

Transport, Logistics and Shipping Newsletter

December 2023

Clarification of few extensions of certain port concessions

[Law 13/2023](#) has expressly clarified the inability to extend beyond 30 years concessions or other permits for occupancy of the port public domain granted before the entry into force of State Ports and Merchant Shipping Law 27/1992.

This clarification was included in Final Provision Four of Law 13/2023, which has amended, among other laws, Legislative Royal Decree 2/2011 approving the Revised State Ports and Merchant Shipping Law (TRLPEMM).

The reform came into force on May 26, 2023.

The Maritime Shipping Regulations make it mandatory to perform shipping agency services outside Spanish ports

[Royal Decree 186/2023 approving the Maritime Shipping Regulations](#) has determined, along with a few new pieces of legislation on vessel inspection procedures, the obligation to carry out shipping agency services (i) outside port limits, and (ii) for vessels anchored for more than 24 hours in internal waterways and/or in territorial waters.

It has also determined that any shipping company or shipowner breaching that obligation (considered to be a serious administrative infringement), may be fined through the relevant merchant shipping administrative penalty proceeding.

Whereas Maritime Shipping Law 14/2014 (LNM) had already determined the obligation to perform shipping agency services for foreign vessels in national ports and the subsequent Royal Decree 131/2019 extended that obligation to include Spanish vessels (excluding self-agency services ships and fishing and recreation vessels), the discussed Real Decree 186/2023 has now gone further by extending mandatory shipping agency services outside Spanish ports.

The Spanish government plans to approve in this legislative term a reform of the Maritime Shipping Law and of the Revised State Ports and Merchant Shipping Law

Now that the Council of State's opinion has been issued, the bill on reforming the Maritime Shipping Law (LNM) and the revised State Ports and Merchant Shipping Law (TRLPEMM) will follow its course. Because there was not enough time to complete the legislative process in the previous legislative term, the Government has stated its intention to approve it in the new term that has just started.

Catalonia prepares a potential tax on port emissions for large ships in its ports

The Catalan autonomous community government recently approved a bill introducing a tax on port emissions for large ships which, if ultimately approved as law in the Catalan Parliament, would affect all types of cargo and/or passenger ships larger than 5000 gross tonnage that stop at any general interest port in Catalonia (Barcelona or Tarragona) or at any falling with the powers of the Catalan autonomous community government (Palamós, Roses, La Ràpita, Villanova, Alcanar, among others).

The aim of the tax would be to reduce nitrogen oxide (NOx) or microparticle (MP) emissions.

The taxable persons are the shipping companies/ship owners, and the substitute taxable persons are the consignees.

Proposal for amendment of the regulations on passenger rights in the EU

As part of the European Union's Sustainable and Smart Mobility Strategy, a true road map for achieving the green and digital transitions, the European Commission (EC) has set itself the task of amending the regulations on passenger rights in the EU, with the aim of giving greater rights to passengers, also to anyone making multimodal journeys.

The protection rules benefiting EU passengers traveling by plane, train, boat or bus are considered to be among the strongest in the world. Even so, the European Commission has identified the need to revise them, fill a few gaps and improve certain elements of the legislation as follows:

Greater rights for passengers

This translates into strengthening the enforcement and refund mechanisms. For air transport, it is considered necessary to introduce new rules where tickets are purchased using the services of intermediaries. And it is planned to regulate for the first time the rights of passengers on multimodal journeys. Additionally, where a multimodal journey has been purchased under one transport contract, passengers will be entitled to assistance by the carrier in the event of missed connections. Special attention is paid to the needs of passengers with disabilities or reduced mobility who switch from one transport mode to another during their journey.

Protection of package travelers

With the [revision of the 2015 Package Travel Directive](#), the protection of package travelers will in the future be more effective, as a result of the following proposed measures:

- Travelers will continue to be entitled to a refund within 14 days. This will be facilitated because package organizers, most of whom are small and medium-sized enterprises (SMEs), will have the right to a refund from service providers within 7 days. The fact that they get their refund within one week, enables them in turn to refund their clients within two weeks in total.
- Downpayments made by travelers for packages may not be higher than 25% of the package price, unless organizers face costs justifying a higher downpayment, for example, because they have to pay the full ticket price to the airline upfront. Organizers may not ask for the total payment earlier than 28 days before the start of the package.

- Travelers who are being offered a voucher will receive clear information that they may insist on a refund and will be informed on the characteristics of the voucher before accepting it. These vouchers will be refunded automatically if they are not used before the end of their validity period. Moreover, vouchers and refund rights will be covered by insolvency protection.
- Holidaymakers will receive clear information on whether a combination of travel services constitutes a package, who is liable if there are problems, and on their rights as package travelers.

Better multimodal travel information services and the creation of a common European mobility data space

The [revision of the Delegated Regulation on EU-wide multimodal travel information services \(MMTIS\)](#) will make it easier for passengers to find via travel information services real-time information on different transport modes and access real-time updates during their journey, for example on delays and cancellations. New types of information will also be available, such as whether bikes can be taken onto a train, and on accessibility, including for passengers with disabilities or reduced mobility.

The European directive for the deployment of Intelligent transport systems has been amended

Directive (EU) 2023/2661 of the European Parliament and of the Council of 22 November 2023 has been published, which amends Directive 2010/40/EU on the framework for the deployment of Intelligent Transport Systems in the field of road transport and for interfaces with other modes of transport.

Among other aims, the directive seeks to ensure that ITS applications in the field of road transport enable seamless integration with other modes of transport, such as rail or active mobility, thus facilitating a shift to those modes whenever possible, to improve efficiency and accessibility.

To achieve this, among other steps, the directive (i) reinforces member state cooperation in the application of specifications on the deployment of ITS; (ii) improves existing rules in respect of data transmission, presentation and quality standards; (iii) lays down further detailed procedures for ensuring a coordinated, effective and interoperable deployment of ITS in the EU; (iv) seeks to ensure that the requirements for ITS systems neither impose nor discriminate in favor of the use of a particular type of technology; (v) sets out the rules to be met by cooperative ITS; (vi) sets out rules for the mandatory provision of information in a compatible and accessible format; (vii) seeks to ensure compatibility of the timing and positioning services with the authentication mechanism provided by the Galileo program, in order to mitigate global navigation satellite system signal spoofing attacks; and (viii) simplifies the member states' periodical reporting obligations.

The Transport and Sustainable Mobility Ministry launches a public comment period for the amendment of the Road Transport Regulations for driverless vehicles registered in other EU member states

The Transport and Sustainable Mobility Ministry has launched a public comment period for the Draft Royal Decree amending Royal Decree 1211/1990 of September 28, 1990 approving the Regulations for the Road Transport Law (ROTT).

The amendment was prompted by the need to transpose Directive (EU) 2022/738 of the European Parliament and of the Council of 6 April 2022 amending Directive 2006/1/EC to allow the use of vehicles hired without drivers in a member state other than the state where they were registered.

To do this, it proposes adding a new subarticle 38.3 to the Road Transport Regulations that will allow vehicles linked to enabling instruments for the carriage of goods by road to be registered in another member state if the maximum time limit provided in the tax legislation for their mandatory registration in Spain is observed.

The time period for submitting comments ends on December 19, 2023.

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