE* n. 41, 16.02.10).

*Note:* Published in *BOE* 273, 12.11.09.

- Royal Decree 750/2010, of 4 June, regulating the homologation procedures for motor vehicles and trailers, self-propelled or towed machinery, agricultural vehicles, and the systems and parts of such vehicles (*BOE* n. 153, 24.06.10).

- Order ITC/2632/2010, of 5 October, updating Annex III and amending several paragraphs and appendixes of Annexes V and VI of Royal Decree 551/2006, of 5 May, regulating the transport of hazardous goods by road on Spanish territory (*BOE* n. 247, 12.10.10).

- Order ITC/3123/2010, of 26 November, regulating the metrological control by the State of instruments used to measure the speed at which motor vehicles are travelling (*BOE* n. 292, 03.12.10).

- Royal Decree 1598/2010, of 26 November, transferring to the autonomous government of Catalonia the functions of the General State Administration corresponding to regional passenger rail services over the Iberian gauge general interest rail network (*BOE* n. 310, 22.12.10).

## 9. Labour, Social Security and Immigration

- Act 8/2009, of 16 December, amending Act 11/2001, of 15 June, on regulating business activity in the Balearic Islands for the transposition of the Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market (*BOE* n. 26, 30.01.10).

- Royal Decree 39/2010, of 15 January, amending some Acts regarding tourism activities and their exercise (*BOE* n. 30, 4.02.10).

*Note:* This is one of several measures adopted by Spain for the transposition of the Bolkenstein Directive, i.e. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.

- Order FOM/188/2010, of 25 January, updating the technical conditions of Royal Decree 809/1999, of 14 May, regulating the requirements that marine equipment onboard ships must comply with, in application of Directive 96/98/EC, amended by Directive 98/85/EC (*BOE* n. 31, 5.02.10).

– Royal Decree 108/2010, of 5 February, amending several Decrees on agriculture being adapted to Act 17/2009 of 23 November on freedom to provide services and their exercise (*BOE* n. 33, 6.02.10).

– Royal Decree 109/2010, of 5 February, amending several Decrees on sanitary matters to be adapted to Act 17/2009 of 23 November on freedom to provide services and their exercise and to Act 25/2009 of 22 December amending some Acts regarding the freedom to provide services and their exercise (*BOE* n. 44, 19.02.10).

– Royal Decree 103/2010, of 5 February, amending the General Regulation on procedures for the imposition of sanctions for violation of labour regulations and in Social Security payment settlement cases, as adopted by Royal Decree 928/1998, of 14 May (*BOE* n. 47, 23.02.10).

*Note:* In order to adapt Act 42/1997 of 14 November, Regulating Labour and Social Security Inspection to Act 17/2009 of 23 November on freedom to provide services and their exercise and to Act 25/2009 of 22 December amending some Acts regarding the freedom to provide services and their exercise.

– Royal Decree 195/2010, of 26 February, amending Royal Decree 2364/1994, of 9 December, approving the Regulation on Private Security to adapt it to the amendments established in Act 23/1992, of 30 July, on Private Security, to be adapted to Act 25/2009 of 22 December amending some Acts regarding the freedom to provide services and their exercise (*BOE* n. 60, 10.03.10).

– Royal Decree 367/2010, of 26 March, amending some regulations of environmental area in order to be adapted to the Act 17/2009, of 23 November, on freedom to provide services and their exercise and to Act 25/2009 of 22 December amending some Acts regarding the freedom to provide services and their exercise (*BOE* n. 75, 27.03.10 and *corr. of errors* *BOE* n. 283, 23.11.10).

– Act 1/2010, of 11 February, amending some Acts of Galicia to be adapted to Directive 2006/123/CE, of the European Parliament and the Council, of 12 December 2006, on services in the internal market (*BOE* n. 86, 09.04.10).

– Act 5/2010, of 26 March, of the Autonomous Community of Catalonia on rules of delegation to the Government of legislative power to adjust rules with the rank of an Act to Directive 2006/123/CE, of the Parliament and the Council of 12 December 2006, on services in the internal market (*BOE* n. 100, 26.04.10).

– Royal Decree 459/2010, of 16 April, regulating the conditions for the recognition of professional effect of foreign degrees as specialists in Health Sciences, obtained in non-member States of the European Union (*BOE* n. 107, 2.05.10).

– Royal Decree 560/2010, of 7 May, amending several rules on industrial security to be adapted to the Act 17/2009, of 23 November, on freedom to provide services and

their exercise and to Act 25/2009 of 22 December amending some Acts regarding the freedom to provide services and their exercise (*BOE* n. 125, 22.05.10 and *corr. of errors* *BOE* n. 207, 26.08.10).

- Foral Act 6/2010, of 6 April, amending several Acts of the Autonomous Community of Navarra to be adapted to Directive 2006/123/CE, on services in the internal market (*BOE* n. 129, 27.05.10).

- Foral Act 7/2010, of 6 April, amending several Acts of the Foral Act 6/1990, of 2 July, of the Municipal Administration of Navarra, to be adapted to Directive 2006/123/CE, on services in the internal market (*BOE* n. 129, 27.05.10).

- Act 2/2010, of 4 May, amending Act 1/2002, of 26 February, on Trade in Cantabria and other supplementary rules to be adapted to Directive 2006/123/CE, on services in the internal market (*BOE* n. 131, 29.05.10).

- Act 3/2010, of 20 May, amending Act 1/2001, of 16 March, on Professional Associations in Cantabria, to be adapted to the Act regarding the freedom to provide services and their exercise (*BOE* n. 145, 15.06.10).

- Royal Legislative-Decree 10/2010, of 16 June, on urgent measures to reform the labour market (*BOE* n. 147, 17.06.10 and *corr. of errors* *BOE* n. 148, 18.06.10).

- Act 3/2010, of 21 May, amending several Acts in order to transpose in Andalusia of the Directive 2006/123/CE, of 12 December 2006, on services in the internal market (*BOE* n. 151, 22.06.10).

- Resolution of 22 June 2010, publishing the convalidation Agreement of the Royal Legislative-Decree 10/2010, of 16 June, on urgent measures to reform the labour market (*BOE* n. 154, 25.06.10).

- Act 3/2010, of 7 June, partially amending Act 6/2003 of Aragon, of 27 February, on Tourism (*BOE* n. 172, 16.07.10).

*Note:* This Act is the first step to adapt the tourism legislation adopted by the Autonomous Community of Aragon to the Directive 123/2006, of 12 December.

- Royal Decree 919/2010, of 16 July, amending the Regulation of the Act on Land Transportation to be adapted to the Act 25/2009, of 22 December, amending several laws, due to the freedom to provide services and their exercise (*BOE* n. 189, 05.08.10).

- Act 35/2010, of 17 September, on urgent measures to reform the labour market (*BOE* n. 227, 18.09.10).

- Act 7/2009, of 17 December, (of the Autonomous Community of Castile la Mancha) amending several Acts to be adapted to Directive 2006/123/CE, on services in the internal market (*BOE* n. 256, 22.10.10).



- Legislative Decree 3/2010, of 5 October, amending several Acts of the Autonomous Community of Catalonia to be adapted to Directive 2006/123/CE, of 12 December 2006, on services in the internal market (*BOE* n. 257, 23.10.10).
- Royal Legislative-Decree 13/2010, of 3 December, on tax, labour and de-regulatory actions to promote investment and job creation (*BOE* n. 293, 03.12.10).
- Act 12/2010, of 12 November, of the Balearic Islands amending several Acts to be adapted to Directive 2006/123/CE, of 12 December 2006, on services in the internal market (*BOE* n. 308, 20.12.10).
- Resolution of 14 December 2010, on the Congress of Deputies, ordering the publication of the agreement to convalidate Royal Legislative-Decree 13/2010, of 3 December, on tax, labour and de-regulatory actions to promote investment and job creation (*BOE* n. 309, 21.12.10).

## 10. Health and Relief Cooperation

- Resolution of 19 December 2008 of the Presidency of the High Council for Sport approving the list of substances and methods prohibited in sports (*corr. of errors BOE* n. 47, 23.02.10).

*Note:* published in *BOE* n.1, 01.01.09.

- Order ARM/575/2010, of 10 March, amending Order ARM/3054/2008, of 27 October, establishing specific measures to protect against bluetongue (*BOE* n. 62, 12.03.10).

- Order SAS/2712/2010, of 13 October, including ketamine in Annex I of Royal Decree 2829/1977, of 6 October, regulating the manufacture, distribution, prescription and dispensing of psychotropic substances and preparations (*BOE* n. 255, 21.10.10).

*Note:* The Commission on Narcotic Drugs of the United Nations Economic and Social Council, in its 49th session held in March 2006, approved Resolution 49/6, entitled “Listing of ketamine as a controlled substance,” calling on the Member States to consider the possibility of controlling the use of ketamine, by including it on the list of controlled substances under their national legislation, where the domestic situation so requires, in view of its widespread use and trafficking.

In March 2007, the Commission approved Resolution 50/3 entitled “Responding to the threat posed by the abuse and diversion of ketamine”, in which it encouraged Members States to consider adopting a system of precautionary measures for use by their government agencies to facilitate the timely detection of the diversion of ketamine.

Furthermore, in its 53rd session in March 2010, said Commission on Narcotic Drugs approved Resolution E/CN.7/2010/L.9 entitled “International Cooperation in countering the covert administration of psychoactive substances related to sexual assault and other criminal acts” whereby, among other recommendations, it urged Member States to consider setting forth in their national legislation or appropriate regulations aggravating circumstances in cases in which psychoactive substances are covertly administered to commit sexual aggression.

- Order SPI/2891/2010, of 3 November, approving the fourth edition of the Spanish Royal Pharmacopoeia (*BOE* n. 273, 11.11.10).

*Note:*

The sixth edition of the European Pharmacopoeia was issued by the European Directorate for the Quality of Medicines (EDQM) under the auspices of the Council of Europe, in accordance with the terms of the Convention on the elaboration of a European Pharmacopoeia (European Treaty Series No. 50) amended by the Protocol to the Convention (European Treaty Series No. 134), to which Spain has been a member since 1987.

The objectives pursued are the harmonisation of the specifications for medicinal substances of general interest to the peoples of Europe and to hasten the drawing up of specifications for the growing number of new medicinal substances that are appearing on the market.

These objectives are achieved by the creation of a European Pharmacopoeia made up of monographs that will become the official standards applicable in the territories of the contracting States.

- Royal Decree 1439/2010, of 5 November, amending the Regulation on health protection against ionising radiation, adopted by Royal Decree 783/2001, of 6 July (*BOE* n. 279, 18.11.10).
- Royal Decree 1564/2010, of 19 November, approving the basic Directive on civil protection planning against radiological risks (*BOE* n. 281, 20.11.10).
- Royal Decree 1440/2010, of 5 November, adopting the Statutes of the Nuclear Security Council (*BOE* n. 282, 22.11.10).

## **11. Civil and Criminal Cooperation**

- Organic Act 3/2010, of 10 March, amending Organic Act 6/1985, of 1 July, on the Judiciary, and supplementary to the Act for the execution in the European Union of judicial asset seizure decisions in violations of criminal law.

*Note:*

Article 4 of Act 4/2010, on execution in the European Union of judicial asset seizure decisions, establishes the jurisdiction of the criminal courts to adopt the measures provided in said Act when Spain is the State of execution of the decisions subject to said Act. It is necessary, for this reason to amend Organic Act 6/1985, of 1 July, on the Judiciary, that sets forth the jurisdiction of the different judicial bodies.

This thereby continues practice of recent years to amend said Organic Act to include the new attribution. The reform in this case through the inclusion of a new subparagraph 4 in Article 89 bis, to provide for the new power of the criminal courts to execute asset seizure decisions handed down by courts of other Member States of the European Union for compliance in our country (*BOE* n. 61, 11.03.10).

- Act 4/2010, of 10 March, on the execution in the European Union of judicial asset seizure decisions (*BOE* n. 61, 11.03.10).

- Agreement of 25 February 2010, by the Plenary of the General Council of the Judiciary, approving Regulation 2/2010, on general criteria to harmonise the actions of common judicial services (*BOE* n. 62, 12.03.10).
- Act 10/2010, of 28 April, on prevention of money laundering and financing of terrorism (*BOE* n. 103, 29.04.10).
- Order EHA/1464/2010, of 28 May, amending Order ECO/2652/2002, of 24 October, to implement obligations to notify transactions relating to certain countries to the *Servicio Ejecutivo de la Comisión de Prevención del Blanqueo de Capitales e Infracciones Monetarias* (Executive Service of the Commission for the Prevention of Money Laundering and Monetary Infractions) (*BOE* n. 138, 7.06.10).
- Organic Act 5/2010, of 22 June, amending Organic Act 10/1995, of 23 November, of the Penal Code (*BOE* n. 152, 23.06.10).

*Note:* On the one hand, Spain has assumed international obligations, particularly in the area of European legal harmonisation, that require the sometimes quite in-depth adaptation of our criminal laws. On the other, experience applying the Code has brought to light some defects and deviations that we need to attempt to correct. And, lastly, the changing social reality is responsible for an influx of new issues to be dealt with. And this is all without forgetting that the numerous, and sometimes hasty changes made to the original architecture of the 1995 text have given rise to some distortions and inconsistencies that need correction.

In accordance with the principles guiding the reform, Article 36 is hereby amended. Therefore, for prison sentences over five years, the requirement to serve at least one-half of the sentence before obtaining a third degree classification is established in the case of offences against the freedom and sexuality of children under 13 years of age, offences referring to terrorist organizations and groups and terrorism offences, as well as offences committed as a member of a criminal organization or group.

The criminal liability of corporate entities is regulated in detail. There are many international legal instruments that are demanding a clear criminal response for corporate entities, particularly regarding crimes where their intervention is most evident (corruption in the private sector, in international trade transactions, child pornography and prostitution, trafficking in persons, money laundering, illegal immigration, attacks on computer systems...). This liability can only be found in cases in which this is expressly set forth.

The existing regulation on seizure has been completed by charging judges and the courts to order seizure in regard to any effects, assets, instruments or gains obtained through criminal activities in the context of a criminal organization or group or, in the case of terrorist crimes, independently of whether they were committed as a member of a terrorist organisation or group, as set forth in Framework Decision 2002/475/JAI of the Council, on combating terrorism. To facilitate the measure, the presumption of criminal source is established when the value of assets is disproportionate in regard to the legal income of each and every individual convicted of crimes committed as a member of a criminal organisation or group. Furthermore, judges and the courts are empowered to

order seizure in offences of negligence in which the imposition of a prison sentence of over one year is called for under law.

In response to the increasingly more widespread phenomenon of the sale of human organs and to the call from different international fora to sanction it, the procurement or illicit trafficking in human organs, and their transplant, has been included as a criminal offence. Back in 2004 the World Health Organisation had already declared the sale of organs as counter to the Universal Declaration of Human Rights, calling on physicians not to perform transplants if they suspected that the organ was the result of a business transaction. Recently, at the International Summit on Transplant Tourism and Organ Trafficking held in May 2008, representatives of 78 countries agreed to the so-called "Istanbul Declaration", stating for the record that such practices violate the principles of equality, justice and respect for human dignity and should be eradicated. And, although our Penal Code already contemplated such practices as offences involving bodily harm, it is considered necessary to provide differentiating treatment of such activities by castigating whosoever promotes, favours, facilitates or publicises the procurement or illegal trafficking of human organs not one's own or their transplant. In this context, it is considered that the receiver of the organ, who, aware of its illicit origin, agrees to the performance of a transplant must also be subject to criminal penalty, with the possibility of moderating the punishment in view of concurring circumstances.

The uniform criminal treatment of the offences of trafficking in persons and clandestine immigration contained in Article 318 bis was, from all viewpoints inadequate in view of the major differences existing between these two phenomena. Separate regulation of these two realities was necessary both to comply with international commitments and to put an end to continued interpretational conflicts.

To achieve this goal, Title VII bis, entitled "On trafficking in persons" was added. Article 177 bis, sets forth an offence in which priority is given to protecting the dignity and freedom of the individuals suffering this abuse. On the other hand, it is fundamental to stress that this is not an offence that can only be committed against foreigners, but rather it covers all forms of trafficking in persons, whether nationals or transnationals, and whether related to organised crime or not.

On the other hand, the offence of clandestine immigration is always transnational, and defence of the interests of the State must prevail in controlling migratory flows.

In addition to the creation of Article 177 bis, and as a result of the system needing inner consistency, this restructuring of offences required abolishing the rules contained in Articles 313.1. and 318 bis. 2.

In the area of sexual offences, together with the increased level of protection afforded the victims, especially the most vulnerable, reference must be made to the need to transpose Framework Decision 2004/68/JAI of the Council, of 22 December 2003, on combating sexual exploitation of children and child pornography. It is unquestionable that in cases of sexual offences committed against children, the legal good afforded protection acquires a special dimension owing to the greater injustice of such behaviour conduct. This conduct not only violates sexual rights, understood as the right not to be involved in a sexual context without valid given consent, but also affects the formation of the child and the development of his or her personality and sexuality. Therefore, Chapter II bis entitled "On sexual abuse of and aggression against children under thirteen years

of age" was included in Title VIII of Book II of the Penal Code. Furthermore, the more widespread use of the Internet and information and communication technologies for sexual purposes against children has brought to light the need to criminally punish adult conduct that use such media to gain the confidence of children for the purpose of arranging meetings to obtain sexual favours. A new article, Article 183 bis was introduced to regulate the practice known internationally as "child grooming", providing more serious penalties when the child is approached using coercion, intimidation or deceit.

In the context of child prostitution and pornography, the transposition into our legal system of the Framework Decision required establishing new offences. This is the case of getting children to participate in pornographic performances, contained in the regulation of Article 189.1. The same thing is true in regard to the conduct of whosoever profits from the participation of children in this type of performance, as contained in paragraph 1. a) of Article 189. In regard to the offence of prostitution, the conduct of the client is included in cases in which the sex act is carried out with a person who is a child or incompetent.

In the context of so-called computer offences, to comply with Framework Decision 2005/222/JAI, of 24 February 2005, on attacks against information systems, the punishable conduct has been included in two different sections, as different legal assets are involved. The first, regarding damages, covers conduct involving damage, deterioration, modification, elimination or making inaccessible the data or computer programmes of others, as well as blocking or interrupting the operation of another's computer system. The second section refers to discovery and disclosure of secrets, including unauthorised access that breaches the security measures in place to protect computerised data or programmes contained on a system or a part thereof.

Another important aspect of the reform is the transposition of Framework Decision 2003/568/JAI, on combating corruption in the private sector. The prevailing idea in this regard is that to ensure fair and honest competition it is necessary to act against any actions that are aimed at corrupting administrators of private entities in a way that is similar to what is done through the offence of bribery. Such conduct, that goes beyond the private sphere, violates the rules for good market functioning. The problem is of major importance when you consider how it can affect business decision-making, not only for the immediate players, but also for many others. It was considered advisable to set forth the most serious corruption in sports as a criminal offence. In this regard, any bribery engaged in by members or staff of sports entities or athletes, referees or judges, aimed at deliberately and fraudulently predetermining or altering the result of a professional sports contest, meeting or competition, is punishable.

The changes undertaken in the offences against the environment are in response to the need to include elements of European Union regulatory harmonisation in this area. In accordance with obligations assumed, penalties are increased and premises set forth in EC Directive 2008/99/EC of 19 November, on environmental protection through criminal Law are incorporated into Spanish criminal law.

In bribery offences, major changes have been introduced to adapt our legislation to our international commitments, specifically the Penal Convention on Corruption of the Council of Europe of 27 January 1999 and the Convention established on the basis of paragraph 2.c) of Article k.3 of the Treaty of the European Union, on combating acts of

corruption involving officials of the European Communities or of the Members States of the European Union.

As indicated, another important new feature of this Act is the thorough reorganization and clarification it provides of the criminal treatment of terrorist offences, including formation of, joining and participation in terrorist groups or organisations, and new features in compliance with the legislative obligations derived from Framework Decision 2008/919/JAI.

The implementing rules of the Rome Statute of the International Criminal Court, and ratification by Spain of other instruments of international humanitarian law, particularly the Ottawa Convention of 18 September 1997 on Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, the Convention on the Safety of United Nations and Associated Personnel of 9 December 1994, the Second Protocol, of 26 March 1999, of the Hague Convention of 1954, for the Protection of Cultural Property in the Event of Armed Conflict and the Optional Protocol of 25 May 2000 of the 1989 Convention on the Rights of the Child on the Involvement of Children in Armed Conflict have highlighted the need to adapt the offences against the international community.

Particularly noteworthy is the special protection given women and children in armed conflicts, expressly punishing anyone who attacks the sexual freedom of a protected person by committing acts of rape, sex slavery, induced or forced prostitution, forced pregnancy, forced sterilization and any other form of sexual aggression, along with anyone who recruits or enlists persons under 18 years of age or uses them to participate directly in such conflicts.

Lastly, a new offence of piracy is created under the Title devoted to crimes against the international community. The reason for this reform lies in the need to respond to illicit acts against maritime and air traffic, and, this is done on the basis of the provisions of the Montego Bay Convention of 10 December 1982 on the Law of the Sea and the Convention on Maritime Navigation signed in Rome on 10 March 1988.

Article 156 bis is added, with the following text:

“1. Whosoever promotes, favours, facilitates or publicises the acquisition of or illegal trafficking in human organs not their own or the transplant of same shall be punished with a prison sentence of from six to twelve years when it is a major organ, or a prison sentence of from three to six years if the organ is not a major one.

2. If the recipient of the organ consents to the transplant knowing of its illicit origin he or she shall be punished with the same sentences as in the previous paragraph, that may be reduced by one or two degrees depending on the circumstances of the act and the convicted person (...).”

“TITLE VII bis

On trafficking in persons”

Article 177 bis is added, with the following text:

“1. Whosoever, on Spanish territory, from Spanish territory, in transit through Spanish territory or en route to Spanish territory, using violence, intimidation or deceit, or abusing a situation of superiority, need, or vulnerability on the part of the national

or foreign victim, attracts, transports, moves, shelters, receives or houses said victim for the following purposes:

- a) Imposing forced work or servitude, slavery or practices similar to slavery or servitude, or mendicity;
- b) Sexual exploitation, including pornography;
- c) Removal of bodily organs;

Shall be punished as a person convicted of trafficking in persons with a prison sentence of five to eight years.

2. Even when none of the means set forth in the previous paragraph is used, it shall be considered to be trafficking in persons when any of the actions set forth in the previous paragraph are carried out in regard to children for purposes of exploitation.

3. The consent of a victim of trafficking in persons shall be irrelevant when any of the means indicated in the first paragraph of this article are used.

4. The next higher sentence in degree to what is set forth in the first paragraph of this article shall be imposed when:

- a) Trafficking puts the victim in grave danger;
- b) The victim is a minor;
- c) The victim is particularly vulnerable by reason of illness, disability or status.

If more than one circumstance is present, the upper half of the sentence shall be imposed.

5. The next higher degree sentence to that set forth in paragraph 1 of this article and absolute disqualification for six to twelve years shall be imposed on whosoever engages in this conduct using his or her condition of authority, agent of authority or public servant. If any of the circumstances set forth in paragraph 4 of this article are also present, the sentence imposed shall be in the upper half of the range.

6. The next higher degree sentence to that set forth in paragraph 1 of this article and special disqualification to exercise profession, trade, industry or trade for the duration of the sentence shall be imposed when the convicted person belongs to an organization or association of more than two people, even if only temporary, that is devoted to carrying out such activities. If any of the circumstances set forth in paragraph 4 of this article are present the sentence imposed shall be in the upper half of the range. If the circumstance set forth in paragraph 5 of this article is present, the upper half of the sentence range set forth shall be imposed.

When the bosses, administrators or persons responsible for such organizations or associations are convicted, the upper half of the sentencing range shall be imposed, and may be increased to the next higher degree range. In any case, the sentence shall be increased to the next higher degree level if any of the circumstances set forth in paragraph 4 or the circumstance set forth in paragraph 5 of this article are present.

7. When, as set forth in Article 31 bis, a legal entity is responsible for the offences covered by this Article, it shall be sentenced to pay a fine that is from triple to quintuple the gains received. Pursuant to the rules established in Article 66 bis, judges and the courts can also impose the sentences set forth in subparagraphs b) to g) of paragraph 7 of Article 33.

8. Provocation, conspiracy and proposition to commit the offence of trafficking in persons shall be punished by imposing a sentence that is one or two degrees lower than that of the corresponding offence.

9. In any case, the sentences set forth in this article shall be imposed notwithstanding any others that may be imposed for the offence as set forth in Article 318 bis of this Code, and other offences actually committed, including the offence of exploitation.

10. Convictions by foreign judges or courts for offences of the same type as set forth in this article shall have the same effect as recidivism, except when the criminal record has been cancelled or could be cancelled under Spanish Law.

11. Notwithstanding the application of the general rules of this Code, the victim of trafficking in persons shall be exempted from any punishment for criminal offences he or she may have committed while under exploitation, provided his or her participation in same was a direct result of the situation of violence, intimidation, deceit or abuse to which he or she was subject and there is adequate proportionality between said situation and the criminal act committed."

Article 427 is amended, and now has the following text:

"1. What is provided in the preceding articles shall also be applicable when the facts are attributable to or affect civil servants of the European Union or national civil servants of another Member State of the Union.

For such purposes, the following shall be considered to be a civil servant of the European Union:

1.º any person who is a civil servant or contracted agent in the sense of the Civil Service Statute of the European Communities or the Regulation applicable to other agents of the European Union;

2.º any person placed at the disposal of the European Union by a Members States or by any public or private agency that exercises functions therein that are equivalent to those exercised by civil servants or other agents of European Union;

3.º members of the agencies created under the constituent treaties of the European Communities, as well as the staff of said agencies, to the extent to which the Civil Service Statute of the European Communities or the Regulation applicable to other agents of the European Union does not apply to them.

Furthermore, a national civil servant of another Member State of the Union shall be understood to be a person who has such status for the purposes of the application of the criminal law of said Member State.

2. When, in accordance with Article 31 bis, a legal entity is responsible for the offences set forth in this Chapter, the following sentences shall be imposed thereon:

a) Fine of from two to five years, or triple to quintuple the gains obtained when the amount is higher, when the offence committed by the individual carries a prison sentence of over five years.

b) Fine of from one to three years, or double to quadruple the gains obtained when the amount is higher, if the offence committed by the individual carries a sentence of over two years of imprisonment that is not included in the previous paragraph.



c) Fine of from six months to two years, or double to triple the gains obtained if the amount is higher, in the remaining cases.

After complying with the rules established in Article 66 bis, judges and courts may also impose the sentences set forth in subparagraphs b) to g) of paragraph 7 of Article 33”.

One hundred thirty-four

Subparagraph a) of paragraph 3. of Article 451, is amended and its text is as follows:

“a) That the offence concealed constituted treason, homicide of the King, of any of his forebears or descendants, of the Queen consort or the Queen’s consort, of the Regent or any member of the Regency, or of the Crown Prince, genocide, crime against humanity, crime against persons or property protected in the event of armed conflict, rebellion, terrorism, homicide, piracy, human trafficking or illegal organ trafficking.”

One hundred forty

The 1st and 3rd subparagraphs of paragraph 1 and paragraph 2 of Article 566, are amended and now read as follows:

“1. Whosoever manufactures, markets or stockpiles weapons or munitions not authorized by Law or the appropriate authority shall be punished:

1.º If they are combat weapons or munitions or chemical or biological weapons or anti-personnel mines or cluster munitions, with a prison sentence of from five to ten years for promoters and organisers, and from three to five years of prison for those who cooperated in gathering them together.

2.º [...]

3.º The same sentences shall be applied, as appropriate, to trafficking in combat weapons or munitions, in chemical or biological weapons, or in anti-personnel mines or cluster munitions.

2. The sentences contemplated in the first subparagraph of the previous paragraph shall be imposed on whosoever develops or uses chemical or biological weapons or anti-personnel mines or cluster munitions, or initiates military preparation for their use or does not destroy them in violation of the international treaties and conventions to which Spain is a party.”

One hundred forty-one

Subparagraphs 1 and 2 of Article 567 are amended and read as follows:

“1. Stockpiling of combat weapons is considered to be the manufacture, marketing or holding of any of such weapons, independent of their model or class, even when they are disassembled in parts. Stockpiling of chemical or biological weapons or of anti-personnel mines or cluster munitions is considered to be the manufacture, marketing or possession of same.

Stockpiling of weapons in regard to marketing includes both procurement and disposal.

2. Combat weapons are considered to be as stated in the regulatory provisions of national defence. Chemical or biological weapons, anti-personnel mines and cluster munitions are considered to be those as stated in the international treaties and conventions to which Spain is a party.

Development of chemical or biological weapons, anti-personnel mines or cluster munitions is considered to be any activity consisting of scientific or technical research or study aimed at creating a new chemical or biological weapon, anti-personnel mine or cluster munitions or modifying a pre-existing one."

One hundred forty-two

A Chapter VI is added to Title XXII of Book II, and is made up of Articles 570 bis, 570 ter and 570 quater, with the following heading:

"On criminal organisations and groups"

One hundred forty-three

Article 570 bis is added and reads as follows:

"1. Whosoever promotes, constitutes, organises, coordinates or directs a criminal organisation shall be given a prison sentence of from four to eight years if its purpose or objective was to commit serious offences, or a prison sentence of from three to six years in all other cases; and whosoever participates actively in the organisation, is part of it or cooperates financially or any other way with it, shall be given a prison sentence of from two to five years if its purpose or objective was to commit serious crimes, or a prison sentence of from one to three years in all other cases.

For the purposes of this Code, a criminal organisation is considered to be a group that is made up of more than two people that is stable or formed for an indefinite period of time, and that distributes different tasks or functions aimed at committing crimes in a concerted and coordinated way, as well as repeatedly committing minor offences.

2. The sentences set forth in the previous paragraph shall be imposed in the upper half of the range when the organisation:

- a) is made up by a large number of people;
- b) has weapons or dangerous implements;
- c) has technologically advanced means of communication or transport with features making them especially appropriate in facilitating the commission of offences or providing impunity to the perpetrators.

If two or more of these circumstances are present the next higher degree sentences shall be imposed.

3. The sentences provided for in this article shall be imposed in the upper half of the range if the offences were against human life or physical integrity, against individual freedom, against sexual freedom or indemnity, or trafficking in persons."

One hundred forty-four

Article 570 ter is added, and reads as follows:

"1. Whosoever constitutes, finances or is a member of a criminal group shall be given:

a) If the purpose of the group is to commit the offences set forth in subparagraph 3 of the previous article, a sentence of from two to four years of imprisonment if one or more serious offences are committed or a sentence of from one to three years of imprisonment if minor offences are committed.

b) A sentence of from six months to two years of imprisonment if the purpose of the group is to commit any other serious offence.

c) A sentence of from three months to one year of imprisonment if one or more minor offences is involved that are not included in subparagraph a), or repeated commission of misdemeanours. In this latter case, the lower half of the sentencing range must be imposed, except when the purpose of the group is the repeated commission of the misdemeanour set forth in number 1 of Article 623, in which case the sentence may be applied in its full range.

For the purposes of this Code, a criminal group is understood to be a group of two or more persons that, without meeting the criteria of a criminal organisation as defined in the previous article, has the purpose or objective of the concerted perpetration of offences or the concerted and repeated commission of misdemeanours.

2. The upper half of the sentencing range set forth in the previous number shall be imposed when the group:

a) is made up by a large number of people;

b) has weapons or dangerous implements;

c) has technologically advanced means of communication or transport with features making them especially appropriate in facilitating the commission of offences or providing impunity to the perpetrators.

If two or more of these circumstances are present the next higher degree sentences shall be imposed."

One hundred fifty-eight

Ordinals 3rd. y 4th are amended and ordinals 8th, 9th and 10th are added to Article 612, and they now read as follows:

"3.º Seriously injure, deprive or fail to provide necessary food or medical care to any protected person, or subject same to humiliating or degrading treatment, fail to inform same, without understandable justification of delay, of their situation, impose collective punishment for individual acts or violate the rules on the housing of women and families or on special protection of women and children set forth in the international treaties to which Spain is a party and, in particular, recruit or enlist persons under eighteen years of age or use them to participate directly in hostilities.

4.º Inappropriately use the signs or symbols, emblems or signals of protection that are established and recognised in the international treaties to which Spain is a party, especially the symbols of the Red Cross, the Red Crescent and the Red Crystal.

8.º Intentionally make the civilian population suffer hunger as a method of warfare, depriving it of goods necessary for survival, including arbitrarily blocking rescue supplies provided under the Geneva Conventions and their Additional Protocols from reaching them.

9.º Violate cease-fire, armistice, capitulation or other agreements entered into with the adversary.

10.<sup>o</sup> Intentionally direct attacks against any member of the United Nations personnel, associated personnel or personnel participating in a peacekeeping or humanitarian assistance mission, in accordance with the United Nations Charter, provided they are entitled to the protection granted civilian persons or property under the international law of armed conflicts, or threaten them with such attack to obligate individuals or legal entities to perform or abstain from performing an action.”

One hundred fifty-nine

Article 613 is amended, and now reads as follows:

“1. A sentence of from four to six years of imprisonment shall be given to whosoever, in the event of armed conflict performs, or orders to be performed, the following actions:

a) Attacks cultural assets or places of worship that constitute the cultural or spiritual legacy of peoples, or subjects them to reprisal or acts of hostility, provided such assets or places are not located in the immediate proximity of a military target or being used in support of the adversary’s military effort and are properly marked;

b) Inappropriately uses the cultural assets or places of worship referred to in subparagraph a) in support of a military action;

c) Loots, steals, sacks or performs acts of vandalism against the cultural assets or places of worship referred to in subparagraph a);

d) Attacks civilian assets of the adversary, or subjects them to reprisals or acts of hostility, causing their destruction, provided that they do not offer, in the circumstances of the situation, a definite military advantage and such assets do not effectively contribute to the military action of the adversary;

e) Attacks, destroys, removes or renders useless the goods necessary for the survival of the civilian population, except when the adversary is using such goods in direct support of a military action or exclusively as a means of subsistence for the members of its armed forces;

f) Attacks works or facilities containing dangerous forces, or making same the object of reprisals, when such attacks may cause the freeing of such forces and cause, as a consequence, major losses amongst the civilian population, except where such works or facilities are being used in the regular, major and direct support of military operations and such attacks are the only feasible way of putting an end to such support;

g) Without military necessity, destroys, damages or takes possession of things that do not belong to him or her, forces another to turn them over or performs any other act of pillage;

h) Unduly or unnecessarily seizes movable assets or real estate in occupied territory or destroys non-military ships or aircraft, and cargo pertaining to the adversary or a neutral, or captures them, in violation of international rules applicable to armed conflicts at sea;

i) Attacks or performs acts of hostility against facilities, supplies, units, private residences and vehicles of any member of the personnel referred to in ordinal 10th of Article 612 or threatens any such attacks or acts of hostility to force an individual or legal entity to perform or abstain from performing any act.

2. When the attack, reprisal, act of hostility or inappropriate use is aimed at any cultural assets or places of worship under special protection or to which protection has been conferred under special Agreements or real cultural assets, or places of worship under reinforced protection or their immediate proximity, the next higher degree sentence shall be given.

In the remaining cases provided for under the previous section of this article, a sentence that is higher in degree may be given when there is extensive, major, or extremely serious damage caused to the assets, works or facilities involved."

One hundred sixty

Article 614 is amended to read as follows:

"Whosoever, in the event of armed conflict, performs or orders the performance of any violations or acts contrary to the provisions of international treaties to which Spain is a party and in regard to the carrying out of hostilities, regulation of the means and methods of combat, protection of the wounded, sick and shipwrecked, treatment due prisoners of war, protection of civilians and protection of cultural assets in the event of armed conflict, shall be given a prison sentence of from six months to two years."

XXXI

Offence of piracy

One hundred sixty-four

Article 616 ter is added and reads as follows:

"Whosoever, through violence, intimidation or deceit, takes possession of, damages or destroys an aircraft, ship or other type of seacraft or platform at sea, or whosoever attacks persons, cargo or goods on board same, shall be convicted of piracy and given a sentence of from ten to fifteen years of imprisonment.

In any case, the sentence set forth in this article shall be imposed notwithstanding any other sentence imposed for the offences committed."

One hundred sixty-five

Article 616 quater is added, and reads as follows:

"1. Whosoever, in connection with the prevention or enforcement against the facts set forth in the previous article, resists or disobeys a warship or combat aircraft or military aircraft or other ship or aircraft clearly showing signs and identifiable as a ship or aircraft that is in service to the Spanish State and authorised for such purpose, shall be given a sentence of from one to three years of imprisonment.

2. If force or violence is used, in the above conduct, a sentence of from ten to fifteen years of imprisonment shall be imposed.

3. In any case, the sentences set forth in this article shall be imposed notwithstanding any others that may be appropriate for the offences committed."

– Agreement of 28 October 2010, by the Plenary of the General Council of the Judiciary, approving Regulation 3/2010, on reuse of decisions and other judicial orders (*BOE* n. 282, 22.11.10).

– Royal Decree 1800/2010, of 30 December, on the transfer of functions and services from the State Administration to the Autonomous Community of La Rioja in regard to provision of the personnel, material and economic means for the functioning of the Administration of Justice (*BOE* n. 318, 31.12.10).

## **XII. INTERNATIONAL ORGANIZATIONS**

– Order EHA/1044/2010, of 27 April, ordering the issue, coining and circulation of collector's coins on the Universal Exhibition of Shanghai 2010 (*BOE* n. 103, 29.04.10).

– Order EHA/1888/2010, of 5 July, ordering the issue, coining and circulation of collector's coins of the VIII Latin-America series "Encuentro de dos mundos" (Meeting of two worlds) (*BOE* n. 170, 14.07.10).

– Order EHA/1944/2010, of 15 July, ordering the issue, coining and circulation of collector's coins of the "World Champions South Africa 2010" (*BOE* n. 174, 19.07.10).

## **XIII. EUROPEAN UNION**

– Order EHA/406/2010, of 19 February, ordering the issue, coining and circulation of collector's coins with the slogan "European Heritage" (*BOE* n. 50, 26.02.10).

– Resolution of 20 May 2010, publishing the Agreement of Royal Legislative-Decree 7/2010, of 7 May, setting up the Fund of Aid to the Hellenic Republic and authorising an extraordinary credit of 9.794.387.450 euros (*BOE* n. 127, 25.05.10).

– Royal Legislative-Decree 9/2010, of 28 May, authorising the General State Administration to grant guarantees for certain financial transactions under the European Financial Stabilisation Mechanism for the Members of the Euro-Zone (*BOE* n. 131, 29.05.10).

– Resolution of 10 June 2010, Publishing the Agreement on Convalidation of Royal Legislative-Decree 9/2010, of 28 May, authorising the General State Administration to grant guarantees for certain financial transactions under the European Financial Stabilisation Mechanism for the Members of the Euro-Zone (*BOE* n. 145, 15.06.10).

– Organic Act 6/2010, of 27 July, supplemental to Act 31/2010, of 27 July, on simplification of information and intelligence exchange among security services of the Member States of the European Union, amending Organic Act 6/1985, of 1 July, on the Judiciary (*BOE* n. 182, 28.07.10).

*Note:* The Act on simplification of information and intelligence exchange among the security services of Member States of the European Union establishes, in the second paragraph of its second additional provision, that when judicial authorisation is required for access to the requested information, the jurisdictional bodies competent to authorise or, as appropriate, deny such access shall be the Central Examining Courts of the National

Court, except when the information is part of an open judicial process, in which case the competent court shall be the judicial body that is trying said case.

Therefore, a new text is needed for Article 88 of Organic Act 6/1985, of 1 July, on the Judiciary, assigning the jurisdiction for authorisation or, as appropriate, denial, to the Central Examining Courts when judicial authorisation is required for access to the requested information in the framework of the Act cited in the previous paragraph, provided the requested information does not form part of investigation carried out under an open judicial proceeding, in which case it corresponds to the jurisdictional body that is trying said case.

Article 88 of the Organic Act 6/1985, of 1 July, on the Judiciary, is changed as follows:

“In the city of Madrid there may be one or more Central Examining Courts, with jurisdiction throughout Spain, that examine cases to be tried by the Criminal Court of the National Court or, as appropriate, the Central Criminal Courts and that shall process the execution of European arrest and surrender warrants, and passive extradition orders, as well as requests for information from the security services of the Member States of the European Union when they require judicial authorisation, in the terms as set forth in the Act.”

– Act 31/2010, of 27 July, on simplification of information and intelligence exchange among the security services of the Member States of the European Union (*BOE* n. 182, 28.07.10).

– Order EHA/2314/2010, of 30 July, ordering the issue, coining and circulation of 2-euro collector's coins commemorating la Alhambra, Generalife and Albaicín of Granada (*BOE* n. 213, 2.09.10).

– Order EHA/2633/2010, of 4 October, ordering the issue, coining and circulation of 20-euro collector's coins commemorating the “World Championship” (*BOE* n. 248, 13.10.10).

– Resolution of 1 December 2010, by the Secretariat of State for the Economy, publishing the Agreement of the Council of Ministers establishing the specifications for application of Chapters IV and V of EU Regulation (UE) no. 961/2010 of the Council, of 25 October 2010, on restrictive measures against Iran and repealing EC Regulation nº 423/2007 (*BOE* n. 294, 04.12.10).

– Organic Act 9/2010, of 22 December, authorising ratification by Spain of the Protocol amending the Protocol on transitory provisions, annexed to the Treaty on European Union, the Treaty on the Functioning of the European Union and the Treaty Establishing the European Atomic Energy Community, signed in Brussels on 23 June 2010 (*BOE* n. 311, 23.12.10).

*Note:* The late entry into force of the Lisbon Treaty caused the elections to the European Parliament of June 2009 to be held while still under the earlier version of the Community Treaties. Therefore, a total of 736 deputies were elected, 50 of which were

elected in Spain. However, under the terms of the Lisbon Treaty and the political agreements reached for its implementation, 751 deputies would have been elected, 54 of which in Spain. This forms a delicate balance between the respective institutional weights of the Member States. To achieve this goal, and in view of the text of Art. 14.2 of the Treaty on European Union (hereinafter TEU), an amendment, albeit temporary, was clearly needed. It was considered that the best way was to reform Protocol 36 on transitional measures, whereby now the situation is provided for the remainder of the current legislative period 2009–2014. This reform has required abiding by the Treaty reform procedure, as established in Art. 48 TEU.

#### **XIV. INTERNATIONAL RESPONSIBILITY**

- Foral Act 9/2010 of the Autonomous Community of Navarra, of 28 April, on aid to victims of terrorism (*BOE* n. 132, 31.05.10).
- Act 10/2010, of 15 November, of the Autonomous Community of Andalusia, on aid to victims of terrorism (*BOE* n. 296, 06.12.10).
- Act 13/2010, of 23 November, on Civil Defence and Emergency Management (*BOE* n. 300, 10.12.10).

#### **XV. PEACEFUL SETTLEMENT OF DISPUTES**

#### **XVI. COERCION AND THE USE OF FORCE SHORT OF WAR**

- Royal Decree 94/2010 of 2 February declaring an official mourning period for the death of a member of the Spanish military contingent in the International Security Assistance Force in Afghanistan (*BOE* n. 29, 3.02.10).
- Royal Decree 484/2010, of 18 April, declaring an official mourning period for the death of some members of the Spanish military contingent in the humanitarian operation in Haiti (*BOE* n. 94, 19.04.10).
- Royal Decree 1086/2010, of 25 August, declaring an official mourning period for the death of two members of the Spanish military contingent in the International Security Assistance Force in Afghanistan (ISAF) (*BOE* n. 207, 26.08.10).
- Order PRE/2507/2010, of 23 September, approving the Regulation on Military Material Standardisation (*BOE* n. 235, 28.09.10).
- Royal Decree 1257/2010, of 8 October, regulating direct granting of subsidies for contracting private security on board tuna freezer ships currently operating in the Indian Ocean (*BOE* n. 245, 09.10.10).



– Royal Decree 1437/2010, of 5 November, declaring Royal Decree 96/2009, of 6 February, approving the Royal Orders for the Armed Forces applicable to the Civil Guard Corps (*BOE* n. 269, 06.11.10).

– Royal Decree 1438/2010, of 5 November, on military-type missions that may be given to the Civil Guard (*BOE* n. 269, 06.11.10).

*Note:* Article 3. *Missions.*

The military-type missions that may be given to the Civil Guard are as follows:

a) Participate in the planning, preparing and execution of military operations carried out by the Spanish or multinational Armed Forces, by performing the following functions:

- 1.º Military police, including specific special policing roles;
- 2.º Military surveillance and defence;
- 3.º Other actions as attributed in the context of military operations carried out by Spanish or multinational armed forces.

b) Participate fully in activities carried out by units, centres, or military agencies under the Ministry of Defence, as well as military judicial and prosecutor bodies, through performance of the following functions:

- 1.º Judicial police in the context of the military jurisdiction;
- 2.º Liaison, support and coordination;
- 3.º Intelligence, counter-intelligence and security;
- 4.º Military instruction;

c) Participate in activities of analogous nature as determined by the Council of Ministers, at the proposal of the Ministry of Defence.

## **XVII. WAR AND NEUTRALITY**

– Royal Decree 194/2010, of 26 February, adopting Security Rules for the Armed Forces (*BOE* n. 64, 15.03.10 and *corr. of errors* *BOE* n. 77, 30.03.10).

– Order DEF/960/2010, of 15 April, creating the Centre of Excellence against explosive devices in the context of the Ministry of Defence and its offer to the North Atlantic Treaty Organisation (*BOE* n. 95, 20.04.10).

– Royal Decree 684/2010, of 20 May, approving the Regulation on Military Honours (*BOE* n. 125, 22.05.10).

– Royal Decree 637/2010, of 14 May, providing for top level athletes to join the State Security Forces and Corps (*BOE* n. 127, 25.05.10).