

**SERVICES DIRECTIVE**



**REPORT ON THE TRANSPOSITION OF THE  
SERVICES DIRECTIVE**

**28 APRIL 2010**

## **EXECUTIVE SUMMARY**

*The **objective of the Services Directive** is to establish a genuine single market for services in the European Union. In aid of this goal, the Directive: proposes the removal of barriers and obstacles that unreasonably or disproportionately restrict access to, or the exercise of, service activities; simplifies procedures and formalities; promotes a point of single contact for access to information and the completion of procedures by electronic means; improves the supervision of providers by means of cooperation among public authorities; and reinforces the protection and rights of consumers. Member States have been granted a transposition period of three years.*

*Transposition has posed **a major challenge** for Spain. It has required a **considerable effort of review** of the Spanish model of economic intervention and of cooperation among all public authorities and with professional bodies.*

*The preliminary results are positive; in fact, a report issued by the European Commission shows that **Spain is among the most advanced Member States** as regards legislative change and the setting in motion of the point of single contact and the system of administrative cooperation.*

*This may reflect the approach adopted, which has consisted of regarding the process as **an opportunity to carry through a far-reaching reform** of the largest sector of the Spanish economy by creating a better and more transparent regulatory framework for the exercise of service activities, in the confidence that such new framework will give rise to gains in efficiency, productivity and jobs and augment the variety and quality of the services available to enterprises and the public.*

*Transposition at the **Central Government** level has taken the form of **Law 17/2009 on Free Access to Service Activities and the Exercise Thereof** ('Umbrella Law'), which transposes into internal Spanish law the general principles of the Directive; in addition, **50 laws and 118 royal decrees have been amended.***

*These fifty laws have been amended – except the Law on Retail Trade and the Consolidated Text of the Law on Environmental Impact Assessment, the reform of which was undertaken separately – by means of Law 25/2009, of 22 December, amending various laws to bring them into line with the Law on Free Access to Service Activities and the Exercise Thereof ('Omnibus Law'), which amends 48 laws.*

*For their part, the **Autonomous Communities** have amended or are about to amend 199 regional laws, 546 decrees,<sup>1</sup> 174 orders and six*

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<sup>1</sup> Includes the 7 regulations to be amended by the City of Melilla.

decisions. As to the **effect of these measures on local government**, the amendments made under the Umbrella Law, the Omnibus Law, and, as an inevitable consequence of the new basic legal framework laid out in the Local Authorities Services Regulation (Reglamento de Servicios de las Corporaciones Locales) and in the regional laws specific to each sector, local regulations on the services sector must likewise be adapted.

All these amendments go beyond the elimination of certain barriers overly restricting access to or the exercise of service activities, because they bring about a **change in the regulatory model** hitherto applied to the services sector. This new regulatory framework for the services sector entails new forms of overseeing service activities that are both more effective and less burdensome for citizens and enterprises.

As a general rule, therefore, the *ex ante* control of an activity implied in the requirement of prior authorisation is replaced by an *ex post* control of service activity predicated on the issue of a communication or undertaking as to the fulfilment of certain defined requirements. Communications and declarations will facilitate appropriate *ex post* control concerned to verify that the service activities carried on are compliant with current law. A new relationship is thus built is thus created between government and particulars allowing more efficient control of service quality and safety while reducing the barriers and entry costs to economic activity.

In more specific terms, the reform now in progress involves the removal of 116 authorisations at the national level and around 633 authorisations at the regional level, and the elimination of 594 requirements; **this signifies a considerable lowering of barriers and removal of administrative burdens** which will operate as an incentive to entrepreneurial activity.

#### **REGULATORY CHANGES IN THE VARIOUS SERVICE SECTORS**

The effects of transposition of the Directive of course vary from one area to another, being greatest in those areas that concentrate most service activities in Spain. **Regulatory change has concentrated on tourism, trade and industry**, bringing about a considerable simplification of the requirements and formalities that enterprises and professionals are called on to satisfy, and conferring on these actors a higher degree of responsibility, in so far as administrative control is now generally conducted after activity has commenced. The reforms also greatly impact the **area of professional services**, particularly by means of the amendment of Law 2/1974, of 13 February, on Professional Bodies, this being a topic that merits specific analysis.

In the **area of trade**, more than 153 authorisations will be eliminated. In addition, a general rule will be introduced that the setting up of commercial establishments will not be subject to an authorisation scheme and, for

*instance, the duty to register ex ante with the register of franchises and the register of distance vendors is done away with. Moreover, 82 requirements are removed, including the requirement for market research and other forms of economic test as a condition of authorisation for commercial distribution, or the requirement of individual certification of each goods dispensing machine in the automatic vending industry.*

*In the **tourism area**, an estimated 198 authorisations will be eliminated. As a general rule, authorisations formerly required for travel agents and certain hotel and restaurant establishments are now replaced by the giving of undertakings. 113 requirements are also removed, such as travel agents' former duty to exercise their activity on an exclusive basis.*

*Finally, in the **industrial services area** – including, inter alia, the installation and maintenance of pressure equipment, lifting appliances, electrical installations or gas-fuelled devices – at the national level 31 authorisations and around 97 requirements will be eliminated, such as the requirement of having premises of certain dimensions or of certain operators having to be employed under full-time contracts.*

*In addition, in **areas such as environment, agriculture and health**, application of the principles of good regulation under Law 17/2009 has allowed for **the removal of a considerable number of obstacles and barriers that have been adjudged disproportionate.***

*In the **area of professional bodies**, in Spain 87 professions are regulated by a national or regional professional body, according to the 'Report on the professional services sector and professional bodies' published in September 2008<sup>2</sup> by the National Competition Commission (Comisión Nacional de Competencia, CNC). The reform requires that all these professional bodies bring their charters into line with the Law, against the background of a process which is already in motion and is expected to come to a conclusion in the coming months. **The following implications are highlighted:***

- **Restrictions and barriers to professional activity** are eliminated, e.g.:
  - As regards **incompatibilities**, professionals will be subject only to those laid down by statute, and not to incompatibilities defined in the rules framed by the professional bodies.

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<sup>2</sup> These are the data appearing on page 8 of the CNC's report, although further professional bodies have been created since its release in September 2008.

- *The **restrictions on advertising** stipulated by professional bodies are removed; only statutory restrictions remain in place.*
  - *The **exercise of a profession in the form of a partnership** is now no longer to be obstructed by any rules of professional bodies that may impose restrictions beyond those present in legislation.*
  - *The duty is abolished to communicate the practice of a profession outside the territory of the professional body of one's registration.*
  - ***Professional body registration** and membership fees may not exceed the cost of registration procedures and formalities.*
- *Statutory duty of **certification** by the professional body is removed; this was a formality required for many acts of the technical professions which involved a cost that was passed on to service end users. Within a time limit of four months, the Government must introduce a Royal Decree indicating those professional body certifications that remain in place as mandatory; otherwise, the certification formality will be discretionary, at the client's option. Provision is made for the content of the certification by the professional body and the responsibility assumed by it granting it.*
  - *The new statute bars professional bodies from publishing **professional fee scales**, in order to encourage competition and consumer choice. Professional bodies are allowed to set criteria for the measurement of court fees only.*
  - *Criteria are laid down regulating the **duty of membership** of a professional body, which will be mandatory only where justified and proportionate. Within a time limit of twelve months there will be introduced a Bill defining the circumstances in which membership of a professional body is mandatory.*
  - *Finally, the role of professional bodies is guided towards **protecting consumers' interests**, thus attending to one of the basic objectives of the Directive.*
    - *Professional bodies are placed under a duty to operate a **user and member service unit** which must decide upon or process users' and members' complaints, as appropriate.*

- *The reform strongly encourages the introduction and use of **electronic means of communication**; professional bodies are accordingly to have in place the means required for applicants to process their registration electronically.*
- *Provision is made to reinforce **transparency** in the functioning of professional bodies by placing them under a duty to publish an annual report on their financial performance and their disciplinary actions in defence of consumers' interests.*
- *These amendments to the Law on Professional Bodies affect a **population segment of close to a million professionals** who in 2006 accounted for 6.1% of total employment and 30% of employment among university graduates. The chartered professions produce 8.8% of GDP. In addition, close to 430,000 people are in a salaried job associated with a chartered profession. The aggregate volume of direct and indirect jobs supported by the chartered professions is thus in excess of 1.4 million.<sup>3</sup>*

#### **POINT OF SINGLE CONTACT**

*Within the time limit for transposition of the Services Directive, a virtual **point of single contact** has been set in motion to provide consumers and service providers with all the necessary information on the procedures and formalities for access to or the exercise of a service activity in Spain and to enable these formalities to be completed electronically. This initiative is one of the cornerstones of the Directive and is set to become one of its most visible elements. The Services Directive point of single contact is now accessible at the URL:*

[www.eugo.es](http://www.eugo.es).

*When a service provider decides to initiate an activity, he or she will no longer need to address several public authorities to collect all the necessary information nor travel physically to complete each of the required formalities. From now on, he or she will have all the information available over a single Internet portal and be able to complete the procedures by electronic means. In addition, this point of single contact enables users to consult applicable laws and regulations, become*

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<sup>3</sup> *Report produced by the Instituto de Estudios Económicos para la Unión Profesional (2006), Impacto en la economía española de las profesiones colegiadas: un estudio sobre la producción y el empleo ('The impact of the chartered professions on the Spanish economy: A study of output and employment').*

acquainted with the consumer and business associations in existence, obtain information about the mechanisms of appeal and request assistance by telephone or electronic mail. These innovations will powerfully stimulate the sector, and will be of particular benefit to small and medium-sized enterprises (SMEs) and the self-employed, who bear proportionally greater costs for completing formalities and collecting information.

#### **ADMINISTRATIVE COOPERATION**

Moreover, in order to secure more efficient oversight of services and service providers by public authorities, mechanisms of **reinforced cooperation have been set in motion among all the public authorities of all Member States**. A European network has been deployed of competent and coordinating authorities designated by each Member State; Spain is an active network participant. This network takes the form of the Internal Market Information (IMI) system, a technical platform enabling direct electronic communication among the competent authorities of different Member States.

The system supports more effective supervision of service providers so as to assure service safety and quality while lightening the administrative burdens borne by providers when they desire to set up an establishment or temporarily provide services outside their original place of establishment. From now on, when a provider established in Spain moves to another country, it is unnecessary for them to furnish documentation or substantiate compliance with the requirements which they already satisfy in Spain for the exercise of service activities. Furthermore, it is no longer necessary to produce original, authenticated documents or sworn translations before the competent authorities of the other Member States; it is now the authorities who must verify the accuracy and content of such documents via the administrative cooperation network created under the Directive. The final outcome is that providers established in Spain who intend to operate in other Member States face a reduced burden.

## **CONCLUSIONS**

*The transposition of the Services Directive has brought with it a major reform of the economic regulatory framework which **is expected to have significant economic effects**. The Ministry of Economy and Finance estimates the impact of the reforms to entail an increase in GDP of around 1.2%, coupled with the creation of 150,000 to 200,000 jobs.*

*It is to be underscored that although the time limit for transposition of the Directive has now expired, this does not imply that the process of modernisation of service sector regulations has come to an end. Rather, **a range of different initiatives at both the European and the Spanish level ensure that structural reform will enjoy continued vigour**.*

*In the European framework, the exercise of evaluating the transposition of the Directive in each Member State creates new opportunities to continue removing disproportionate barriers to the provision of services and to continue improving the regulatory framework on the basis of experiences in other countries.*

*At the internal level, the coming weeks must see the culmination of a process of adapting national regulations to the amendments to the Umbrella Law and the Omnibus Law, and, furthermore, the constitution will be completed of the Committee for Regulatory Improvement, the creation of which is prescribed by the Umbrella Law, in order to continue the improvement of economic regulation and prevent the introduction of new restrictions on markets.*

*In April 2010, the Central Government will specify the professional body certifications that remain in place as mandatory, and of that decision will be implemented in a Royal Decree. In the coming months, the various professional bodies must have brought their charters into line with the changes arising out of the Omnibus Law.*

*In addition, the parliamentary passage will be begun of the future Law on Professional Services, which will define the statutory duty of membership of a professional body in accordance with the principles prescribed by the Omnibus Law and, furthermore, will provide an opportunity to continue reform towards enhanced transparency, simplification and efficiency, by eliminating unreasonable or disproportionate barriers to the exercise of professional activities.*

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## I. DIRECTIVE 2006/123/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL OF 12 DECEMBER 2006 ON SERVICES IN THE INTERNAL MARKET

Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, 'the Services Directive', is one of the mainstays of the Community strategy for economic momentum and consolidation of the internal market brought into being against the background of the Lisbon agenda.

Its objective is to achieve a genuine single market in services in the European Union by eliminating legal and administrative barriers which presently restrict the development of service activities between different Member States. The Directive is accordingly intended to reduce administrative burdens and provide greater legal certainty to those desiring to provide a service through a permanent establishment (freedom of establishment) or without an establishment (freedom to provide services).

These two freedoms are already enshrined in the Treaties establishing the European Union. The European Court of Justice, in its jurisprudence developed over the course of long lines of cases, has sharpened the outlines of these freedoms and their interactions with other principles and objectives in the public interest, such as the protection of health, safety and the environment. Principles and criteria have thus been coined to the limit the scope of national law if and when it collides with freedom of establishment and freedom to provide services.

However, at the opening of this decade, the continued existence of numerous barriers signified that there was as yet no single market in services, as made clear in a *Report on the Internal Market for Services* published by the European Commission in July 2002. Against this background, a need was clearly perceived to go beyond the sector-specific or case-by-case approach hitherto followed to build the internal market and enact a generally applicable instrument that would finally settle upon a set of ground rules governing the internal market for services.

The process of introduction of the Directive was protracted and beset by intense debate. Finally, the issues arousing the most concern having been resolved, the relationship having been clarified between the new Directive and other specific Community instruments, and its compatibility with the European social model, with regard to labour issues particularly, having been established, there was adopted Directive 2006/123/EC of the European Parliament and of the Council, of 12 December 2006, on services in the internal market. The Directive contains the fundamental elements to set in motion a regulatory and operational reform of public authorities across the European Union in order to give real effect to the

single market for services. The Directive entered into force on 28 December 2006; the Member States had a transposition time limit of three years, which expired on 28 December 2009.

The general content of the Services Directive can be described as follows:

- It is applicable to a wide range of service activities – specifically, all those services not expressly excluded from its scope of application. The Directive excludes a number of sectors, but Member States may, if they so desire, apply to some or all of those excluded services the general principles and mechanisms laid down in the Directive, such as the ‘point of single contact’.
- The Directive encourages the introduction of new forms of control of service activities that are both more effective and less burdensome for citizens and enterprises. Specifically, it intends to replace prior authorisation schemes and certain requirements applicable in many service segments with other, less restrictive means of control that do not discourage activity.
- The Directive prescribes that Member States must refrain from imposing the requirements under their national law on providers established in other Member States, except where such requirements are justified for reasons of public policy, public security, public health or the protection of the environment, are not discriminatory, and do not go beyond what is necessary to attain the intended objective.
- The Directive requires Member States to simplify administrative procedures, to adopt a point of single contact system for access to information and electronic completion of procedures, and to contribute to raising the quality of services, this being essential to the proper functioning of the internal market and the competitiveness of services in Europe.
- The Directive creates legally binding obligations whereby all the Member States’ competent authorities must cooperate with one another for the purposes of ensuring the supervision of providers and their services.

## **II. THE TRANSPOSITION OF THE SERVICES DIRECTIVE: AN OPPORTUNITY TO REFORM THE REGULATORY FRAMEWORK OF THE SERVICE SECTOR**

In addition to the objective of creating a genuine internal market for services pursued in the Community area, the transposition of the Services

Directive has major **direct implications for the regulatory framework of Spain's service sector**, the largest sector of the Spanish economy.

First, the Directive entrenches the application of the principles of **good regulation**, thus enabling the removal of barriers and obstacles that unreasonably restrict access to service activities and the exercise thereof, while reducing a wide range of administrative burdens borne by service providers.

Moreover, the simplification of procedures and the introduction of the point of single contact encourage **public authorities to modernise** by adopting forms of behaviour that focus more closely on enterprises' and users' requirements and needs.

The electronic point of single contact enables citizens to obtain information and complete by electronic means the procedures required to set in motion a service activity; it only excludes those formalities which, by their nature, require verification in person. Furthermore, public authorities must be in constant contact and coordination with those of the other countries of the European Union in order to secure effective the functioning of the market throughout the entire Community.

All the above elements redound to the **better protection of the rights of service consumers and users**; these rights are particularly reinforced with specific measures. It is thus ensured that any service user will have access to the services offered by any provider in the European Union; service providers are placed under a duty to operate transparently by making available to users the relevant data about themselves (name, legal form, address, and, if applicable, authorisation) and about the terms and conditions of service provision (features of the offered service, price, guarantees). Public authorities must inform, advise and assist service users so that they can file complaints with the competent authorities in the event of disputes with service providers, independently of the country in which they are located.

The improved regulatory framework attendant upon the transposition of the Services Directive creates an environment that better encourages activity, job creation, and the setting in motion of new entrepreneurial projects and, in general, **lends greater vigour to the service sector**, with salutary repercussions across the economy as a whole, giving rise to efficiency and productivity gains in the sectors involved and increasing the variety and quality of the services available to enterprises and citizens.

### III. THE WORK PROGRAMME FOR THE TRANSPOSITION OF THE SERVICES DIRECTIVE

Having regard to the direct economic implications of the application of the Services Directive, on 8 March 2007 the Delegate Committee of the Government for Economic Affairs (Comisión Delegada del Gobierno para Asuntos Económicos, CDGAE) created a Working Group comprising the Ministry of Economy and Finance and all the other Central Government ministries (competent authorities); the Working Group was entrusted with preparing the Work Programme to set in train the transposition of the Services Directive by 28 of December 2009 and to identify the main actions to be undertaken by the various Central Government ministries, including, in the areas within their specific remits, appropriate cooperation with regional and local authorities.

The Working Group met on four occasions and, on 26 July 2007, submitted to the CDGAE a **Work Programme** which thereafter governed the transposition process up to December 2009, the key points of which were as follows:

- The transposition of the Directive was an opportunity to move forward with the modernisation and simplification of the regulatory framework. The process of application of the Directive was thus closely tied to the broader exercise of the programme for better regulation and reduction of administrative burdens.
- The transposition of the Directive would create major opportunities for Spanish service-exporting enterprises.

The Work Programme set out the principles that were to guide the entire transposition process and the main lines of action; the Working Group for the transposition of the Services Directive was to submit regular reports to the CDGAE on the progress made.

#### III.1 PRINCIPLES OF THE WORK PROGRAMME

The Work Programme for the transposition of the Services Directive hinges on three principles:

- An **ambitious approach** to achieve competitiveness gains in relation to the other Member States by making full use of the momentum and reforming force contained in the Services Directive.
- Responsibility for transposition tasks rests with each public authority within the scope of its **powers**. Each public authority is

accordingly responsible for securing full and rigorous transposition of the Services Directive within the scope of its duties and powers.

- The public authorities involved must engage in close **collaboration**. This is essential having regard to the fact that the Services Directive operates both horizontally (embracing powers vested in all ministries) and vertically (impinging upon all three levels of government: national, regional and local).

## III.2 LINES OF ACTION

Given the magnitude of the task, the Work Programme was divided into four major lines of action: Coordination and cooperation with the public authorities involved; incorporation of the Services Directive to internal Spanish law; introduction of the point of single contact; and establishment of the Internal Market Information system.

### III.2.1. COOPERATION WITH THE PUBLIC AUTHORITIES INVOLVED AND INSTITUTIONAL STRUCTURE

The Work Programme revealed that, although application of the Directive before the end of the transposition period was the responsibility of the various public authorities within their respective areas of concern, it was nonetheless necessary to establish a scheme of collaboration among the three levels of government to lend additional vigour and support to the process of transposition and regulatory adaptation, using agile mechanisms of consultation and exchange of views. Moreover, this scheme would secure the required consistency across the range of regulatory changes to be undertaken, particularly in those areas requiring a regulatory amendment at all three levels of government.

Against this background, the Working Group decided that coordination was to take the form of a **simultaneous scheme of sector-specific collaboration**, enlisting the sectorial conferences and other, more agile supporting bodies, such as meetings of Directors General and other groups of technical specialists, in addition to **horizontal or general coordination**.

In brief, each Central Government Ministry and each Autonomous Community or City and the Spanish Federation of Municipalities and Provinces (*Federación Española de Municipios y Provincias*, FEMP) was to appoint **a sole partner** whose role would be to drive forward the transposition process at his or her centre. Similarly, area officers were to be appointed within each public authority to articulate suitable sectorial coordination.

The Work Programme also emphasised the need to frame a training plan regarding the Services Directive aimed primarily at persons called on to identify, screen and, as applicable, amend affected regulation, and persons concerned with the drafting of regulations – whether wholly new or designed to implement existing rules – who need to be conversant with the Directive in order not to draft provisions in contradiction with it.

This training programme was to have the support of a system of communication relating to the Services Directive through the website of the Ministry of Economy and Finance, including:

- a concise history of the process of drafting the Directive;
- a summary of the Directive, and its full text;
- a current list of activities and events being conducted in Spain in connection with transposition (seminars, conferences, etc);
- a set of basic questions and answers about the Services Directive;
- and documentation relevant to the procedure for transposition of the Directive in Spain.

### III.2.2. TRANSPOSITION OF THE SERVICES DIRECTIVE

It was thought expedient to transpose the Services Directive by means of a twofold approach:

- To adopt a **horizontal law** (the "Umbrella Law") containing the general principles of the Directive and putting in place a legal frame of reference for the present and future regulation of service activities.
- **To amend the sectorial rules now in force.** This last action was to be structured into three phases:
  - identifying potentially affected regulations,
  - screening for compatibility with the Directive, and
  - amending sectorial regulations accordingly.

### III.2.3. IMPLEMENTING THE POINT OF SINGLE CONTACT

The implementation of a point of single contact requires that providers be able to complete all the necessary procedures and formalities to access and exercise a service activity through a single point of contact, by electronic means. To satisfy these requirements, it was necessary to:

- Identify all procedures and formalities affected by the Services Directive.
- Adopt a work programme specific to the implementation of the point of single contact, enabling the use of existing networks.
- Establish a work plan with the Autonomous Communities and the Spanish Federation of Municipalities and Provinces.

#### **III.2.4. ADMINISTRATIVE COOPERATION AMONG MEMBER STATES**

Administrative cooperation is of the essence to the proper functioning of the internal market for services. The Directive accordingly makes provision for legally binding duties conducive to effective cooperation among the Member States by electronic procedures, in order to ensure adequate supervision of service providers and their services.

Administrative cooperation is to be carried into effect directly among competent authorities through an electronic system -- the Internal Market Information (IMI) system created by the European Commission. The setting in motion of the IMI system made it necessary to:

- Identify all the competent authorities capable of membership of the system at each of the three levels of government.
- Designate the department in charge of managing the system and of producing a work programme for its implementation.

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## **IV. COOPERATION WITH THE PUBLIC AUTHORITIES INVOLVED AND INSTITUTIONAL STRUCTURE**

Given the magnitude of the Work Programme and the wide range of areas of concern, the actions of all parties involved in the transposition process had to be suitably coordinated. As examined in detail further below, the coordination effort encompassed Community, national, regional and local government, and brought into being an institutional framework involving close to 650 people directly concerned with transposition and taking active part in the various meetings.

### **IV.1. COORDINATION WITH THE EUROPEAN COMMISSION AND THE MEMBER STATES**

Given the complexity of transposing the Services Directive in the Member States of the European Union and of the European Economic Area, the European Commission decided to create an Expert Group on Transposition; thirty Member States are represented, under the chairmanship of the Commission.

These meetings, held in Brussels, are intended to:

- Lay down similar criteria for the interpretation and transposition of the Services Directive.
- Determine the manner of reporting on the outcomes of transposition and the channels for subsequent reporting and notices.
- Arrive at a common method of application of certain articles.
- Analyse and consider certain technical issues relating to the implementation of the point of single contact.
- Report on and design the system of administrative cooperation (IMI)

37 meetings in Brussels were attended, and the participating departments included the Ministries of Economy and Finance, of Territorial Policy, of the Presidency, of Environment and Rural and Marine Affairs, and of Industry, Tourism and Trade. Of these meetings, seven were held within the IMAC-IMI group for the establishment of the system of administrative cooperation, and one was held within the Directive 98/34 committee.

In addition, a number of bilateral meetings were held with the European Commission in Madrid, with a delegation of the United Kingdom's Services Directive implementation team, who travelled to Madrid in June 2008, and with the transposition working party of the Netherlands in Amsterdam.

## IV.2. HORIZONTAL COORDINATION

**Horizontal coordination** has afforded closer consistency to the entire process of transposition. Horizontal coordination provides a conduit for general guidelines and messages to be disseminated to the rest of responsible parties, and provides support for the work to be undertaken. Work instruments are adopted and progress is assessed in horizontal themes such as the point of single contact and administrative cooperation.

Horizontal coordination has been given effect through:

- The Inter-Departmental Working Group for Transposition of the Services Directive, in which all Central Government Ministries take part. The Working Group has met on 13 occasions since the start of the transposition process.
- Meetings of sole partners representing Central Government Ministries, Autonomous Communities and Autonomous Cities, and the Spanish Federation of Municipalities and Provinces. Since July 2007, all these partners have taken part in seven meetings and in the General Conference for the Screening of Regulation.

These efforts have lent support to the transposition process and encouraged the active involvement of all public authorities at all levels of government; this work has been supplemented by **technical working groups** that have addressed more specific issues in connection with transposition.

## IV.3. TECHNICAL COORDINATION GROUPS

A number of technical working groups have been created to draft a proposed Umbrella Law and to implement the point of single contact. In addition, within each different area, sectorial technical working groups have been created, involving Central Government Ministries, the Autonomous Communities and the FEMP, to appraise the implications for each specific sector.

### IV.3.1. INTER-DEPARTMENTAL TECHNICAL GROUP FOR THE DRAFTING OF THE UMBRELLA BILL

In order to produce a draft bill of the "Umbrella Law", the horizontal law transposing the Services Directive, in July 2007 there was created an Inter-Departmental Technical Group comprising experts drawn from the Ministries of Economy and Finance, of Foreign Affairs and Cooperation, of Public Administrations, and of Industry, Tourism and

Trade. This working party met on 20 occasions over the course of 2007.

#### **IV.3.2. SECTORIAL TECHNICAL GROUPS FOR STATUTORY IDENTIFICATION AND SCREENING**

Since the Services Directive addresses a widely diverse range of specific matters, the transposition of the principles of the Directive demanded a sectorial approach.

Each Central Government Ministry has therefore been responsible for coordination within the areas of its concern, convening technical sectorial meetings at regular intervals, with the participation of Autonomous Community officials connected with the given area. 33 such technical meetings were held in order to set down consistent criteria and identify and screen the existing regulation within each area, ranging across the entire spectrum of national, regional and local law.

Sectorial coordination has enjoyed institutional reinforcement insofar as sectorial conferences and meetings of Directors General included on their agenda an item relating to the state of progress of the transposition of the Directive and of its connected legislative changes.

There follows a summary of the roles of the various officials and units in charge of transposition of the Services Directive as regards horizontal and sectorial coordination:

	<b>RESPONSIBILITIES IN THE TRANSPOSITION PROCESS</b>	<b>SCREENING</b>	<b>SECTORIAL COORDINATION</b>	<b>COMMUNICATION OF RESULTS</b>
<b>CENTRAL GOVERNMENT MINISTRIES' SOLE PARTNERS</b>	<ul style="list-style-type: none"> <li>- Support the process of transposition of the Directive within the area of concern of their Ministries</li> <li>- Actively participate in horizontal coordination through the WGTSD</li> <li>- Pass on horizontal guidelines to area coordinators in their Ministries</li> <li>- Notify the coordinating Ministry (Economy and Finance) of any difficulties or doubts that might arise</li> </ul>	<ul style="list-style-type: none"> <li>- Responsible for screening national regulation within their remit</li> <li>- Responsible for completing screening questionnaires (relating to that regulation)</li> </ul>	<ul style="list-style-type: none"> <li>- Support sectorial coordination with the Autonomous Communities in areas within their remit</li> <li>- Set guidelines for identifying and screening regulation</li> <li>- Convene regular technical meetings between the Ministry and the Autonomous Communities (with the officials in charge of the respective area in the Autonomous Communities)</li> </ul>	<ul style="list-style-type: none"> <li>- Examine the soundness of the identification and screening conducted by the various Autonomous Communities with regard to the areas prescribed by the WGTSD</li> <li>- Advise the coordinating Ministry (Economy and Finance) of the results of regulatory identification and screening for their area (national and regional)</li> </ul>
<b>SOLE PARTNERS OF THE AUTONOMOUS COMMUNITIES</b>	<ul style="list-style-type: none"> <li>- Support the implementation and application of the Directive within the area of their Autonomous Community</li> <li>- Appoint area officers in their Autonomous Community</li> <li>- Pass on horizontal guidelines to area officers in their Autonomous Community</li> <li>- Participate actively in horizontal coordination through meetings of sole partners representing Central Government Ministries, Autonomous Communities and the FEMP</li> <li>- Notify the coordinating Ministry (Economy and Finance) of any difficulties or doubts that might arise</li> </ul>	<ul style="list-style-type: none"> <li>- Responsible for regulatory screening within their Autonomous Community (by area officials)</li> <li>- Responsible for completing screening questionnaires (by the relevant area officials)</li> </ul>	<ul style="list-style-type: none"> <li>- Responsible for sectorial coordination within their Autonomous Community</li> <li>- Assure the involvement of the area officials of their Autonomous Community in sectorial meetings convened by Central Government Ministries</li> <li>- Advise the Ministry of Economy and Finance of any difficulties that may arise in connection with sectorial coordination</li> </ul>	<ul style="list-style-type: none"> <li>- Monitor the work conducted by area officials in their Autonomous Community</li> <li>- Advise the coordinating Ministry (Economy and Finance) or the relevant sectorial Ministry of any difficulty that may arise</li> </ul>
<b>AREA COORDINATORS AT CENTRAL GOVERNMENT MINISTRIES</b>	<ul style="list-style-type: none"> <li>- Support the process of transposition of the Directive within the area of their area</li> <li>- Notify the sole partner of their Central Government Ministry of any difficulties or doubts that may arise</li> </ul>	<ul style="list-style-type: none"> <li>- Responsible for screening of Central Government regulation within their area</li> <li>- Responsible for completing screening questionnaires (relating to that regulation)</li> </ul>	<ul style="list-style-type: none"> <li>- Support sectorial coordination with Autonomous Communities in their area</li> <li>- Set guidelines for identifying and screening regulation</li> <li>- Convene regular technical meetings between the Ministry and the Autonomous Communities (with the officials in charge of the respective area in the Autonomous Communities)</li> </ul>	<ul style="list-style-type: none"> <li>- Examine the soundness of the results of the Autonomous Communities' identification and screening in relation to their area</li> <li>- Report on sectorial coordination and pass on the results of identification and screening to the sole partner of their Ministry</li> </ul>
<b>AREA OFFICIALS AT THE AUTONOMOUS COMMUNITIES</b>	<ul style="list-style-type: none"> <li>- Support the implementation and application of the Directive within the area of their Autonomous Community in their respective area</li> <li>- Report to the sole partner of their Autonomous Community regarding the work done at the sectorial level</li> <li>- Advise the sole partner of their Autonomous Community or the primary liaison point of the competent Ministry in their area of any difficulties or doubts that may arise</li> </ul>	<ul style="list-style-type: none"> <li>- Responsible for screening of affected regulation within their area in their Autonomous Community</li> <li>- Responsible for completing screening questionnaires (relating to that regulation)</li> </ul>	<ul style="list-style-type: none"> <li>- Participate in the sectorial coordination set in motion by the Ministry concerned with their area and, if appropriate, suggest specific meetings</li> <li>- Keep the sole partner of their Autonomous Community informed in relation to sectorial coordination</li> </ul>	<ul style="list-style-type: none"> <li>- Report to the competent Ministry in their area as to the progress made and results obtained in identification and the screening</li> <li>- Report all their actions to the sole partner of their Autonomous Community</li> </ul>

### IV.3.3. POINT OF SINGLE CONTACT TECHNICAL GROUP

In June 2008, the Delegate Committee of the Government for Economic Affairs made a request to the Ministry of the Presidency, formerly the Ministry of Public Administrations, to chair the Working Group responsible for the setting in motion and the functioning and operation of the point of single contact.

The Ministry of the Presidency set afoot the required tasks and submitted proposals to an Advisory Committee comprising representatives of the Ministries of Economy and Finance, of Industry, Tourism and Trade, and of Interior Affairs, in addition to the Ministry of the Presidency itself. The Advisory Committee takes strategic decisions regarding the setting in motion and operation of the various elements of the point of single contact. In addition, a Technical Group has been created comprising partners of the various Central Government Ministries, the Autonomous Communities and the FEMP.

- The **Advisory Committee** has met on several occasions and its members have remained in permanent electronic contact to discuss and validate the development of the point of single contact.
- The **Technical Group of the Autonomous Communities and the FEMP** has met on four occasions; bilateral meetings have been held with all the Autonomous Communities and with 30 local authorities.
- Meetings have been held with professional bodies for the purpose of incorporating their procedures and formalities to the point of single contact.
- Meetings have been held with the Chambers of Commerce to consider their potential involvement as social collaborators.
- At first, relations with Central Government bodies were established by the conduit of the SIA partners; in November, in view of the fact that progress was slow, contact was made directly with those partners in order to drive forward the tasks relating to content.
- Finally, the Ministry took part in coordination meetings at Brussels, in relation both to procedure and to the PSC, attended by all Member States and the European Commission. This Working Group has produced a classification of service activities based on the European NACE classification, and a mockup of the website; the Group has taken part in a usability study in partnership with a number of other Member States.

#### IV.4. TRAINING AND COMMUNICATION ACTIVITIES

The coordination and dissemination of the content of the Services Directive has made training and communication actions essential.

As regards **training**, the Ministry of Economy and Finance has provided 19 technical training actions at the request of 11 Autonomous Communities (Andalucía, Aragón, Community of Madrid, Balearic Islands, Canary Islands, Castilla y León, Galicia, Basque Country, Asturias, Catalonia and Valencian Community) and Central Government Ministries (Ministry of Education, Ministry of Industry, Tourism and Trade, Ministry of the Presidency, and Ministry of Environment). In addition to these general training and dissemination events, 34 specific training courses in the trade area were taught by the Directorate General for Trade Policy of the Ministry of Industry, Tourism and Trade at 11 Autonomous Communities (Andalucía, Aragón, Community of Madrid, Balearic Islands, Canary Islands, Castilla y León, Castilla La Mancha, Navarra, Basque Country, Catalonia and Valencian Community) and the FEMP. Contributions have been made to disseminate the Services Directive and its transposition in a range of different forums, primarily hosted by business associations, professional bodies and Chambers of Commerce.

Furthermore, the Ministry of Territorial Policy, through the Directorate General for Local Cooperation, and has taught a further 19 training courses for local authorities in the Balearic Islands, Andalucía (eight courses in each province for technical specialists and a further two in Seville and Granada for elected office holders), Cantabria, Asturias, Canary Islands (two courses, in Tenerife and Gran Canaria), Madrid, Valencian Community and Castilla-La Mancha.

In addition, given that the trade area is one of the is one of the domains most profoundly affected by the Services Directive, the Ministry of Industry, Tourism and Trade thought it appropriate to hold specific training courses on the sector. Three such courses concerned sales on rounds, and were accordingly hosted in partnership with sector associations and the FEMP; one course was taught in Portugal through an Iberian-wide forum, and another was held within the Working Group for Trade Inspection Coordination – one of the conclusions reached was that there is a need to provide inspection training to local authorities.

**Communication** work has benefited from the provision of full and updated information on an ongoing basis on the website of the Ministry of Economy and Finance. The website covers the issues and provides the materials required for an understanding of the Services Directive and reports on the progress made in transposing the Directive in Spain.

The Ministry's website also hosts the SIENA (*Sistema de Identificación y Evaluación de la Normativa Afectada por la Directiva de Servicios*, "System of identification and screening of affected regulation") application, which is available, through password-protected access, to over 900 users across Central Government, the Autonomous Communities and professional bodies, in aid of screening their respective bodies of regulation.

## V. TRANSPOSITION OF THE SERVICES DIRECTIVE

It is to be underscored that legislative transposition is a complex process that involves a fairly unprecedented exercise of screening existing regulation in many sectors of activity and, where appropriate, amending it to bring them into line with the principles and criteria of the Directive. These sector-specific adaptations were of course necessary to ensure that the final outcome of the process was a clear, simplified legal framework for the main sectors affected by the Services Directive.

However, the completion of this procedure on its own would be unlikely to exhaust the regulatory amendments needed for the Directive to be transposed in full, and would not necessarily prevent the introduction of new restrictions in future. This sector-based scheme accordingly fell to be supplemented by the drafting of a horizontal law or "Umbrella Law" incorporating the general principles of the Directive and providing a legal frame of reference beyond the transposition deadline.

Therefore, in July 2007 the Delegate Committee of the Government for Economic Affairs addressed itself to the transposition of the Services Directive by means of a twofold approach:

- To adopt a horizontal transposing law.
- To undertake sectorial regulatory adaptations, including both the adoption of specific measures and the amendment to existing provisions.

### V.1. HORIZONTAL APPROACH: AN AMBITIOUS "UMBRELLA LAW". A CHANGE OF STATUTORY MODEL

The first frame of reference for the transposition of the Services Directive into Spanish law was **Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof**.

#### V.1.1. WHY A HORIZONTAL TRANSPOSING LAW?

A number of different reasons warranted the adoption of a horizontal law that would transpose the essential elements of the Services Directive and serve as a benchmark statute:

- First, given that the Directive contains a series of principles that are to underpin the regulation of service activities even beyond its entry into force, it was expedient to **specify criteria of action**

**for public authorities** when facing the task of framing **new regulations**.

- Secondly, the Directive lays down what are intended to be binding rules of action for **coordination across different government bodies and competent authorities**, and, again, with application to widely diverse situations; it accordingly appeared appropriate to contain these rules within a general framework.
- Thirdly, the adoption of a horizontal law could be particularly important as a **safeguard against provisions** in specific areas **that might escape the attention of the regulatory screening process**, and as a guarantee that service activities to be regulated in future are also covered.
- Finally, the enactment of a horizontal transposing law would lend higher visibility and effectiveness to the provisions of the Services Directive. A new law would **facilitate the repeal or amendment of regulatory provisions contrary to the Directive by providing an internal legal instrument**. If a given regulatory provision were found to be incompatible with the Directive, the new Law would allow for such provision to be struck out directly.

The adoption of an ambitious **horizontal transposing law** revealed itself to be **the best way to attain the objectives pursued**: to eliminate the barriers unjustifiably restricting access to and the exercise of service activities, firmly establish a transparent and predictable legal framework that would encourage economic activity, support the modernisation of public authorities so that they focus on the needs of enterprises and consumers, and assure better protection of service users' rights.

#### **V.1.2. SUMMARY OF THE PROCESS**

Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, was the outcome of a careful process guided by the principles of transparency and good regulation.

The Ministry of Economy and Finance, based on the work of an Inter-Departmental Technical Group created in July 2007, produced a draft bill of the transposing law. The draft bill was submitted on two occasions to the Delegate Committee of the Government for Economic Affairs and on three occasions to the General Commission of Secretaries of State and Under-Secretaries. In the course of this

preliminary review, all Central Government departments provided commentary which no doubt helped improve the text.

On 27 October 2008, the Council of Ministers adopted the draft bill; an opinion on this paper was sought from the Economic and Social Council (Consejo Económico y Social), the National Competition Commission (Comisión Nacional de la Competencia) and the Consumers and Users Council (Consejo de Consumidores y Usuarios); the paper was then submitted to the National Commission of Local Government (Comisión Nacional de Administración Local, CNAL).

Having regard to the importance and foundational nature of the draft bill, and for the purpose of satisfying the principles of good regulation and taking account of the observations of the public authorities to be involved in the application of the future statute, it was thought appropriate to subject the paper to a public hearing, with specific consultations being entered into with the Autonomous Communities and Autonomous Cities. Observations and commentary were accordingly received from the Autonomous City of Melilla and eight Autonomous Communities: Community of Madrid, Catalonia, La Rioja, Castilla y León, Castilla-La Mancha, Basque Country, Canary Islands and Murcia. Furthermore, the draft bill was subjected to public review over the website of the Ministry of Economy and Finance, attracting a high rate of involvement; contributions were received from widely diverse quarters: private enterprises, business associations, professionals and academic experts.

Finally, the Council of State issued its mandatory opinion on 23 March, and the Council of Ministers adopted the Bill on 27 March 2009, for the purposes of laying it before the Parliament. The Law was published in the *BOE* [Spanish Central Government Gazette] on 24 November 2009, and came into force on 25 December 2009.

### V.1.3. CONTENT OF LAW 17/2009, OF 23 NOVEMBER, ON FREE ACCESS TO SERVICE ACTIVITIES AND THE EXERCISE THEREOF

The **purpose of the Law** is to make the general provisions required to encourage freedom of establishment and freedom to provide services by simplifying procedures, while fostering high quality in services and preventing the placing of unjustifiable or disproportionate restrictions on the functioning of the market for services.

The Law reproduces the **scope of application**<sup>4</sup> of the Services Directive, and emphasises the following areas:

- **Freedom of establishment** The concept contains the general principle that access to and the exercise of a service activity must not be subject to an authorisation scheme. An authorisation scheme may continue to stand only if it is non-discriminatory, necessary and proportionate. As a general rule, what is more, authorisations are to be granted for an unlimited term and shall be effective throughout Spanish territory. In addition, the Law incorporates elements of transparency, simplicity and objectivity to procedures, prohibits the subjection of access to or the exercise of a service activity to the satisfaction of overly restrictive requirements, and makes the applicability of other requirements exceptional and subject to prior evaluation.
- **Freedom to provide services** This concept likewise contains the general principle that access to or the exercise of a service activity by providers established in other Member States, or the temporary exercise of such activity in Spanish territory, may be made subject to the satisfaction of requirements only if these are not discriminatory by reason of nationality, are justified on grounds of public order, public safety, public health or protection of the environment, and are proportionate.

Furthermore, the Law removes the barriers encountered by potential recipients desiring to engage the services of providers established in other Member States.

- **Administrative simplification** The Law assures providers' right to use an electronic point of single contact to complete all the procedures and formalities required to access and exercise a service activity; public authorities are placed under a duty to eliminate any procedures and formalities that are no longer necessary or replace them with alternatives that are less burdensome for providers, and to accept documents produced in other Member States showing that a given requirement has been satisfied.

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<sup>4</sup> Following the Directive, the Law does not apply to the following activities: non-economic services in the public interest; financial services; electronic and communications network services; transport services, including port services; services provided by temporary employment enterprises; healthcare services; audiovisual services, including film services, and radio broadcasting; gambling activities, including lotteries; activities relating to the exercise of public authority; social services relating to social housing, childcare and support for persons and families temporarily or permanently in need, provided directly or indirectly by public authorities; private security services; and the services provided by notaries, land registrars and registrars of companies.

- **Service quality policy** This area relates to the lines of action on the basis of which public authorities are to encourage the highest standard of quality in services; it also makes provision for providers' duties as to mandatory disclosures and complaint procedures. In addition, to facilitate service users' access to information, blanket bans are lifted on commercial communications by practitioners of regulated professions, and the quality and range of offered services are improved by the removal of unjustified restrictions on multidisciplinary activities, such that service providers may not be confined to the exclusive exercise of a single activity.
- **Administrative cooperation towards effective control of providers** This area makes provision for duties of cooperation among the competent authorities of different Member States. To ensure effective supervision and adequate protection of service users, the Law introduces a mechanism of alerts, whereby, if an authority becomes aware of serious acts or circumstances relating to a service activity or provider that might cause serious harm, it must immediately notify all Member States and the European Commission.
- **Committee for the Improvement of Regulation on Service Activities** The Law creates this new body of multilateral cooperation for the purpose of monitoring and coordinating the efforts of the various public authorities towards the proper transposition of the Directive. All the Autonomous Communities and local government shall be represented on this committee.

#### V.1.4. IN WHAT SENSE IS THE LAW 'AMBITIOUS'?

This section highlights some of the areas in which Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, do not merely recreates the provisions of the Directive but, in order to maximise its economic effects and encourage a more far-reaching reinvigoration of the services sector, prescribe a more ambitious scope of application or a wider application of the overarching principles of the Directive.

The expected benefits of the coming into force of this Law in terms of efficiency, productivity and employment will be enhanced to the extent that its scope of application is broadened. While the scope of application of the Law as a whole is no different from that of the Directive, some sectors are to enjoy added benefits arising from the introduction of the point of single contact. The Law therefore establishes a **broader scope of application as regards administrative simplification**.

In order to **bolster the principle of freedom of establishment**, the Law expressly prescribes, unlike the Services Directive, alternative regulatory practices that allow for application of the principle of proportionality: notifications and undertakings of compliance. Moreover, the Law narrows the scope of some of the restrictions tolerated in the Directive as to constructive denial of authorisation [*negative silence*], limitation of number of authorisations, and use of requirements subject to evaluation, inter alia.

To reinforce the effective application of the fundamental principle of **freedom to provide services**, the Law uses two mechanisms to dilute the limitations placed on that principle by the Directive. The Law recognises no exception to the prohibition of certain requirements that would severely restrict freedom to provide services, such as the duty to be established in Spanish territory or the duty to obtain an authorisation granted by Spanish authorities, and circumscribes exceptions to this principle to those specific sectors and areas in which it has been ascertained that application of the principle is problematic.

In the domain of **administrative simplification**, the Law contemplates fewer exceptions than the Directive, in order to support an effective movement towards simplification and thus lighten the burden faced by providers.

Finally, for the enforcement of the Law, three major novelties are introduced:

- The **scheme of infringements and penalties** for breach of service providers' duties of disclosure simply incorporates by reference the scheme created in the legislation on protection of consumers and users, thus avoiding any undesired overlap that might duplicate the applicable administrative penalties.
- A **committee for the improvement of regulatory provisions on service activities** is created in order to coordinate the various public authorities' efforts towards the proper transposition of the Directive and application of the Law.
- To ensure consistency between this Law and its implementing regulations, provision has been made for the **liability of the competent public authority** in events of the Kingdom of Spain incurring a penalty as a result of infringement proceedings in response to a regulation being held contrary to the Services Directive.

### V.1.5. CHANGE OF REGULATORY MODEL

Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, **creates a frame of reference** and introduces a range of principles to which all regulatory provisions governing service activities must be accommodated. All existing and future regulation on the tertiary sector must satisfy certain conditions and pass the range of **good regulation filters** which this Law introduces into the Spanish legal system.

This new regulatory framework for the services sector entails **new forms of overseeing service activities** that are both more effective and less burdensome for citizens and enterprises.

Access to a service activity is frequently subject to the grant of one or more **prior authorisations** by the various competent public authorities; this creates a sometimes unnecessary **entry barrier** that distorts the functioning of the market for services. Law 17/2009, of 23 November, on Free Access Service Activities and the Exercise Thereof, as a general rule, carries through **a shift from the ex ante control** implied in the requirement for prior authorisation **to an ex post form of control** based on the giving of a notification or an undertaking of compliance such as to enable an effective scheme of control and supervision of the given activity after it has commenced. A new relationship is thus created between government and particulars, allowing more efficient control of service quality and safety while reducing the barriers and entry costs to economic activity.

This **change of regulatory model** rests on two main grounds. First, ex ante control discourages activity and sets up an entry barrier that raises costs, reduces competition, widens the scope for arbitrariness and activities in pursuit of unearned income, and brings about frequently unnecessary uncertainty, delay and distortion in the governance of economic activities. Secondly, ex ante control of service activities often offers no better assurance of safety and quality. In the absence of control and supervision of an activity after the provider starts operation, ex ante control is to little effect. A scheme of prior authorisation merely verifies that the provider satisfies regulatory requirements before he commences operation. However, it offers no guarantee that those requirements will continue to be satisfied throughout the exercise of the activity.

Therefore, **service safety and quality** is better protected by ex post control; at one and the same time, ex post control avoids the

distortions and inefficiencies entailed by schemes of prior authorisation.

On the other hand, **the preservation of authorisation schemes is sometimes justified and proportionate** with respect to a given objective in the public interest. The decision as to whether or not to allow an authorisation scheme to stand is decisively influenced by **consideration of the harm** that might be caused by a provider who commences the exercise of an activity without satisfying regulatory requirements. Only where that potential harm would be serious, irreparable and irreversible is it justified to preserve ex ante control of the activity. Otherwise, the prior authorisation scheme must be relinquished and a scheme of ex post control adopted in its stead.

## V.2. SECTORIAL APPROACH: REINFORCEMENT OF THE PRINCIPLES OF GOOD REGULATION

The process of sectorial adaptations of national, regional and local regulation has been structured into three phases: identifying potentially affected regulations, screening compatibility with the Directive, and amending sectorial regulations.

In addition, the strategy adopted differed as a function of whether the affected provisions were national or regional, on one hand, or, on the other, issued by a local authority or professional body. The need to identify and screen provisions issued by 8,114 local authorities counselled the adoption of a distinct strategy directed at this source of regulations and administrative practices. In addition, the special nature of professional bodies' regulations likewise warranted a specific approach to their amendment.

### V.2.1. IDENTIFICATION PHASE

The phase involving identification of regulation potentially affected by the application of the Services Directive began even before the creation of the Inter-Departmental Working Group for the Transposition of the Services Directive. Identification focused on the four lines of action of the Work Programme: actors involved, regulation, electronic procedures, and competent authorities.

For the purposes of organising the various amendments to regulation, the sectors affected by the Services Directive were classified into 22 areas of activity, as set out in the following table:

AREA	SAMPLE REGULATORY DOMAIN	AREA	SAMPLE REGULATORY DOMAIN
<b>PUBLIC AUTHORITY</b>	The general scheme of licences granted by local authorities and the horizontal provisions of the common procedure	<b>INDUSTRY</b>	Enterprises engaging in installation, industrial quality, industrial safety, facilities, repair workshops, vehicle inspection, and lifting appliances, patents, etc
<b>SOCIAL AFFAIRS</b>	Youth, disability, leisure activities, family mediation, social centres, children's centres, older peoples' centres, provision of home support, family affairs, the elderly, etc	<b>INTERIOR AFFAIRS</b>	Regulations on the use of arms and explosives in the context of service provision, safety regulations affecting service providers, sale, delivery, installation and maintenance of security equipment, driving schools, public entertainment activities, and, in general, regulations on public order affecting economic activities, private detective services, etc
<b>TRADE AND RETAILING</b>	Superstores, hard discount establishments, sales on rounds, distance sales, special sales, occasional sales, trade fairs, registration duties relating to trading activities, etc	<b>JUSTICE</b>	Professional partnerships, advocates and procurators
<b>CONSUMER AFFAIRS</b>	Regulations on consumer protection (requirements as to language use, advertising, insurance, etc), advertising services, etc	<b>ENVIRONMENT</b>	Regulations on noise, environmental protection, use of private hunting preserves, rivers, protection of wildlife and flora, natural spaces, land use planning, etc, relating to the exercise of a service activity. Climate and meteorology
<b>ARTS AND CULTURE</b>	Rules on service provision in the field of copyright (collective rights management societies), private museums, private archaeology services, etc	<b>HEALTH</b>	Healthcare regulations in relation to freedom of establishment and freedom to provide services: public swimming pools, health measures relating to funeral services, food handler training, health advertising, tattooing establishments, suntanning establishments, ambulance staff training, hospital cleaning services, beauty salons, public health requirements imposed on restaurants, etc
<b>DEFENCE</b>	Defence material certification and accreditation bodies	<b>LAND USE AND TOWN PLANNING</b>	Construction work, use of rustic land for the provision of private services (limitation of economic operators), golf course construction, etc
<b>SPORT</b>	Training, sports establishments, gyms, etc	<b>INFORMATION SOCIETY AND COMMUNICATIONS</b>	Postal sector, training specific to the communications sector, electronic commerce activities, etc
<b>EDUCATION</b>	Private schools, preschool centres, grant-maintained education arrangements, school lunch rooms, music schools, private universities, vocational training centres, public institutions offering services on market terms	<b>TRANSPORT</b>	Training, vehicle hire activities, services ancillary to transport, removals services, retail activities at ports and airports, funeral transport, aerial photography, etc
<b>EMPLOYMENT</b>	Occupational risk prevention, cooperatives register	<b>TOURISM</b>	Campsites, hostels, hotels, guesthouses, conferences, country holiday accommodation, adventure tourism, travel agents, restaurant establishments, spas, tourist guides, etc
<b>ENERGY</b>	Services in the energy area, authorisation of facilities, service stations, etc	<b>HOUSING AND CONSTRUCTION</b>	Quality control laboratories, lettings services, estate agent services, etc
<b>ECONOMY AND FINANCE</b>	General regulation on professional bodies, customs agents, and certain promotional games	<b>AGRICULTURAL SERVICES</b>	Services in the fields of agriculture, fisheries, livestock farming, rural development; services relating to the food industry (designation of origin and geographical indication certification services, etc)

Given the complexity entailed in arriving at an interpretation of the Directive and the difficulties surrounding the definition of a 'service', during the **identification** of procedures and regulation in each specific area -- completed on 17 April 2008 -- the decision was made to use a broad test of identification so as **to embrace all matters potentially affected by the Directive.**

From a qualitative standpoint, therefore, the identification conducted was broad-ranging and ambitious, as prescribed by the Work Programme. The goal was to prevent any regulatory provisions that at first glance might not seem to be affected by the Directive from being excluded if in fact they ought to be subjected to screen. Hence **some of the cases identified were finally left out of consideration**, closer analysis having confirmed that they were not in fact included within the scope of application of the Directive.

The information was structured on a basis of sectorial procedures for access to a service activity and the exercise of that activity over its lifetime, and of the horizontal regulation that demanded appraisal in the light of the Directive. This gave rise to the concept of an **'identified case'**, summarising all the regulation that affects a given service activity (e.g., installation of a retail establishment, access to the activity of tourist guide, obtainment of a licence as a low voltage installer, etc).

This phase was also used to **identify those procedures that were already being completed electronically**, with a view to introducing the point of single contact, identifying the competent authorities that were to join the system of administrative cooperation, and **identifying all national and regional government actors that ought to have a presence in the transposition process.**

By April 2008, around **7,000 cases** had been identified; these were classified into 22 sectorial areas of activity to be subsequently screened.

The following table sets out the final results of the process of identification of potentially affected legislation and procedures, by area of activity and public authority concerned:<sup>5</sup>

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<sup>5</sup> The tables showing the figures for identified and affected cases take account of the initial identification of instances possibly affected by the Services Directive. When cross-referenced with the number of eliminated authorisations and requirements disclosed in the final tables, it becomes apparent that the eliminations are far fewer; this is because the identification was conducted using a broad test that encompassed any case in which there might be any doubt as to the possible implications of the Community instrument, whereas in-depth examination of the matter frequently yielded the conclusion that no implications in fact applied.

**NUMBER OF IDENTIFIED CASES BY AREA AND PUBLIC AUTHORITY (18 April 2008)**

	PUBLIC AUTHORITY	SOCIAL AFFAIRS	TRADE AND RETAILING	CONSUMER AFFAIRS	ARTS AND CULTURE	DEFENCE	SPORT	ECONOMY AND FINANCE	EDUCATION	EMPLOYMENT	ENERGY	INDUSTRY	INTERIOR AFFAIRS	JUSTICE	ENVIRONMENT	HEALTH	AGRICULTURAL SERVICES	INFORMATION SOCIETY	LAND USE AND TOWN PLANNING	TRANSPORT	TOURISM	HOUSING AND CONSTRUCTION	Total
<b>PUBLIC AUTHORITY</b>																							
<b>CENTRAL GOVERNMENT</b>	30	2	12	4	8	6	19	11	65	26	130	62	37	10	226	81	75	6	1	50	12	29	<b>902</b>
<b>ANDALUCÍA</b>		27	45	9	13		3	95	40	9	6	14	24	1	170	65	69			22	20	10	<b>642</b>
<b>ARAGÓN</b>	40	16	29	4	21		13		4	7	5	6	40		56	43	51		6	9	14	4	<b>368</b>
<b>CANTABRIA</b>		14	22	2	1		1	16	5		7	8	2		24	11	31				18	2	<b>164</b>
<b>CASTILLA Y LEÓN</b>		12	12	6	23		17	2	12	3	2	8	4		163	18	50		3	4	14	1	<b>354</b>
<b>CASTILLA-LA MANCHA</b>	1	20	26	1	6		9	4	19	4	30	19		1	248	21	19	2	6		17	13	<b>465</b>
<b>CATALONIA</b>	16	11	20	14	14		3	2	9	9	7	25	11	4	177	105	119		2	9	9	5	<b>571</b>
<b>MELILLA</b>			5										5		5	2					1	11	<b>29</b>
<b>COMMUNITY OF MADRID</b>	10	17	86	8	8		15	32	19	10	4	10			112	56	32		7	23	21	27	<b>497</b>
<b>NAVARRA</b>	7	3	10	3				2	7		8	14	9		51	31	15		2		10	1	<b>173</b>
<b>VALENCIANCOMMUNITY</b>		6	44	3			7	3	6	3	9	26	14		46	8	67	4	4		9	1	<b>260</b>
<b>EXTREMADURA</b>		10	22	2	11		2	5	2	6			6		17	9	57				15	24	<b>188</b>
<b>GALICIA</b>	2	32	30	5	18		26	13	108	68		2	5		60	44	68		1	17	39	70	<b>608</b>
<b>BALEARIC ISLANDS</b>	7	23	32				8	1		9		24	17		26	34	71			3	82	3	<b>340</b>
<b>CANARY ISLANDS</b>	3	14	23	4	12		1	5	11	4	17	9	3		52	18	18	1	3	1	21	2	<b>222</b>
<b>LA RIOJA</b>	8	18	34	2			8	4	6	8	3	2	7		100	3	19	1	3		14	3	<b>243</b>
<b>BASQUE COUNTRY / EUSKADI</b>	1	19	21	5	18				11	3		20	13		40	10	56		12	13	23	32	<b>297</b>
<b>ASTURIAS</b>		10	12	4	6		2	1	2	3	9	1	3		181	24	73	5	4	3	9	8	<b>360</b>
<b>MURCIA</b>	2	1	32	3	20		1	8	9		4	5			76	17	83		1		10	2	<b>274</b>
<b>Total</b>	<b>126</b>	<b>255</b>	<b>517</b>	<b>79</b>	<b>179</b>	<b>6</b>	<b>135</b>	<b>204</b>	<b>335</b>	<b>172</b>	<b>241</b>	<b>255</b>	<b>200</b>	<b>16</b>	<b>1830</b>	<b>600</b>	<b>973</b>	<b>19</b>	<b>55</b>	<b>154</b>	<b>358</b>	<b>248</b>	<b>6958</b>

During the identification phase, Central Government ministerial departments made a **major effort** to ensure that the exercise resulted in the fullest possible identification, and that a **high standard of consistency held between cases identified by Central Government and cases identified by the Autonomous Communities**. All the Autonomous Communities became actively engaged from the outset of the identification phase.

The identification exercise ascertained that, quantitatively, the centre of gravity of transposition into Spanish law rested with the Autonomous Communities; fewer than 13% of identified cases lay within the powers of Central Government. From the qualitative standpoint, therefore, sectorial coordination was to be of the essence of the screening phase.

## V.2.2. SCREENING PHASE

The Work Programme directed that the screening phase was to start once the evaluation questionnaires drawn up by the European Commission were available; the completed questionnaires were to serve as the framework for the final report on transposition. The questionnaires became available in February 2008. They were to be completed by a standard online system available to all Member States and the European Commission,<sup>6</sup> thus facilitating the process of mutual screening from 2010 onwards.

However, upon examination of the content of the questionnaires, it was found that they were results reports on regulation as finally amended; they did little in aid of the appraisal of the pre-existing stock of legislation. Accordingly, to facilitate sectorial appraisal in an ordered fashion, this being essential to ascertaining which provisions stood to be amended and to ensuring that such amendment was achieved properly and on time, the Inter-Departmental Working Group for the Transposition of the Services Directive decided that there be created **new tools** to guide the screening phase:

- **Screening manual.** The resulting manual provided a guide to screening, describing, step-by-step, the appraisal to be undertaken of identified regulation. This guidance was intended to facilitate the analysis required for all regulation to be compatible with the Services Directive. Each Central Government Ministry and each Autonomous Community was to conduct the analysis specified in the guide and report on its results using another newly developed instrument: the screening questionnaire.
- **Screening questionnaire.** This questionnaire was prepared to support the performance of screening duties and, where applicable, any required amendment to regulation. The questionnaire comprised a series of questions, most of which were closed-ended, directed to a range of key objectives: to facilitate sectorial coordination and a

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<sup>6</sup> Interactive Policy-Making (IPM) system

consistent screening exercise; to enable the monitoring of the regulatory amendment phase, given that the questionnaire demands that respondents specify the regulatory changes to be made as a result of the screening process; and, at the end of the transposition period, to facilitate the completion of the European Commission's screening questionnaires.

Both instruments were made available to all public authorities in accordance with the **principles of administrative transparency and modernisation**, which were also adopted by the Autonomous Communities. In support of the transposition process, therefore, the Secretariat General of Economic Policy and International Economy developed an **online application called SIENA** (*Sistema de Identificación y Evaluación de la Normativa Afectada*, "System of identification and screening of affected regulation"). The SIENA application, accessible to all public authorities through a login and password over the website of the Ministry of Economy and Finance, enables users to review and screen all identified cases potentially affected by the Services Directive and to view the screening questionnaires.

In addition to these instruments, the **Government of Catalonia** distributed to all sole partners a **screening and support template** supplementing the questionnaire to be completed using SIENA. The screening phase saw the reinforcement of both **horizontal and sectorial coordination**. On the horizontal vector, a general screening conference was convened in order to address in greater depth certain issues surrounding the screening of the affected legislation, such as: the scope of application of the Directive; the "necessity test"; the "proportionality test"; prohibited requirements; requirements subject to evaluation; and simplification of procedures in order to encourage the use of standard screening criteria across public authorities. At the sectorial level, each Central Government Ministry, within its areas of concern, undertook coordination by convening regular technical sectorial meetings towards the goal of achieving consistent screening across all three levels of government. The numbers of cases finally ascertained to be affected by the Directive were as follows:

**NUMBER OF CASES AFFECTED BY THE DIRECTIVE, BY AREA AND PUBLIC AUTHORITY**

	PUBLIC AUTHORITY	SOCIAL AFFAIRS	TRADE AND RETAILING	CONSUMER AFFAIRS	ARTS AND CULTURE	DEFENCE	SPORT	ECONOMY AND FINANCE	EDUCATION	EMPLOYMENT	ENERGY	INDUSTRY	INTERIOR AFFAIRS	JUSTICE	ENVIRONMENT	HEALTH	AGRICULTURAL SERVICES	INFORMATION SOCIETY	LAND USE AND TOWN PLANNING	TRANSPORT	TOURISM	HOUSING AND CONSTRUCTION	Total	
<b>PUBLIC AUTHORITY</b>																								
<b>CENTRAL GOVERNMENT</b>	4		9	1	2	2	6	4	24	14	52	37	28	5	43	35	65	3		25	12	10	<b>381</b>	
<b>ANDALUCÍA</b>		10	36	5	6			19	32	4	5	6	21		7	26	27				1	10	<b>215</b>	
<b>ARAGÓN</b>	25	7	28		3				3			3	23		40	13	23			1	1	1	<b>171</b>	
<b>CANTABRIA</b>		8	15						4								11				11	1	<b>50</b>	
<b>CASTILLA Y LEÓN</b>		8	4	6	3		2		8	1	1	1	4		30	18	1		1		13	1	<b>102</b>	
<b>CASTILLA-LA MANCHA</b>	1	6	19		2			2	6	3	4	3			19		2				12	1	<b>80</b>	
<b>CATALONIA</b>	13	8	19	10	14		2		8	6	6	19	10	3	72	45	87			1	9	1	<b>333</b>	
<b>MELILLA</b>			5										5		5	2					1		<b>18</b>	
<b>COMMUNITY OF MADRID</b>		11	73	8	4			10	6	4	4	10			21	28	15		0	2	12	1	<b>209</b>	
<b>NAVARRA</b>	7	2	10	3				1	5		6	6	8		6	21	7		2		10	1	<b>95</b>	
<b>VALENCIAN COMMUNITY</b>		5	32				2	1	2		7	8	12		23	5	34		1		9	1	<b>142</b>	
<b>EXTREMADURA</b>		5	12		4				2	2			4			8	30					11	1	<b>79</b>
<b>GALICIA</b>		15	11	4					21	6		2			56	15	46					35	5	<b>201</b>
<b>BALEARIC ISLANDS</b>	2	8	31				2		1	4		7	17		20	5	23			3	82	2	<b>207</b>	
<b>CANARY ISLANDS</b>		4	17		9		1	2	3				3		25	6	12		2		14		<b>98</b>	
<b>LA RIOJA</b>		7	16				2	4	2				1		25		11		1		13	1	<b>83</b>	
<b>BASQUE COUNTRY / EUSKADI</b>		7	19	5	2				11			17	11		39	9	16				23	2	<b>161</b>	
<b>ASTURIAS</b>		5	10	4	1			1	2	1	7	1	3		177	5	57			2	9	2	<b>287</b>	
<b>MURCIA</b>		1	8	3	3		1	2	3		1	2			59	16	68		1		5		<b>173</b>	
<b>Total</b>	<b>52</b>	<b>117</b>	<b>374</b>	<b>49</b>	<b>53</b>	<b>2</b>	<b>18</b>	<b>46</b>	<b>143</b>	<b>45</b>	<b>93</b>	<b>122</b>	<b>150</b>	<b>8</b>	<b>667</b>	<b>242</b>	<b>535</b>	<b>3</b>	<b>8</b>	<b>34</b>	<b>283</b>	<b>41</b>	<b>3092</b>	

## V.2.3. MAIN AMENDMENTS

### V.2.3.1. CENTRAL GOVERNMENT

#### V.2.3.1.1. LAW 25/2009, OF 22 DECEMBER, AMENDING VARIOUS LAWS TO BRING THEM INTO LINE WITH LAW 17/2009, OF 23 NOVEMBER, ON FREE ACCESS TO SERVICE ACTIVITIES AND THE EXERCISE THEREOF (OMNIBUS LAW)

**Law 25/2009, of 22 December**, amending various laws to bring them into line with Law 17/2009, of 23 November, on Free Access Service Activities and the Exercise Thereof, known as the "Omnibus Law", was drafted with two ends in mind:

- First, the Omnibus Law is a response to the transposition of the Services Directive and to the required adaptation of Spanish regulation of service activities to the horizontal transposing rule, Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof.
- Secondly, the Omnibus Law brings about an **ambitious and far-reaching structural reform of the regulatory framework** of the service sector, following the principles of good regulation promulgated by the Directive, which principles are further extended to other areas of activity.

Specifically, **the Omnibus Law amends 48 national laws** on a range of matters<sup>7</sup> so as to create a **more favourable and transparent regulatory framework** for the exercise of economic activities, in the form of **the following measures**:

- The Omnibus Law generalises the introduction of **new forms of control of service activities** by replacing the institution of the prior authorisation, hitherto governing access to numerous activities, with the institutions of **notifications** of activity start or **undertakings of compliance** given by service providers to the public authorities concerned.
- The Omnibus Law **removes requirements and other regulatory barriers** unnecessarily or disproportionately restricting the setting in motion of service activities or impeding or delaying new entrepreneurial projects and job creation.
- The Omnibus Law makes a number of changes of far-reaching import for service providers, such as: qualification to exercise an activity is made **valid throughout national territory**, such that the

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<sup>7</sup> **Affected areas (number of laws amended):** public authorities (3), consumer affairs (1), professional services (3), employment (4), industrial services and construction (6), energy (3), transport and communications (8), environment and agriculture (12), healthcare (3), intellectual property (1), other (4).

provider need not secure a fresh authorisation in each Autonomous Community in which he desires to practice; **administrative procedures are simplified** (electronic completion of procedures and formalities, suppression of provisional authorisations, amalgamation of formalities for opening and operation). Furthermore, implied authorisation after a specified lapse of silence on the part of a competent authority [**positive silence**] is made the general rule, and **principles of good regulation** are introduced to the limited number of authorisation schemes left in place.

List of laws undergoing amendment:

- Law 7/1985, of 2 April, Establishing a Framework for the Local Government
- Law 30/1992, of 26 November, on the Legal System of Public Authorities and Common Administrative Procedure.
- Law 11/2007, of 22 June 2007, on Electronic Access by Citizens to Public Services.
- Amendment to the Consolidated Text of the General Law for the Protection of Consumers and Users and Supplemental Laws, enacted by Royal Legislative Decree 1/2007, of 16 November
- Law 2/1974, of 13 February, on Professional Bodies
- Law 2/2007, of 15 March, on Professional Partnerships
- Royal Decree Law 1/1986, of 14 March, on Urgent Administrative, Financial, Fiscal and Employment Measures
- Law 31/1995, of 8 November, on Occupational Risk Prevention
- Law 42/1997, of 14 November, on the Labour Inspectorate and Social Security
- Law 50/1998, of 30 December, on Fiscal, Administrative and Social Measures
- Law 3/1985, of 18 March, on Metrology
- Law 11/1986, of 20 March, on Patents
- Law 21/1992, of 16 July, on Industry
- Law 23/1992, of 30 July, on Private Security
- Law 38/1999, of 5 November, on Building Management
- Law 32/2006, of 18 October, on Subcontracting in the Construction Sector
- Law 22/1973, of 21 July, on Mines
- Law 54/1997, of 27 November, on the Electricity Industry
- Law 34/1998, of 7 October, on the Hydrocarbons Industry
- Law 48/1960, of 21 July, on Air Navigation
- Law 16/1987, of 30 July, on Land Transport
- Law 27/1992, of 24 November, on State Ports and the Merchant Navy
- Complete Text of the Law on Traffic, Motor Vehicle Circulation and Road Safety, enacted by Royal Legislative Decree 339/1990, of 2 March
- Law 39/2003, of 17 November, on the Railway
- Law 48/2003, of 26 November, on the Financial System and Service Provision by the Public Interest Ports

- Law 24/1998, of 13 July, on the Universal Postal Service and Liberalisation of Postal Services
- Law 32/2003, on Telecommunications
- Law of 20 February 1942, on the Development and Conservation of River Fishing
- Law 1/1970, of 4 April, on Hunting
- Law 22/1988, of 28 July, on Coasts
- Law 3/1995, of 23 March, on Livestock Trails
- Law 10/1998, of 21 April, on Wastes
- Consolidated Text of the Law on Water, enacted by Royal Legislative Decree 1/2001, of 22 July
- Law 43/2003, of 21 November, on Forests
- Law 5/2007, of 3 April, on the National Park Network
- Law 42/2007, of 13 December, on Natural Heritage and Biodiversity
- Law 3/2001, of 26 March, on National Marine Fisheries
- Law 8/2003, of 24 April, on Animal Health
- Law 30/2006, of 26 July, on Phylogenetic Resource Seeds and Nursery Saplings
- Consolidated Text on Government Fees, enacted by Decree 3059/1966, of 1 December
- Law 14/1986, of 25 April, on Healthcare
- Consolidated Text of the Law on Intellectual Property, Restating, Clarifying and Harmonising Existing Provisions on Intellectual Property, enacted by Royal Legislative Decree 1/1996, of 12 April
- Law 13/1998, of 4 May, on the Tobacco Market and Tax Provisions
- Royal Decree Law 6/2000, of 23 June, on Urgent Measures for Enhancing Competition in Good and Service Markets
- Law 44/2003, of 21 November, on the Health Professions
- Law 28/2005, of 26 December, on Healthcare Measures against Smoking and the Sale, Supply, Consumption and Advertising of Tobacco Products
- Law 29/2006, of 26 July, on Safeguards and Rational Use of Medicinal Products and Medical Devices
- Law 34/2006, of 30 October, on Access to the Legal Professions of Barrister and Solicitor

#### **V.2.3.1.2. LAW 1/2010, OF 1 MARCH, AMENDING LAW 7/1996, OF 15 JANUARY, ON RETAIL TRADE**

As regards Law 1/2010, of 1 March, amending Law 7/1996, January 15, on Retail Trade, the following lines of action towards bringing it into line with the Services Directive are highlighted:

**1.** As a general rule, **authorisation schemes are removed**, without prejudice to local government business licences by virtue of local authorities' powers in the sphere of town planning, for example.

2. The general rule of absence of authorisation schemes is supplemented by **an exceptional regime which allows for the introduction of specific authorisation schemes** that must at all events conform to a range of requirements of good regulation (necessity, non-discrimination and proportionality) and of minimal market distortion, as required by the Services Directive. Thus:

- a. **Where commercial distribution impinges on some overriding reason relating to the public interest**, such as protection of the environment and the urban environment, land use planning or conservation of historic and artistic heritage, or consumer protection within the meaning of the Consolidated Text of the General Law for the Protection of Consumers and Users, the installation of commercial establishments **may be made subject to an authorisation**, which must be granted for an unlimited term and be transferable. For these purposes regard must be had to scientific research pointing to the environmental and territorial impact of the installation and opening of commercial establishments in excess of 2,500 square metres of commercial surface area.
- b. **It is prohibited to establish economic requirements** that make the grant of an authorisation subject to proof of the existence of an economic need or market demand or to an evaluation of the economic effects on the market of the proposed new establishment. An applicant's competitors are barred from intervening in the process of consideration of the application for authorisation.

3. **The definition of a "major commercial establishment" is eliminated.** The earlier text, drawn up in 1996, contained only a vague definition which has enabled the Autonomous Communities to adopt a wide diversity of criteria that have created problems as to the size and format of new commercial establishments. Whereas regional bodies of legislation formerly operated distinct authorisation schemes for each format of establishment (hard discount, medium and large establishments), such discriminatory treatment is now prohibited.

4. **It devolves upon the Autonomous Communities to regulate the authorisation procedure**, which must embrace all formalities required to install a commercial establishment, and to determine the authority competent to grant authorisation. Applications must be decided upon within a reasonable timeframe which is not to exceed six months; in the absence of any express decision, a rule of implied authorisation [*positive silence*] prevails.

5. The reform extends to **a number of lesser changes** to the Law on Retail Trade (known as "LORCOMIN") which have been agreed upon with the Autonomous Communities, including:

- a. **Simplification** (by replacing registration with a duty to notify) of the regulations on registers of distance vendors and franchisors, operated on an informational basis at the Ministry of Industry, Tourism and Trade for purposes of consumer protection.
- b. **The requirement of prior authorisation for the exercise of automatic vending is abolished.** However, the reference is preserved to standard approval and industrial monitoring relating to models of vending machine as lying within the powers of the Autonomous Communities.
- c. **A number of changes are made to the legislation on sales on rounds** to bring it into line with the Directive; such changes chiefly consist of the substitution of licences of unlimited term for defined-term licences so as to allow for higher rotation of service offerors, while enabling such offerors to earn a fair return on their invested capital.
- d. **The rules on infringements and penalties are modified** so as to amend the applicable amounts and introduce a new criterion relating to enterprises' economic capacity or solvency in order to graduate applicable penalties.
- e. Finally, **five new additional provisions** are introduced whereby competent authorities whose breach of Community legislation as to the subject matter of the Law leads to the Kingdom of Spain having to bear a penalty imposed by the European institutions shall be answerable to the extent attributable to them for the liabilities arising out of such breach. In addition, the duty is strengthened to carry out an environmental impact assessment – if applicable – prior to the giving of an undertaking of compliance or a communication, where this is the mechanism of control of the respective activity. An additional provision is also introduced as to the conditions of access and non-discrimination in access to and use of commercial establishments. Finally, two further additional provisions are inserted regarding urban planning of commercial uses and the legal framework of commercial distribution contracts.

#### **V.2.3.1.3. LAW 6/2010, OF 24 MARCH, AMENDING THE CONSOLIDATED TEXT OF THE LAW ON ENVIRONMENTAL IMPACT ASSESSMENT, ENACTED BY ROYAL LEGISLATIVE DECREE 1/2008, OF 11 JANUARY**

The purpose of this amendment, published in *BOE* [Spanish Central Government Gazette] on 25 March 2010, is to keep in place the use of environmental impact assessment as an instrument to preserve natural resources and protect the environment, while meeting the demands of economic activity with agile administrative procedures and satisfying the need to enhance the transparency of actions involving several administrative bodies.

Environmental assessment has proved to be the most effective way to prevent damage to the environment (for which reason this expedient was incorporated to Community law), but it needs to be adjusted to a defined timeframe of procedural completion so as to become an instrument that actively facilitates economic and social activity.

The text of the Law is accordingly adapted to the requirements of reinvigoration of the economy and of the principles underlying the Services Directive:

- The administrative procedure of environmental impact assessment is simplified and clarified.
- The timeframes of completion of the procedure are shortened.
- The conduct of the environmental impact assessment procedure is brought into line with the changes made to the legal framework as a result of transposition of the Directive: replacement of authorisations with undertakings of compliance and notifications.

It is with these objectives in mind that the reform makes the following changes:

- The actions embraced by environmental impact assessment of a project are clearly and specifically delimited into phases.
- The timeframe of the procedure is shortened, the effects are specified of non-performance of the time limit, and the author(s) is(are) identified of the environmental impact study or other necessary environmental documents required for the authorisation of a project.
- The media and timeframes for announcement of a project are clarified and specified.
- The substantive body is redefined for the purpose of incorporating adaptations that identify the authority that is to conduct the environmental impact declaration for projects subject to such declaration but not subject to administrative authorisation or approval but only to notification or undertaking of compliance.

#### **V.2.3.1.4. REGULATIONS**

Further to the amendments required to be made to national laws, adaptations were necessary at the level of national regulations so as promptly to achieve a more efficient, favourable and transparent

environment for economic actors, encourage the emergence of new businesses, and generate gains in efficiency, productivity and employment in service activities, while enhancing the variety and quality of the services available to enterprises and citizens.

This adaptation is not limited to the provisions considered in Law 25/2009, of 22 December, amending various laws to bring them into line with Law 17/2009, 23 November, on Free Access to Service Activities and the Exercise Thereof, or to the Law on Retail Trade. Reform has likewise been extended to laws which, though not themselves in need of amendment in so far as they are consistent with the Umbrella Law, are implemented by regulations that run counter to the Umbrella Law, such that their economic effects are accordingly more intense.

In order to address these amendments, on 12 June, the Council of Ministers adopted a **Resolution on the adaptation of national regulations** to Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, to the Bill on Amendment of Various Laws in line with Law 17/2009, and to the amendment to the Law on Retail Trade. The central elements of the resolution were: To adopt the list of Royal Decrees to be amended, to accord priority to the making of such amendments, and to report regularly to the Autonomous Communities and to the representatives of local authorities on the regulatory changes planned in areas within their remits. Over the course of the enactment of the amendments, some additions were made to the list of Royal Decrees and Ministerial Orders to be amended or repealed.

As a result, **118 Royal Decrees (RD) and 21 Ministerial Orders (MO) fell to be amended**. The regulatory changes are to be made **through 51 Royal Decrees and one Ministerial Order**, including the amendment to provisions contained in 94 current Royal Decrees and full repeal of 24 Royal Decrees, 15 of which are to be replaced with wholly new regulatory instruments.

The most heavily affected areas are: industry, energy, health and environment. Annex II specifies the statutory counterparts to be amended, by competent Ministry and type of process:

## V.2.3.2. AUTONOMOUS COMMUNITIES

### V.2.3.2.1. AREAS CONCENTRATING THE MOST CHANGES

The Autonomous Communities are to make a variety of different changes: changes in domains in which the Autonomous Communities have assumed full legislative powers; changes in domains in which the Central Government continues to enact the primary legislation; and changes in domains in which the Central Government retains exclusive powers, being incorporated to regional law by means of a regional rule.

#### A. Laws

The **most important changes** in terms of the number of laws amended and of the effects of the changes arise in the **areas of trade** (chiefly internal trade, sales on rounds and trade fairs) **and tourism**. All the Autonomous Communities have amended their laws in these areas by virtue of their legislative powers in this regard.

A second level of importance attaches to the adaptations made in the areas of **economy and finance** (notably to the laws on professional bodies, gambling and government fees and prices) and **environment** (particularly, laws on wildlife, hunting and fishing, wastes and natural parks). Most Autonomous Communities are making changes in these areas. Yet a third level of importance attaches to the areas of **arts and culture** (mainly the laws on the historic heritage), **public authorities and agricultural services**. Most Autonomous Communities are making legislative changes in these areas. Other areas in which some Autonomous Communities have made changes at the primary level include social affairs, consumer affairs, sport, health, energy, transport, interior affairs (mainly, the regional laws on public entertainment and recreational activities) and environment.

#### B. Regulations

Although the information available on this point is incomplete, the changes are known to concentrate in the areas of tourism, retail trade, environment, social affairs, industry, health, sport, agricultural services, arts and culture, and housing and construction.

There follows a summary of the main changes in the Autonomous Communities:

AUTONOMOUS COMMUNITY																					REGULATORY ADAPTATION			
	INSTRUMENT		REGIONAL ACTS	LAWS TO BE AMENDED, BY AREA																	DECREES AND ORDERS			
	OMNIBUS LAW OR ACCOMPANYING LAW	INDEPENDENT PASSAGE OF REGIONAL LAWS		PUBLIC AUTHORITIES	AGRICULTURAL SERVICES	SOCIAL AFFAIRS	RETAIL TRADE	CONSUMER AFFAIRS	CULTURE	SPORT	ECONOMY AND FINANCE	INDUSTRY	INTERIOR AFFAIRS	JUSTICE	ENVIRONMENT	ENERGY	HEALTH	LAND USE AND TOWN PLANNING	INFORMATION SOCIETY	TRANSPORT	TOURISM			
ANDALUCÍA	Decree-Law 3/2009		17				3		2		3				5	1	1				1	1	92 decrees and 27 orders	
ARAGÓN	Decree-Law 1/2008 and Omnibus Decree-Law (adopted by the Council of Government on 27 April 2010)	Law on Tourism	15	2		1	3	1				1	2		3		1					1	43	
CANTABRIA		Independent passage	4				3															1	14 decrees and 4 orders	
CASTILLA Y LEÓN	Decree-Law 3/2009		20	2	2	2	2	1		1	2	1	1		3		1				1	1	39 decrees and 23 orders	
CASTILLA-LA-MANCHA	Law 7/2009, Amending Six Laws	Law on Retail Trade	7		1		2				1				2							1	19 decrees and 3 orders	
CATALUNYA	Omnibus Law: Framework Law 5/2010, of 26 March, on Delegation to the Government for the Adaptation of various Laws to Directive 2006/123/EC and "Omnibus" legislative Decree amending, in accordance with the Framework Law, 13 laws	Five laws are to be passed independently: Decree-Law 1/2009 (Retail Trade), Law 11/2009 (Public Entertainment Activities)	18	1		1	2	1			2	1			2		1				1	1	66 decrees, 28 orders and 3 decisions	
COMMUNITY OF MADRID	Law 8/2009 on Measures for Liberalisation and Support for Madrid Enterprises Law 3/2008, of 29 December, on Fiscal and Administrative Measures		18	1		1	4	1	1		2		1		5		1					1	Omnibus Decree amending 34 decrees and 26 orders	
EXTREMADURA		Independent passage	8		1		3		1		2											1	37 decrees, 1 new decree and 1 order	
NAVARRA	Navarra Law 7/2010	Navarra Law 7/2010, Navarra Law 15/2009	8	1			2				3						1					1	21 decrees, amended by an Omnibus Decree and 2 orders	
VALENCIAN COMMUNITY	Law 12/2009 on Fiscal, Administrative and Financial Management Measures, and Government Organisation		5				1			1			1		1							1	27 decrees and 23 orders	
GALICIA	Law 1/2010	Law 7/2009, amending the Law on Internal Trade	24	1	1		2		2		10	2			5							1	32 decrees and 13 orders	
BALEARIC ISLANDS	Omnibus Law	Law 8/2009 (Retail Trade)	11	3		2	1				1		2		2							1	1	23 decrees and 10 orders
CANARY ISLANDS		Independent passage of laws. Law 12/2009, amending commercial legislation. Law 14/2009, amending the law on tourism.	12		2	1	2		1	1	3		1									1	14 decrees and 6 orders and 4 new decrees	
LA RIOJA	Law 6/2009, on Fiscal Measures	Law 7/2009 on Social Services	11	2		3	1				4											1	14 decrees and 1 order	
BASQUE COUNTRY	Omnibus Law	Law 7/2008	12	1	1	2			1		1	2			1		1	1				1	27 decrees and 1 order	
ASTURIAS		Independent passage	3				1		1													1	23 decrees and 3 decisions	
MURCIA	Law 12/2009		6				3			1	1											1	19 decrees and 1 order	
MELILLA																							7 regulations and numerous ordinances	

## V.2.3.2.2. AMENDMENTS BY AUTONOMOUS COMMUNITY

### • ANDALUCÍA

Legislative adaptation involves amendments to **17 laws**, implemented through the following instruments:

1. A total of **16 laws** have been amended by **Decree-Law 3/2009, of 22 December, amending various laws for the transposition in Andalucía of the Services Directive** (published in BOJA [Andalucía Regional Government Gazette] number 250, of 24 December 2009). The laws amended by this Decree-Law include:

- Law 12/1999, 15 December, on Tourism;
- Law 8/2001, of 12 July, on Roads in Andalucía;
- Law 8/2007, of 5 October, on Museums and Museographic Collections in Andalucía;
- Law 14/2007, of 26 November, on the Historic Heritage in Andalucía;
- Law 2/1986, of 19 April, on Gambling in Andalucía;
- Legislative Decree 1/2009, of 1 September, enacting the Consolidated Text of the provisions adopted by the Autonomous Community of Andalucía on Transferred Taxes;
- Law 22/2007, of 18 December, on Pharmacy in Andalucía;
- Law 2/2007 of 27 March, on the Development of Renewable Energies and Energy Savings and Efficiency in Andalucía;
- Law 2/1989, of 18 July, adopting the Inventory of Protected Natural Areas in of Andalucía;
- Law 2/1992, 15 June, on Forests in Andalucía;
- Law 5/1999, of 29 June, on Forest Fire Prevention and Firefighting;
- Law 8/1999, of 27 October, on the Legal System of the Doñana Natural Area;
- Law 8/2003, of 28 October, on Wild Flora and Fauna;
- Law 9/1988, of 25 November, on Sales on Rounds;
- Law 3/1992, of 22 October, on Official Trade Fairs in Andalucía
- Law 1/1996, of 10 January, on Internal Trade in Andalucía.

2. The amendment to **Law 10/2003, of 6 November, on Professional Bodies in Andalucía**, is awaiting passage.

**Regulatory adaptation** involves amendments to **92 decrees and 27 orders** through a range of amending decrees and orders.

### • ARAGÓN

**Legislative adaptation** involves amendments to **15 laws**: 2 laws in the area of public authorities, 1 law in the area of social affairs, 3 laws in the area of retail trade, 1 law in the area of consumer affairs, 1 law in the

area of industry, 2 laws in the area of interior affairs, 3 laws in the area of environment, 1 law in the area of health, and 1 law in the area of tourism.

Adaptation has been implemented through two legislative instruments.

1. Decree-Law 1/2008, of 30 October, on Urgent Administrative Measures to Encourage Economic Activity in Aragon, replaces the existing authorisation scheme with a scheme of undertakings of compliance; furthermore, it introduces further measures of administrative simplification attendant on application of the Services Directive.
2. An Omnibus Decree-Law, adopted by the Council of Government of Aragón on 27 April 2010 but as yet unpublished in the respective official journal, including the changes mentioned above, except the changes in the area of tourism, which are to be implemented separately (bill amending Law on Tourism published in the *Boletín Oficial de las Cortes de Aragón* on 27 October 2009).

**Regulatory adaptation** involves amendments to 43 decrees: 1 in the area of public authorities, 2 in the area of agricultural services, 1 in the area of social affairs, 5 in the area of retail trade, 1 in the area of arts and culture, 3 in the area of industry, 2 in the area of interior affairs, 5 in the area of environment, 9 in the area of health, 13 in the area of tourism, and 1 in the area of housing and construction.

- **CANTABRIA**

**Legislative adaptation** involves amendments to four laws, to be implemented through two legislative instruments:

1. First, a draft bill to amend the regulation in the sphere of retail trade, amending:
  - Law 1/2002, of 26 February, on Retail Trade in Cantabria;
  - Law 8/2006, of 27 June, on Selling Structures in Cantabria; and repealing:
    - Law 5/1998, 15 May, on Official Trade Fairs in Cantabria;
2. Secondly, a draft bill to amend Law 5/1999, of 24 March, on Tourism in Cantabria.

**Regulatory adaptation** involves amendments to 14 decrees and 4 orders: 1 in the area of retail trade; 1 decree and one order in the area of agricultural services, 2 in the area of housing and construction, 5 in the area of tourism, 1 in the area of environment, 4 decrees and 4 orders in the area of health;

- **CASTILLA Y LEÓN**

Castilla y León has implemented the transposition of the Services Directive within the prescribed timeframe.

In those matters devolved upon the Community of Castilla y León under its Statute of Autonomy, under Decree-Law 3/2009, of 23 December, on Measures to Encourage Service Activities in Castilla y León (published in the *Boletín Oficial de Castilla y León* number 247, of 26 December 2009, and coming into force on 27 December 2009), fulfils the mandate given by final provision 3(1) of Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, and the Services Directive.

Legislative adaptation has involved amendments to 20 laws:

- Law 3/2001, of 3 July, on Governance and Management in Castilla y León;
- Law 11/1998, of 5 December, on the Protection of Consumers and Users in Castilla y León;
- Law 8/1997, of 8 July, on Professional Bodies in Castilla y León;
- Law 16/2002, of 19 December, on Retail Trade in Castilla y León;
- Law 6/1997, of 22 May, on Official Trade Fairs in Castilla y León;
- Law 10/1997, of 19 December, on Tourism in Castilla y León;
- Law 4/1996, of 12 July, on Hunting in Castilla y León;
- Law 11/2003, of 8 April, on Environmental Prevention in Castilla y León;
- Law 5/2009, of 4 June, on Noise in Castilla y León;
- Law 7/2006, of 2 October, on Public Entertainment and Recreational Activities in Castilla y León;
- Law 4/1998, of 24 June, on Gambling and Betting in Castilla y León;
- Law 10/2008, of 9 December, on Roads in Castilla y León;
- Law 2/2003, of 28 March, on Sport in Castilla y León;
- Law 1/2006, of 6 April, on Family Mediation;
- Law 6/1994, of 19 May, on Animal Health in Castilla y León;
- Law 5/1997, of 24 April, on Pet Protection in Castilla y León;
- Law 1/1993, of 6 April, on the Healthcare System;
- Law 3/1990, of 16 March, on Industrial Safety in Castilla y León;
- Law 18/1988, of 28 December, on Social Action and Social Services;
- Law 14/2001, of 22 December, on Economic, Fiscal and Administrative Measures.

**Regulatory adaptation** involves amendments to 39 decrees and 23 orders, being constrained by the regulatory adaptation carried through by Central Government.

- **CASTILLA-LA MANCHA**

**Legislative adaptation** has involved amendments to **7 laws**, through two legislative instruments:

1. The first amends Law 7/1998, of 15 October, on Retail Trade in Castilla-La Mancha.
2. Law 7/2009, of 17 December amending various laws to bring them in line with Services Directive, amending six laws:
  - Law 7/2007, of 15 March, on Agri-Food Quality in Castilla-La Mancha;
  - Law Note 2/1997, of 30 May, on Trade Fair Activities in Castilla-La Mancha;
  - Law 4/1999, 31 March, on Gambling in Castilla-La Mancha;
  - Law 9/2003, of 20 March, on Livestock Trails in Castilla-La Mancha;
  - Law 3/2008, of 12 June, on Forests and Sustainable Forest Management in Castilla-La Mancha;
  - Law 8/1999, of 26 May, on Tourism in Castilla-La Mancha.

**Regulatory adaptation** involves amendments to 19 decrees and 3 orders: 7 decrees and 1 order in the area of health, 1 decree in the area of social affairs, 1 decree in the area of industry, 1 decree in the area of environment, 7 decrees in the area of tourism, and 2 decrees in the area of economy and finance and 1 order in the area of housing and construction, and 1 order in the area of agriculture.

- **COMMUNITY OF MADRID**

**Legislative adaptation** involves amendments to **18 laws** through two instruments:

1. Law 8/2009, of 21 December, on Measures for Liberalisation and Support for Madrid Enterprises, BOCM [Madrid Regional Government Gazette] number 308, 29 December 2009, amending 16 laws:
  - Law 1/2001, of 29 March, Establishing the Maximum Duration and the Rules on Administrative Silence for Certain Procedures;
  - Law 11/2002, of 18 December, on Activities of Social Action Centres and Services and Improvement of Quality in the Provision of Social Services in the Community of Madrid;
  - Law 16/1999, of 29 April, on Internal Trade in the Community of Madrid;
  - Law 1/1997, of 8 January, on Sales on Rounds in the Community of Madrid;

- Law 11/1998, of 9 July, on Consumer Protection in the Community of Madrid;
- Law 10/1998, of 9 July, on the Historic Heritage of the Community of Madrid;
- Law 6/2001, of 3 July, on Gambling in the Community of Madrid;
- Law 19/1997, of 11 July, on Professional Bodies in the Community of Madrid;
- Law 17/1997, of 4 July, on Public Entertainment and Recreational Activities in the Community of Madrid;
- Law 16/1995, of 4 May, on Forests and Nature Protection in the Comunidad de Madrid;
- Law 20/1999, of 3 May, on the Regional Natural Park of the Middle Guadarrama Basin and its Environment;
- Law 6/1994, of 28 June, on the Regional Natural Park Surrounding the Lower Manzanares and Jarama Basins;
- Law 6/1990, of 10 May, on the Declaration as a Natural Park of the Summit, Circus and Lakes of Peñalara;
- Law 1/1985, of 23 January, on the Regional Natural Park of the Upper Basin of the River Manzanares;
- Law 5/2002, of 27 June, on Drug Addictions and Other Addictive Disorders; and
- Law 1/1999, of 12 March, on Tourism in the Community of Madrid.

Law 3/2008, of 29 December, on Fiscal and Administrative Measures, and Law 1/2008, of 26 June, on Modernisation of Retail Trade in the Community of Madrid, amended five laws to drive forward the transposition of the Services Directive:

- Law 1/1999, of 12 March, on Tourism in the Community of Madrid
- Law 21/1998, of 30 November, on Protection and Promotion of Traditional Crafts in the Community of Madrid;
- Law 15/1997, of 25 June, on Trade Fair Activities in the Community of Madrid;
- Law 16/1999, of 29 April, on Internal Trade in the Community of Madrid;
- Law 6/2001, of 3 July, on Gambling in the Community of Madrid.

**Regulatory adaptation** involves amendments to 50 provisions, many of which are collected in an Omnibus Decree the preparation of which is now at an advanced stage (the changes relate to 3 decrees in the area of social services, 1 decree relating to environment, 2 decrees relating to agriculture, 3 relating to retail trade, and 5 decrees in the area of tourism, 2 in health, 2 in youth affairs, 1 in transport and 1 in recreational activities).

- **NAVARRA**

Legislative adaptation involves amendments to:

1. Navarra Law 15/2009, of 9 December, on administrative simplification for the setting in motion of entrepreneurial and professional activities;
2. Navarra Law 7/2010, of 6 April, amending Law 6/1990, of 2 July, on Local Government in Navarra, to bring it into line with the Services Directive, in official journal No 46.
3. Navarra Law 6/2010, of 6 April, amending various laws to bring them into line with the Services Directive, published in the official journal of Navarra, on Wednesday, 14 April 2010, in No 46, makes provision for amending 7 laws:
  - Navarra Law 3/1998, of 6 April, on Professional Bodies;
  - Navarra Law 16/2006, 14 December, on Gambling;
  - Navarra Law 10/1990, of 23 November, on Health,
  - Navarra Law 7/2003, 14 February, on Tourism;
  - Navarra Law 13/1989, of 3 July, on Non-Sedentary Trade in Navarra, and Navarra Law 17/2001, of 12 July, on Retail Trade;
  - Navarra Law 7/2001, of 27 March, on Government Fees and Prices in Navarra and its Self-Ruled Bodies.

**Regulatory adaptation** involves amendments to 21 decrees and 2 orders: 1 in the area of retail trade, 6 in the area of education, 3 in the area of economy and finance, 2 in the area of interior affairs, 1 decree and 2 orders in the area of health, 7 in the area of tourism and 1 in the area of housing and construction.

- **VALENCIAN COMMUNITY**

Law 12/2009, on Fiscal, Administrative and Financial Management Measures and Government Organisation (DOGV [Valencia Regional Gazette] 6171, 30 December 2009) has amended the laws listed below to bring them into line with the Services Directive:

- Law 8/1986 on Retail Trade and Retail Surfaces;
- Law 3/1998 on Tourism in the Valencian Community;
- Law 4/2003, of 26 February, on Public Entertainment and Recreational Activities and Public Facilities;

Amendments are in the process of being passed to Law 4/1993, of 20 December, on Sport in the Valencian Community, and Law 10/2000, of 12 December, on Wastes, which likewise need to be brought into line with the Directive.

**Regulatory adaptation** involves amendments or repeals affecting 27 decrees and 23 orders: 2 and 7 orders in the area of agricultural services, 2 decrees and 2 orders in the area of social affairs, 6 decrees and 6 orders in the area of retail trade, 1 decree in the area of sport, 2 decrees and 5 orders in the area of industry, 1 decree in the area of environment, 2 orders in the area of energy, 8 decrees in the area of tourism, 4 decrees and 1 order in the health area 1 decree in the area of housing and construction.

- **EXTREMADURA**

**Legislative adaptation** involves amendments to 9 laws, excluding those which are to be brought into line with basic legislation passed at the national level:

- Law 4/1984, of 27 December, on Markets;
- Law 3/2002, of 6 May, on Retail Trade in Extremadura;
- Law 7/2006, 9 November, extending the Specific Retail License Scheme to the Installation of Hard Discount Commercial Establishments (Repeal);
- Law 4/2001, of 26 April, on Trade Fair Activities in Extremadura;
- Law 2/1999, of 29 March, on the Historic and Cultural Heritage of Extremadura;
- Law 6/1998, of 18 June, on Gambling in Extremadura;
- Law 18/2001, 14 December, on Government Fees and Prices in Extremadura; and
- Law 2/1997, of 20 March, on Tourism in Extremadura;
- Law on the Health Professions.

**Regulatory adaptation** involves amendments to 37 decrees and 1 order: 10 decrees in the area of agricultural services, 2 decrees in the area of social affairs, 3 decrees in the area of retail trade, 2 decrees in the area of culture, 7 decrees in the area of education, 1 decree in the area of economy and finance, 3 decrees and 1 order in the area of health, and 9 decrees in the area of tourism. In addition, a wholly new decree has been issued in the area of arts and culture.

- **GALICIA**

**Legislative adaptation** in Galicia encompasses a large number of laws, reflecting this Autonomous Community's ambitious approach to transposition. The process involves amendments to **24 laws**, through two legislative instruments:

- Law 7/2009, of 22 December, amending Law 10/1988, of 20 July, on Internal Trade in Galicia;

- Law 1/2010, of 11 February, amending various laws to bring them into line with the Services Directive, which amends the rest of laws:
  - Law 5/1997, of 22 July, on Local Government in Galicia;
  - Law 17/2006, of 27 December, on Books and Reading in Galicia;
  - Law 8/1995, of 30 October, on the Cultural Heritage of Galicia;
  - Law 1/1996, of 27 December, on Trade Fair Activities in Galicia;
  - Law 17/2006, of 27 December, on Books and Reading in Galicia;
  - Law 14/1985, of 23 October, on Gambling and Betting in Galicia;
  - Law 11/2001, of 18 September, on Professional Bodies in Galicia;
  - Law 3/2006, of 30 June, on the Creation of the Professional Body of Speech Therapists in Galicia;
  - Law 8/2006, of 1 December, on the Creation of the Professional Body of Information Technology Technical Engineers in Galicia;
  - Law 9/2006, of 1 December, on the Creation of the Professional Body of Jewellers, Goldsmiths, Silversmiths, Clockmakers and Gemologists in Galicia;
  - Law 10/2006, of 1 December, on the Creation of the Professional Body of Information Technology Engineers in Galicia;
  - Law 11/2006, of 1 December, on the Creation of the Professional Body of Dental Hygienists in Galicia;
  - Law 15/2007, of 13 December, on the Creation of the Professional Body of Chemical Engineers in Galicia;
  - Law 1/2008, of 17 April, on the Creation of the Professional Body of Private Detectives in Galicia;
  - Law 1/1992, of 11 March, on the Traditional Crafts in Galicia;
  - Law 9/2004, of 10 August, on Industrial Safety in Galicia;
  - Law 1/1993, of 13 April, on the Protection of Domestic Animals and Wild Animals in Captivity;
  - Law 9/2001, of 21 August, on Nature Conservation;
  - Law 4/1997, of 25 June, on Hunting in Galicia;
  - Law 7/1992, of 24 July, on River Fishing;
  - Law 3/2007, of 9 April, on Promotion and Protection against Forest Fires;
  - Law 14/2008, of 3 December, on Tourism in Galicia; and
  - Law 18/2008, of 29 December, on housing in Galicia.

**Regulatory adaptation** involves amendments to approximately 32 decrees and 13 orders: 46 decrees and three orders in the area of tourism, 10 decrees and 1 order in the area of industry, 3 decrees and 4 orders in the area of health, 3 decrees and 3 orders in the area of

education, 3 decrees in the area of retail trade and 2 decrees in the area of consumer affairs, 4 decrees and 2 orders in the area of agricultural services and 1 decree in the culture area. In the course of the identification phase further regulations (orders especially) were identified as being within the scope of the Services Directive and must be adapted in due course.

- **CATALONIA**

The regulatory changes will affect the following areas: public authorities, industry, agricultural services, social affairs, retail trade, consumer affairs, arts and culture, sport, education, energy, interior affairs, environment, health, tourism, and housing and construction.

**Legislative adaptation** involves amendments to **18 laws through three instruments**:

- Framework **Law 5/2010**, of 26 March, on Law 5/2010, of 26 March, on Delegation to the Government for the Adaptation of various Laws to Directive 2006/123/EC (published in the official journal of the Generalitat of Catalonia of 6 April 2010), which delegates to the government the adaptation of 13 enactments at the primary level to the Services Directive.
- An Omnibus Law amending 13 laws:
  - Law 6/1988, of 30 March, on Forests in Catalonia;
  - Law 31/1991, of 13 December, on Pharmacy;
  - Law 38/1991, 30 December, on Facilities for Children and Young People Activities;
  - Legislative Decree 1/1993, of 9 March, on Internal Trade;
  - Law 8/1994, of 25 May, on Trade Fair Activities;
  - Law 9/1995, of 27 July, on Access by Motor-Vehicle to the Natural Environment;
  - Law 2/1997, of 3 April, on Funeral Services;
  - Law 9/2000, of 7 July, on Mobile Advertising in Catalonia;
  - Law 12/2001, of 13 July, on the Creation of the Professional Bodies of Jewellers, Goldsmiths, Clockmakers and Gemologists in Catalonia;
  - Law 13/2002, of 21 June, on Tourism in Catalonia.
  - Legislative Decree 2/2003, of 28 April, enacting the Consolidated Text of the Law on Local Government in Catalonia;
  - Law 7/2006, of 31 May, on the Practice of Chartered Professions and on Professional Bodies;
  - Law 9/2009, of 30 June, on Industrial Policy.
- In addition, a further **five laws** are amended independently, including Decree-Law 1/2009, of 22 December, on Retail Trade Facilities (which repeals, inter-alia, Law 18/2005, of 27 December, on Retail

Trade Facilities) and Law 11/2009, of 6 July, on Public Entertainment and Recreational Activities, which repeals Law 10/1990.

**Regulatory adaptation** involves amendments to 66 decrees, 28 orders and 3 decisions: The final outcome may impinge upon a wider range of regulations because, in the area of environment, regulatory screening remains to be completed and, in the area of health, a total of 16 decrees and 4 orders may fall to be amended, since transitional provisions three and four of Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, leave the issue of whether or not membership of a professional body and individual certifications by professional bodies will be mandatory to be determined by national regulation. On 28 December 2009, the latest reports showed that 26 regulations are to be amended in the area of agricultural services.

- **BALEARIC ISLANDS**

**11 laws** are been amended through **42 legislative instruments**:

1. Law 8/2009, of 16 December, amending Law 11/2001, of 15 June, on Retail Trade in the Balearic Islands for the transposition of the Services Directive;
2. An Omnibus Law to amend the following laws:
  - Law 4/2009, of 11 June, on Social Services in the Balearic Islands;
  - Law 4/2001, of 14 April, on the Government of the Balearic Islands;
  - Law 10/2005, 14 June, on the Ports in the Balearic Islands;
  - Law 3/2003, of 26 March, on the Legal Framework of the Public Authorities of the Autonomous Community of the Balearic Islands;
  - Law 20/2006, of 15 December, on Local Government in the Balearic Islands;
  - Law 10/2006, of 26 July, on Youth-Related Affairs;
  - Law 10/1998, of 14 December, on Professional Bodies in the Balearic Islands;
  - Law 16/2006, of 17 October, on Integrated Business Licences in the Balearic Islands;
  - Law 2/1999, of 24 March, on Tourism in the Balearic Islands;
  - Law 11/2001, of 15 June, on Retail Trade in the Balearic Islands.

Furthermore, Decree-Law 1/2009, 30 January, on Urgent Measures to Encourage Investment in the Balearic Islands, follows the principle of administrative simplification incorporated by the Services Directive. This Decree-Law directs that by 31 March 2009 all regional government

departments must have submitted their proposals for licensing and authorisation procedures which may be replaceable by a regime of undertakings of compliance upon start of activity, as introduced by article 9 of the Decree-Law. This Decree-Law shall be modified by the regional Omnibus Law.

As to **regional decrees** requiring amendment, those implementing or executing Central Government powers will be amended only after regulatory adaptation has been completed at the Central Government level; however, work is already in progress on the basis of guidelines and drafts furnished by Central Government ministries. Regulatory instruments relating to the regional government's own devolved powers and requiring accommodation to the Directive are now in the process of being amended; the possibility is being considered of drafting an Omnibus Decree. According to the available information, in the area of tourism 11 decrees and 11 orders have been repealed under Decree 16/2009, of 25 December, amalgamating procedures and simplifying formalities in the area of tourism and instituting the giving of an undertaking of compliance upon start of a tourism-related business.

Specifically, the instruments that are to be modified and/or repealed are: 2 decrees in social services, 2 decrees and 2 orders in transport, 4 decrees and 1 order in health, 3 decrees in housing and public works, 7 decrees and 3 orders in industry, 3 decrees and 4 orders in agriculture and fisheries, 2 decrees in the interior affairs.

- **CANARY ISLANDS**

Legislative adaptation involves amendments to **12 laws**:

- Law 7/2007, of 13 April, on Youth-Related Affairs in the Canary Islands;
- Law 4/1994, of 25 April, on Trade Fair Activities in the Canary Islands;
- Law 4/1999, on the Historic Heritage of the Canary Islands;
- Law 8/1997, of 8 July, on Sport in the Canary Islands;
- Law 1/1999, of 26 March, on Gambling and Betting;
- Law 10/1990, of 23 May, on Professional Bodies;
- Legislative Decree 1/1994, of 29 July, adopting the Consolidated Text of the Law on Government Fees and Prices;
- Law 1/1998, of 8 January, on Public Entertainment and Classified Activities;
- Law 1/1999, of 29 January, on Wastes;
- Law 11/1990, on Environmental Impact Assessment
- Law 7/1995, of 6 April, on Tourism in the Canary Islands.

Law 12/2009, of 16 December, on Business Licenses, repealing Law 10/2003, of 3 April, on Specific Business Licenses and amending Law 4/1994, of 25 April, on Retail Trade in the Canary Islands.

The changes in the area of tourism were introduced under Law 14/2009, of 30 December, amending Law 7/1995, of 3 April, on Tourism in the Canary Islands.

**Regulatory adaptation** involves amendments and repeals affecting **16 decrees and 6 orders**, and the enactment of 4 wholly new decrees: 1 decree in the area of retail trade, 2 decrees and 2 orders in the area of agricultural services, 1 decree in the area of social affairs, 3 decrees in the area of economy and finance, 1 decree in the area of interior affairs; repeal of 3 decrees and 2 orders and amendments to 4 decrees in the area of environment; 1 decrees and 1 order in the area of health, and repeal of 1 order and introduction of 5 new decrees in the area of tourism.

- **LA RIOJA**

1. **Law 7/2009, of 22 December, on Social Services**, transposes the Services Directive in the area of social services and repeals Law 1/2008, on Social Services, and Law 5/1998, on Users' Rights and Duties, Administrative Authorisations, Infringements and Penalties, and Inspection in the Area of Social Services.
2. Law 6/2009, of 15 December, on Fiscal and Administrative Measures for 2010, which have introduced amendments to **9 laws**:
  - Law 5/1999, of 13 April, on Gambling and Betting in La Rioja;
  - Law 4/2005, of 1 June, on the Functioning and Legal System of the Government of La Rioja;
  - Law 3/2005, of 14 March, on Retail Trade and Trade Fair Activities in La Rioja;
  - Law 7/2005, of 30 June, on Youth-Related Affairs in La Rioja;
  - Law 1/2003, of 3 March, on Local Government in La Rioja;
  - Law 4/1999, of 31 March, on Professional Bodies in La Rioja;
  - Law 2/1999, of 8 March, on the Creation of the Professional Body of Dental Prosthetists in La Rioja;
  - Law 2/2004, of 22 April, on the Creation of the Professional Body of Physiotherapists in La Rioja;
  - Law 2/2001, of 31 May, on Tourism in La Rioja.

**Regulatory adaptation** involves amendments to 14 decrees and 1 order: 1 order and 1 decree in the area of agricultural services, 1 in the area of social affairs, 1 in the area of retail trade, 3 in the area of economy and finance, 6 (one being a repeal) in the area of health, 1 in the area of tourism and 1 in the area of construction.

- **BASQUE COUNTRY**

A regional Omnibus Law will amend **12 laws**:

Law 4/1991, of 18 June, on Gambling in the Basque Country;  
Law 7/2006, of 1 December, on Museums of the Basque Country;  
Law 8/2004, of 12 November, on Industry in the Basque Country;  
Law 6/1994, of 16 March, on Tourism;  
Law 5/2004, of 7 May, on Winemaking;  
Law 3/1998, of 27 June, on Protection of the Environment in the Basque Country;  
Law 18/1997, of 21 November, on the Practice of Chartered Professions and on Professional Bodies and Councils;  
Law 12/1994, of 17 June, on Foundations in the Basque Country;  
Law 11/1994, of 17 September, on Pharmacy in the Basque Country;  
Law 12/2008, of 5 December, on Social Services;  
Law 1/2008, of 8 February, on Family Mediation;  
Law 2/2006, of 30 June, on Land Use and Planning;

Adaptation in the sphere of trade shall be implemented via Law 7/2008, of 25 June, on the Further Amendment of the Law on Commercial Activity in the Basque Country.

**Regulatory adaptation** involves amendments to 27 decrees and 1 order: 6 in the area of tourism, 5 in the area of industry, 2 in the area of environment, 4 in the area of agriculture and 2 in the area of housing and construction, 1 in the area of interior affairs, 4 (including a repeal) in the area of healthcare, 1 in the area of social services, 1 order in the area of economy and finance and 2 decrees in the area of energy.

- **ASTURIAS**

Legislative adaptation involves amendment to **3 laws** by means of an Omnibus Law, and the separate passage of a law reforming retail trade.

1. The draft bill amending various laws to bring them into line with the Law on Free Access to Service Activities and the Exercise Thereof makes provision for amending 2 laws:

- Law 1/2001, of 6 March, on the Cultural Heritage of Asturias;
- Law 7/2001, of 22 June, on Tourism in Asturias;

2. The amendment of Law 10/2002, of 19 November, on Internal Trade in Asturias is to be passed separately.

**Regulatory adaptation** involves amendments to 23 decrees and 3 decisions: 4 order and 3 decisions in the area of agricultural services, 1 in the area of social affairs, 3 in the area of retail trade, 3 in the area of

health, 10 in the area of tourism and 2 in the area of housing and construction.

- **MURCIA**

Law 12/2009, of 11 December, amending various laws to bring them into line with the Services Directive (BORM [Murcia Regional Government Gazette] of 24 December 2009) amends **six laws**:

- Law 5/1997, of 13 October, on Trade Fairs in Murcia;
- Law 11/2006, of 22 December, on Retail Trade and Retail Facilities in Murcia;
- Law 11/1988, of 30 November, on Traditional Crafts in Murcia;
- Law 2/2000, of 12 July, on Sport in Murcia;
- Law 2/1995, of 15 March, on Gambling and Betting in Murcia;
- Law 11/1997, of 12 December, on Tourism in Murcia;

**Regulatory adaptation** involves amendments to 19 decrees and 1 order: 1 decree in the area of agricultural services, 1 decree in the area of social affairs, 2 decrees in the area of sport, 1 decree in the area of environment, 4 decrees and 1 order in the area of health, 2 decrees in housing and construction and 8 decrees in the area of tourism.

- **MELILLA**

The process of **regulatory adaptation** involves amendments to 7 regulations and numerous ordinances, including 3 regulations and 1 ordinance in the area of retail trade, 1 regulation and 1 ordinance in the area of environment and 1 ordinance in the area of animal health.

## VI. TRANSPOSITION OF THE SERVICES DIRECTIVE AS REGARDS LOCAL AUTHORITIES

As discussed above, one of the central issues of transposition of the Services Directive which renders it unusually complex is that it impinges upon the procedures of all three territorial levels of government into which the Spanish state is divided, and cuts across a multiplicity of areas of activity, given the horizontal scope of the service sector in a modern developed economy.

Local authorities are affected by the Services Directive with regard both to the regulatory changes to the authorisation schemes and requirements for access to and the exercise of service activities, and to the system of administrative cooperation and the introduction of the point of single contact and electronic access to procedures and formalities.

It is to be borne in mind that in Spain there are 8,115 local authorities, 38 provincial assemblies [*Diputaciones Provinciales*], 7 Canary Islands assemblies

[*Cabildos Insulares*], 4 Balearic Island assemblies [*Consells Insulars*] and 3 Basque Country assemblies [*Diputaciones Forales*] with powers to issue regulations, and that these bodies operate multiple procedures and rules governing access to and the exercise of service activities. Furthermore, given the widely variegated nature of the map of Spain to this respect, some local authorities' inadequate management capacity -- a corollary of their small size and rudimentary structure -- further complicates the fulfilment of the duties imposed by the Services Directive. As a mechanism to include local authorities in horizontal cooperation, the Spanish Federation of Municipalities and Provinces (FEMP) was invited to appoint its own sole partner to take part in horizontal cooperation meetings, and municipal representatives were invited to attend sectorial coordination meetings.

Local authorities have been called upon to screen their own regulations so as to ascertain the extent of their compatibility with the Services Directive as to authorisation schemes and requirements that are prohibited or subject to evaluation under the Directive. However, insofar as local regulations implement national and regional regulation, they must cleave to the new criteria adopted in such legislation as a result of its own amendment to the Services Directive.

The following points are to be borne in mind in connection with regulatory adaptations impinging upon local authorities:

1. Despite the fact that the total number of local regulations affected by the Services Directive is very large, these regulations generally relate to similar fields of subject matter. Specifically, it has been ascertained that the sectorial domains attracting the greater part of regulations affected by the Directive are retail trade, healthcare, transport, environment, energy, sport, public entertainment activities and information society and communications. That is to say, only eight areas out of the total of 22 addressed by the process of transposition.
2. A major proportion of local regulations on procedures and formalities affected by the Services Directive are implementations of national or regional regulation on the sector of activity in issue. In these events, it is necessary first to determine the manner in which those laws have been amended in line with the Services Directive before local regulations are amended. In addition, what is more, after the passage of the relevant legislative amendments and the Umbrella Law itself, any prior requirements under local regulations that are incompatible with the new Laws will be rendered inapplicable automatically.
3. Given the heterogeneity of Spanish local authorities, it has been thought necessary to undertake actions to make municipal officials aware of the content of the Services Directive and of the horizontal transposing law, on one hand, and, on the other hand, of the specific duties placed on local authorities as a result of these regulatory novelties. It was accordingly decided to carry into effect a specific strategy of action.

Having regard to all these issues, the following steps were taken:

- 1. A study was conducted to detect those sectors in which there are local regulations potentially affected by the Services Directive**, selected on the basis of complexity of organisation and management capacity. Specifically, the municipalities concerned have been: Madrid, Valencia, Toledo, Valladolid, Granada, Huesca, L'Hospitalet de Llobregat, Rubiá, Vilamarín, Viana Do Bolo, Ourense, Xinzo de Limia, Castro Caldelas, Cortejada, Bande, Verín, Rivadavia and Barbadás. These studies supported the conclusion that the sectors attracting the greatest number of regulations affected by the Directive were retail trade, healthcare, transport, environment, energy, sport, public entertainment activities and information society and communications.
- 2. A practical screening manual was written specifically aimed at local authorities**, based on the information gathered for the study mentioned in the foregoing paragraph. The manual is supplemented by a "quick guide", in order to assist municipal officials in their task.
- 3. The manual was circulated to all local authorities, and a number of technical conferences were held.**

The above actions having been completed, the Ministries of Economy and Finance and of Territorial Policy issued (June 2009) a **Work Programme to set in motion the amendment of local regulations to the Services Directive; this Work Programme was approved by the WGTSD.**

The Work Programme is predicated on two lines of action: First, in support of the transposition of the Directive throughout **all local authorities**, the decision was made to involve each Autonomous Community's Directorate General for Local Government to enlist its assistance in the process of transposition of the Directive at local authorities within its own Autonomous Community and to have it transmit guidelines and general criteria, although each Autonomous Community may independently decide upon the appropriate body that is to drive forward the transposition of the Directive at local authorities within its territory.

Secondly, a parallel effort was undertaken to work directly and more closely from the Inter-Departmental Working Group for the Transposition of the Services Directive (WGTSD) **with certain local authorities** serving large populations, subject to the condition of including at least one local authority for each Autonomous Community (see the Annex listing the selected municipalities); such cooperation would address the phases of identification and amendment of local regulations and transmission of the results to the European Commission.

**The outcome of the regulatory amendments** carried into effect by these larger municipalities **would then be passed on to the rest of local authorities** in order to provide them with a point of reference for the purpose of reviewing the transposition process within their own remit.

This second line of action was begun on 16 July 2009 at a meeting chaired by the Secretary of State for Territorial Cooperation; the attendees included representatives of 28 Spanish local authorities, Directors General for Local Government at Autonomous Communities, and the Central Government Ministries of Territorial Policy, of Economy and Finance, and of the Presidency.

At the meeting, the local authorities in attendance were asked to submit their papers identifying regulations affected by the Directive within their respective remits in order subsequently to transmit the general guidelines underpinning the amendments to be carried into effect.

As and when the relevant lists of identified regulations were received, the information was transmitted to the Directorate General for Local Government of the respective Autonomous Communities, to serve as guidance for other local authorities in those same regions for the purposes of transposition and to furnish information about the regional sectorial legislation underlying the identified local regulations.

The information provided by the lists of identified regulations gives ground for the following **conclusions**:

1. The identification exercise conducted by the local authorities within the Working Group, despite considerable differences in the formats of information furnished by each authority, supports the general conclusion that the affected local regulations are largely concerned with the following matters:
  - Newsagent kiosks
  - Outdoor advertising
  - Sales on rounds
  - Municipal markets (retail and wholesale)
  - Alfresco bars and restaurants
  - Business licences, and opening and operation of establishments in general: This class comprises both substantive regulation on the relevant procedures and fiscal regulations on applicable fees and taxes.
  - Noise protection
  - Atmospheric environmental protection
  - Telecommunications
  - Solar energy
  - Funeral services
2. Most of the local regulations affected by the Services Directive are implementations of the respective regional sectorial legislation; any amendment to local regulations must accordingly be coordinated with changes previously effected by the Autonomous Community in its own statute book.

3. The decision made by an Autonomous Community as to the sectorial regulation that it is to modify as a result of its own process of regulatory identification and screening provides local authorities with a fundamental benchmark with regard to the question of whether a given local regulation is affected by the Services Directive; given the principle of statutory hierarchy, it is in practice essential to have an awareness of the manner in which regional legislation has been altered before the local regulations in issue can be properly modified in their turn. For this reason, many local authorities have made it known to the Ministry of Territorial Policy that they find it difficult to make any change without first being apprised of the import and scope of the amendments to be made by the respective Autonomous Communities.
4. Moreover, some provincial assemblies have entertained the proposal of drawing up muster regulations for affected sectors. However, here, too, the provincial assemblies pointed to the difficulty of drafting muster regulations before the relevant sectorial regional legislation has been adopted.

In addition, several Autonomous Communities have in recent months hosted training events to make both technical and political municipal officials aware of the duties arising out of the Directive. Specifically, the Directorate General for Local Cooperation of the Ministry of Territorial Policy has sent speakers to training events hosted by the following Autonomous Communities: Balearic Islands, Andalucía, Cantabria, Asturias, Canary Islands, Madrid, Valencian Community, Castilla-La Mancha (one event has been held at Toledo, further events are to be held in the rest of the region's provinces).

## VII. TRANSPOSITION OF THE SERVICES DIRECTIVE AS REGARDS PROFESSIONAL BODIES

In pursuance of the decision of the Central Government to carry into effect an ambitious transposition of the Services Directive that brings about a genuine structural reform of the services sector, Law 25/2009, of 22 December, amending various laws to bring them into line with Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof (the "Omnibus Law") includes among the national laws to be amended two laws impinging upon professional bodies: Law 2/1974, of 13 February, on Professional Bodies, and Law 2/2007, of 15 March, on Professional Partnerships.

The **far-reaching effects of the reform** of the Law on Professional Bodies is revealed by the fact that this statute affects close to 1,000,000 chartered professionals, who account for 6.1% of total employment, 30% of graduate employment and 8.8% of GDP. According to the *Informe sobre el sector de servicios profesionales y los colegios profesionales* ("Report on the professional services sector and professional bodies") produced by the National Competition Commission and published in September 2008, in

Spain there are 87 professions governed by professional bodies (if both national and regional bodies are considered) and close to 140 regulated professions.

In order to assure that the Services Directive was transposed properly, it was necessary to adapt the regulation governing professional bodies to the underlying principles of the Directive; those regulations are unusual in that they come into force by a system of twofold adoption: they are agreed regulations requiring the coincidence of two distinct expressions of will: The will of the respective professional body, as expressed by its internal bodies, and the will of the Central Government, which must ratify professional bodies' resolutions by Royal Decree.

Pursuant to the ambitious approach adopted for the transposition of the Directive, and in order to secure prompt implementation of the changes stemming from transposition in the area of professional bodies, professional body regulations have been adapted in parallel to the parliamentary passage of the Omnibus Bill, despite the uncertainties surrounding its passage by reason of the complexity of the reforms.

To determine the way in which the various aspects of reform were to be implemented, a Working Group was created in partnership with national professional bodies; this working party met on three occasions on the basis of the following timetable of work:

- **First Meeting of the Working Group on Transposition of the Services Directive and Professional Bodies (28 July 2008):** This meeting was the first round of consultations with representatives of national professional bodies and general councils of sub-national professional bodies with regard to the implications of the Services Directive for professional organisations.

It was made clear that reform in this area would follow the direction taken by the transposition of the Directive as a whole: the principle of free access to the professions would be reinforced, with joint exercise of more than one profession being allowed; unjustifiable barriers to competition would be removed, and protection of users and consumers would be strengthened, while professional bodies would be encouraged to modernise.

- **Second Meeting of the Working Group on Transposition of the Services Directive and Professional Bodies (3 July 2009):** At this meeting -- held after the Omnibus Bill had begun to be read in the lower house of the Spanish national parliament -- agreement was reached with the various professional bodies as to a work plan towards implementation of the reform. It was thus agreed that each national professional body or general council of sub-national professional bodies was to submit to the Ministry of Economy and Finance, before 15 September 2009, the main outlines of reform of their charters to bring them into line with the Omnibus Bill.

Most of the professional bodies submitted to the Ministry of Economy and Finance the main lines of reform of their respective charters within the agreed time limit. The Ministry then sent to each of the professional bodies that had submitted its outlined reforms an individual assessment of its proposals in the way of guidance for the drafting of their amended charters.

- **Third Meeting of the Working Group on Transposition of the Services Directive and Professional Bodies** (13 October 2009):

The third and latest meeting held with the professional bodies was directed at assessing the outline reforms of charters submitted so far and set a timetable of work for the following phase.

As a rule, the response of the professional bodies was found to be widespread and positive (although some of the proposed outlines of reform failed to address certain issues, and a minority were contrary to the provisions of the Omnibus Bill).

By way of conclusion, it is to be highlighted that **the work plan has been adequately fulfilled**, having served to identify the key points of reform and determine how they are to be addressed by the professional bodies.

In January 2010, a large majority of the professional bodies submitted to the Ministry of Economy and Finance detailed proposals for reform of their respective charters. The Ministry then sent to each of the professional bodies that had submitted its outlined reforms a fresh individual assessment of its proposals. Later, the professional bodies started to submit to their relevant governing Ministry the final proposals for their amended charters, duly adopted by their internal organs, for the purpose of commencing the legal procedures for approval by the Central Government under a Royal Decree. Each of these draft instruments is at a different stage of enactment; they are all expected to be adopted successively over the coming months.

Moreover, in February 2010 an initial technical sectorial meeting was held with the Autonomous Communities so as to articulate a joint response to the transposition of the Services Directive as regards professional bodies.

As a rule, the Autonomous Communities said that they had begun the process of transposing the Services Directive as regards professional bodies via their respective Omnibus Laws. Some Autonomous Communities claimed that their present law on professional bodies was already consistent with the national Omnibus Law and thus required no modification.

As regards the adaptation of regional professional bodies' regulations to the statutory framework shaped by transposition of the Directive, the Autonomous Communities generally asserted that they had chosen to await the final adoption of national professional bodies' charters before setting in motion the reform of territorial professional bodies' charters.

## VIII. RESULTS OF THE CHANGES MADE, BY AREA

As discussed above, the Services Directive impinges on a wide range of areas and sectors of activity. The impact of transposition is greatest, however, in the domains that concentrate most of Spain's service activities. The outcomes of the exercise accordingly differ from one area to another. In addition, the results vary as a function of the distribution of powers in a given sector as between the Autonomous Communities and Central Government.

**Regulatory changes have clustered in the fields of tourism, retail trade and industry.** A special effort has been made in these domains: it would be fair to say that the regulation has been given a **new direction**, and is now characterised by the fact that enterprises and professionals face simplified requirements and formalities and carry a greater share of responsibility; as a rule, administrative control has undergone a shift towards ex post supervision.

In **other areas, such as environment, agriculture or health**, although the regulatory approach remains the same, the introduction of the principles of good regulation under the Umbrella Law has led to the **removal of a significant number of barriers and obstacles that have been adjudged disproportionate.**

The following tables show the preliminary results of transposition, reflecting information furnished by Central Government Ministries and the Autonomous Communities, as set out in the annex to the report. It is important to bear in mind that these results are estimated, because the enactment is not yet complete of the statutory instruments for adaptation to Laws 17/2009 and 25/2009; the results may still be altered over the course of the enactment process.

## **METHODOLOGICAL NOTE ON THE OVERALL COUNT OF SUPPRESSED AUTHORISATIONS AND REQUIREMENTS**

*The data are drawn from information furnished by Central Government Ministries and Autonomous Communities, as set out in the Annex.*

### *I. COUNT OF SUPPRESSED AUTHORISATIONS*

*The number of authorisations has been arrived at with reference to the definition under the Umbrella Law (any express or implied act of a public authority). The figure accordingly embraces the elimination of mandatory entry in a register through its becoming an ex officio procedure, access authorisations and any other authorisations that may be required in the carrying on of the given activity.*

*Where in addition to obtaining an authorisation it was necessary to be entered on a register prior to the exercise of the given activity, the removal of both formalities is counted as the removal of two authorisations. However, if entry in a register, though mandatory, could be completed after the commencement of an activity, the elimination is counted as the removal of an authorisation and the removal of a requirement.*

*In areas governed by both framework national legislation and implementing devolved regional legislation (e.g., health, retail trade, industry, environment, agricultural services, housing and construction, gambling, interior affairs), authorisations are counted with reference to the statutory instrument having direct effect in the given Autonomous Community. Therefore, where devolved regional legislation was extant, the figure for suppressed authorisations refers to regional legislation; while in Autonomous Communities lacking their own legislation -- where the framework legislation accordingly applies directly (this being particularly frequent in Ceuta and Melilla, which have no legislative powers) -- the figure refers to authorisations suppressed at the level of national legislation.*

*As regards entry in special sales registers, one suppressed authorisation is counted for each mode of special sale.*

## *II. COUNT OF SUPPRESSED REQUIREMENTS*

*As for the count of suppressed authorisations, the figure for suppressed requirements refers only to the statutory instrument having direct effect in the given Autonomous Community.*

*As regards establishment, regard has been had to all suppressed requirements formerly imposed on a provider for access to or exercise of a service activity, with reference to article 9 of the Umbrella Law and to requirements subject to evaluation and prohibited requirements. The suppression of implied rejection of an application by administrative silence is not counted.*

*As regards territorial validity of the provider's ability to operate, effectiveness at the national level is not counted. However, the figure does take account of the removal of requirements formerly imposed on providers from other Autonomous Communities; one suppressed requirement is accordingly counted for each subsisting authorisation/undertaking of compliance/communication that is no longer required of providers established in other Autonomous Communities (recognition of national validity of an authorisation, undertaking of compliance or communication).*

*Recognition of the unlimited term of an authorisation has been counted as a suppressed requirement.*

*Any decrease in the number of documents to be filed, non-requirement of original documents or certified copies and other administrative simplification measures that lighten the burden imposed directly on providers have been counted as suppressed requirements wherever the authorisation is kept in place. Where an authorisation is suppressed and, as a result, a range of requirements are eliminated with it, those requirements are excluded from the table of suppressed requirements because only the eliminated authorisation is counted.*

*Where an authorisation scheme is eliminated, the suppression of licence processing fees is not counted as a suppressed requirement.*

*As regards freedom to provide services for actors established in other Member States, removal of authorisations formerly imposed on such providers has been counted as removal of requirements.*

**NUMBER OF SUPPRESSED AUTHORISATIONS, BY AREA AND PUBLIC AUTHORITY**

PUBLIC AUTHORITY	PUBLIC AUTHORITY	SOCIAL AFFAIRS	TRADE AND RETAILING	CONSUMER AFFAIRS	ARTS AND CULTURE	DEFENCE	SPORT	ECONOMY AND FINANCE	EDUCATION	EMPLOYMENT	ENERGY	INDUSTRY	INTERIOR AFFAIRS	JUSTICE	ENVIRONMENT	HEALTH	AGRICULTURAL SERVICES	INFORMATION SOCIETY	LAND USE AND TOWN PLANNING	TRANSPORT	TOURISM	HOUSING AND CONSTRUCTION	Total
<b>CENTRAL GOVERNMENT</b>			6		1	1		4		1	16	31	4		11	9	9	4		4	13	2	<b>116</b>
ANDALUCÍA			11		2			1			1		0		0	12				1	15		<b>43</b>
ARAGÓN			4										1		2		2				7		<b>16</b>
CANTABRIA		1	16													9					5	2	<b>33</b>
CASTILLA Y LEÓN		1	9					2							7	6	1			1	12	2	<b>41</b>
CASTILLA-LA MANCHA			12					2								5	1				6		<b>26</b>
CATALONIA		2	8					2					3		3	16	7				5		<b>46</b>
MELILLA			2																				<b>2</b>
COMMUNITY OF MADRID		10	13	3	1			2							1	4	2				32	1	<b>69</b>
NAVARRA			9					3					2			8					11	2	<b>35</b>
VALENCIAN COMMUNITY			9				1					5	1			7	9				9	2	<b>43</b>
EXTREMADURA			7		3			2								3					8		<b>23</b>
GALICIA			5		2			1				48				1	7				7	1	<b>72</b>
BALEARIC ISLANDS		1	6										8		2		1			1	17		<b>36</b>
CANARY ISLANDS		1	6		1			2							2	6	3				10		<b>31</b>
LA RIOJA		3	10					2								8					10	2	<b>35</b>
BASQUE COUNTRY		1	7		1			1			2	4			5	6	1		1		11	2	<b>42</b>
ASTURIAS		1	7																		14	2	<b>24</b>
MURCIA			6				1	1								2					6		<b>16</b>
<b>Total</b>	<b>0</b>	<b>21</b>	<b>153</b>	<b>3</b>	<b>11</b>	<b>1</b>	<b>2</b>	<b>25</b>	<b>0</b>	<b>1</b>	<b>19</b>	<b>88</b>	<b>19</b>	<b>0</b>	<b>33</b>	<b>102</b>	<b>43</b>	<b>4</b>	<b>1</b>	<b>7</b>	<b>198</b>	<b>18</b>	<b>749</b>

**NUMBER OF SUPPRESSED REQUIREMENTS, BY AREA AND PUBLIC AUTHORITY**

	PUBLIC AUTHORITY	SOCIAL AFFAIRS	TRADE AND RETAILING	CONSUMER AFFAIRS	ARTS AND CULTURE	DEFENCE	SPORT	ECONOMY AND FINANCE	EDUCATION	EMPLOYMENT	ENERGY	INDUSTRY	INTERIOR AFFAIRS	JUSTICE	ENVIRONMENT	HEALTH	AGRICULTURAL SERVICES	INFORMATION SOCIETY	LAND USE AND TOWN PLANNING	TRANSPORT	TOURISM	HOUSING AND CONSTRUCTION	Total	
<b>PUBLIC AUTHORITY</b>																								
<b>CENTRAL GOVERNMENT</b>			16		4	3		2	1	1	23	97	25	4	10	2	2	3		11	7	6	<b>217</b>	
ANDALUCÍA			8		1					2	1				2	1					5		<b>20</b>	
ARAGÓN			4		2								1								8		<b>15</b>	
CANTABRIA		3	1													3					6		<b>13</b>	
CASTILLA Y LEÓN		5	11		1								2		5	11	1				4		<b>40</b>	
CASTILLA-LA MANCHA		4	2								1					7	0				6		<b>20</b>	
CATALONIA	1		3													1	37				3		<b>45</b>	
MELILLA			1																				<b>1</b>	
COMMUNITY OF MADRID		1	4												8		1			3	22		<b>39</b>	
NAVARRA		1	3										1								3		<b>8</b>	
VALENCIAN COMMUNITY		31	7				1				2	5	3		1	1	2				12		<b>65</b>	
EXTREMADURA		2	2		1											1					5		<b>11</b>	
GALICIA			4																		8		<b>12</b>	
BALEARIC ISLANDS	2	2	2												1						11		<b>18</b>	
CANARY ISLANDS		2	2												1		2				3		<b>10</b>	
LA RIOJA			5					2							1		2				1		<b>11</b>	
BASQUE COUNTRY		2	5									2				3	7				3		<b>22</b>	
ASTURIAS			1													6					2		<b>9</b>	
MURCIA		4	1												2	7					4		<b>18</b>	
<b>Total</b>	<b>3</b>	<b>57</b>	<b>82</b>	<b>0</b>	<b>9</b>	<b>3</b>	<b>1</b>	<b>4</b>	<b>1</b>	<b>3</b>	<b>27</b>	<b>104</b>	<b>32</b>	<b>4</b>	<b>31</b>	<b>43</b>	<b>54</b>	<b>3</b>	<b>0</b>	<b>14</b>	<b>113</b>	<b>6</b>	<b>594</b>	

## VIII.1. PUBLIC AUTHORITIES

### COMMON ADMINISTRATIVE PROCEDURE

The **horizontal changes** made to administrative procedure lay the foundations for an **ambitious amendment** to the legislative framework of the services sector and a shift of regulatory model from ex ante control to a general rule of free access to service activities and the exercise thereof, while keeping in place a number of proportionate requirements that lend shape to a simple, transparent and predictable statutory framework that supports the quality of service provision by reinforcing the units concerned with inspection and ex post control.

The amendments to Law 30/1992, of 26 November, on the Legal System of Public Authorities and Common Administrative Procedure, bring the concept of implied administrative consent or prohibition [*administrative silence*] and of the point of single contact into line with the Services Directive, and enhance the horizontal legislation on administrative procedure with practices that are less restrictive than licensing regimes, such as schemes involving prior notification or undertakings of compliance.

### LOCAL GOVERNMENT

In line with the changes described above, article 84 of Law 7/1985, of 2 April, Establishing a Framework for Local Government, regarding the **general means available to local authorities to intervene in citizens' activities**, is amended so as to ensure that licensing regimes or authorisation schemes are not used as the typical framework of intervention as regards the establishment and exercise of service activities, and that any residual use of such practices conforms to the principles and criteria of the Services Directive; those means of intervention in citizens' activities include:

- Prior licensing and other preventive control practices are kept in place, given that they constitute a general technique of intervention that may find applications in areas other than service activities, such as construction licences in the field of town planning. However, the provision is amended such that access to service activities and the exercise thereof within the scope of the Umbrella Law are now subject to articles 5 to 11, in particular, of that Law (application of the principles of non-discrimination, necessity and proportionality, the principles of the Services Directive, requirements to which service activities may not be subject, etc). This incorporation by reference signifies that, in pursuance of article 5 of the Umbrella Law, any authorisation scheme for a service activity must be prescribed by law.
- Start of a service activity becomes subject to the giving of prior notification or an undertaking of compliance in accordance with article 71 a of Law 30/1992, of 26 November, on the Legal System of Public Authorities and Common Administrative Procedure, which is likewise

amended by the same bill (this being a novel and less restrictive form of intervention).

- Service activities become subject to ex post control for the purposes of verifying compliance with applicable laws and regulations (this, again, is a novel and less restrictive form of intervention).

It therefore falls to sectorial legislation -- typically at the regional level -- to determine whether or not municipal authorisation is mandatory, and to local authorities to determine the specific mechanism of intervention, under the new article 84(1) of Law 7/1985, of 2 April, and the principles of the Services Directive, as transposed through the Umbrella Law.

This legislative amendment, coupled with the entry into force of the Umbrella Law, compels the amendment to the Local Authorities Services Regulation, introduced by the Decree of 17 June 1955, so as to amend any provisions that have now been rendered incompatible with the new legislation. Specifically, the provisions to be amended are those that imposed, as the general and mandatory mechanism of intervention in industrial and commercial activities, the requirement of a prior licence.

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PUBLIC AUTHORITIES		
BARRIERS	Central Government	Autonomous Communities
Abolished authorisations		
Eliminated requirements		3

## VIII.2. SOCIAL AFFAIRS

At the level of Central Government it has not been necessary to amend the laws and regulations in the area of social affairs.

In **Cantabria**, registration of entities, centres and other providers of social services is now to be effected on an ex officio basis, and only for those established in Cantabria. The requirement to submit various documents has been eliminated wherever the provider shows that it is established in another Autonomous Community or Member State.

In **Castilla-La Mancha**, distinct regimes are established for authorisations for the installation of social services centres and for providers operating under a regime actuated by the freedom to provide services. In addition, procedures are simplified by reducing the range of documents to be filed by applicants for authorisations; the duration of an authorisation becomes unlimited; a wider range of procedures can now be completed by electronic means; and it is

prescribed by law that the criteria on licence granting must be transparent, clear, necessary, non-discriminatory, objective, and made public in advance.

In **Castilla y León**, the requirement of mandatory registration with the regional register of family mediators is replaced by the giving of an undertaking of compliance.

In the **Community of Madrid**, a requirement of prior notification replaces all the authorisations tied to social centres and social action services, except for the creation of a new centre. The authorisation procedure is streamlined and accelerated (prior certification is suppressed, and the construction to be placed on administrative omission to reply [*administrative silence*] is reversed). Registration with the register of heads of social services centres will now be done ex officio. The certification requirement for entities training heads of social services centres is now eliminated, and, as a corollary, the requirement to accredit or certify non-standard training is likewise removed. Finally, the authorisations formerly required for camping activities involving the elderly is eliminated.

In the **Valencian Community**, the procedure is simplified and requirements are removed for the obtainment of an authorisation for social services centres in relation to undertakings to arrange insurance policies, opening hours, staffing of centres and services, and certified photocopies of registration of workers with the social security system and proof of payment of insurance premiums.

In **Extremadura**, procedures are simplified for official recognition of schools training leisure educators and for the authorisation formerly required to create, build, expand, move or otherwise modify centres, services and establishments for the elderly.

The **Government of Catalonia** removes the authorisation for the opening and operation of facilities dedicated to children's and young people's activities and for user information services.

The **Community of Canary Islands** eliminates the authorisation for leisure entertainer schools, removing requirements as to the qualifications necessary for persons scheduling and conducting activities for young people's training and leisure activities.

The **Community of Balearic Islands** plans to replace the authorisation for children's and young people's leisure activities with a prior notification, thus replacing the duplicate authorisation scheme entailed by the need to be registered with the census of leisure schools in order to earn official recognition by replacing it with another, less burdensome means of record of compliance. In addition, the procedure is simplified for the authorisation of the establishment of youth facilities.

In **La Rioja**, the authorisation scheme is removed for the activity of youth exchanges, and authorisation for the opening and operation of training, leisure and time-off schools and registration with the public register of youth

participation and equipment are both replaced by the giving of a prior notification which gives rise to an ex officio entry in the register.

In the **Basque Country**, authorisation and registration and entry in the register for the family mediation activity is limited to cases in which the service is to participate in the public system of social services. As to social services, the validity is recognised of authorisations granted in other Autonomous Communities, express provision is made for freedom to provide services, and entry in the registers is now to be completed on an ex officio basis.

The **Community of Asturias** has adapted its regulations on social service centres to the Services Directive.

**Murcia** simplifies the procedure for the authorisation of the opening and operation of social entities, centres and services, and now does not require documents where these are in the possession of a public authority or may be readily obtained. The duplicate authorisation scheme entailed by the duty of entry in the register and an additional authorisation is eliminated, and authorisations are now of unlimited term. Authorisations issued in other Autonomous Communities are recognised as effective, and express provision is made for the freedom to provide services.

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<b>SOCIAL AFFAIRS</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>		21
<b>Eliminated requirements</b>		57

### **VIII.3. TRADE AND RETAILING**

The changes made in this area by Central Government are foundational, and the outcomes will accordingly involve consequences at the regional level, as described in the Annex.

#### **COMMERCIAL ESTABLISHMENTS**

Law 1/2010, of 1 March, amending the Law 7/1996, of 15 January, on Retail Trade, introduces the essential innovation that the installation of large commercial establishments is not as a general rule subject to authorisation. The concept of 'large commercial establishment' is itself abolished, thus leaving undisturbed the exclusive powers of the Autonomous Communities in the domain of internal trade; it falls to regional legislation to define the various classes of commercial establishment.

The Law pays special attention to the close relationship between retail activity and town planning, the preservation of historic and cultural heritage, and environmental policy. The tight link between retail activity and its host territory signifies that policy in this area must be integrated with territorial planning with respect to city centres, suburbs and the rural environment, and with environmental policy, in so far as it determines the existence of protected spaces. By way of an exception, therefore, the installation of a commercial establishment may be made subject to authorisation in the clear and unequivocal presence of overriding reasons relating to the public interest that impinge upon commercial distribution, provided that the tests of proportionality and non-discrimination are satisfied. In addition, the Autonomous Communities must objectively and foreseeably identify, with respect to their own bodies of legislation and regulations, the reasons for putting in place such schemes and their expected impact. For these purposes regard must be had to scientific research pointing to the environmental and territorial impact of the installation and opening of commercial establishments in excess of 2,500 square metres of commercial surface area.

Any criteria prescribed for the grant of such authorisation must be clear, unambiguous, predictable, accessible and made public in advance. The new statutory framework is guided by the principle of freedom of enterprise and aims to assure the coexistence of the various commercial models within a regime of free competition so that consumers' needs are suitably met; this is laid down programmatically in one of the final provisions, which defines the main criteria applicable to urban planning.

Moreover, the economic tests formerly attaching to authorisation are abolished; only criteria flowing from overriding reasons relating to the public interest are permitted, such as to make comprehensive provision for the impact of the intended establishment on land use policy, town planning, environmental protection and conservation of historic and artistic heritage, and consumer protection within the meaning of the Consolidated Text of the General Law for the Protection of Consumers and Users.

In this same line of approach, an applicant's competitors' former ability to intervene in the process of consideration of the application for authorisation is suppressed.

The prescription is introduced that the authorisation procedure must involve coordination of all administrative formalities bearing upon the installation of a commercial establishment, a generic time limit of six months for the issue of a decision is provided – with implied administrative consent applying otherwise – and reference is made to the Autonomous Communities as the competent authorities. An authorisation must be granted for an unlimited term and be freely transferable by its holder; this precaution is deemed necessary to prevent the imposition of further authorisation requirements upon change of holder or succession of enterprises, given that the impact generated by the original establishment has already been appraised.

Five new additional provisions are introduced whereby competent authorities whose breach of Community legislation as to the subject matter of the Law leads to the Kingdom of Spain having to bear a penalty imposed by the European institutions shall be answerable to the extent attributable to them for the liabilities arising out of such breach. In addition, the duty is strengthened to carry out an environmental impact assessment – if applicable – prior to the giving of an undertaking of compliance or a communication, where this is the mechanism of control of the respective activity. An additional provision is also introduced as to the conditions of access and non-discrimination in access to and use of commercial establishments. Finally, two further additional provisions are inserted regarding urban planning of commercial uses and the legal framework of commercial distribution contracts.

## **REGISTER OF FRANCHISORS**

Some of the key changes made to adapt existing regulation to the Services Directive to enhance the working of the register are as follows:

Delimitation of the scope of application of the register; and, in pursuance of the duty of administrative simplification imposed by the Directive, the replacement of the requirement of prior entry in the register with the giving of a notification within a period of three months from start of activity, thus speeding up the administrative formalities and removing an unnecessary barrier to the exercise of the activity of franchisor. In addition, requirements are eliminated as to the submission of documents that are deemed unnecessary or susceptible to ex officio exclusion by the relevant public authority, thus removing burdens on the interested party.

This means that natural persons and bodies corporate intending to carry on a franchising activity in Spain must notify their details within three months from start of such activity, either to the register operated by the Autonomous Community of their registered office, or, in the absence of any register created for such purpose, to the register of franchises of the Ministry of Industry, Tourism and Trade, for informational purposes; the service provider is permitted to start business operation in that three-month interval. This activity is also allowed without need of an establishment; in that event, there is no requirement of notification of details to the register of franchisors, provided that the service provider is already established in another Member State. Here, the provider's only obligation is to notify his intention to commence business activity in Spain.

A registered service provider remains under a duty to notify any change of details; failure to do so constitutes an infringement, as was already the case under the former Law on Retail Trade.

The register is adapted to the demands of the point of single contact. The database can now be searched by service recipients, providers and potential entrepreneurs easily and promptly; it is also a qualitative source of information insofar as it offers data about quality certificates and adherence to arbitration schemes, inter alia. Provision is made for the central and regional registers to

be inter-operable, in accordance with additional provision 1 of the Umbrella Law. Data are centralised for the purposes of publicity and information, and guidelines are accordingly laid down for technical cooperation and coordination among equivalent registers created by the Autonomous Communities pursuant to the principle of interoperability of registers.

### **REGISTER OF PERISHABLE FOODS**

The register is repealed because the regulated subject matter – perishable foods – is strictly subject to Community law and lies within the powers of the Ministry of Environment and Rural and Marine Affairs.

Restrictions are eliminated as to the minimum tonnage and items to be placed on the market by providers affiliated to central points of distribution; also removed is the former requirement to furnish a forecast list of goods and quantities thereof intended to be sold in order to attract eligibility for registration, which in turn gave rise to the right to trade.

Royal Decree 1882/1978, on commercialisation channels for agricultural and fishing products for food, is amended at articles 6, 7, 14 and final provision 1; articles 8 and 9 are wholly repealed, and the Ministry of Trade and Tourism Order of 22 May 1980 on entry in the special register of distribution entities and centres for perishable food products (BOE, Central Government Gazette, of 9 June 1980, issue 138), detailing entry in the register and the threshold tonnage requirement at article 3, is suppressed in its entirety.

### **REGISTER OF DISTANCE SALES ENTERPRISES**

First, clarification is made of the scope of application of the register of distance sales enterprises, thus imposing on providers desiring to establish themselves in Spain, whether they be Spanish nationals, nationals of another European Union Member State, or nationals of a third country, a duty to notify the commencement of an activity within three months.

If such activity is intended to be carried on without an establishment, i.e., under the regime applicable to the freedom to provide services, the provider's only duty is to notify the commencement of his activities in Spain through the register of the Autonomous Community where he intends to commence his activity, and, failing this, to the register operated by the Ministry of Industry, Tourism and Trade.

An enterprise must accordingly effect a disclosure of details declaring compliance with a range of requirements, thus removing the requirement for filing documents already in the possession of the relevant public authority. Such notification is to be made to the register of the Autonomous Community where the provider has his seat, or, failing this, to the register operated by the Ministry of Industry, Tourism and Trade.

The powers of the Autonomous Communities are at all events left untouched, insofar as the faculty to verify compliance with the requirements that providers

represented to have satisfied in their notification of details rests with the Autonomous Communities.

Finally, registration functions are brought up to date in accordance with the above innovations; the register is modified so as to assure its interoperability and coordination with the registers of the Autonomous Communities, and is brought into line with the requirements of the point of single contact and other applicable laws and regulations. Transitional provisions are introduced to regulate the communication of data through the Autonomous Communities to the register of distance sales enterprises and vice versa, so as to ensure that both levels of government are availed of an updated census of such enterprises.

### **INSTALLATION OF SERVICE STATIONS AT LARGE ESTABLISHMENTS**

The duty to install service stations at large commercial establishment is abolished; such installation is now optional, and subject to a simplified procedure.

### **AUTOMATIC VENDING**

The duty formerly imposed by national legislation to obtain standard-approval for each individual vending machine is eliminated, as are prior authorisation by the competent authorities for trade and retailing, any applicable sectorial authorisations, and authorisations specific to the product.

The precautions from the standpoint of health legislation are preserved, and the Autonomous Communities are given the option to prescribe type approval by machine model, valid for all machines of a given model.

### **SALES ON ROUNDS**

The procedure for the grant of an authorisation will take the form of a competitive public bidding process. The filing of an application only requires the signing of an undertaking of compliance, which will serve for the purposes of announcing the subsequent competitive bidding process. The undertaking of compliance will nonetheless be subject to potential ex post administrative inspection, so as to give the relevant public authority an opportunity to revoke the authorisation in the event of breach of regulations.

The content of an undertaking of compliance must be expressly set out in the regulation, and will include the service provider's undertaking to comply with all requirements, uphold such compliance throughout the lifetime of the authorisation, be registered for the purposes of business tax and current with payment of the applicable rate, and current with Social Security contributions.

In accordance with the mandate of administrative simplification, these last two requirements may be verified by the relevant public authority ex officio, without need of any additional burden for the provider, provided that the provider gives his express consent.

Residence in the municipality may not be imposed as a requirement of access to provision of the service, on grounds that this would be a discriminatory measure.

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<b>TRADE AND RETAILING</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	6	147
<b>Eliminated requirements</b>	16	66

#### **VIII.4. CONSUMER AFFAIRS**

Provisions are introduced to promote consumer access to alternative dispute resolution schemes; a new type of infringement is introduced in order to penalise discrimination by reason of nationality or place of residence; and service providers' duties as to prior disclosures are strengthened.

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<b>CONSUMER AFFAIRS</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>		3
<b>Eliminated requirements</b>		

#### **VIII.5. CULTURE**

##### **COLLECTIVE RIGHTS MANAGEMENT ENTITIES**

At the national level, the authorisation scheme is preserved for collective rights management entities in order to assure adequate protection of copyright and related rights, but some requirements (4) that are contrary to the Services Directive are eliminated, such as the need for the proposed authorisation of a new entity to be assessed by existing entities.

The procedure is simplified for the grant of authorisations, which are treated as tacitly granted if the relevant public authority remains silent for three months from the date of application.

### **ARCHAEOLOGICAL/PALAEONTOLOGICAL ACTIVITIES**

These activities are governed by regional regulation; the requirement of prior authorisation for exercise is preserved on grounds of protection of historic and cultural heritage.

In Extremadura and Castilla-La Mancha, shorter time limits are provided for deciding upon applications for authorisation, and applicants are able to complete the procedures and formalities electronically with the creation of a point of single contact.

In Andalucía, Aragón and Castilla y León, any authorisation requirements that might give rise to direct or indirect discrimination are eliminated.

### **PRIVATE MUSEUMS**

Galicia and has kept in place an authorisation scheme for the creation of public and private museums.

Madrid has in place an authorisation scheme for the creation of private museums.

Catalonia, Andalucía, La Rioja, Asturias, the Valencian Community, Aragón and Castilla-La Mancha do not impose an authorisation requirement for the creation of private museums. However, they do require an authorisation for a private museum seeking membership of a network of regional museums or eligibility for subsidies; this authorisation scheme is regarded as outside the scope of the Directive.

In Extremadura, the authorisation scheme is eliminated for the creation and recognition of museums and museographic exhibitions; it is replaced by a requirement that the owner give an undertaking of compliance.

In Andalucía, the authorisation scheme is removed for the dissolution of private museums and museographic collections; such dissolution need only be notified to the competent regional department. Moreover, the need for an authorisation is eliminated for the movement of museum assets outside the territory of Andalucía; such movement must, however, be previously notified to the competent regional department.

In the Basque Country and Canary Islands, the authorisation schemes for the creation of private museums are replaced by requirements of mere notification.

## TRADE IN MOVABLE PROPERTY FORMING PART OF HISTORIC AND CULTURAL HERITAGE

In Extremadura, the requirement is eliminated for an enterprise engaging in trade in movable property forming part of the historic and cultural heritage of Extremadura to be entered in a register prior to exercise of its activity; it is now sufficient to file an undertaking of compliance, representing that the enterprise fulfils the requirements, without prejudice to the public authority's ability to register the enterprise ex officio. In addition, the requirement is eliminated for the register to be authenticated by the regional department of culture.

In the Community of Madrid, enterprises and sole traders habitually engaging in trade in assets declared to be of cultural interest or appearing in the inventory of cultural assets must notify start of activity to the Directorate General with authority in the domain of historic heritage; the former regime of mandatory prior registration is thus eliminated (article 18 of Law 8/2009, of 21 December, on Measures for Liberalisation and Support for Madrid Enterprises, BOCM [Madrid Regional Gazette] number 308, 29 December 2009).

Galicia is set to introduce a similar regime to Madrid's, involving notification to the competent authority and subsequent ex officio entry in the register of enterprises engaging in trade in cultural assets.

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<b>ARTS AND CULTURE</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	1	10
<b>Eliminated requirements</b>	4	5

## VIII.6. DEFENCE

### TYPE APPROVAL AND CATALOGUING OF DEFENCE EQUIPMENT

The requirement of accreditation of testing laboratories for defence equipment, formerly granted by the Directorate General for Weapons and Military Equipment, is eliminated.

Under the new rules, it will suffice for the type approval of a defence product for the laboratory carrying out the procedure to be adequately accredited by the National Accreditation Body (ENAC). This abolishes what was in effect a duplicate authorisation scheme, since the former accreditation by the

Directorate General for Weapons and Military Equipment was based on prior accreditation by ENAC.

The authorisation scheme is kept in place for the recognition of defence equipment cataloguing enterprises on grounds of public security and safety.

However, the duplicate authorisation scheme involved in the requirement of being registered prior to applying for recognition in the register of enterprises of the Directorate General for Weapons and Military Equipment is eliminated. The new regulatory framework provides that entry in the register of enterprises be effected ex officio upon application by the enterprise seeking accreditation. In addition, the time limit for a decision is shortened from 6 to 4 months, and authorisations will be of unlimited duration; concomitantly, the inspection schedule is reinforced.

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<b>DEFENCE</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	1	
<b>Eliminated requirements</b>	3	

## VIII.7. SPORT

<b>SPORT</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>		2
<b>Eliminated requirements</b>		1

## VIII.8. ECONOMY AND FINANCE

### **RANDOM COMBINATIONS FOR ADVERTISING PURPOSES**

The requirement of prior administrative authorisation is removed for the hosting, holding and implementation of random combinations for advertising or promotional purposes at the national level; the scheme is replaced by mere

notification to the competent authority. This eliminates an administrative barrier to a commercial activity which in recent years has grown in significance (3,156 authorisations were granted in 2008).

## TOBACCO

In the tobacco market, licensing requirements have been suppressed for the manufacture, importation and wholesale trading of tobacco products; these requirements are replaced by the giving of undertakings of compliance. The requirements for access to these activities have been diluted as regards proving financial solvency and technical and entrepreneurial capability. In all three cases, what is more, registration will continue to be ex officio, based on the particulars stated in the undertaking of compliance. The new rules are directed to promote access to such activities and the exercise thereof by abolishing the time limit involved in the former licensing regime, thus creating an improved regulatory framework.

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<b>ECONOMY AND FINANCE</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	4	21
<b>Eliminated requirements</b>	2	2

## VIII.9. EDUCATION

The coordination work conducted between Central Government and the Autonomous Communities led to two conclusions:

- It is necessary to keep in place the prior authorisation requirement for teaching centres whose courses lead to official qualifications valid throughout Spanish territory.
- It is necessary to review the procedure and requirements to which such authorisation is subject.

Keeping in place the prior authorisation scheme has been thought justified on grounds of overriding **reasons relating to the public interest** (protection of service recipients, protection of employees, fight against fraud, and social policy objectives); the authorisation scheme is considered to be **proportionate**, because the harm that provision of an education service by a non-authorised centre might bring about is both serious and irreparable (it would result in non-recognition of completed studies and thus the loss of the time and effort invested); finally, the scheme is **non-discriminatory**.

As to the requirements to which such authorisation ought to be subject, Central Government, in its capacity as foundational lawmaker, has proceeded to review the minimum requirements for teaching centres. Some have been removed entirely, while those which might create a barrier to the freedom to provide educational services have been simplified. The effects of this reform will become visible and evaluable when the Autonomous Communities implement and execute the provisions of the foundational legislation.

Central Government, as foundational lawmaker, has also allowed to stand a requirement subject to evaluation (under article 15 of the Services Directive): the minimum number of employees. Hence one of the requirements prescribed by Central Government is a ceiling on the ratio of teachers to students, which translates into a ceiling on the number of students per unit or classroom. This ratio -- which an education centre may reduce but not exceed -- entails a requirement to retain a threshold number of teachers for the purpose of continuous and simultaneous attention to students throughout the school day. The keeping in place of this requirement subject to evaluation is justifiable, proportionate and non-discriminatory.

The duplicate authorisation scheme governing the opening of integrated vocational training centres has been abolished, thus bolstering the concept of a single authorisation procedure which calls for the necessary coordination among the various public authorities involved.

Finally, Central Government manages the teaching centres of the Autonomous Cities of Ceuta and Melilla. Central Government regulates the administrative procedure for authorisation of teaching centres in these cities. The reform has introduced a prior phase of informal consultation with Central Government for the purpose of assessing the feasibility of the project which the promoter of a teaching centre intends to seek authorisation for. Procedures and formalities have been simplified by shortening the administrative response time and, where possible, permitting the filing of undertakings of compliance for the satisfaction of some of the requirements.

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<b>EDUCATION</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>		
<b>Eliminated requirements</b>	1	

## VIII.10. EMPLOYMENT

This area, largely unaffected by the Services Directive by virtue of the exclusion under article 1(6), has seen the introduction of changes whereby, without lowering minimum standards of safety and health, the system for occupational risk prevention is simplified, brought closer to employers' concerns, and made readily comprehensible; formalities have been simplified and the administrative burden lightened. The formerly required authorisation for entities intending to provide prevention training is now replaced by an undertaking of compliance.

In addition, two overlapping formalities in the field of construction have been amalgamated: prior notice and notice of opening.

### a) Suppressed authorisations

- Central Government

1. **Replacement of authorisations scheme by undertakings of compliance.** A public or private entity intending to provide training within the meaning of transitional provision 3 of Royal Decree 39/1997, of 17 January, enacting the Prevention Services Regulation, must accredit its capacity to do so by giving an undertaking of compliance to the competent employment authority as to the satisfaction of requirements specified by regulation (article 8 of Law 25/2009, inserting an additional provision 16 in the Law on Occupational Risk Prevention).

### b) Suppressed requirements

- Central Government

1. **The requirement is suppressed of prior notice by the developer with regard to construction work.**

The requirement of prior notice and of **the notice of opening of a construction site are amalgamated into a single requirement.** The **prior notice requirement** is accordingly abolished -- by the repeal of article 18 of Royal Decree 1627/1997 -- **and the information formerly contained in the prior notice is now to be included in the notice of opening of a construction site.**

- Regional level

In this area, the Autonomous Communities have powers merely to execute national legislation. The requirements and procedures prescribed in regional legislation and practices, therefore, are imposed by national legislation; having been properly assessed and justified, they may be suppressed only when so provided by national law.

The foregoing notwithstanding, as regards entry in the asbestos risk register of enterprises in Andalucía, the further requirements under

regional law will be abolished in the process of transposition of the Services Directive.

The following requirements will accordingly be eliminated from article 5 of the Order of 12 November 2007 for the application of Royal Decree 396/2006, of 31 March, establishing minimum health and safety measures applicable to workers at risk of exposure to asbestos:

- Requirements as to certain documents (identity card of the enterprise's representative and instrument of incorporation).
- The requirement that documents be filed in attested or authenticated form.

\*\*\*

<b>EMPLOYMENT</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	1	
<b>Eliminated requirements</b>	1	2

## **VIII.11. ENERGY:**

### **ELECTRICITY**

Adaptation to article 18 of the Omnibus Law has required the following amendments to 4 Royal Decrees:

- As regards checks on installations and metering equipment, any reference is deleted to the electrical equipment repairer's former duty to be on record with the metrological control register. By virtue of the changes made to metrological regulations, repairers need only give an undertaking of compliance to qualify for the practice of their occupation.
- As regards the electricity production market, the licensing regime for suppliers' and consumers' direct participation in the market is removed and replaced by a notification of start of activity supported by an undertaking of compliance.
- The register of wholesale suppliers and consumers is abolished; the former Register of Distributors, Suppliers and Consumers is renamed the Register of Distributors.

- As regards electricity production under the special regime, the formerly separate administrative procedure for inclusion under that regime is amalgamated with the procedure for entry in the relevant register.
- Prohibited requirements which were discriminatory by reason of nationality of service provider or recipient are eliminated.

## **HYDROCARBONS**

The changes contemplated in article 19 of the Omnibus Law have brought about the amendment to three Royal Decrees on hydrocarbons, as follows:

- The authorisation scheme is removed for the exercise of the activity of natural gas marketer.
- Natural gas transport and distribution firms are no longer under a duty to be registered as Spanish companies or as companies registered in another Member State and having a permanent establishment in Spain.
- The register of distributors, marketers and direct consumers of pipeline gas is abolished and replaced with an administrative register of distributors of pipeline gas.
- Administrative authorisation is replaced with notifications from operators starting a marketing activity, and the requirements are specified for users to take part. Direct consumers operating on the market are likewise under a duty to notify start of their activity.
- Administrative authorisation is replaced with notifications from operators starting transport, distribution, marketing, supply and natural gas facility authorisation procedures, and the requirements are specified for users to take part.
- European natural gas wholesalers not desiring to supply consumers are now permitted to operate on Spain's wholesale gas and capacity markets subject to no further requirement than the giving of any necessary financial guarantees and the recognition of their licences under a bilateral agreement between Spain and the relevant Member State.
- The register of gas transport facilities is eliminated.
- The administrative authorisation is removed for liquefied petroleum gas wholesaling and bulk retailing, and the respective administrative registers are suppressed. The authorisation procedure is replaced by a notification of start or cessation of activity to the Ministry of Industry, Tourism and Trade; a list of operators and marketers is to be published on the website of the National Energy Commission.

- As to petroleum product wholesaling, qualification as an operator is no longer subject to administrative authorisation; the scheme has been replaced by mere prior notification. As a result, the Register of Operators formerly kept for the purpose by the Directorate General for Energy Policy and Mines of the Ministry of Industry, Tourism and Trade is suppressed and replaced by a list, to be published on its website by the National Energy Commission, of companies that have notified the Ministry of their exercise of this activity.
- Operators remain under a duty to keep security stocks and to keep up their membership of Corporación de Reservas Estratégicas de Productos Petrolíferos (CORES, the Corporation of Strategic Reserves of Petroleum Products).

## **MINES**

The changes contemplated in article 17 of the Omnibus Law have brought about the amendment to two Royal Decrees and one Ministerial Order on mines, as follows:

- Prohibited requirements for the ownership of mining rights that were discriminatory by reason of nationality against non-Spanish nationals – such as the duty to have a representative legally authorised to act in Spain, or at least one representative resident in Spain – have been removed; also eliminated is a requirement of notifying the Ministry of Industry of any change relating to such representative.
- The dual authorisation scheme in place for a person responsible for the electrical maintenance of facilities is removed, since the pre-existing regulation provides that the identity of such person is advised to the mining authority, which then accepts him/her in that capacity, but the person in question is invariably a mining electrician holding a prior authorisation. This last requirement is accordingly abolished.
- The licensing regime is removed for safety device repair workshops and replaced with an undertaking of compliance. The freedom to provide services regime is expressly applicable to providers established in other Member States, in accordance with the Services Directive.

## **ENERGY PLANNING**

- The authorisation scheme for the installation and maintenance of heating systems in buildings is replaced by an undertaking of compliance. Two registration regimes are put in place to accommodate the freedom to provide professional services in Spanish territory by enterprises established in other Member States.



<b>ENERGY</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	16	3
<b>Eliminated requirements</b>	23	4

## VIII.12. INDUSTRY

### SUPPRESSION OF AUTHORISATIONS

- Amendment to regulations on industrial services has involved replacement of authorisation schemes with undertakings of compliance before start of activity filed with the competent authority of an Autonomous Community (the region where the enterprise desires to establish itself or, if it is legally constituted in another Member State, the region where it desires to start its activity in Spain).
- In the undertaking of compliance, the signatory declares that the enterprise satisfies regulatory requirements and is in possession of the documents supporting that undertaking, that the enterprise undertakes to uphold such compliance throughout the lifetime of the activity, and that the enterprise is answerable for the activity being carried on in accordance with the standards and requirements prescribed by law.
- Upon filing, this undertaking of compliance qualifies the enterprise for an unlimited term to exercise the activity throughout Spanish territory.
- The Autonomous Communities are under a duty to provide the means for an undertaking of compliance to be given by electronic means.
- A public authority may not demand that in addition to the undertaking of compliance an enterprise produce the documents proving such compliance.
- Limitations on the exercise of activities relating to prior entry in a register have been eliminated.
- Specifically, authorisation requirements are removed for the following types of enterprise:
  - lifting and holding equipment installers and maintainers, currently comprising:
    - tower crane installers;
    - tower crane maintainers;
    - mobile crane maintainers;

- lift maintainers;
  - refrigeration installation, maintenance and repair firms;
  - low-voltage installers;
  - liquid petroleum product installers;
  - liquid petroleum product repair firms;
  - fire protection installers;
  - fire protection maintenance firms;
  - gas installers;
  - high-voltage line installers;
  - pressure equipment installers;
  - pressure equipment repair firms.

The legislation expressly contemplates the conditions applicable to providers of industrial services established in other Member States desiring to operate in Spain; they are required to file the same undertaking of compliance and satisfy the same requirements and standards as providers desiring to establish themselves in Spain.

- Authorisations are eliminated for the following types of facility:
  - motor vehicle repair garages;
  - interior system washing or degasification or depressurisation facilities;
  - hazardous goods tank repair and modification facilities.
- The authorisation scheme formerly applicable to certain service activities is removed insofar as it made start of activity subject to the grant of a Business Qualification Document. The provision of the Document is regulated under 4 orders for the exercise of activities in the construction, cork and wood, engineering and consultancy, and electricity installation sectors.
- As a rule, the regime of individual certificates of professional qualification or professional registration is eliminated and replaced by a duty to have the required expertise – accredited, as appropriate, by a formal qualification, by training, by occupational experience or the passing of an examination.
- In the field of metrology, the requirement of entry in the Register of metrological control is replaced by a duty on repairers desiring to establish themselves in Spain to file an undertaking of compliance.
- Operators in the industrial quality field are no longer under a duty to be on record with the Register of industrial establishments; instead, they are to file a notification to the competent authority of the relevant Autonomous Community, which then passes on the operator's details to the Ministry of Industry, Tourism and Trade for entry of the respective facility in the integrated industrial register. Specifically, this change affects certification bodies, testing laboratories, audit and inspection entities and industrial calibration laboratories.

- The Industrial Register has been modified at the national level to reinforce administrative cooperation among public authorities so as to ensure suitable exchange of information enabling the competent authorities of the Autonomous Communities and Cities to exercise effective control over providers.
- In the realm of intellectual and industrial property, the regime requiring intellectual and industrial property agents to register with the Spanish Office of Patents and Trademarks is replaced by an undertaking of compliance that qualifies the operator to practise throughout Spanish territory for an unlimited term; in addition, it is prescribed that aptitude examinations are to be held on an annual basis.

### **SUPPRESSION OF REQUIREMENTS**

- As to individual requirements, the process of review of industrial safety regulations has led to the following changes:
  - The concept of 'enterprise' (or, in the area of industrial safety and quality, 'collaborating entity') embraces both natural and legal persons.
  - The requirement of operating from premises is eliminated.
  - The references to the requirements relating to registration for business tax, being on record on the census of tax obligations and registration with Social Security have been deleted.
  - Requirements are removed as to individual certification of projects by professional bodies (this change affects 11 Royal Decrees).
  - Staff size requirements are suppressed.
  - The requirement of proving annual review of insurance before the competent authority is likewise eliminated.

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- As to control bodies, the following changes have been introduced:
  - Natural persons are now able to obtain accreditation and authorisation to exercise the activity.
  - The requirement is removed of having to maintain a system enabling proof of financial solvency at any time.
  - The requirement is removed of being able to provide service to at least 5% of industrial facilities in the Autonomous Community where authorisation is sought.

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<b>INDUSTRY</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	31	57
<b>Eliminated requirements</b>	97	7

## **VIII.13. INTERIOR AFFAIRS**

### **DRIVING SCHOOLS**

The dual authorisation scheme for the opening and operation of driving schools is eliminated, opening authorisations are made valid throughout Spanish territory, minimum staffing requirements are reduced, quantitative and territorial restrictions are removed, multidisciplinary activity limitations are eliminated and the prohibition is lifted on training staff teaching at more than one school.

This change will benefit over 1,420 existing driving schools by enabling them to redirect their businesses to the services that make the best fit with market demands. Furthermore, new enterprises will be encouraged to enter the industry, and the increased competition will create efficiency gains.

### **INSTALLATION AND SALE OF SECURITY EQUIPMENT**

The authorisation scheme is eliminated for the sale, installation and maintenance of security equipment not connected to central alarm sites. In addition, the exclusivity requirement is abolished; security enterprises may accordingly now carry on other activities.

The appliances and systems which security enterprises use for installation purposes must at all events satisfy the standard-approval conditions applicable to the given product.

### **PUBLIC ENTERTAINMENT ACTIVITIES**

Regulatory powers as to public entertainment activities rest with the Autonomous Communities, and encompass opening and operation licences for venues, opening hours, licences for the installation of gaming machines, etc.

In Aragón, the requirement is eliminated of prior communication to local authorities in the event of grant of a municipal operating licence for holders of public establishments intending to carry on activities subject to the legislation on public entertainment and recreational activities.

In the Balearic Islands, most opening and operation licences for permanent activities are replaced by undertakings of compliance.

In Catalonia, the following authorisation schemes are removed:

1. Authorisation of centres providing training for staff monitoring access to certain public establishments and leisure activities.
2. Authorisation for extending the duration of a public entertainment.
3. Authorisation for signage stipulating the terms and conditions of the exercise of rights to control admission to premises.

In Navarra, the following are eliminated:

1. Authorisations to operate gaming machines.
2. Ex officio registration with the Register of Enterprises.
3. Mandatory registration with the Register of Enterprises Operating Gaming Machines.
4. Mandatory registration of gaming machine models with the Register of Approved Models.

In Castilla y León, the following changes are made:

- The requirement of having in place one's own surveillance and security services at public performances and establishments is loosened by raising the seating capacity triggering the requirement from 100 to 300 people.
- Looser requirements are introduced as to age for which youth sessions are permitted at certain establishments and public performances.
- The definitions of certain categories of establishment are modified to assure consumers and users' rights and to bolster the legal certainty available to service providers.

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<b>INTERIOR AFFAIRS</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	4	15
<b>Eliminated requirements</b>	25	7

**PROFESSIONAL PARTNERSHIPS**

As regards professional partnerships, a prohibited requirement as to **composition of members' funds and voting rights** is made less restrictive by lowering investor-partners' minimum holding from three-quarters to a simple majority.

**Professional partnerships constituted as such in another Member State** now have their right recognised to exercise service activities in Spain.

**SWORN TRANSLATORS/INTERPRETERS**

Access to and exercise as sworn translator/interpreter have been considerably simplified and rationalised by the adoption of Royal Decree 2002/2009, of 23 December, amending the Regulation of the Language Interpreting Office of the Ministry of Foreign Affairs, enacted by Royal Decree 2555/1977, of 27 August. The authorisation scheme is kept in place for the provision of official translation and interpreting services, but the procedure for obtaining a qualification as a sworn translator/interpreter is simplified by streamlining the necessary formalities (entry in the register, registration of the seal and signature of the sworn translator/interpreter, etc) and eliminating superfluous steps (completion of two forms instead of three, ex officio entry in the register of sworn translators/interpreters, suppression of the individual registers of each Delegation and/or Sub-Delegation of the Government, etc).

In addition, 3 requirements are abolished: the indirect duty to be domiciled in Spain, mandatory communication of rates to the Language Interpreting Office and the relevant Delegation or Sub-Delegation of the Government, and the duty to complete the formalities of appointment and signature and seal at a Delegation or Sub-Delegation of the Government (by allowing these still mandatory formalities to be completed through a Spanish consulate, if the candidate is resident outside Spain).

The changes will affect close to 7,300 existing sworn translator/interpreters and approximately 550 annual applicants for accreditation (around 50 are admitted through examination and 500 through a specific university degree).

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<b>JUSTICE</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	0	
<b>Eliminated requirements</b>	4	

## VIII.15. ENVIRONMENT

In the environment area, the transposition of the Services Directive has chiefly involved the incorporation of the principles of good regulation and simplification of procedures and formalities, including the replacement of some authorisation schemes with undertakings of compliance. However, **the changes in this field have been slight**, for a number of reasons:

- The environment domain is subject to a wide array of **Community legislation**, which provides the legal regimes of many environmental sub-areas: the Framework Water Directive, protection of species and natural spaces; in the industrial environmental sub-area: environmental impact assessment, integrated prevention and control of pollution, greenhouse gas emissions, waste management standards, environmental liability, etc. In all these matters, the internal legal regime flows from Community law.
- In addition, a high proportion of environmental natural resources have been declared to be under **public ownership** (water, coasts, the maritime terrestrial domain, livestock trails and public forest land) or qualify as **protected spaces** (such as national and natural parks). All these cases concern scarce or limited resources with respect to which, as a general rule, authorisation schemes are kept in place, with the incorporation of the principles of open competition, publicity, impartiality and transparency.
- One of the overriding reasons relating to the public interest provided under the Services Directive is in fact environmental protection; this exception has accordingly been applied, while abiding by the principles of necessity, justification and proportionality.
- Finally, it is to be borne in mind that in the environment area the legislative powers lie with Central Government (under article 149.1.23 of the Spanish Constitution), while the Autonomous Communities have regulatory powers of development, execution and management – coupled with the regions' power of self-organisation, this means that a large proportion of the administrative procedures and requirements relating to the environment arise from regional regulation. The regulatory powers of the Autonomous Communities as to the environment include a right to issue "additional rules of protection" (article 149.1.23 of the Spanish Constitution); hence, where an authorisation scheme or requirement is eliminated in national law, it may not necessarily be removed at the devolved regional level – rather, regional authorisation schemes and requirements fall to be independently screened with reference to the tests of necessity, justification and proportionality.

## RESTRICTIONS AND BARRIERS REMOVED FROM REGULATION

Regulatory adaptation has been given effect mainly by the following methods:

- Requirements have been eliminated where they are incompatible with the Umbrella Law in the areas of river fishing, hunting and wastes.
- Where authorisation schemes have been allowed to stand, the principles of the Umbrella Law have been incorporated: open competition, publicity, impartiality and transparency in the legislation relating to coasts, national parks, forest land, natural heritage and biodiversity.
- Authorisation schemes have been replaced with undertakings of compliance where such expedient is consistent with safeguarding the overriding reasons relating to the public interest as to protection of the environment, specifically, with regard to special common uses of water (where two authorisations have been eliminated), livestock trails (two authorisations suppressed) and wastes (two authorisations removed).

In the environment area, amendment has affected **10 laws and 19 royal decrees, and a further royal decree has been repealed**, to incorporate the principles of the Directive such as to render the optimisation of the legal framework of the service sector compatible with environmental protection.

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ENVIRONMENT		
BARRIERS	Central Government	Autonomous Communities
Abolished authorisations	11	22
Eliminated requirements	10	21

### VIII.16. HEALTH

As a rule, the changes made in the healthcare field **limit the number of authorisation schemes to the bare essentials** in order to encourage freedom of establishment and competition among enterprises in the healthcare sector.

At the level of **national regulation**, authorisation schemes are removed for distribution and sale of medical devices for in vitro diagnosis, for training in food handling and biocide use, for distribution and sale of medical devices in general, and for healthcare centre advertising.

The distinction is abolished between the effects for academic purposes and for professional purposes of recognition of foreign qualifications in health science specialities, and restrictions are removed for access to university teaching bodies and associated hospital-based positions for candidates earning recognition of their foreign qualifications. A general repeal is effected of the authorisation requirement relating to the General Health Register of Foodstuffs, with a system of notifications being established wherever possible.

Clarification is provided for the requirements to be satisfied by a medicinal product for human use for it to be eligible for advertising and for the advertising message to achieve authorisation. What was effectively a dual authorisation scheme is now streamlined as a single system.

Finally, in national regulation all references are suppressed to the "sufficient staff" to be retained by a pharmaceutical product distribution warehouse and to the former duty binding such a warehouse's pharmaceutical technical director to be registered with the relevant professional body.

At the **regional level**, authorisations and restrictions are suppressed in the following fields: biocides, external defibrillators, sun-tanning centres, food handlers, health authorisations applicable to operating service activities, food industries and establishments, ready-made meals, tattooing establishments, piercing and micro-pigmentation services, collective swimming pools, authorisation of healthcare centres, health conditions applicable to the slaughter of pigs and hunted wild boar intended for private consumption, pharmacies, optician's establishments and medicinal product distribution warehouses.

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<b>HEALTH</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	9	93
<b>Eliminated requirements</b>	2	41

## **VIII.17. AGRICULTURAL SERVICES**

In the area of agriculture, the introduction of the principles of good regulation has gone beyond the domains covered by the Services Directive to other matters not thus covered; as a result, the following nine authorisation schemes at the level of Central Government have been removed, in addition to the application of the principle of freedom to provide services:

1. Manufacture of certain animal health products: The requirement of prior authorisation for entry in the register of animal health products manufacturers is replaced by an undertaking of compliance to be given

by the manufacturer to the Directorate General for Agricultural Resources for the purpose of manufacturing any animal health product other than medicinal products, biocides, or animal disease diagnosis reagents. Implementation: Amendment to Law 8/2003, of 24 April, on Animal Health, through the Omnibus Law, and contemporaneous amendment to the implementing regulations.

2. Production of seeds and propagating material: The requirement is eliminated for prior authorisation in the Autonomous Community of domicile for producers of seeds and propagating material producing in Spain and authorised by another Member State. Implementation: Amendment to Law 30/2006, of 26 April, on Seeds, Propagating Material and Plant Genetic Resources, through the Omnibus Law.
3. Marine fisheries. In article 37 of Law on State Marine Fisheries, addressing for-profit exploitation of recreational fishing, the wording '... holding a business permit...' is replaced by a requirement of notification prior to start of the activity.
4. Fertiliser manufacturers: The requirement of certification or, failing this, of holding a certificate issued by the competent authority of the territory in which the operator's storage and processing facilities are located prior to entry in the Register of manufacturers is replaced by mere prior notification to that register with an attached report produced by an entity accredited by ENAC or the accreditation body of another Member State. Implementation: Amendment to Royal Decree 824/2005, of 8 July, on Fertilisers.
5. Integrated agricultural production: The requirement of authorisation prior to the registration of integrated agricultural production operators is replaced by mere notification to the register with an attached report issued by ENAC or the accreditation body of another Member State. Implementation: Amendment to Royal Decree 1201/2002, of 20 November 2002, on Integrated Production of Agricultural Products.
6. Horse agricultural holdings and certain zoological centres: The prior authorisation requirement is replaced by the satisfaction of certain location, facility and staffing conditions for horse agricultural holdings and certain zoological centres (veterinary clinics, private collections not including exotic animals, etc). Implementation: Through a new Royal Decree, now in the process of enactment, on the Health and Zootechnical Regulation of the horse sector. Royal Decree 1119/1975 is repealed.
7. The process of enactment has been set in motion for a "Royal Decree regulating the distribution, prescription, dispensing and use of medicinal products for veterinary use", which repeals certain articles of Royal Decree 109/1995 on the distribution and sale of veterinary medicinal products.

8. Royal Decree 520/2006, of 28 April, on entities providing advisory services to agricultural holdings and on subsidies to the creation, adaptation and use thereof, is repealed by reason of its having been superseded by new Community legislation and its imposing requirements that are incompatible with the principles of the Services Directive.
9. The same applies to Royal Decree 2685/1980, of 17 October, on Liberalisation and Re-regulation of Agricultural Industries.

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<b>AGRICULTURAL SERVICES</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	9	34
<b>Eliminated requirements</b>	2	52

## **VIII.18. INFORMATION SOCIETY AND COMMUNICATIONS**

### **POSTAL SECTOR**

The authorisation scheme for **postal services other than the Universal Postal Service** is replaced by an **undertaking** of compliance. Registration is now to be effected **ex officio and renewed automatically**.

Providers established in other Member States will not be made subject to requirements essentially equivalent or comparable in terms of purpose to those to which they are already subject in their Member State of origin.

The data for recent fiscal periods show that the average number of general and individual authorisations granted annually were 116 and 29, respectively. Accordingly, approximately **150 enterprises** a year will benefit from the reduction of requirements and time limits for the exercise of postal activities. The measures will be of particular benefit to small and medium-size enterprises, insofar as general authorisations primarily affect courier firms.

### **TELECOMMUNICATIONS**

The Omnibus Law has amended article 42 of Law 32/2003, of 3 November, on Telecommunications, which sets the conditions applicable to providers of telecommunication equipment and system installation and maintenance services, so that their significant role contributes to technological innovation without affecting the security of telecommunications networks.

The amendment to article 42 of Law on Telecommunications prescribes that the provision to third parties of telecommunications equipment and systems installation and maintenance services shall come under a regime of open competition, no formality being required other than the filing of an undertaking of compliance with the register of telecommunications installers.

The Royal Decree enacting the regulations on telecommunications equipment and systems installation and maintenance enshrines this new scheme of undertakings of compliance to replace the former authorisation scheme, specifies the content of such undertakings of compliance, provides the requirements to be satisfied by an enterprise to operate as a telecommunications installer (which requirements remain substantially the same), regulates the register of telecommunications installers and assures telecommunications network security and the protection of service consumers and users.

The provisions of the Royal Decree on telecommunications equipment and systems installation and maintenance lend legal certainty to the process of transition from the present authorisation scheme to the new scheme of undertakings of compliance.

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<b>INFORMATION SOCIETY AND COMMUNICATIONS</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	4	
<b>Eliminated requirements</b>	3	

## **VIII.19. TRANSPORT**

Several aspects of transport regulations have been modified. Specifically, 7 authorisation schemes are removed and 4 unjustified or disproportionate requirements are suppressed. Measures for administrative simplification are introduced to certain areas of activity.

Particular significance acquires the abolition of the authorisation scheme for **self-drive car hire**, insofar as the change effectively renders the activity entirely open (subject only to tax, social, employment-law and public safety and road safety duties). Hence the specific requirements formerly imposed by transport legislation (such as the requirement to have premises dedicated exclusively to the business and a minimum number of vehicles, inter alia) have been suppressed.

The change is expected to lower the costs of approximately **1,300 enterprises** currently holding authorisations, because they are no longer under a duty to have their authorisations certified every two years; the **bureaucratic burden is**

**thus lightened** both for the enterprises and for the Autonomous Communities, which were responsible for the grant of authorisations and subsequent certification. Quantified in economic terms, given an estimated average certification fee of 50 Euro and 1,300 affected enterprises, **those enterprises are expected to make savings of €65,000 every two years.** The inconvenience of the certification process, omission of which might lead to forfeiture of authorisation, is likewise removed.

When market conditions are favourable, it is expected that the changes will drive up supply, thus increasing **competition** and, as a corollary, enhancing **business efficiency.**

Finally, the conditions for entry to the provision of auxiliary railway services are made more flexible, and the requirement of obtaining a favourable transport report for the grant of an authorisation to operate as a travel agent is suppressed, among other reforms.

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<b>TRANSPORT</b>		
<b>BARRIERS</b>	<b>Central Government</b>	<b>Autonomous Communities</b>
<b>Abolished authorisations</b>	4	3
<b>Eliminated requirements</b>	11	3

## **VIII.20. TOURISM**

At the level of Central Government powers, barriers in the area of tourism were eliminated under a Royal Decree adopted by the Council of Ministers on 15 January 2010, which repeals the national regulations establishing a range of authorisation schemes.

In the Autonomous Communities and Cities, some regulations are still in the process of review and amendment. In essence, all schemes of prior authorisation for tourism establishments are replaced by undertakings of compliance or prior notifications of start of activity -- an estimated 12 barriers have been identified and are set to be eliminated in each Autonomous Community.

Authorisation schemes are allowed to stand for accommodation in certain highly specific sites (spas, ski resorts, certain rural accommodation).

Specifically, as regards travel agents, the requirements are suppressed of a minimum amount of paid up capital, mandatory incorporation as a body corporate, and exclusive exercise of the activity. The lodging of security

required under the Law on Consumer Protection (Royal Legislative Decree 1/2007) is kept in place. The civil liability insurance requirement is retained.

Any remaining registration requirements will be satisfied ex officio.

With respect to tourist guides, in accordance with the freedom to provide services, the procedure under Royal Decree 1837/2008, on the Recognition of Occupational Qualifications, has been followed. In some areas, qualification as a tourist guide is subject to a test, in conjunction with Royal Decree 1837/2008 (transposing Directive 2005/36/EC) and without detriment to guides qualifying in other Member States or Autonomous Communities.

The formalities and requirements governing the provision of tourism services as from 28 December 2009 are summarised in the table below:

ACTIVITY	START: UNDERTAKING OR NOTICE/AUTHORISATION	SECURITY/INSURANCE	EX OFFICIO REGISTRATION
TRAVEL AGENTS	Authorisation replaced by undertaking of compliance or prior notification. Exclusivity and minimum paid-up capital requirements are eliminated.	Security kept in place. Liability insurance retained in some regions.	YES
TOURIST GUIDES	Prior notification	No	YES
HOTELS AND APARTMENTS	Undertaking of compliance	No security; insurance required. <sup>8</sup>	YES
	Mandatory ex post classification		
RESTAURANTS AND BARS	Undertaking of compliance	No security; insurance required. <sup>9</sup>	YES
CAMPSITES	Undertaking of compliance or prior notification Exceptions: Authorisations retained for certain land use classifications	Civil liability insurance requirements are retained in some cases.	YES
ACTIVE TOURISM	Authorisation schemes remain in place in some cases (personal safety, environmental protection)	Civil liability/accident insurance	YES

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<sup>8</sup> Castilla y León, Cataluña and Madrid do not require hotel and campsite establishments to hold liability insurance.

<sup>9</sup> Civil liability insurance is not required in Castilla y León, Andalucía, Aragón, Islas Baleares, Madrid or Castilla-La Mancha. In La Rioja, Murcia, Valencia, Asturias, Extremadura and Galicia civil liability insurance is required.

TOURISM		
BARRIERS	Central Government	Autonomous Communities
Abolished authorisations	13	185
Eliminated requirements	7	106

## VIII.21. HOUSING AND CONSTRUCTION

The authorisation scheme for building quality control entities and testing laboratories is replaced by the giving of an undertaking of compliance to the competent authority. A range of conditions and requirements are suppressed so as to simplify the procedure and facilitate access to the activity, and provision is made for the freedom to provide services.

The Autonomous Communities will review and adapt their regulation once the underlying national legislation has been enacted.

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HOUSING AND CONSTRUCTION		
BARRIERS	Central Government	Autonomous Communities
Abolished authorisations	2	16
Eliminated requirements	6	

## IX. IMPLEMENTING THE POINT OF SINGLE CONTACT

If a service provider desires to extend its business to a European Member State other than its own it must complete a number of procedures and formalities before various public authorities. Achieving authorisation calls for great effort and cost, added to the difficulty of finding clear and readily accessible information on the requirements for establishment and the manner in which formalities are to be satisfied.

These obstacles often discourage small and medium-size service providers from bringing cross-border establishment to completion. To address this problem, the Services Directive makes provision for the creation of a point of single contact offering **all the necessary information to service enterprises**

**desiring to establish themselves or provide services in any Member State of the European Union.**

On the other hand, service consumers or recipients are entitled to have their rights protected. Such rights include access to the services offered by any provider in the European Community under conditions of non-discrimination, access to information about providers and the terms on which they provide services, and the ability to bring claims and complaints in events of dispute. In summary, service recipients are entitled to have their rights enforced in the Member State in which they receive the service.

The purpose of the Services Directive point of single contact in Spain is to furnish any service provider based in any Member State with **the information required for access to and exercise of service activities and to enable it to initiate procedures and formalities before the competent authority by remote means**. The point of single contact must also provide **information to service recipients** regarding protection of their rights.

The establishment of the point of single contact is a **duty binding the Member States**, and will be **one of the more visible elements of the Directive**. The Services Directive point of single contact, [www.eugo.es](http://www.eugo.es), was set in motion on 24 December 2009, thus complying with the deadline set by the European Commission. However, the requirements referred to by the point of single contact must be updated as and when regulation are amended in pursuance of the Umbrella Law and the Omnibus Law. For the same reason, website content will be translated in step with the development and entrenchment of the new regulation.

Operation of the point of single contact **requires that all government departments and public authorities assume co-responsibility**. By the first quarter of 2010, the model of governance of the point of single contact and the space set aside for the use of the competent authorities must be complete.

The **Services Directive point of single contact model, adopted in November 2008**, is predicated on three lines of action:

1. **The website and Information System**, to respond to any questions put by providers and citizens regarding the information on the formalities to be completed; such information is to be updated on an ongoing basis.
2. **Electronic processing system**, allowing for the electronic completion of procedures and formalities, allocating them among the various competent authorities and/or redirecting users to the electronic procedures put in place by each Autonomous Community.
3. **Point of single contact content management system**: the point of single contact must be subject to a management and organisation model that involves all liaison points.

The main milestones achieved in each line of action are outlined below.

## IX.1. WEBSITE AND INFORMATION SYSTEM

The **information system** must be capable of answering any questions put by a service provider regarding what it must do to exercise its service activity in Spain, whether or not it elects to use an establishment in the country. It must also provide recipients with information about their rights and complaint procedures.

To build the information system, the Ministry of the Presidency's Directorate General for the Promotion of Electronic Government (DGIAE) has compiled information on the various formalities and requirements **applicable to each service activity** and their related laws and regulations. For each formality, general information has been defined and compiled, to be supplemented by more detailed data in accordance with the specific requirements imposed on service providers by each competent authority.

It is accordingly the competent authorities who are responsible for furnishing detailed and specific information about each formality and how it may be completed electronically.

The DGIAE has completed its compilation of the general information on the formalities involved in the 52 classes of service activities defined for the project. This work has entailed the description of close to 420 formalities affecting all three levels of government and the professional bodies.

The website affords access to 52 '**Help Guides**' offered to service providers as an aid, and to the respective descriptions of the 420 formalities.

**i** Para identificar los requisitos necesarios para la prestación de servicio, seleccione la localización, la actividad a ejercer y la forma de prestación.

 Localización

 Actividad

 Modo de Prestación

**Paso 1 de 3:** Seleccione una Localización [Detalle Localización](#)

**Búsqueda por Mapa**



**Búsqueda Directa**

▶ Comunidad Autónoma

▶ Provincia

▶ Población

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## Website

The main functions of the website have been developed, and it is now ready to **support service providers in the task of extending their present activities to any place in Spain.**

The business portal [www.eugo.es](http://www.eugo.es) provides information on the steps required to establish a business, the relevant competent authority, forms of service provision, legal forms for enterprises, complaints procedures open to providers and recipients, and additional data in accordance with the requirements of the Services Directive. The website offers downloadable help guides in PDF format for each activity to be undertaken.

Other information available on website include: The network of physical offices (PAITs and the VUEs) and the URLs of the websites of each Autonomous Community specialising in information to enterprises or of interest to investors, and information about legal forms of enterprise and activities in providers' countries of origin.

 **Formas Jurídicas de otros Estados Miembros**

 Pinche sobre el país para conocer la correspondencia con las Formas Jurídicas de otros Estados Miembros

 <a href="#">Alemania</a>	 <a href="#">Eslovenia</a>	 <a href="#">Irlanda</a>	 <a href="#">Portugal</a>
 <a href="#">Austria</a>	 <a href="#">Estonia</a>	 <a href="#">Italia</a>	 <a href="#">Reino Unido</a>
 <a href="#">Bélgica</a>	 <a href="#">Finlandia</a>	 <a href="#">Letonia</a>	 <a href="#">República Checa</a>
 <a href="#">Bulgaria</a>	 <a href="#">Francia</a>	 <a href="#">Lituania</a>	 <a href="#">Rumania</a>
 <a href="#">Chipre</a>	 <a href="#">Grecia</a>	 <a href="#">Luxemburgo</a>	 <a href="#">Suecia</a>
 <a href="#">Dinamarca</a>	 <a href="#">Países Bajos</a>	 <a href="#">Malta</a>	
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In addition, although not provided for in the Services Directive, it has been thought important to devote a special area of the website to the **competent authorities**, where they can upload information about their procedures and contact **their counterparts** in other Autonomous Communities or levels of government and enter into **fruitful** exchanges of information. This area will be developed in the first quarter of 2010.

### State of progress

One of the critical points for the development of the point of single contact is to have detailed information on the procedures and formalities affected by the Services Directive. As discussed earlier, this is the responsibility of the competent authorities.

Bilateral meetings among the various levels of government have made for significant progress in December 2009 as to specification of procedures and formalities:

As regards procedures and formalities within the powers of Central Government, close to 100% of the relevant information has been compiled; only a number of details and 13 procedures remain to be specified.

The state of progress at the Autonomous Communities is improving, and all Autonomous Communities and Cities have now returned information. In December, the information received within the deadline for the setting in motion of the point of single contact was incorporated, and January 2010 will see the addition of information submitted past the deadline.

The involvement of local authorities is proving more problematic owing to the large **number of such authorities**. Work is being done with a selected number of municipalities for which a specific plan has been issued, embracing large conurbations, provincial assemblies of local authorities, and island federations [*cabildos*] and councils of local authorities, based on identification of the 14 procedures and formalities within the purview of the local authorities.

## IX.2. ELECTRONIC PROCESSING SYSTEM.

The **electronic processing system** supports the setting in motion of procedures and formalities by allocating the various steps among the different competent authorities and thus transferring execution to the relevant competent authority in each case.

Each formality is actually completed by the relevant competent authority itself.

### Main milestones

Integration with the Autonomous Communities in line with their various states of technological upgrade is being implemented on the basis of one or another of the models defined for the purpose. Integration work has already begun with some of the Autonomous Communities.

The formation of a *sociedad de responsabilidad limitada* [limited liability company] or a *sociedad limitada de nueva empresa* [new enterprise limited company], the electronic processing of which is the responsibility of the Directorate General for Small and Medium-Size Enterprises (DGPYME), is now fully integrated with the point of single contact website. Service providers can now use the point of single contact to form these kinds of company, the procedures and formalities of which lie within the scope of authority of DGPYME.

When DGPYME includes the electronic procedures and formalities for a provider to be constituted as a sole trader through its CIRCE system, this procedure, too, will be processable using the point of single contact.

### State of progress

The experience and assistance of DGPYME's CIRCE project has been vital to the setting in motion of the point of single contact; services should accordingly become the processing node for the commonest legal forms of enterprise, for the purposes of both establishment and exercise.

It is important that each competent authority decide upon or propose an alternative for connection to the system and implement it as a means of access to its procedures and multi-procedures. As at the date of writing, work continues in partnership with local authorities and the Autonomous Communities toward advanced integration; however, a higher standard of commitment from the Autonomous Communities is required.

[Mapa](#) | [Contacto](#) | [Accesibilidad](#) | [Idioma](#) | [Quejas y Sugerencias](#)


**España**

Ventanilla Única de la Directiva de Servicios  
 Información gubernamental para la prestación de servicios

Usuario:   
 Contraseña:

[Volver a los Resultados](#)
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**Comercio al por mayor de frutas y verduras en Pozuelo de Alarcón, Madrid(Comunidad de Madrid) como Sociedad Sociedad Limitada Nueva Empresa(Con Establecimiento).**  
*Listado de trámites para un prestador: Nacional.*

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**Trámites de Acceso**

Ver Formato: [Gráfico](#) | [Listado](#)

 Paso 1.	Certificación negativa de la Denominación Social
 Paso 2.	Firma Escritura pública de Constitución
 Paso 3.	Ingreso de Capital Social
 Paso 4.	Solicitud del NIF Provisional
 Paso 5.	Liquidación del Impuesto de Transmisiones Patrimoniales y Actos Jurídicos Documentados
 Paso 6.	Inscripción en el Registro Mercantil Provincial
 Paso 7.	Obtención del NIF definitivo

**Trámites de Ejercicio**

Ver Formato: [Gráfico](#) | [Listado](#)

 Paso 1.	Alta en el Censo de Operaciones Intracomunitarias
 Paso 2.	Inscripción en el Registro de Exportadores

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## IX.3. MANAGEMENT AND MAINTENANCE SYSTEM

Each competent authority is responsible for both the information offered about its procedures and formalities and the requirements involved, and is accordingly answerable for the quality of information furnished to providers. This is what the Services Directive demands.

Unlike other websites, an assumption of co-responsibility by the competent authorities will be essential to defining and implementing shared management of the services and information offered through the point of single contact.

### Main milestones

A proposed model has been framed for the management of Services Directive point of single contact content; the proposal is being considered by Central Government ministries and the Autonomous Communities. The model directs that a PSC management group should be formed after the point of single contact is implemented. The proposal will be enriched with suggestions received from working groups towards the objective of setting the PSC in motion in the course of 2010.

An amendment has therefore been proposed to Law 11/2007 on Electronic Access by Citizens to Public Services to create a duty to keep the information up-to-date through a management system to be resolved upon by the Sectorial

Conference on Public Administration, with the advice of the National Commission on Local Government.

#### **IX.4. ISSUES TO BE ADDRESSED IN FUTURE**

- The number of procedures and formalities to be completed is dependent on a multiplicity of factors, thus complicating the task of building an information system that is at once simple and wholly comprehensive. To this difficulty is added the fact that the regulations are being amended in a parallel process scheduled for completion by 28 December. In 2010 it will accordingly be necessary to update information system content by modifying or deleting requirements in accordance with the forthcoming legislation then in force.
- For the same reason, the costly process of full translation of website content will be carried on in step with the development and entrenchment of the new regulation.
- The management and co-responsibility model must be adopted by the first quarter of 2010 in order to prevent website content from becoming obsolete.
- The competent authorities' area of the website will be completed so as to facilitate management and maintenance tasks.
- Improvements will be added to the website gradually so as to help providers to locate the information they need.

### **X. INTERNAL MARKET INFORMATION SYSTEM**

#### **X.1. THE IMI, A TOOL FOR ADMINISTRATIVE COOPERATION**

The IMI is an IT application accessed over the Internet. Its main purpose is to assist Member States in the application in practice of the European Community legislation that requires mutual administrative assistance and cooperation in the area of the internal market.

Although it falls to the Member States to see to it that the legislation on the internal market is correctly applied in their respective territories, the Commission takes the view that the Member States are in need of instruments enabling them to cooperate with each other. The IMI has been developed with this end in mind: to ascertain which authority is competent in another Member State (search function), manage exchanges of information on administrative cooperation requirements through simple and consistent procedures, and remove language barriers using a range of preset, pre-translated questions.

Commission Decision 2008/49/EC delimits the legislative areas in which the use of the IMI is mandatory. At present, mandatory use of the IMI embraces Directive 2005/36 of the European Parliament and the Council, of 7 September 2005, regarding the recognition of professional qualifications, and the Services Directive. In future, the IMI may serve as the platform for information exchange in other legislative areas of the internal market.

## X.2. STRUCTURE AND APPLICATION IN SPAIN

In April 2009, the European Commission launched a pilot program for the Services Directive IMI, originally covering 11 service industries. Since the system has been created and designed by the European Commission, the implementation of the IMI system in the Member States hinges on three main lines of action:

- Design and structure of the IMI system in Spain.
- Designation and registration of IMI coordinators and competent authorities.
- Training of actors involved in the system.

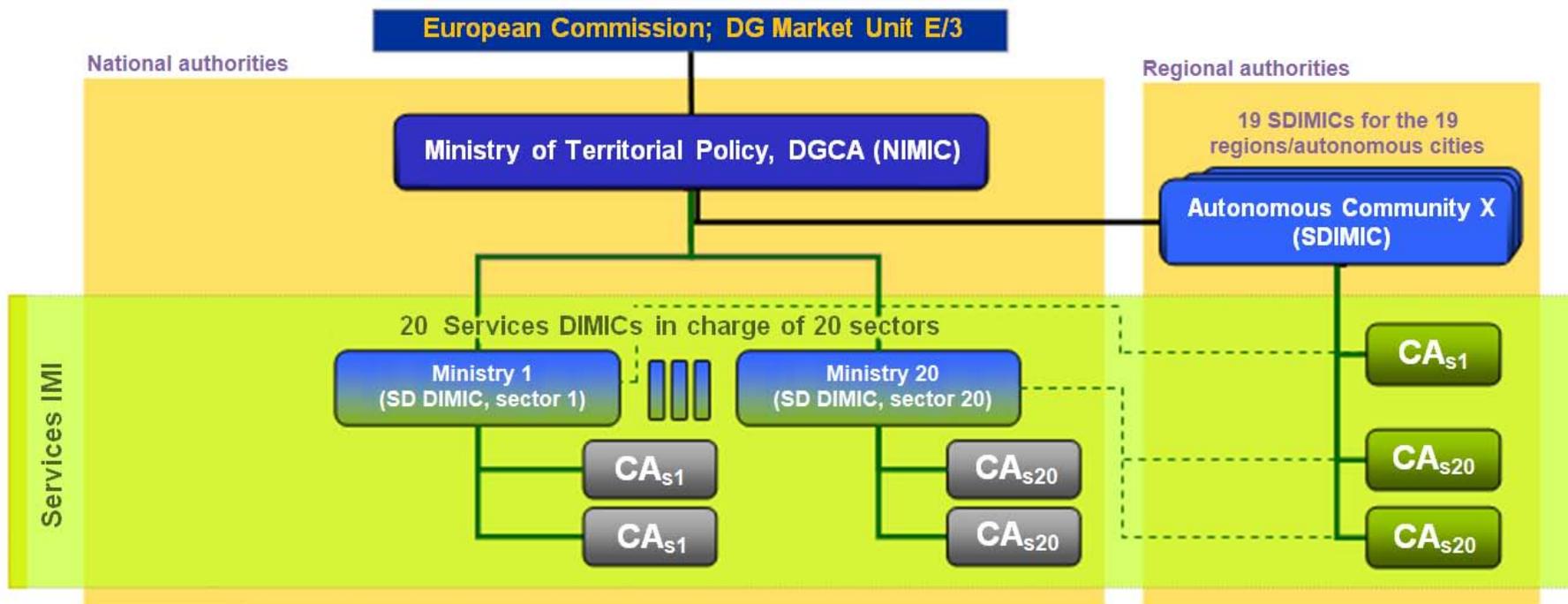
The primary actors and compulsorily designated actors involved in the system are the competent authorities (CAs) of the Member States, which will exchange information requests over the system; their scope of action may be national, regional or local. Another mandatory actor is the national coordinator (NIMIC), in charge of the application, development and proper functioning of the system at the national level and acting as the ultimate liaison point with the European Commission for the purposes of the IMI. In addition, the option has been taken to designate delegated coordinators (DIMIC) in charge of the functioning of the system in respect of each Directive, and delegated coordinators in charge of all Directives for each Autonomous Community (SDIMIC).

The Delegated Commission of the Government for Economic Affairs, attached to the Ministry of Economy and Finance, at its session of 29 November 2007, resolved to designate the Ministry of Public Administrations as the department responsible for **national coordination of the IMI**, on the basis that the Secretariat of State of Territorial Cooperation is availed of tools for coordination and liaison at all three levels of government. The national coordinator of the IMI is embedded in the Directorate General of Regional Cooperation of the Secretariat of State of Territorial Cooperation of the Ministry of Territorial Policy.

The Commission of Coordinators of European Community Affairs, attached to the Ministry of Territorial Policy, at its meeting of 26 June 2008, resolved to designate the **regional delegated coordinator (SDIMIC)** for the internal market information (IMI) system for each Autonomous Community and City as the officer in charge of the application and development of the system in such Autonomous Community or City. Registration of SDIMICs in the system was completed in September. In addition, the National Institute for Public Administration hosted two training courses in October and February 2009 for

system users, the first of which benefited from the assistance of the European Commission.

The GTDS, at its meeting of 26 January 2009, adopted the **structural design of the Services Directive IMI system** produced jointly by the Ministries of Public Administrations and of Economy and Finance, delegated coordinators (DIMICs) being designated for each of the following service areas: agriculture and environment, social affairs, trade and retailing, consumer affairs, arts and culture, defence, sport, economy and finance, education, employment, energy, industry, interior affairs, justice, health, information society and communications, land use and town planning and housing and construction, transport and tourism. This structural scheme is depicted in the following figure:



CAs exist at both the national and the regional/local levels, depending on where competence lies. For CAs created from SDIMICs, additional (but not automatic) links are recommended with the appropriate national DIMICs. NIMIC/ DIMIC/ SDIMIC contact details are available at [www.mpt.es/documentacion/sistema\\_IMI](http://www.mpt.es/documentacion/sistema_IMI)

CA = Competent Authority; NIMIC = National IMI Coordinator; SIMIC = Super IMI Coordinator (Regional); DIMIC = Delegated IMI Coordinator

In addition, the 20 Area DIMICs (now 22, owing to the transport area being subdivided into land, air and sea areas) designated by the respective Central Government ministries were registered in the system. Dissemination and training regarding the IMI system hinged on the following events:

- Meeting for the presentation of the system to Area DIMICs (21 April 2009)
- System use training course aimed at Area DIMICs, taught at the National Institute for Public Administration, with the assistance of the European Commission (27 and 28 May 2009)
- Presentation of the IMI to national professional bodies and the general councils of sub-national professional bodies. Actions taken towards their incorporation to and training and involvement in the system as competent authorities for the purposes of the Services Directive (22 September 2009)
- Presentation of the IMI to 28 local authorities serving large populations. Actions taken towards their incorporation to and training and involvement in the system as competent authorities for the purposes of the Services Directive (16 October 2009)
- IMI training courses aimed at competent authorities in the Autonomous Communities. Región de Murcia (24-25/09/2009), Castilla y León (4-5/11/2009), Región de Murcia, for local competent authorities (24-25/11/09), País Vasco (15-16/12/2009), Navarra (16-17/02/2010), Castilla-La Mancha (17-18/03/2010)
- IMI training course hosted by the National Institute for Public Administration aimed at national competent authorities in all areas (2 and 3 November 2009)
- Presentation of the IMI system to provincial assemblies of local authorities to enlist their cooperation in system application in small-population municipalities (4 December 2009)
- Services Directive alert management system training course aimed at Area DIMICs, taught at the National Institute for Public Administration (22-23 April 2010)

The national coordination unit has created a website about the IMI, operates a user service channel, and publishes and circulates a monthly newsletter. A number of user guides and recommendations have been produced.

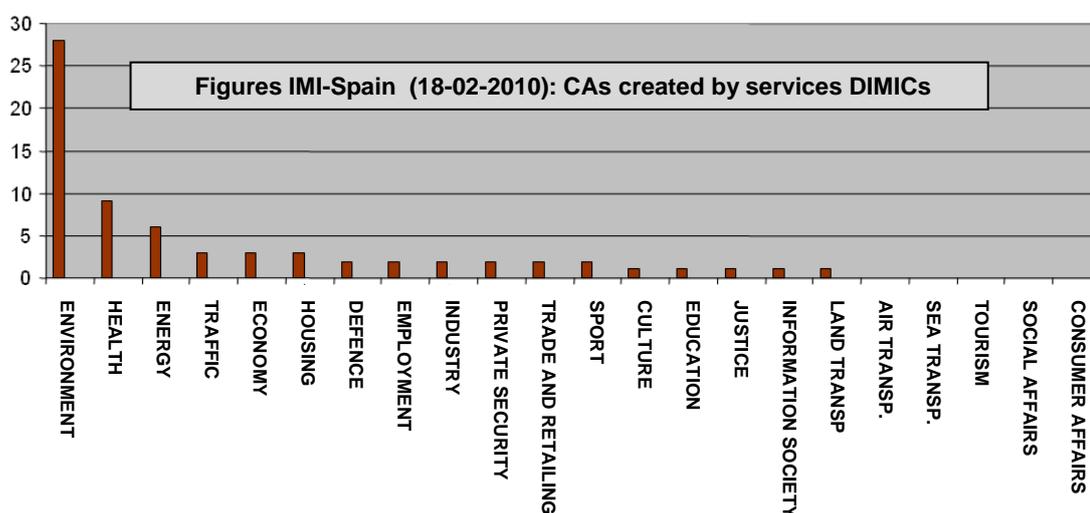
### **X.3. PROGRESS IN IMPLEMENTATION OF THE SERVICES IMI**

As the party responsible for system notification to the Spanish Data Protection Agency (AEPD), and following the Commission Recommendation of March

2009, guidance and assistance has been sought from the Commission for the application of IMI aspects impinging upon data protection in the area of national law. National coordination of the system allowed for submitting the required report from the Spanish Data Protection Agency to the Commission before the end of 2009. A formal response from the EDPS (the European Data Protection Supervisor) is expected within the first six months of 2010; that response will determine the course of future actions.

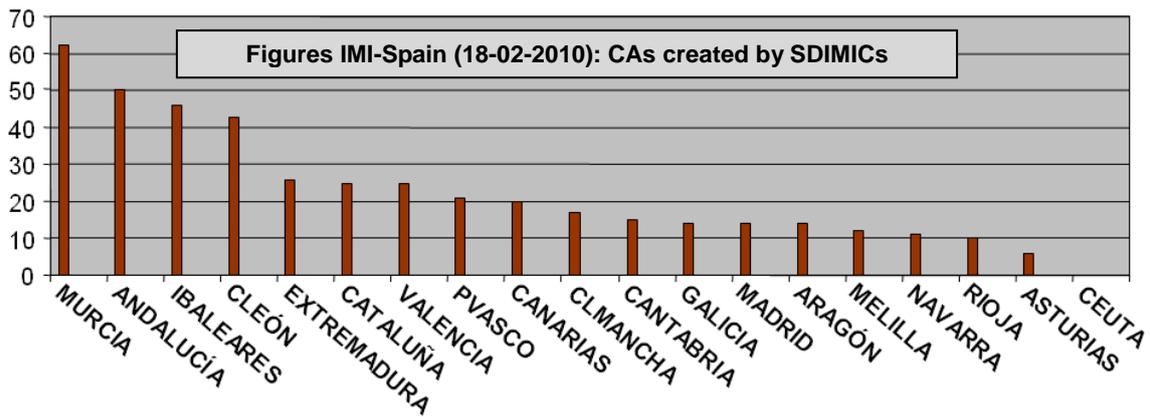
**At present, there is a total of 600 competent authorities for services (not counting coordinators) registered by the 19 SDIMICs and 20 Area DIMICs, as shown in the following graphs:**

- 22 delegated coordinators at the national level (services DIMICs) for 20 services areas. The figure shows the number of competent authorities created directly by those DIMICs (data as of 18 February):



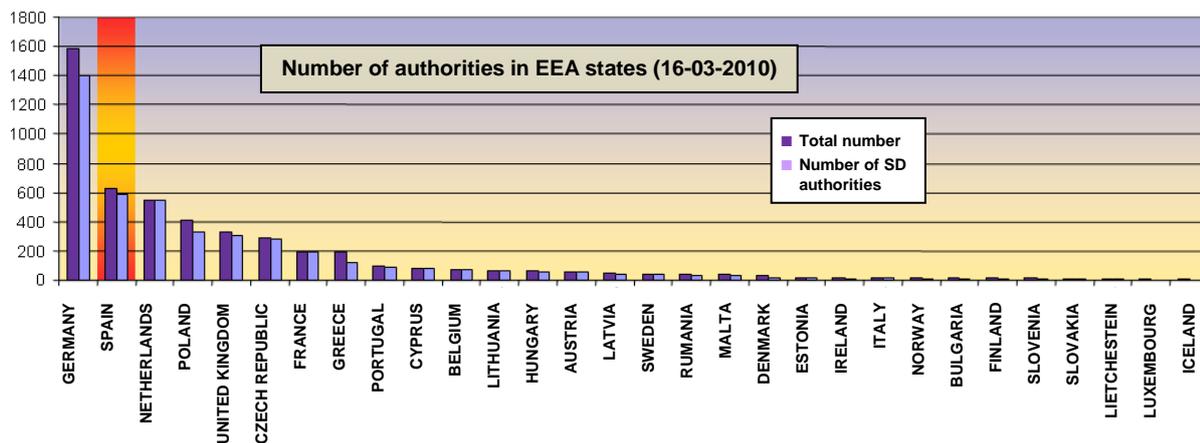
**Fig: Number of competent authorities (CAs) created by each coordinator**

**19 regional coordinators (SDIMICs)** (one for every Autonomous Community or City). The figure shows the number of competent authorities created directly by each (data as of 18 February 2010):



**Fig: Number of competent authorities (CAs) created by each regional coordinator**

- **Comparison of implementation in the 30 states.** The figure below shows the state of progress of the services IMI in the 30 states of the European Economic Area as of 16 March 2010; Spain ranks second.



**Fig: Number of competent authorities (CAs) across the 30 states of the EEA**

#### • Immediate activities

IMI training courses aimed at competent authorities in the Autonomous Communities scheduled for May: Galicia, Cataluña, Andalucía, Balearic Islands.

All coordinators (services DIMICs and SDIMICs) are continuing the task of designating and registering competent authorities in their respective areas.

Activity is intensifying as to dissemination, awareness-raising and training directed at coordinators themselves (follow-up meetings with DIMICs and SDIMICs) and final competent authorities (with national coordination staff travelling to the Autonomous Communities to train their authorities).

Activities towards the transposition of the Services Directive also involve presentation of the IMI system.

Work will continue in partnership with the AEPD in support of competent authorities' suitable treatment and awareness of data protection issues.

Monitoring of the new versions planned by the Commission for system development through to late 2010 and their application in Spain, including alert mechanisms and case-by-case repeal, as provided in the Services Directive, and planning for the potential extension of the scope covered by the IMI, with the addition of needs relating to other Directives.

Continuation of support to all system users from the national IMI support unit and from the web space provided for sharing and distributing information and documents as a supplement to e-mail and user service telephone lines.

As the unit responsible for the Spanish delegation in the IMAC IMI Working Group of the Commission, it will continue to attend its meetings.

At present, the structure of coordinators is fully in motion and over 600 competent authorities are registered with the system. It is accordingly fair to assert that the Services Directive IMI is sufficiently developed to be operational in Spain.

It is necessary to continue working on registering all competent authorities for the purposes of the Services Directive and to train them up so as to attain full development of the system.

## **XI. MUTUAL EVALUATION PROCESS**

After 28 December 2009, the deadline for transposition of the Services Directive, a process has begun of mutual evaluation among the Member States. Broadly put, the purpose of the exercise is for each country to scrutinise the regulatory framework resulting from application of the Directive in the rest of countries, and submit observations accordingly (article 39 of the Directive).

It will thus be verified whether the Member States have applied the Directive properly and made use of the transposition process to simplify procedures and formalities and remove barriers to the internal market for services. Mutual evaluation is an opportunity to support investment and export activity by Spanish enterprises. In addition, the process will serve to identify best practices and lay the foundations for future Commission policy as regards the internal market for services.

### **AVAILABLE INFORMATION: IPM**

Mutual evaluation is conducted largely on the basis of the information compiled pursuant to articles 39 (1) and 39 (5) of the Directive. These articles prescribe that each Member State must, at the end of the transposition period,

report to the European Commission on the outcome of adaptation of regulation with regard to freedom of establishment and freedom to provide services.

Specifically, the following data had to be communicated to the Commission:

- Each **authorisation scheme** (article 9) that is allowed to stand, and its compatibility with the principles of necessity and proportionality.
- Each **requirement to be evaluated** (article 15) impinging on freedom of establishment which, after the screening process, is to be suppressed, modified or retained in the regulation applicable to service activities. The necessity and proportionality of requirements kept in place must likewise be explained.
- Each **requirement impinging on freedom** to provide services (article 16) that is allowed to stand, and its compatibility with the principles of necessity and proportionality.
- Each restriction on **multidisciplinary activities** (article 25) that is allowed to stand, and its compatibility with the tests laid down by the Directive.

In practice, for the purpose of fulfilling this duty the Commission has developed a range of online questionnaires through the Interactive Policy-Making (IPM) system, which facilitates collection of all the data required under article 39 of the Directive. The IPM system is an IT application accessed over the Internet that has enabled each Member State to report to the Commission and the rest of Member States, using a simple and standard format, on the results of the process of screening and amendment to its regulation.

## **(1) PHASES**

Based on all this information, over the course of 2010 the process is in motion of mutual evaluation, divided into three phases:<sup>10</sup>

- In the first phase, each Member State prepared and sent to the Commission, on 20 January 2010, a self-assessment of the main results of its transposition process. This was not a matter of duplicating the work already done over the IPM, but of providing qualitative information leading to an improved understanding of the approach taken by each country to application of the Directive.<sup>11</sup>
- In the second phase, implemented from mid-January to mid-March 2010, work clusters were formed, each comprising five Member States that evaluated one another. The Commission took part as an observer. The work clusters analysed certain barriers and service activities; their conclusions were put forward before the end of March in a final report shared with the rest of Member States. Countries were grouped upon the proposal of the Commission,

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<sup>10</sup> This methodology was adopted by the Member States on 1 October 2009 within the framework of the High-Level Group on Competitiveness and Growth.

<sup>11</sup> With this end in view, the Commission drew up a concise questionnaire eliciting information on the main legislative changes and the sectors most affected by transposition.

having regard as far as possible to language, trading volume and geographical proximity. Spain was in cluster 3, with Bulgaria, Italy, Malta and Portugal.<sup>12</sup>

- In the third and final phase, to be completed from 25 March to 14 October 2010,<sup>13</sup> meetings were resumed of the Expert Group chaired by the Commission, with all Member States taking part. Each meeting focuses on one of the barriers or service activities already addressed by the clusters, such as barriers applying to all or a significant number of sectors, particularly burdensome barriers irrespective of sector of application, requirements affecting the economically most significant sectors, and requirements applied in a considerable number of Member States.

Subsequently, and no later than 28 December 2010, the Commission will present the European Parliament and the Council with an executive summary, with any suitable additional proposals appended to it.

The Ministry of Economy and Finance, as the coordinating department of the Working Group for Transposition of the Services Directive (GTDS), will represent Spain at meetings of the cluster of five Member States and of the Commission's Expert Group (plenary sessions) during the mutual evaluation process. This Ministry keeps the rest of ministries and the Autonomous Communities informed on an ongoing basis, collating their various positions and reporting them at the meetings.

## **(2) CONSIDERATIONS REGARDING THE CASE OF SPAIN**

For the purpose of framing a strategy for mutual evaluation, a number of considerations were borne in mind:

- First, Spain has opted for an ambitious approach to transposition, and this is the time to demand that the rest of Member States apply the Directive with like rigour, so as best to reap the benefits of economic integration and facilitate investment and export activity by Spanish enterprises. Against a background of a high current account deficit and a trade deficit in services (excluding tourism), mutual evaluation takes on value as an instrument to support Spanish service exports through the suppression of regulatory barriers in other countries. We must prioritise and direct our scrutiny to those countries and sectors forming the subject matter of our outward-facing interests in the internal market for services.

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<sup>12</sup> The proposed composition of the other clusters is:

Cluster 1: Austria, Czech Republic, Hungary, Slovakia and Slovenia.

Cluster 2: Belgium, France, Liechtenstein, Luxembourg and the Netherlands

Cluster 4: Cyprus, Greece, Ireland, Romania and the United Kingdom

Cluster 5: Denmark, Germany, Iceland, Norway and Poland

Cluster 6: Estonia, Finland, Latvia, Lithuania and Sweden

<sup>13</sup> The provisional dates of meetings are as follows: 25 March, 22 April, 22 May, 17 June, 15 July, 16 September and 14 October.

- Secondly, this is a process the tenor and outcomes of which may depend on the future approach to developing the internal market for services: horizontal or sectorial approach, new Directives, institution of infringement proceedings against countries in breach of duties under the Directive, etc.
- Finally, the mutual evaluation process overlaps with the Spanish Presidency of the EU in the first half of 2010. This means that Spain has been able to avail itself of additional instruments, such as inclusion of mutual evaluation in the agenda of Council meetings so as to reinforce and raise the profile of the exercise. The topic was raised at ECOFIN (February), on the Competitiveness Council (May) and in the High-Level Group on Competitiveness and Growth (March).

### **(3) WORK PROGRAMME**

As pointed out above, mutual evaluation essentially consists of examining the regulatory framework of other countries. To make best use of the exercise, all three levels of government must cooperate, and avenues of cooperation must be found with the private sector (enterprises and business associations). The Delegated Commission of the Government has passed a resolution setting forth two lines of work to be carried on in parallel:

- **ANALYSIS OF THE IPM AND OF THE SUMMARY ISSUED BY EACH MEMBER STATE**

Based on the information available through the IPM and the summary reports submitted by the Member States in early January 2010, each Central Government ministry will analyse the outcomes of transposition in the rest of Member States in the areas within its remit.<sup>14</sup> In addition, the Autonomous Communities and local authorities, through the Spanish Federation of Municipalities and Provinces (FEMP), will be invited to conduct their own analysis and submit their observations to the GTDS so that they may be taken into account in the course of the mutual evaluation exercise. This manner of proceeding is directed at a twofold goal: To verify that the regulatory barriers disallowed by the Services Directive have been removed, and to identify best practices, based on the regulatory schemes adopted by other Member States.

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<sup>14</sup> After 28 of December 2009, the Commission will allow access to the IPM questionnaires returned by all Member States. Such access will be of course limited to viewing the reports, which are incapable of modification. Only the public authorities of Member States will be afforded access, not private sector actors. The Commission will furnish to each Member State a limited number of passwords, and the Member State will be responsible for managing passwords and access to IPM questionnaires.

- **DETECTION OF BARRIERS**

Furthermore, in order to enhance the information available for analysis during the mutual evaluation process, avenues of cooperation were opened up with other directly affected actors, such as business associations, occupational associations and professional bodies. The aim is to identify the barriers posing difficulties for Spanish enterprises and professionals desiring to operate in the internal market, so as to frame priorities and focus points for the mutual evaluation process.

- The website of the Ministry of Economy and Finance therefore provides a **form that enterprises may fill out when they detect barriers** incompatible with the Services Directive in other Member States.
- Secondly, Central Government ministries have entered into consultations with the leading enterprises and associations in their areas of concern, listed in annex to the Resolution, in order to extend awareness of the Services Directive and debrief those stakeholders as to obstacles encountered within the scope of application of the Directive. Central Government ministries have considered the possibility of contacting professional bodies for the same purpose. To this end, the GTDS has provided Central Government ministries with a brochure -- including the barrier detection form -- for subsequent provision to associations..
- The Autonomous Communities and local authorities -- through the Spanish Federation of Municipalities and Provinces (FEMP) -- could also report detected barriers using that same questionnaire. These parties have been provided with the GTDS brochure with a view to possible circulation in their respective territories.

(4)

### TIMETABLE FOR THE MUTUAL EVALUATION PROCESS

	2009		2010											
	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec
Completion of reports to be sent to the Commission (IPM)														
Line 1: Analysis of the IPM by ministries and Autonomous Communities														
Line 2: Detection of barriers/cooperation with private sector														
Phase 1: Preparation of summary report														
Phase 2: Meetings of the cluster of five Member States														
Phase 3: Plenary meetings with all Member States														
Issue of final report by the Commission														

## ANNEXES

### ANNEX I: Local authorities serving large populations and forming the Working Group for adapting local regulations to the Services Directive

MUNICIPALITIES	POPULATION
ALBACETE	166,909
ALICANTE	331,750
BADAJOS	146,832
BARCELONA	1,615,908
BURGOS	177,879
BILBAO	353,340
CORDOBA	325,453
GIJON	275,699
GRANADA	236,988
HOSPITALET DE LLOBREGAT	253,782
A CORUÑA	245,164
LAS PALMAS DE GRAN CANARIA	381,123
LOGROÑO	150,071
MADRID	3,213,271
MALAGA	566,447
MURCIA	430,571
OVIEDO	220,644
PALMA DE MALLORCA	396,570
PAMPLONA	197,275
S.CRUIZ DE TENERIFE	221,956
SAN SEBASTIAN	184,248
SANTANDER	182,302
SEVILLA	699,759
VALENCIA	807,200
VALLADOLID	318,461
VIGO	295,703
VITORIA	232,477
ZARAGOZA	666,129
<b>TOTAL: 28 municipalities</b>	<b>13,293,911</b>

**ANNEX II: List of national regulations amended**

0	MINISTRY		ROYAL DECREES	ROYAL DECREES AMENDED OR REPEALED	BOE (Official State Gazette) PUBLICATION DATE
1	Ministry of Foreign Affairs And Cooperation		Royal Decree 2002/2009, of 23 December, amending the Regulation on the Language Interpreting Office of the Ministry of Foreign Affairs, enacted by Royal Decree 2555/1977, of 27 August.	Royal Decree 2555/1977	Published 24.12.09
2	Defence	•	Royal Decree 166/2010, of 19 February, enacting the Defence Materiel Cataloguing Regulation.	Royal Decree 1415/2001 (repealed)	Published 08.03.10
3	Defence		Royal Decree 165/2010, of 19 February, enacting the Regulation on Standard-Approval of Products Specifically Used in the Realm of Defence	Royal Decree 324/1995 (repealed)	Published 08.03.10
4	Economy and Finance	•	Royal Decree 41/2010, of 15 January, amending the charter of the state-controlled lotteries and gambling corporation, enacted by Royal Decree 2069/1999, of 30 December	Royal Decree 2069/1999 (amended)	Published 25.01.10
5	Economy and Finance		Royal Decree 36/2010, of 15 January, amending Royal Decree 1199/1999, of 9 July, implementing Law 13/1998, of 4 May, on the Market in Tobacco Products and Tax Regulations, and introducing the Statute of Concessions of the Network of Tobacco and Stamp Dispensing Establishments.	Royal Decree 1199/1999 (amended)	Published 01.02.10
6	Economy and Finance		Royal Decree 335/2010, of 19 March, regulating the right to make customs declarations and the institution of the customs agent	Decree 2721/1965 (repealed), Royal Decree 1889/1999 (repealed), Order of 9 June 2000, Order HAC/916/2004 (repealed), Decision of 12 July 2000, of the Department of Customs and Special Taxes of the State Agency of the Tax	Published 14.04.10

			Administration (Agencia Estatal de la Administración Tributaria, AEAT) on the right to make customs declarations.	
7	Economy and Finance	Royal Decree 193/2010, 26 February, amending Royal Decree 227/1981, of 23 January 1981, on payment systems in the Spanish System of Pensions for Government Officials.	Royal Decree 227/1981 (amended)	Published 04.03.10
8	Education	Royal Decree 132/2010, of 12 February, establishing the minimum requirements for centres teaching the second cycle of infant education, primary education, compulsory secondary education, and post-compulsory secondary education.	Royal Decree 1004/1991 (repealed)	Published 12.03.10
9	Education	Royal Decree 131/2010, of 12 February, amending Royal Decree 332/1992, of 3 April, on authorisations for private centres for education under the general regime, Royal Decree 860/1993, of 28 May, on the legal framework of foreign teaching centres in Spain, and Royal Decree 321/1994, of 25 February, on the authorisation of private centres for the teaching of artistic subjects, to bring them into line with Law 17/2009, of 23 November, on free access to service activities and the exercise thereof.	Royal Decree 332/1992 Royal Decree 806/1993 Royal Decree 321/1994 (amended)	Published 12.03.10
10	Education	Draft Royal Decree amending Royal Decree 1558/2005, of 23 December, establishing the basic requirements for integrated vocational training centres.	Royal Decree 1558/2005 (amended)	
11	Education	Royal Decree 303/2010, of 15 March, establishing the minimum requirements for centres teaching artistic subjects governed by Organic Law 22/2006, of 3 May, on Education.	Royal Decree 389/1992 (repealed)	Published 09.04.10
12	Development	Royal Decree 101/2010, of 5 February, amending the Regulation implementing title II of Law 24/1998, of 13 July, on the Universal Postal Service and on the Liberalisation of Postal Services, as regards service provision authorisations and the general register of postal service providers, enacted by Royal Decree 81/1999, of 22 January.	Royal Decree 81/1999 (amended)	Published 08.03.10
13	Development	Draft Royal Decree .../... amending Royal Decree 1211/1990, of 28 September, enacting the Regulation implementing the Law on Land	Royal Decree 1211/1990	

		Transport.	(amended)	
14	Development	Royal Decree 100/2010, of 5 February, amending Royal Decree 2387/2004, of 30 December, enacting the Railways Industry Regulation.	Royal Decree 2387/2004 (amended)	Published 08.03.10
15	Development	Royal Decree 2006/2009, of 23 December, amending Royal Decree 259/2002, of 8 December, updating safety measures in the use of jet skis.	Royal Decree 259/2002 (amended)	Published 28.01.10
16	Development	Royal Decree 458/2010, of 16 April, amending Royal Decree 2395/2004, of 30 December, enacting the charter of the state-controlled railway infrastructure management corporation.	Royal Decree 2395/2004 (amended)	Published 29.04.10
17	Development	Ministry of Development Order FOM/189/2010, of 26 January, amending Order FOM/3200/2007, of 26 October, regulating pleasure boats.	Order FOM 3200/2007 (amended)	Published 05.02.10
18	Industry, Trade and Tourism	Royal Decree 199/2010, of 26 February, regulating the exercise of sales on rounds or non-sedentary retail trade.	Royal Decree 1010/1985 (repealed)	Published 13.03.10
19	Industry, Trade and Tourism	Royal Decree 200/2010, of 26 February, amending Royal Decree 1882/1978, of 26 July, on commercialisation channels for agricultural and fishing products for food, and Royal Decree 225/2006, of 24 February, regulating certain aspects of distance sales, and entry in the register of distance sales enterprises, for adaptation to the Services Directive	Royal Decree 1882/1978 (amended)  Royal Decree 225/2006 (amended)  Order of 22 May 1980 (repealed)	Published 13.03.10
20	Industry, Trade and Tourism	Draft Royal Decree 201/2010, of 26 February, regulating the exercise of retail trade under a franchise and notification of details to the register of franchisors.	Royal Decree 2485/1998	Published 13.03.10
21	Industry, Trade and Tourism	Royal Decree 198/2010, of 26 February, adapting certain provisions relating to the electricity industry to the provisions of Law 25/2009, amending various laws in line with the Law on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 1110/2007 (amended)  Royal Decree 2019/1997 (amended)  Royal Decree 1955/2000	Published 13.03.10

			(amended) Royal Decree 661/2007 (amended)	
22	Industry, Trade and Tourism	Royal Decree 197/2010, of 26 February, adapting certain provisions relating to the hydrocarbons industry to the provisions of Law 25/2009, of 22 December, amending various laws in line with the Law on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 1085/1992 (amended) Royal Decree 2487/1994 (amended) Royal Decree 1434/2002 (amended)	Published 18.03.10
23	Industry, Trade and Tourism	Royal Decree 248/2010, of 5 March, amending the Explosives Regulation, enacted by Royal Decree 230/1998, of 16 February, to bring it into line with Law 17/2009, of 22 November, on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 230/1998 (amended)	Published 18.03.10
24	Industry, Trade and Tourism	Royal Decree 249/2010, of 5 March, adapting various provisions on energy and mining to Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, and Law 25/2009, of 22 December, amending various laws to bring them into line with the Law on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 863/1985 (amended) Royal Decree 1027/2007 (amended)	Published 18.03.10
25	Industry, Trade and Tourism	Draft Royal Decree enacting the Integrated Industrial Register Regulation (repeals Royal Decree 697/1995, enacting the register of industrial establishments)	Royal Decree 697/1995 (repealed)	
26	Industry, Trade and Tourism	Royal Decree adapting certain regulatory provisions relating to industrial safety to Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof.	RD 2291/1985 (amended) RD 2085/1994 (amended) RD 365/2005 (amended) RD 1942/1993	

			(amended)	
			RD 3099/1977 (amended)	
			RD 842/2002 (amended)	
			RD 836/2003 (amended)	
			RD 837/2003 (amended)	
			RD 2267/2004 (amended)	
			RD 3008/1978 (repealed)	
			RD 1427/1997 (amended)	
			RD 2201/1995 (amended)	
			RD 1416/2006 (amended)	
			RD 888/2006 (amended)	
			RD 223/2008 (amended)	
			RD 2060/2008 (amended)	
			RD 919/2006	

			(amended)	
27	Industry, Trade and Tourism	Royal Decree 458/2010, of 16 April, amending Royal Decree 1457/1986, of 10 January, regulating industrial activity and service provision in motor vehicle and parts repair garages.	Royal Decree 1457/1986 (amended)	Published 29.04.10
28	Industry, Trade and Tourism	Royal Decree 339/2010, of 19 March, amending Royal Decree 889/2006, of 21 July, regulating Central Government metrological control of measurement instruments to bring it into conformity with Law 25/2009, of 22 December, amending various laws to bring them into line with Law 17/2009 on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 889/2006 (amended)	Published 07.04.10
29	Industry, Trade and Tourism	Royal Decree 338/2010, of 19 March, amending the Regulation on the Industrial Quality and Safety Infrastructure, enacted by Royal Decree 2200/1995, of 28 December.	Royal Decree 2200/1995 (amended)	Published 07.04.10
30	Industry, Trade and Tourism	Royal Decree 245/2010, of 5 March, amending Royal Decree 2245/1986, of 10 October, enacting the Regulation implementing Law 11/1986, of 20 March, on Patents.	Royal Decree 2245/1986 (amended)	Published 23.03.10
31	Industry, Trade and Tourism	Royal Decree 105/2010, of 5 February, amending certain aspects of the regulatory framework of chemical warehouses and enacting Supplemental Technical Instruction MIE APQ-9 "Organic Peroxide Storage".	Royal Decree 379/2001 (amended)	Published 18.03.10
32	Industry, Trade and Tourism	Royal Decree 340/2010, of 19 March, amending Royal Decree 948/2003, of 18 July, laying down the minimum conditions to be satisfied by interior washing, degasification and depressurisation facilities and repair and modification facilities for tanks containing hazardous goods.	Royal Decree 948/2003	Published 07.04.10
33	Industry, Trade and Tourism	Royal Decree 244/2010, of 5 March, enacting the regulation governing telecommunications systems and equipment installation and maintenance.	Royal Decree 401/2003 (partly repealed)	Published 24.03.10
34	Industry, Trade and Tourism	Royal Decree 39/2010, of 15 January, repealing various national enactments on access to tourism activities and the exercise thereof.	Decreto 231/1965,  Decreto 2482/1974  Royal Decree 2877/1982  Royal Decree 1634/1983	Published 04.02.10

			Royal Decree 271/1988 (repealed) and 7 Ministerial Orders	
35	Interior Affairs	Royal Decree 369/2010, of 26 March, amending the Private Driving Schools Regulation, enacted by Royal Decree 1295/2003, of 17 October; the General Vehicle Regulation, enacted by Royal Decree 2822/1998, of 23 December; and Royal Decree 2100/1976, of 10 August, on the manufacture, importation, sale and use of parts, elements or sets for the repair of motor vehicles, to bring their content into line with Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, and to Law 25/2009, of 22 December, amending various laws to bring them into line with the Law on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 1295/2003 (amended)  Royal Decree 2822/1998 (amended)  Royal Decree 2100/1976 (amended)	Published 27.03.10
36	Interior Affairs	Royal Decree 195/2010, of 26 February, amending Royal Decree 2364/1994, of 9 December, enacting the Private Security Regulation, to bring it into line with the changes made to Law 23/1992, of 30 July, on Private Security, by Law 25/2009, of 22 December, amending various laws to bring them into line with Law 17/2009 on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 2364/1994 (amended)	Published 10.03.10
37	Environment and Rural and Marine Affairs	Royal Decree 367/2010, of 26 March, amending various regulations in the environment area to bring them into conformity with Law 17/2009, of 22 November, on Free Access to Service Activities and the Exercise Thereof, and Law 25/2009, of 22 December, amending various laws in line with the Law on Free Access to Service Activities and the Exercise Thereof.	Decree of 6 April 1943 (amended)  Decree 485/1962 (amended)  Decree 506/1971 (amended)  Decree 3769/1972 (amended)  Royal Decree 849/1986 (amended)  Royal Decree	Published 27.03.10

			1471/1989 (amended)	
			Royal Decree 833/1988 (amended)	
			Royal Decree 782/1998 (amended)	
			Royal Decree 1378/1999 (amended)	
			Royal Decree 1481/2001 (amended)	
			Royal Decree 1383/2002 (amended)	
			Royal Decree 653/2003 (amended)	
			Royal Decree 208/2005 (amended)	
			Royal Decree 1619/2005 (amended)	
			Royal Decree 679/2006 (amended)	

			<p>Royal Decree 106/2008 (amended)</p> <p>Royal Decree 117/2003 (amended)</p> <p>Royal Decree 509/2007 (amended)</p> <p>Royal Decree 178/2004 (amended)</p> <p>Royal Decree 1697/2003 (repealed)</p>	
38	Environment and Rural and Marine Affairs	Royal Decree 108/2010, of 5 February, amending various Royal Decrees on agriculture and agricultural industries to bring them into conformity with Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof.	<p>Royal Decree 1201/2002 (amended)</p> <p>Royal Decree 824/2005 (amended)</p> <p>Royal Decree 2685/1980 (repealed)</p> <p>Royal Decree 520/2006 (repealed)</p> <p>Royal Decree 736/1995 (repealed)</p>	Published 06.02.10

			Order of 17 March 1981 (repealed)	
39	Environment and Rural and Marine Affairs	Draft Royal Decree .../2009, regulating the zootechnical and healthcare aspects of horse agricultural holdings and introducing the horse health plan.	Royal Decree 1119/1975 (repealed)	
40	Environment and Rural and Marine Affairs	Royal Decree 488/2010, of 23 April, regulating animal health products.	Royal Decree 163/1981 (repealed) Order of 28 November 1980 (repealed) Order of 13 June 1983 (repealed) Order of 30 July 1984 (repealed) Royal Decree 796/1982 (repealed) Royal Decree 794/1983 (repealed)	Published 24.05.10
41	Environment and Rural and Marine Affairs	Draft Royal Decree .../2009, regulating the distribution, prescription, dispensing and use of medicinal products for veterinary use.	Royal Decree 109/1995 (amended)	
42	Territorial Policy	Royal Decree 2009/2009, of 23 December, amending the Local Authorities Services Regulation, enacted by the Decree of 17 June 1955	Decree of 17 June 1955 (amended)	Published 29.12.09
43	Presidency	• Royal Decree 137/2010, 12 February, making provision for the criteria for the issue of the notice to interested parties referred to in article 42.4 of Law 30/1992, on the Legal Regime of Public Authorities and Common Administrative Procedure.	Order of 14 April 1999 (repealed)	Published 25.02.10
44	Presidency	Royal Decree 136/2010, of 12 February, amending Royal Decree	Royal Decree	Published 25.02.10

		772/1999, of 7 May, regulating the presentation of applications, documents and communications to Central Government, the issue of copies of documents and return of originals, and the regime for registration offices	772/1999 (amended)	
45	Health and Social Policy	Royal Decree 109/2010, of 5 February, amending various Royal Decrees on healthcare to bring them into conformity with Law 17/2009, of 23 November, on Free Access to Service Activities and the Exercise Thereof, and Law 25/2009, of 22 December, amending various statutes in line with the Law on Free Access to Service Activities and the Exercise Thereof.	Royal Decree 1416/1994  Royal Decree 2259/1994  Royal Decree 1662/2000  Royal Decree 1030/2006  Royal Decree 1345/2007  Royal Decree 183/2008 (amended)  Royal Decree 202/2000 (repealed)	Published 19.02.10
46	Health and Social Policy	Draft Royal Decree XXX/2009 regulating qualifications for dispensing treatment using biocides.	RD 865/2006 (amended)  RD1054/2002 (amended)  Order 8-3-1994, repealed  Order 317/2003, repealed  Order	

			3269/2006, amended	
47	Health and Social Policy	Royal Decree 1591/2009, of 16 March, regulating medical devices.	Royal Decree 414/1996 (repealed)	Published 06.11.09
48	Health and Social Policy	Draft Royal Decree XXX/2009, on the general register of food health.	RD 1712/1991	
49	Labour and Immigration	Royal Decree 337/2010, of 19 March, amending Royal Decree 39/1997, of 17 January, enacting the Prevention Services Regulation; Royal Decree 1109/2007, implementing Law 32/2006, of 18 October, on subcontracting in the construction sector; and Royal Decree 1627/1997, of 24 October, on health and safety at construction sites.	Royal Decree 39/1997 (amended)  Royal Decree 1109/2007 (amended)  Royal Decree 1627/1997 (amended)	Published 23.03.10
50	Labour and Immigration	Royal Decree 107/2010, of 5 February, amending the Regulation on the Organisation and Functioning of the Labour and Social Security Inspectorate, enacted by Royal Decree 138/2000, of 4 February.	Royal Decree 138/2000 (amended)	Published 16.02.10
51	Labour and Immigration	Royal Decree 103/2010, of 5 February, amending the General Regulation on Procedures for the Imposition of Penalties for Social Offences and Proceedings for the Settlement of Social Security Charges, Enacted by Royal Decree 928/1998, of 14 May.	Royal Decree 928/1998 (amended)	Published 23.02.10
52	Housing	Royal Decree 410/2010, of 31 March, implementing the requirements imposed on building quality control entities and testing laboratories for quality control in the construction of buildings for the exercise of their activities.	Royal Decree 1230/1989 (repealed)  Order 2060/2002 (repealed)  Order 898/2004 (repealed)  Royal Decree 315/2006 (amended)  Royal Decree 314/2006	Published 22.04.10

			(amended)	
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