RECENT DEVELOPMENTS IN SPAIN'S E-MOBILITY MARKET

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OVERVIEW OF THE SPANISH E-MOBILITY MARKET'S LEGISLATIVE FRAMEWORK UPDATES

In the past few months, Spain's e-mobility legislative framework has been updated, as the Spanish government steps up its promotion of the decarbonisation of the transport sector to secure the country's energy transition between 2030 to 2050. Regarding the transport sector, the new legislation aims for 30% of energy consumption to come from renewable sources by 2030 and to reach climate neutrality by 2050, along with the complete decarbonisation of the transport sector.

"Regarding the transport sector, the new legislation aims for 30% of energy consumption to come from renewable sources by 2030 and to reach climate neutrality by 2050."

To achieve these goals, the government is focussing on, among other things, the implementation of EV charging infrastructure across the country and increasing the charging points available to give priority to electric vehicles and increase their sale.

These are the key legislative updates in this regard, the:

- Draft Law on Climate Change and Energy Transition (the "DCCET");
- Draft Royal Decree amending the Technical Building Code (CTE) approved by the Royal Decree 314/2006 of 17 March (the "DCTE");
- Royal Decree-Law 23/2020, of 23 June, approving measures in the field of energy and other areas for economic recovery (the "RD-L 23/2020");
- The Recovery, Transformation and Resilience Plan (the "RTRP") for the Spanish economy approved by the Spanish Government in the context of the Next Generation EU initiative, a total of €1.8tr, representing the largest stimulus package ever financed through the EU budget to help rebuild a post-Covid-19 Europe; and
- Royal Decree 569/2020, of 16 June, regulating the program of incentives for efficient and sustainable mobility ("*Programa MOVES II*") and agreeing the direct grant of aid under this program to the Autonomous Communities and the cities of Ceuta and Melilla (the "RD 569/2020").

By virtue of RD 569/2020, a new subsidy programme has been implemented (with a greater budget than previous programmes) with the intention of promoting sales of electric vehicles and increasing charging points across the country.

ANALYSIS OF THE NEW LEGISLATIVE FRAMEWORK

Draft Law on Climate Change and Energy Transition

The DCCET sets out multiple objectives and goals in relation to energy transition, summarised as follows:

- To reduce Spain's aggregate greenhouse emissions by at least 20% compared to 1990 levels by 2030;
- For at least 35% of Spain's total energy consumption to come from renewable energy sources by 2030;
- For the electricity network to be based on at least 70% renewable energy sources by 2030;
- To improve energy efficiency, by reducing primary energy consumption by at least 35% (while respecting the base line in accordance with the European regulations); and
- To reach climate neutrality by 2050 (at the latest).

> **"Currently, the transport sector in Spain generates 25% of the country's overall greenhouse gas emissions and is its major energy consumer, accounting for 42% of total energy consumption."**

The DCCET's primary purpose in respect of the transport sector is to adopt the necessary measures to achieve a vehicle fleet with zero CO2 emissions by 2050.

Currently, the transport sector in Spain generates 25% of the country's overall greenhouse gas emissions and is its major energy consumer, accounting for 42% of total energy consumption. This is one of the greater barriers for the sector in reaching decarbonisation. To provide the necessary infrastructure to achieve decarbonisation of the transport sector and procure the use of renewable energy, the DCCET introduces the following obligations to install charging infrastructure:

- Service station owners whose 2019 petrol and oil annual sales reach or exceed 10m litres shall install, for each service station, at least one charging EV charging station with power equal to or higher than 50 kW, which must be operational within 21 months from the Law's entry into force;
- Service station owners whose 2019 petrol and oil annual sales reach or exceed 5m litres but are lower than 10m litres (which will represent approximately 10% of Spain's country service station network) shall install, for each service station, at least one EV charging station with power equal to or higher than 50 kW, which must be operational within 27 months from the Law's entry into force;
- Where, in a province, city or island there is no service station meeting these requirements, service station owners which have at least 10% of their total annual sales in such geographic areas, jointly or individually, must install, for each service station, at least one EV charging station with power equal to or higher than 50 kW, which must be operational within 27 months from the Law's entry into force; and
- From 2021, new service station owners or those performing any renovations requiring a revision of the administrative title, regardless of the sales volume, shall install at least one EV charging station with a power equal to or higher than 50 kW, which must be operational at the time the new or renovated service station becomes operational.

Additionally, the DCCET provides for the creation of a National Point of Access for information on location, availability and characteristics of EV charging points and traffic information (which is to be accessible in real time). For this purpose, EV charging service providers must submit such information, as well as information on the service price, to the Ministry for the Ecologic Transition and Demographic Challenge.

Draft Royal Decree amending the Technical Building Code (CTE) approved by the Royal Decree 314/2006 of 17 March

By virtue of the DCTE, the Technical Building Code (CTE) is modified in order to cover obligations relating to EV charging point installations in new buildings as well as the modification regime for existing buildings, thus amending the current Complementary Technical Instruction (CTI).

In particular, the new CTE includes the obligation for new construction buildings and buildings undergoing refurbishment to have a cable conduction system allowing the potential installation of EV charging infrastructure.

This shall apply as follows:

- In private residential buildings, the cable conduction system shall be installed for 100% of the parking spaces; and
- In non-private residential buildings, the cable conduction system shall be installed for 20% of the parking spaces. In addition, the number of EV charging stations shall be one point for every 40 parking spaces, increasing to one point for every 20 spaces for buildings owned by the General State Administration ("*Administración General del Estado*") or public organisations linked to, or dependent on, the latter.

These obligations must be fulfilled before 1 January 2023 for non-residential buildings which contain more than 20 parking spaces.

> "The RD-L 23/2020 speeds up administrative procedures for the installation of certain EV charging infrastructure, granting the declaration of public utility to electrical infrastructure associated with high capacity EV charging points."

Royal Decree-Law 23/2020, of 23 June, approving measures in the field of energy and other areas for economic recovery

RD-L 23/2020 is a fundamental instrument for the transition to a decarbonised transport sector. It speeds up administrative procedures for the installation of certain EV charging infrastructure, granting the declaration of public utility ("DUP") to electrical infrastructure associated with high capacity EV charging points (points with power over 250 kW). These measures have been motivated by the need to build electrical lines to power EV charging points located on intercity roads.

Moreover, RD-L 23/2020 provides that in 2020 local administrations shall be able to apply a maximum of 7% of their positive results for the 2019 fiscal year to finance investment costs in 100% electric vehicles (or with a ZERO environmental label or, under certain circumstances, with an ECO environmental label). The implementation of EV charging points for use by such acquired vehicles to provide specific public services is also covered.

Finally, to promote innovation investment in the Spanish automobile industry, the RD-L 23/2020 increases, for tax periods starting within 2020 and 2021, the deduction percentage for innovative processes under the Corporate Income Tax from 12% to 25%.

THE EUROPEAN COUNCIL AGREEMENT ENVISAGES FINANCING OF UP TO €140BN IN TRANSFERS AND LOANS OVER THE COMING SIX YEARS

Royal Decree 569/2020, of 16 June, regulating the incentive program for efficient and sustainable mobility ("*Programa MOVES II*") and establishing the Programa MOVES II's aid grant regime to Autonomous Communities and the cities of Ceuta and Melilla

On 17 June 2020, the Spanish Government published RD 569/2020, a new subsidy program designed to comply with the transport sector decarbonisation objectives. The main modifications from the previous program are:

- subsidy budget increase;
- more activities eligible for support to assist town councils with their mobility needs following the pandemic
- the potential to discard or scrap vehicles which are more than seven years old;
- limited price increases for eligible vehicles;
- increasing the maximum budget dedicated to heavy gasoil vehicles; and
- increasing flexibility for Autonomous Communities and the cities of Ceuta and Melilla to manage the subsidy and provide that a percentage of the subsidy budget can be used to manage each of its expenses.

On the one hand, Autonomous Communities and the cities of Ceuta and Melilla will be direct subsidy beneficiaries, as well as direct concession managers of such subsidies through their local designated competent body. On the other hand, concession subjects which can benefit from the aid are: natural persons developing economic activities, natural persons of legal age, communal building owners, legal persons, local entities and the institutional public sector.

Autonomous Communities and the cities of Ceuta and Melilla shall have the potential to perform direct investments in any of the activities contemplated in the programme, as a result of the extended capacity given by the Programa MOVES II. Such investments may be financed through funds from the budget provided that the administrations in charge communicate their acceptance to the Programa MOVES II's conditions.

"Under the RTRP, the Spanish government seeks to apply the resources assigned to Spain under the Next Generation EU instrument, to achieve an unprecedented volume of investment."

The Programa MOVES II's assigned budget amounts to €100m, distributed among Autonomous Communities and the cities of Ceuta and Melilla according to their population. The total amount to be destined to the installation of EV charging infrastructure will be up to €100,000 per final subsidy recipient.

The Recovery, Transformation and Resilience Plan

Under the RTRP, the Spanish government seeks to apply the resources assigned to Spain under the Next Generation EU instrument, to achieve an unprecedented volume of investment. In fact, the European Council agreement envisages financing of up to €140bn in transfers and loans over the coming six years, representing 11% of Spain's GDP in 2019.

In addition, the RTRP aims to achieve structural transformation and reform, focussed on transitioning towards a climate-neutral and a circular economy and society that is sustainable, environmentally friendly and resource-efficient.

The RTRP's priorities are aligned with those of the EU and the seven European Flagship Initiatives recently presented by the European Commission in its 2021 Annual Sustainable Growth Strategy. These Flagship Initiatives include the frontloading of future-proof clean technologies and acceleration of the development and use of renewable energy, the improvement of energy efficiency in private and public buildings and the extension of charging and refueling stations for electric cars.

On a related issue, the RTRP is structured around ten guiding policies, including one which focusses on promoting resilient infrastructure and eco-systems. In particular, the RTRP expressly foresees an action plan to ensure sustainable, safe and connected mobility in urban and metropolitan areas. This includes the establishment of low emission zones and a massive deployment of charging infrastructure to encourage the use of electric vehicles, which is expected to bolster the capital goods industry and the development of new business models. It also foresees greater investment in public transport and fleet modernisation with nationally-produced zero emission vehicles, offering attractive transportation alternatives and reducing operating costs for public transportation companies and authorities.

"This decree is in response to the growing need to increase the number of EV charging points in the country and their regulation, as well as Spain's desire to not be left behind in the progress made at European level in respect of e-mobility."

Moreover, the RTRP foresees an expansion and technological updating of electrical energy transmission and distribution networks with a view to integrating renewable energy sources as well as demand management, the development of independent aggregators and distributed energy resources and the progressive electrification of the mobility and the construction sector. It will also foster the deployment of storage technologies, while promoting new business models and innovative projects in smart sector integration.

Spanish e-mobility legal framework further updates

The Government, through the vice-president for the Ecological Transition and Demographic Challenge, has also announced its intention to pass a decree focussing on regulating the maintenance and management of EV charging points.

This decree is in response to the growing need to increase the number of EV charging points in the country and their regulation, as well as Spain's desire to not be left behind in the progress made at European level in respect of e-mobility.

DISCLAIMER

Please note that this article is not exhaustive of all legal aspects that may be relevant in this context and cannot replace any legal advice in a specific situation.

SOURCES

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