

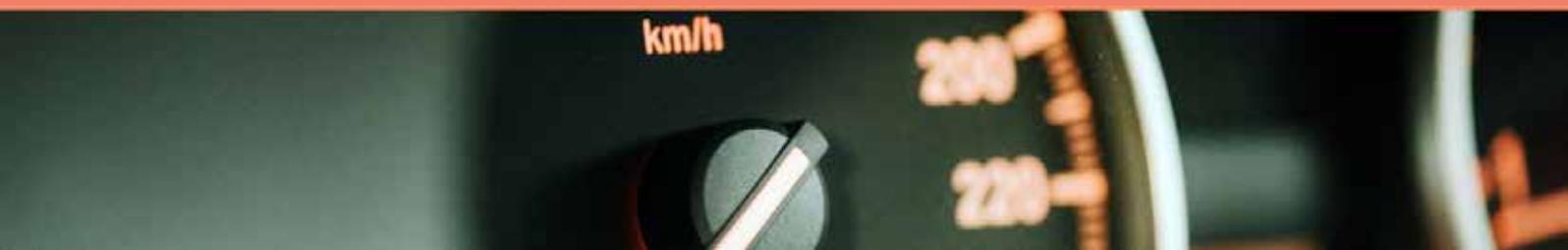
G A _ P

Gómez-Acebo & Pombo

Newsletter

Automotive and Mobility

No. 25



G A _ P

Ainara Rentería Tazo

Director: Head of the Automotive and Mobility Sector
Counsel of Gómez-Acebo & Pombo Abogados

Contents

Case law	5		
<ul style="list-style-type: none"> — Madrid High Court of Justice Judgments nos. 405/2024 and 410/2024 of 17 September 2024. Madrid City Council Ordinance regarding sustainable mobility - Low-emission zones - Inadequacy of the economic impact report - Public consultation prior to alteration of low-emission zones..... 	5		
Legislation	7		
<ul style="list-style-type: none"> • Spain 	7		
<ul style="list-style-type: none"> — Final approval by the Guadalajara City Council Cabinet of the Sustainable Urban Mobility Plan ('SUMP') on 25 June 2024..... 	7		
<ul style="list-style-type: none"> — The regions of Cantabria and Basque Country extend their incentives-for-electric-mobility programme as a result of the extension of the deadline until 31 December provided for in Royal Decree-law 4/2024, of 26 June, extending certain measures to tackle the economic and social consequences of the conflicts in Ukraine and the Middle East and adopting urgent fiscal, energy and social measures..... 	7		
<ul style="list-style-type: none"> — Decision, of 2 September 2024, of the Technical General Secretariat of the Ministry of the Interior, publishing the Agreement between the Central Traffic Authority and the Barcelona Area Metropolitan Transport Authority for the exchange of information on mobility, transport, environmental quality and access to databases..... 	8		
<ul style="list-style-type: none"> — Amendment to the Sustainable Mobility Bill (121/000009) 	8		
		<ul style="list-style-type: none"> — Royal Decree 892/2024, of 10 September, approving the Regulation on Historic Vehicles 	9
		<ul style="list-style-type: none"> — Ministry of Industry and Tourism Order, of 8 October 2024, amending the call for applications for aid to projects for the production of electric vehicle batteries within the Recovery, Transformation and Resilience Plan for the year 2024, to increase the amount set in the call, as amended by the Order of 3 September 	9
		<ul style="list-style-type: none"> — DGT Guideline VEH 2024/13, of 18 October, regarding the validity of digitalised documents in inspections. Roadworthiness test station consultations of the Vehicle Register..... 	10
		<ul style="list-style-type: none"> — Ministerial Order, of 21 October 2024, approving the second competitive call, for the financial year 2024, of the Sustainable and Digital Transport Support Programme, within the framework of the Recovery, Transformation and Resilience Plan financed by the European Union - NextGenerationEU 	10
		<ul style="list-style-type: none"> • Europe 	10
		<ul style="list-style-type: none"> — Commission Implementing Decision (EU) 2024/2165 of 1 July 2024 on the publication of a list indicating certain CO₂ emission values per manufacturer as well as average specific CO₂ emissions of all new heavy-duty vehicles registered in the Union pursuant to Regulation (EU) 2019/1242 of the European Parliament and of the Council for the reporting period of the year 2021 	10



<ul style="list-style-type: none"> — Report from the Commission under Regulation (EU) 2018/956 analysing the data transmitted by Member States and manufacturers for the reporting period 2021 on CO₂ emissions from and fuel consumption of new heavy-duty vehicles, 26 July 2024..... 11 — Commission Implementing Decision (EU) 2024/2164 of 11 July 2024 on minimum requirements concerning the data of hired vehicles to be entered in national electronic registers of road transport undertakings 11 — Commission Delegated Regulation (EU) 2024/2220 of 26 July supplementing Regulation (EU) 2019/2144 of the European Parliament and of the Council by laying down detailed rules concerning the specific test procedures and technical requirements for the type-approval of heavy-duty motor vehicles with regard to their event data recorder and for the type-approval of those systems as separate technical units and amending Annex II to that Regulation..... 12 — New UN Regulation No 171 - Uniform provisions concerning the approval of vehicles with regard to Driver Control Assistance Systems (DCAS) enters into force 12 	<ul style="list-style-type: none"> • Public consultation..... 13 <ul style="list-style-type: none"> — Edicts on initial approval and opening to responses of the Ordinance on the creation and management of low emission zones in Lleida (case VI-406/2024), published on 23 October 2024, and of the Sustainable Urban Mobility Plan of Lleida (case VI-405/2024), published on 24 October 2024..... 13 • News..... 14 <ul style="list-style-type: none"> — U.S. starts applying a 100% tariff on Chinese electric vehicles from 27 September and announces proposed rulemaking to prohibit the sale or import of connected vehicles integrating specific pieces of hardware and software, or those components sold separately, with a sufficient nexus to the People’s Republic of China or Russia..... 14 — Bank of Spain article: China’s electric car boom and its impact on the European Union. Published on 15 October 2024 Series, Economic Newsletter 2024/T4. Author: Lorenzo Bencivelli, Markus Jorra, Andrés Lajer Baron, Marta Suárez-Varela and Mario Vuletic 15 — The Ministry of Industry meets with ANFAC and FACONAUTO to prepare measures to help those affected by the ‘DANA’ (cut-off low pressure system) to purchase new vehicles 15
--	--

Case law

Madrid High Court of Justice Judgments nos. 405/2024 and 410/2024 of 17 September 2024. Madrid City Council Ordinance regarding sustainable mobility - Low-emission zones - Inadequacy of the economic impact report - Public consultation prior to alteration of low-emission zones

Judgments nos. 405/2024 and 410/2024 of 17 September 2024 of the Madrid High Court of Justice (MHCJ) determined applications for judicial review made by a political party and an association of vehicles affected by the environmental restrictions, respectively, against the Madrid City Council Plenary Decision of 13 September 2021 passing Ordinance 10/2021 of 13 September (the ‘Ordinance’) amending the Ordinance regarding Sustainable Mobility (‘SMO’) of 5 October 2018, which established the Low-Emission Zones (‘LEZs’) of Madrid and the procedure to approve the same.

The applicants claimed, inter alia, that (1) the Ordinance was void due to the *contra legem* creation of the ‘Mixed Group’ of the Madrid City Council, so that any act of the same in which it

intervened should also be held void and (2) the Ordinance was void due to the inadequacy of the economic impact and environmental impact reports contained in the Regulatory Impact Analysis Report (‘RIAR’).

The MHCJ rejected the first ground of contest because the participation of the Mixed Group in the drafting and passage of the Ordinance was not decisive¹. As for the second ground of contest, the MHCJ ruled that the “clear inadequacy of the RIAR” leads to the annulment only² of “the parts of the Ordinance defining the scope of the LEZs and regulating the two SPLEZs³ of ‘Distrito Centro’ and ‘Plaza Elíptica’”. The MHCJ leaves intact the remaining articles, including the articles which refer in a general manner to the LEZs and SPLEZs “that may be established in the future and that are not affected by the aforementioned procedural defect”^{4,5}.

The MHCJ concluded that the economic impact report was clearly inadequate⁶ because it dispensed with the analysis (1) of significant economic factors with direct repercussions on the lives of persons and on the business activity of the companies affected by the mobility restric-

¹ Madrid Higher Court of Justice Judgment no. 405/2024 of 17 September 2024, Point of Law 3.

² The Higher Court follows the criteria established by the Supreme Court on annulment effects in judgment no. 1262/2023 of 16 October 2023, appeal no. 848/2022, which states: “... far from reaching the whole of it, it must be limited to the specific provisions that the claim succeeds in linking to the defect found...”.

³ Specially protected low-emission zones (SPLEZs).

⁴ Madrid Higher Court of Justice Judgment no. 405/2024.

⁵ Madrid Higher Court of Justice Judgment no. 410/2024 quashes only some “points” of the first transitory provision of the SMO (Art. 96 of the Ordinance).

⁶ Madrid Higher Court of Justice no. 405/2024.

tions “in relation to the intensity and the spatial and material extent of those restrictions”; (2) of a ‘just transition’ that takes into account the economic, mobility and family life consequences and the needs of important sectors of the population, especially those with lower economic capacity; and (3) of the business activity of companies, especially the smallest ones, and of the self-employed. As regards the environmental impact report, the MHCJ reasons that it was also inadequate because it did not consider other alternatives to the adopted measures restricting rights.

The MHCJ recalls that the creation of low-emission zones is a legal imperative established by Article 14(3)(a) of the Climate Change and Energy Transition Act 7/2001 of 20 May for Municipalities with over 50,000 inhabitants. The MHCJ also does not question the need for the authorities to comply with the pollution limit values established by Directive 2008/50/EC of the European Parliament and of the Council of 21 May 2008 on ambient air quality and cleaner air for Europe. It focuses its analysis, however, on the principle of proportionality and good administration in the exercise of regulatory power and its justification when a public authority adopts measures of general interest that restrict the rights of the public. The MHCJ follows the legal doctrine established by the Supreme Court in relation to the judicial examination of local mobility ordinances that have regulated the establishment of low-emission zones and focuses its analysis on Supreme Court Judgment no. 4853/2023 of 2 November 2023 (‘SCJ 4853/2023’), which affirms Judgment no. 972/2022 of the Catalan Higher Court

of Justice (‘CHCJ’), which upheld the ordinary proceedings 62/2020 annulling the Ordinance restricting certain vehicles in Barcelona to preserve and improve air quality and establishing a low-emission zone within the ‘Rondas de Barcelona’ area (the ‘Barcelona Ordinance’). The Supreme Court explained, citing the CHCJ Judgment, that “the debate arises ... in the exercise of regulatory power and the obligatory requirement to state reasons in its exercise which, in order not to incur arbitrariness, must appear sufficiently reasoned, which is only possible by obtaining all the decisive elements affected by that power”. It concluded that the Barcelona Ordinance had violated Article 49 of the Local Government Act 7/1985 of 2 April in relation to Article 4 of the Public Sector (Legal Regime) Act 40/2015 of 1 October because it did not have an “economic, budgetary and social impact” report. The MHCJ concludes that it was not possible to assess the economic consequences of the measures imposed, essential ‘to make a judgement of proportionality’ between the aims pursued by the Ordinance and the sacrifice of rights caused.

The Madrid City Council Cabinet authorised the lodging of a ‘cassation’ appeal with the Supreme Court⁷. At the same time, on 21 October, the period of 15 calendar days for public participation in the public consultation prior to the amendment of the SMO regarding the LEZs ended⁸. The purpose of the amendment is, among other reasons, to comply with the case-law requirements contained in the two MHCJ judgments in the event that they become final and conclusive, “perfecting the justification and increasing the proportionality of the regulation of LEZs”⁹.

⁷ See Report on the prior public consultation on the amendment of the Sustainable Mobility Ordinance on low-emission zones, p. 5. Available at this [link](#).

⁸ See Decisions adopted by the Cabinet of the City of Madrid in ordinary session held on 3 October 2024. Available at this [link](#).

⁹ Report on the prior public consultation on the amendment of the Sustainable Mobility Ordinance on low-emission zones, pp. 6-7; see pp. 10-12, *supra* no.7.

Legislation

Spain

Final approval by the Guadalajara City Council Cabinet of the Sustainable Urban Mobility Plan ('SUMP') on 25 June 2024

The SUMP aims to make Guadalajara's mobility model more sustainable and updates the previous Mobility Plan approved in 2015. Through its 10 strategic axes, the Plan aims to move towards transport models that have less impact on the environment and is defined as "a cross-sectoral tool for local development subject to the European, regional and local regulatory and strategic framework". The SUMP proposes the creation of a LEZ in the historic centre of Guadalajara, whose regulatory ordinance is currently being drafted. The SUMP proposes among its strategic objectives to improve the quality of the urban environment and the quality of life of the inhabitants through the reduction of pollution and noise; to promote means of transport with lower social, economic, environmental and energy costs for people and goods; to reduce congestion levels and journey times and to improve the accessibility of Guadalajara's neighbourhoods and districts.

The SUMP is considered a "living project", so its objectives will be supplemented with other more specific objectives "that will emerge after the process of conducting the mobility diagnosis, trying to respond to the challenges identified in it and setting the expected outcomes and the local mobility model for the next 8 years". The announcement of the approval of the SUMP by the Guadalajara City Council Cabinet was published in the official journal of the province on 10 July.

The regions of Cantabria and Basque Country extend their incentives-for-electric-mobility programme as a result of the extension of the deadline until 31 December provided for in Royal Decree-law 4/2024, of 26 June, extending certain measures to tackle the economic and social consequences of the conflicts in Ukraine and the Middle East and adopting urgent fiscal, energy and social measures

Royal Decree-law 4/2024 amends Royal Decree 266/2021, of 13 April, approving the direct granting of aid to the regions and the cities of Ceuta and Melilla for the implementation of incentives for electric mobility ('MOVES III Programme') within the framework of Spain's Recovery, Transformation and Resilience Plan ('RTRP'). As we reported in the Automobile Newsletter no. 24, the amendment extends the validity of the electric mobility incentives programmes within the framework of the RTRP, which we find particularly relevant given the progressive implementation of LEZs in Spain's regions.

In Cantabria, Order IND/27/2024 of 4 July extends the funding available for the purchase of electric vehicles in said region, making a total of 5,645,459 euros available to individuals, companies, the self-employed and local entities for the purchase of electric vehicles. The electric vehicle will be eligible for subsidy when it has been purchased at one of the dealerships, points of sale or leasing companies that are members of the MOVES III Programme of the region and "that meet the requirements specified in Schedule I of

this call”. The deadline for submitting applications is 31 December 2024.

In the Basque Country, the Decision, of 8 July 2024, of the Director-General of the Basque Energy Agency, amending for the seventh time the Decision, of 5 July 2021, approving, calling and publishing the conditions of the programme of incentives linked to electric mobility, within the framework of the Recovery, Transformation and Resilience Plan financed by the European Union - NextGenerationEU (MOVES III Programme), extends the deadline for submitting applications to 31 December 2024. These incentives may be relevant as the Bilbao LEZ came into force on 15 June 2024¹⁰.

Decision, of 2 September 2024, of the Technical General Secretariat of the Ministry of the Interior, publishing the Agreement between the Central Traffic Authority and the Barcelona Area Metropolitan Transport Authority for the exchange of information on mobility, transport, environmental quality and access to databases

The Central Traffic Authority (‘CTA’) and the Barcelona Area Metropolitan Transport Authority (‘MTA’) have signed an agreement (the ‘Agreement’) for the exchange of information on mobility, transport, environmental quality and access to databases. The Agreement, which will be in force for four years, details the mutual commitments assumed by each party: the CTA will provide the MTA with access to the vehicle data agreed upon in accordance with the Agreement and the MTA will communicate to the CTA “the traffic restriction measures and other measures aimed at environmental improvement that are established in

its territorial area” and “the operating statistics on vehicle use or of an environmental nature that affect vehicle use that are obtained from the data provided”.

Amendment to the Sustainable Mobility Bill (121/000009)

On 17 September, the *Partido Popular* Parliamentary Group tabled a full amendment (the ‘Amendment’) to the Sustainable Mobility Bill (‘SMB’), which was rejected in a plenary vote on 26 September 2024 with 168 votes in favour, 176 votes against and 1 abstention.

The justification for the Amendment was based, among other reasons, on the distance of the SMB from the economic, social and environmental reality of the country: the reality of the vehicle fleet “makes it impossible to meet the objectives of decarbonisation, digitalisation, connectivity, road safety and the introduction of highly automated vehicles”. It also criticised the absence of concrete and measurable national objectives and commitments “that respond to the challenges posed by the transformation of the mobility system in Spain”, as well as the lack of regulatory implementation of many aspects of the SMB, which does not contain an identification of the powers and competent bodies responsible for various matters such as “urban distribution of goods, the regulation of light vehicle delivery and the requirements demanded of transport technology platforms”, or their execution. It also argues that the SMB does not “boldly address critical issues such as the rights of platform workers, ‘riders’”.

The last deadline for the submission of amendments to the articles ended on 30 October and

¹⁰ The LEZ is regulated by the ordinance passed by the Bilbao City Council Plenary. Bilbao City Council, Bilbao Low Emission Zones. Available at this [link](#).

it is still being passed through the Transport and Sustainable Mobility Committee.

Royal Decree 892/2024, of 10 September, approving the Regulation on Historic Vehicles

On 1 October, Royal Decree 892/2024 of 10 September (the 'new Royal Decree') came into force, the sole article of which approves the new Regulation on Historic Vehicles (the 'new Regulation'), for whose 'effective and homogeneous' application the Directorate General for Traffic has issued an Instruction¹¹. The new Royal Decree repeals Royal Decree 1247/1995, of 14 July 1995, approving the Regulation on Historic Vehicles, and any other provisions of equal or lower rank that oppose it. The entry into force of the new Royal Decree and the new Regulation are of interest for the following reasons. The new Royal Decree urges local councils, through their municipal ordinances, to encourage the use of these vehicles in low-emission zones when their owners make 'occasional use and not as a means of daily transport'. This provision is aimed at promoting the conservation of the cultural and industrial heritage of automobiles.

In addition, the new legislation modernises and shortens the administrative procedure in favour of owners of vehicles that are likely to be classified as historic. The changes introduced with the new Royal Decree echo the legislation passed by other European countries such as France, Sweden, the United Kingdom and Ireland, where historic vehicles of a certain age are exempt from the roadworthiness test. Thus, the new Royal Decree exempts historic vehicles over sixty years old from the roadworthiness test and totally exempts mopeds classified as historic from the roadworthiness test, without prejudice to the voluntary the roadworthiness tests that their owners may wish

to opt for. The purpose of such new rules is to prevent historic vehicles from leaving Spain. As for the new administrative procedure, the new Regulation abolishes the first stage of the old procedure - cataloguing by the region's Industry services. The new administrative procedure includes an 'abridged' procedure for historic vehicles registered in Spain that are at least 30 years old, in use and have a valid roadworthiness certificate, and a more complex procedure for vehicles that do not meet these requirements.

The new Regulation also creates the Roadworthiness Services for Historic Vehicles, which will assess vehicles in the cases covered by the new Regulation and which will carry out the tasks that rested with the official laboratories under the previous Regulation.

Ministry of Industry and Tourism Order, of 8 October 2024, amending the call for applications for aid to projects for the production of electric vehicle batteries within the Recovery, Transformation and Resilience Plan for the year 2024, to increase the amount set in the call, as amended by the Order of 3 September

In the Automobile newsletter No. 24, we reported on the call for applications for aid to projects for the production of electric vehicle batteries within the Recovery, Transformation and Resilience Plan for the year 2024, the deadline for which was 19 July. By the new Order of 8 October 2024, the Ministry of Industry and Tourism is making a second increment of 133,278,895.90 euros in the form of subsidies after the first increment of 40,000,000.00 euros, approved on 3 September 2024. This increases the number of projects submitted that will receive funding.

¹¹ Directorate-General for Traffic, Instruction PROT-VEH 2024/13 of 10 September.

DGT Guideline VEH 2024/13, of 18 October, regarding the validity of digitalised documents in inspections. Roadworthiness test station consultations of the Vehicle Register

The Directive states that the commencement of a roadworthiness test will not be refused when the interested party does not present the vehicle documents in physical format. When the interested party presents the vehicle documents at the roadworthiness test station through the MiDGT application or the rental vehicle platform, or even does not present the documents, 'the roadworthiness test stations will access the Vehicle Register and will be able to verify the information available to complete the correct identification of the vehicle'. However, the original roadworthiness card must be presented when vehicles do not have an electronic roadworthiness card.

Ministerial Order, of 21 October 2024, approving the second competitive call, for the financial year 2024, of the Sustainable and Digital Transport Support Programme, within the framework of the Recovery, Transformation and Resi-

lience Plan financed by the European Union - NextGenerationEU

The Ministerial Order approves "the second call for the competitive award of the subsidies of the Sustainable and Digital Transport Support Programme, within the framework of the Recovery, Transformation and Resilience Plan, for projects related to digitalisation and sustainability in the different modes of transport, which can be developed by private legal persons and public corporations".

The call makes available to potential beneficiaries an initial maximum total amount of 17,054,342.58 euros in the form of subsidies, which may be increased by an additional amount of up to 70,000,000.00 euros. Fundable projects are those aimed at promoting, among others, transport intermodality; safe, sustainable and connected road transport; the implementation of alternative fuel refuelling infrastructure for heavy goods vehicles on the road network and the digitalisation of passenger and goods transport services at national level. The deadline for the submission of applications was open from 28 October to 2 December, and the deadline for the implementation of the funded projects is 31 March 2026.

Europe

Commission Implementing Decision (EU) 2024/2165 of 1 July 2024 on the publication of a list indicating certain CO₂ emission values per manufacturer as well as average specific CO₂ emissions of all new heavy-duty vehicles registered in the Union pursuant to Regulation (EU) 2019/1242 of the European Parliament and of the Council for the reporting period of the year 2021

The Implementing Decision shows that the average specific CO₂ emissions of all new heavy-duty vehicles registered in the Union from all manufacturers amounts to 52.3 g/tkm in the reporting period 2021. The calculation of this value has been made by applying the formula of Annex I, point 2.7, to Regulation (EU) 2019/1242 of the European Parliament and of the Council of 20 June 2019 setting CO₂ emission performance standards for new heavy-duty vehicles and amending

Regulations (EC) No 595/2009 and (EU) 2018/956 of the European Parliament and of the Council and Council Directive 96/53/EC ('Regulation 2019/1242').

Regulation 2019/1242 sets CO₂ emission performance standards and CO₂ emission and fuel consumption reporting obligations for new heavy-duty vehicles registered in the Union. The Regulation contains tiered percentage reduction targets for the average CO₂ emissions of the new heavy-duty vehicle fleet. Thus, CO₂ emissions are to be reduced by 15% for the reporting period 2020 to 2025 compared to 2019. These standards contribute, among other things, "to achieving the Union's climate-neutrality objective and the intermediate Union climate targets" and "Member States' targets of reducing their greenhouse gas emissions". The Regulation defines "reporting period" as "from 1 July of a given year to 30 June of the following year".

Report from the Commission under Regulation (EU) 2018/956 analysing the data transmitted by Member States and manufacturers for the reporting period 2021 on CO₂ emissions from and fuel consumption of new heavy-duty vehicles, 26 July 2024

Related to the previous point, Article 10 of Regulation (EU) 2018/956 of the European Parliament and of the Council of 28 June 2018 on the monitoring and reporting of CO₂ emissions and fuel consumption of new heavy-duty vehicles imposes an obligation on the Commission to publish "an annual report with its analysis of the data transmitted by Member States and manufacturers for the preceding calendar year".

This third Commission report - based on data available as of 20 March 2024 - analyses and compares the CO₂ emission performance of the heavy-duty vehicle fleet in the EU, by Member

State and by manufacturer. These three groups are determined with respect to "CO₂ emissions for selected representative heavy-duty vehicle groups for different mission profiles, payload combinations and different fuels". The report includes values on the average fuel consumption of the heavy-duty vehicle fleet of the Union that were registered during the third reporting period and covers data on the adoption of new and advanced CO₂ emission reduction technologies and alternative propulsion systems.

For lorries below 16 tonnes - group 2 - there are significant differences between the fleets of different Member States and manufacturers. For the former, the relative difference between the best- and the worst-performing Member State's fleet is of more than 16%. For manufacturers, the relative difference amounts to around 30%. For lorries above 16 tonnes, the variation between Member States' fleets amounts to 5% for the 5-Long Haul group and 14% for group 16. For manufacturers, the variation is around 11% in the 5-LH group and 8% in group 16. In terms of the uptake of advanced technologies, data indicates that nearly three quarters of the newly registered vehicles are equipped with at least one advanced driver-assistance system (ADAS).

The report confirms that diesel vehicles still account for more than 97% of all newly registered heavy-duty vehicles and that only a limited number of vehicles use alternative fuels or alternative powertrains, mostly LNG and CNG.

Commission Implementing Decision (EU) 2024/2164 of 11 July 2024 on minimum requirements concerning the data of hired vehicles to be entered in national electronic registers of road transport undertakings

The Implementing Decision — which entered into force on 20 August — lays down minimum

requirements for the data relating to vehicles hired without a driver to be entered in the national electronic registers in order to facilitate their interconnection and the exchange of information with regard to data on vehicles hired without drivers. These minimum data are the vehicle registration number and the country of registration of the vehicle. The European Register of Road Transport Undertakings is the designated register for the exchange of such information between Member States.

This Decision supplements Directive 2006/1/EC of the European Parliament and of the Council of 18 January 2006 on the use of vehicles hired without drivers for the carriage of goods by road. The Directive defines “hired vehicle” as “any vehicle which, for remuneration and for a determined period, is put at the disposal of an undertaking which engages in the carriage of goods by road for hire or reward or for its own account on the basis of a contract with the undertaking which makes the vehicles available”.

Commission Delegated Regulation (EU) 2024/2220 of 26 July supplementing Regulation (EU) 2019/2144 of the European Parliament and of the Council by laying down detailed rules concerning the specific test procedures and technical requirements for the type-approval of heavy-duty motor vehicles with regard to their event data recorder and for the type-approval of those systems as separate technical units and amending Annex II to that Regulation

The event data recorder is a system with the only purpose of recording and storing critical crash-related parameters and information shortly before, during and immediately after a collision with a view to obtain more accurate, in-depth accident data enabling Member

States to conduct road safety analysis and assess the effectiveness of specific measures. This Delegated Regulation supplements Regulation (EU) 2019/2144 which lays down a general obligation for motor vehicles to be equipped with certain advanced vehicle systems. The delegated regulation incorporates requirements for the type-approval of motor vehicles with regard to their event data recorders and for the type-approval of those systems as separate technical units. It also supplements these requirements with detailed harmonised rules on the specific test procedures and technical requirements for such type-approval.

Article 4(2) requires the vehicle manufacturer to provide “the type-approval authority and, at the request of a type-approval authority, any interested manufacturer or repairer of components, diagnostic tools or test equipment with information about how the event data can be accessed, retrieved and interpreted”. Article 4(4) imposes obligations related to data protection by stating that data shall not be available for retrieval over interfaces accessible without the need to unlock the vehicle or to use tools, or over vehicle interfaces for wireless connections. Furthermore, it prohibits the inclusion of data that can be linked to a natural person.

New UN Regulation No 171 - Uniform provisions concerning the approval of vehicles with regard to Driver Control Assistance Systems (DCAS) enters into force

On 22 September, the new United Nations Regulation No 171 (‘Regulation No. 171’ or the ‘Regulation’) on uniform provisions concerning the approval of vehicles with regard to Driver Control Assistance Systems (DCAS), which we reported on in Automobile newsletter No. 23, entered into force.

Paragraph 2.1 of the Regulation defines DCAS as hardware and software collectively capable of assisting a driver in controlling the longitudinal and lateral motion of the vehicle on a sustained basis. DCAS is part of ADAS, which have been developed to support drivers and enhance road safety through information support, including warnings in safety-critical situations, and assisting in executing the lateral and/or longitudinal control of

the vehicle. ADAS is not intended to replace the responsibility of the driver, who should “always remain responsible for vehicle control and shall permanently monitor the environment and vehicle/system performance”. Paragraph 5.5.4.2 of Regulation No. 171 imposes an obligation on the manufacturer to document and demonstrate to the type approval authority, the driver state monitoring system and its warning strategy.

Public consultation

Edicts on initial approval and opening to responses of the Ordinance on the creation and management of low emission zones in Lleida (case VI-406/2024), published on 23 October 2024, and of the Sustainable Urban Mobility Plan of Lleida (case VI-405/2024), published on 24 October 2024

Lleida City Council initially approved the Ordinance on the creation and management of low-emission zones (‘LEZs Ordinance’), which has been open to responses by interested parties for a period of 30 business days. The LEZs Ordinance was approved under Article 14 of the Climate Change and Energy Transition Act 7/2021 of 20 May and in accordance with Royal Decree 1052/2022, of 27 December, regulating low-emission zones. The LEZs are expected to be implemented progressively from 1 January 2025 and will be limited to the historic centre (which represents 10% of residential land) and will allow the use of vehicles without an environmental sticker in a certain time zone¹². The creation of LEZs guarantees exceptions for residents with

vehicles registered in the city, which will not be subject to traffic restrictions, and for public transport, emergencies, sick people and people with reduced mobility.

At the same time, Lleida City Council initially approved the new Sustainable Urban Mobility Plan for Lleida/Horizon 2030 (‘SUMP’), in accordance with Article 9 of the Mobility (Catalonia) Act 9/2023 of 13 June, which includes in the file its strategic environmental study, which is considered an integral part of the SUMP, in accordance with Articles 20 and 21 of the Environmental Assessment Act 21/2013 of 9 December. The City Council opens the initial approval of the SUMP to responses from interested parties for a period of 45 working days. The SUMP was initiated in 2021 and will replace the 2011 Mobility Plan. One of the main objectives of the new Plan is to achieve a modal split in which active mobility predominates: 55% of journeys should be made on foot, 20% by public transport, 5% by bicycle and PMV and 20% by private vehicle.

All provincial capitals in Catalonia have an urban mobility plan. Girona City Council has its

¹² Lleida City Council, *Lleida pondrá en marcha la Zona de Bajas Emisiones el 1 de enero, limitada al Centro Histórico y sin restricciones por los residentes en la ciudad*. Available at this [link](#).

Urban Mobility Plan approved in 2014, and a supra-municipal Sustainable Urban Mobility Plan is currently being drawn up. The City Council has also initially approved the Girona Low Emission Zone Ordinance, which was open to responses from 1 October to 13 November. Tarragona City Council is revising its Urban Mobility Plan 2012-2017, the result of which will be the Sustainable Urban Mobility Plan 2030. As for Tarragona's LEZ, the City Council approved the initial LEZ project

in August 2024, with its corresponding 30-day consultation stage. Barcelona also has its Urban Mobility Plan 2024. As explained above, the LEZ established by the 2019 Ordinance was declared void by Supreme Court Judgment no. 4853/2023 of 2 November 2023. From 28 January 2023, the LEZ is regulated by a new Ordinance that includes social improvements and facilities for the occasional use of vehicles.

News

U.S. starts applying a 100% tariff on Chinese electric vehicles from 27 September and announces proposed rule-making to prohibit the sale or import of connected vehicles integrating specific pieces of hardware and software, or those components sold separately, with a sufficient nexus to the People's Republic of China or Russia

The tariff increase will apply to electric vehicles ('EVs') and other imports from China in response to its discriminatory or unreasonable acts, policies or practices relating to technology transfer, intellectual property and innovation that burdened or restricted U.S. commerce and thus were actionable under section 301(b) of the Trade Act¹³. Notable among the imports whose tariff increases from 25% to 100% on 27 September are EVs, battery components other than lithium-ion, lithium-ion EV batteries, lithium-ion batteries for non-electric vehicles, steel and aluminium products, and various critical minerals, whose tariff in-

creases from 0% or 7.5% to 25%. From 1 January 2025, a 50% tariff will apply to semiconductors, compared to 25% previously.

The Tariff Modification Notice notes that China, rather than reforming its practices, has persisted in them and has even become more aggressive, "particularly through cyber intrusions and cyber-theft, in its attempts to acquire and absorb foreign technology, which further burden or restrict U.S. commerce". Economic studies indicate that section 301 tariffs have contributed to supporting U.S. supply chain diversification and resilience.

In parallel, the U.S. Department of Commerce's Bureau of Industry and Security published a Notice of Proposed Rulemaking to prohibit the sale or import of connected vehicles integrating specific pieces of hardware and software, or those components sold separately, with a sufficient nexus to the People's Republic of China (PRC) or Russia¹⁴. This notice is motivated by national security concerns to protect citizens and critical in-

¹³ Federal Register, *Notice of Modification: China's Acts, Policies and Practices Related to Technology Transfer, Intellectual Property and Innovation*. Available at this [link](#).

¹⁴ Federal Register, *Securing the Information and Communications Technology and Services Supply Chain: Connected Vehicles*. Available at this [link](#).

frastructure by isolating connected vehicles from influence or control by foreign adversaries. The period for responses closed on 28 October. The proposed definition of connected vehicle would include passenger vehicles, motorbikes, buses, small and medium trucks, 'class 8' commercial trucks, and recreational vehicles. The definition would exclude vehicles that pose a lower risk of sabotage by foreign adversaries.

Bank of Spain article: China's electric car boom and its impact on the European Union. Published on 15 October 2024 Series, Economic Newsletter 2024/T4. Author: Lorenzo Bencivelli, Markus Jorra, Andrés Lajer Baron, Marta Suárez-Varela and Mario Vuletic

The Bank of Spain analyses the factors that have enabled China to position itself as the leading manufacturer of battery electric vehicles (BEVs) and their implications for the EU and Spain, taking into account the recent introduction of tariffs¹⁵. The EU is China's main buyer of BEVs, generating approximately 40% of its total BEV export revenues.

The article highlights that in 2021, the EU automotive industry accounted for 10% of manufacturing gross value added and 8% of employment. Chinese BEV penetration in the EU market rose from 1.9% in 2019 to 15% in 2023 and accounted for 20% of registrations in 2023 compared to

0.4% in 2019. BEV penetration during the same period in Spain was 0.7% and 5.4%, respectively. China has been able to consolidate this position thanks to its lower production costs, a consequence of its comprehensive control of the supply chain, supportive government policies and its own early adoption of EVs.

The Ministry of Industry meets with ANFAC and FACONAUTO to prepare measures to help those affected by the 'DANA' (cut-off low pressure system) to purchase new vehicles

The objective stated in the Ministry of Industry's communiqué following the meeting held on 12 November "is to create an alliance with the sector to be able to re-establish the mobility of those affected by the DANA so that they can resume their activity as soon as possible"¹⁶. In the Valencian region, 100,000 vehicles have been lost, "which are essential for daily activity of many families". The aid implemented will be supplementary to the compensation provided by the Insurance Compensation Consortium, which will compensate with the market value plus 20%. This was a first meeting and there is no date for a second meeting. Car manufacturers have made statements to *La Tribuna de Automoción* in which they call for "a single aid plan coordinated between the central and Valencian governments". The losses suffered by dealers amount to 490 million euros.

¹⁵ Bank of Spain, *El auge del coche eléctrico en China y su impacto en la Unión Europea*. Available at this [link](#).

¹⁶ Ministry of Industry, Press Release, *Industria prepara con el sector del automóvil medidas para ayudar a los afectados por la DANA a adquirir vehículos*. Available at this [link](#).



For any questions, please contact:

Ainara Rentería Tazo

Head of the Automotive and Mobility Sector, Counsel of Gómez-Acebo & Pombo Abogados
Tel.: (+34) 91 582 91 00
arenteria@ga-p.com

Disclaimer: This paper is provided for general information purposes only and nothing expressed herein should be construed as legal advice or recommendation.

© Gómez-Acebo & Pombo Abogados, 2024. All rights reserved.