

CLIMATE REGULATION

Spain



Climate Regulation

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Quick reference guide enabling side-by-side comparison of local insights, including the main climate regulations, policies and authorities; national emission levels, limits and emission reduction projects; emission allowances and trading; energy and non-energy sector regulation; renewable energy consumption, policy and general regulation, including carbon capture and storage; climate matters in M&A transactions; and recent trends.

Generated 08 March 2023

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Table of contents

MAIN CLIMATE REGULATIONS, POLICIES AND AUTHORITIES

- International agreements
- International regulations and national regulatory policies
- Main national regulatory policies
- Main national legislation
- National regulatory authorities

GENERAL NATIONAL CLIMATE MATTERS

- National emissions and limits
- National GHG emission projects

DOMESTIC CLIMATE SECTOR

- Domestic climate sector

GENERAL GHG EMISSIONS REGULATION

- Regulation of emissions
- GHG emission permits or approvals
- Oversight of GHG emissions

GHG EMISSION ALLOWANCES (OR SIMILAR EMISSION INSTRUMENTS)

- Regime
- Registration
- Obtaining, possessing and using GHG emission allowances

TRADING OF GHG EMISSION ALLOWANCES (OR SIMILAR EMISSION INSTRUMENTS)

- Emission allowances trading
- Trading agreements

SECTORAL REGULATION

- Energy sector
- Other sectors

RENEWABLE ENERGY AND CARBON CAPTURE

- Renewable energy consumption, policy and general regulation
- Wind energy

Solar energy

Hydropower, geothermal, wave and tidal energy

Waste-to-energy

Biofuels and biomass

Carbon capture and storage

CLIMATE MATTERS IN TRANSACTIONS

Climate matters in M&A transactions

UPDATE AND TRENDS

Emerging trends

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MAIN CLIMATE REGULATIONS, POLICIES AND AUTHORITIES

International agreements

Do any international agreements or regulations on climate matters apply in your country?

Spain adopted the United Nations Framework Convention on Climate Change (UNFCCC) on 9 May 1992, which entered into force on 21 March 1994. The UNFCCC was developed by the Kyoto Protocol on 11 December 1997, which was ratified by Spain on 29 April 1998. The Kyoto Protocol provided for certain emission targets of greenhouse gases and established a specific time frame for their fulfilment. On 22 April 2016, Spain ratified the Paris Agreement resulting from the Paris climate conference (COP 21). The agreement sets out a global action plan to avoid dangerous climate change by limiting global warming to well below 2°C, and its main obligations apply from 2020 henceforward.

The European Union has approved several regulations on climate change with the aim of obtaining a reduction of the GHG emissions of the member states. Directive 2003/87/EC of 13 October 2003 (as subsequently amended) establishing a scheme for greenhouse gas emission allowance trading within the EU is the main regulation approved by the EU. This Directive was implemented in Spain through Law No. 1/2005 of 9 March 2005 (also amended several times to implement the amendments to the Directive).

The EU has also approved the 2030 climate and energy framework that sets three key targets for 2030:

- at least a 40 per cent cut in greenhouse gas (GHG) emissions (from 1990 levels);
- at least a 32 per cent share of renewable energy; and
- at least a 32.5 per cent improvement in energy efficiency.

The framework was adopted by EU leaders in October 2014 and was built on the 2020 climate and energy package. In December 2020, by Agreement of the European Council, the original targets were updated to more ambitious objectives.

Additionally, on June 2021 the European Union approved the Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality, which establishes a framework for the irreversible and gradual reduction of anthropogenic GHG emissions and sets out a binding objective for climate neutrality in the EU by 2050. This Regulation is known as the European Climate Law.

In line with the foregoing, in July 2021 the European Union presented the Fit for 55 package, which gathers a series of legislative proposals with the aim of revising the entire EU climate and energy regulatory framework. The proposals are linked to the climate actions of the European Green Deal and aim, in particular, to ensure the achievement of the target of reducing net greenhouse gas emissions by at least 55 per cent by 2030. Currently, the European Union is in the process of moving forward the different aspects of the Fit for 55 package.

Law stated - 17 February 2023

International regulations and national regulatory policies

How are the regulatory policies of your country affected by international regulations on climate matters?

Spain is a party to all relevant treaties, such as the UNFCCC, the Kyoto Protocol and the Paris Agreement. Spain is also an EU member state. Therefore, the Spanish internal regulations and policies are highly influenced by international and European regulations and objectives. Indeed, the aim of most of the Spanish regulations and policies on climate change is to comply with the objectives and policies previously set by the European authorities. In addition, other policies, such as those on construction and waste, also take into consideration climate change concerns.

In this regard, Law No. 7/2021 of 20 May, on Climate Change and Energy Transition was approved, which aims, among other objectives, to ensure Spain's compliance with the objectives of the Paris Agreement.

Law stated - 17 February 2023

Main national regulatory policies

Outline recent government policy on climate matters.

According to the information published by the Ministry for Ecological Transition and Demographic Challenge, the main guides of the climate change policy of the current government consist of:

- integrating climate change in all the public policies that could affect the climate;
- coordinating all public authorities to avoid duplication and to optimise the use of the available resources and information;
- managing Phase IV of the EU Emissions Trading Scheme (EU ETS);
- preparation of a roadmap to reduce GHG emissions in several industry sectors; and
- promoting and developing the Spanish Carbon Fund to increase the number of national initiatives to help reduce GHG emissions.

Law stated - 17 February 2023

Main national legislation

Identify the main national laws and regulations on climate matters.

The main national laws and regulations on climate change are as follows:

- Law No. 7/2021, of 20 May, on Climate Change and Energy Transition;
- Law No. 1/2005 of 9 March 2005 regulating the GHG emissions trading scheme (as amended);
- Royal Decree 1264/2005, of 21 October, regulating the organisation and operation of the National Emission Allowances Registry;
- Royal Decree 18/2019, of 25 January, developing aspects concerning the implementation of the greenhouse gas emissions trading scheme in the period 2021–2030;
- Royal Decree 317/2019, of 26 April, defining the mitigation measure equivalent to participation in the emissions trading scheme in the period 2021–2025 and regulating certain aspects related to the exclusion of low-emission installations from the greenhouse gas emission allowance trading scheme;
- Royal Decree 1089/2020, of 9 December, developing aspects related to the adjustment of the free allocation of greenhouse gas emission allowances in the period 2021–2030;
- Law No. 40/2010 of 29 December 2010 on the geological storage of carbon dioxide;
- Law No. 2/2011 of 4 March 2011 on sustainable economy;
- Royal-Decree No. 163/2014 of 14 March 2014 creating the carbon footprint, offset and carbon dioxide absorption projects registry;
- Royal-Decree No. 56/2016 of 12 February 2016 on energy efficiency relating energy audits, accreditation of providers of energy services and auditors, and promotion of the efficiency of energy supply;
- Royal-Decree No. 390/2021, of 1 June, approving the basic procedure for the energy efficiency certification of buildings; and
- Royal Legislative Decree No. 14/2022 on economic sustainability measures in the area of transportation, scholarships and study aids, as well as energy saving and efficiency measures and measures to reduce energy

dependence on natural gas.

The regional authorities have also issued certain rules of their own on climate change matters.

Law stated - 17 February 2023

National regulatory authorities

Identify the national regulatory authorities responsible for climate regulation and its implementation and administration. Outline their areas of competence.

The Ministry for Ecological Transition and Demographic Challenge is the administrative body that, at a national level, is responsible for the implementation and administration of climate change policies.

Within that Ministry, certain subsidiary administrative bodies have been created with different responsibilities, such as:

- the Spanish Climate Change Office (in charge of setting out the national climate change policy);
- the National Climate Council (in charge of issuing recommendations in relation to climate change-related plans, programmes and lines of action);
- the Climate Change Policies Coordination Committee (which coordinates the national authorities and the authorities of the autonomous regions); and
- the Inter-Ministerial Commission for Climate Change and Energy Transition (in charge of monitoring and formulating proposals to inform decision-making related to climate change and energy policies).

In addition, the autonomous regions have created specific bodies to implement policies on climate change within the scope of their competences. Among other matters, regional authorities are competent to issue the authorisation that activities subject to the EU ETS are required to have.

Law stated - 17 February 2023

GENERAL NATIONAL CLIMATE MATTERS

National emissions and limits

What are the main sources of emissions of greenhouse gases (GHG) (or other regulated emissions) in your country and the quantities of emissions from those sources? Describe any limitation or reduction obligations. Do they apply to private parties in your country?

According to the National Inventory of GHG Emissions of 2021 (published in June 2022), Spain emitted 288.6 million tonnes of CO₂ equivalent. This represents an overall increase of CO₂ of 5.1 per cent in 2021 compared to the previous year. The main factors for this increase are the re-activation of the transport sector, manufacturing and energy generation industries after the restrictions imposed by the COVID-19 pandemic.

The activity sector with the largest contribution to total GHG emissions is transport (29.3 per cent), followed by industry (20.7 per cent), agriculture and livestock as a whole (13.4 per cent), electricity generation (11.3 per cent), fuel consumption in the residential, commercial and institutional sectors (8.8 per cent), and waste management (4.6 per cent).

As member state, Spain is part of the EU Emission Trading System (ETS) under EU Directive 2003/87/EC, which is designed to reduce GHG emissions progressively. Almost 1,100 facilities included in Annex I of Law 1/2005, which

represent up to 45 per cent of the total national emissions of GHG are currently included within this ETS scheme. Activities included in the ETS scheme must obtain specific authorisation and must have emission allowances covering their emissions to achieve a global reduction of emissions at the national level.

On the other hand, emissions from non-ETS sectors ('diffuse sectors') such as energy, road transport, waste management, agriculture or construction, are subject to binding annual targets set for each EU member state in Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by member states from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No. 525/2013).

Law stated - 17 February 2023

National GHG emission projects

Describe any major GHG emission reduction projects implemented or to be implemented in your country. Describe any similar projects in other countries involving the participation of government authorities or private parties from your country.

The Spanish authorities have promoted different projects with the aim of reducing GHG emissions. One example is the climate projects developed by means of the Spanish Carbon Fund (FES-CO2). This fund is regulated by Royal Decree 1494/2011, of 24 October, which regulates the Carbon Fund for a Sustainable Economy. The goal is to contribute to build a low-carbon model productive system. These climate projects are executed in Spain and are developed in the 'diffuse sectors' (not subject to the EU ETS), such as the transport, residential or waste sectors.

In 2012, during the first round of the climate projects, the FES-CO2 approved the acquisition of the reductions generated by 37 projects. In 2019, 57 projects were approved. The projects included biogas, biomass and purine plants, climate control projects and electric car-related projects, among others.

Through these climate projects, the FES-CO2 acquires verified emission reductions, which constitute an asset for the Spanish state, that can be sold on the international market, when they are unnecessary to meet Spain's greenhouse gas emission reduction commitments.

Environmental Promotion Plans (known as PIMAs) constitute another example of the fight against climate change. Over the past few years, nine PIMAs have been implemented (some of them are already finished):

- PIMA Climate Change: aimed to promote and support adaptation to climate change in the urban space;
- PIMA Frío: included GHG reduction measures regarding sustainable food refrigeration.
- PIMA Waste: promoted the initial separation of bio-waste;
- PIMA Adapta: aims to implement projects that reduce vulnerability to the effects of climate change, anticipating the potential impacts expected;
- PIMA Sol (finished): aimed at reducing GHG emissions in the Spanish tourism industry (hotels);
- PIMA Company (finished): included subsidies for the companies to reduce their GHG emissions; and
- PIMA Tierra (later replaced by the RENOVE Plan of agricultural equipment), PIMA Aire, and PIMA Transporte (finished): aimed at renewing the motor vehicles fleet (eg, cars, tractors, trucks), with more efficient models.

Law stated - 17 February 2023

DOMESTIC CLIMATE SECTOR

Domestic climate sector



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Describe the main commercial aspects of the climate sector in your country, including any related government policies.

The intention of the Spanish policy is that climate change concerns permeate the economy as a whole so that it becomes more efficient from this point of view. However, there are certain Spanish economic sectors that have been more affected by climate change policies than others. It may be considered that the sectors that felt the new regulations on GHG emissions more intensely are those included in the non-diffuse group, namely power production facilities and cement production.

In addition, public investments have been carried out to promote renewable energies to substitute conventional energy based on fossil fuels.

In this regard, Law No. 7/2021, of 20 May, on Climate Change and Energy Transition prohibits the granting of new exploration authorisations, hydrocarbon research permits or exploitation concessions for hydrocarbons, and limits the production of coal. It also establishes the prohibition of granting new titles for the exploitation of radioactive minerals and excludes the implementation of new radioactive facilities. On the other hand, the Law requires the penetration of renewable gases, including biogas, biomethane, hydrogen and other fuels whose manufacture uses exclusively renewable raw materials and energy or allows the reuse of organic waste or by-products of animal or vegetable origin.

The transport industry has also been directly affected, as the aviation industry has been included within the EU Emissions Trading Scheme. The Spanish government has approved the Strategic Infrastructure and Transportation Plan with the aim of promoting public transport as an alternative to using private vehicles. Furthermore, Law No. 7/2021 includes an obligation for public authorities to promote measures to achieve a fleet of passenger cars and light commercial vehicles with zero direct CO₂ emissions by 2050. In this regard, this Law requires operators of fuel and fuel supply facilities (petrol stations) that exceed a threshold of fuel sales to have an electric recharging infrastructure in their facilities. In addition, within the Fit for 55 strategy, the European Parliament has approved a ban on gas and diesel cars by 2035, which will likely translate into more national measures headed towards zero-emission mobility.

Other economic sectors are also affected by policies directly or indirectly linked to climate change policies. The construction sector is one example: the Technical Building Code (Royal Decree No. 314/2006), the Regulation on the energy efficiency certificate (Royal Decree No. 390/2021) and the Regulation on energy audits (Royal Decree No. 56/2016) impose energy efficiency-related criteria for new buildings constructed or refurbished.

Law stated - 17 February 2023

GENERAL GHG EMISSIONS REGULATION

Regulation of emissions

Do any obligations for GHG emission limitation, reduction or removal apply to your country and private parties in your country? If so, describe the main obligations.

Yes. Until 2020, the country was required to meet the targets set out in the '20-20-20' initiative promoted by the EU, consisting of reaching a 20 per cent reduction in EU primary energy consumption, a further 20 per cent reduction in GHG emissions and increasing the contribution of renewable energies to 20 per cent of consumption. To reach that goal, the Spanish authorities approved several regulations aimed at reducing GHG in different sectors, such as:

- the Practical Guide to the Rational Fertilisation of Crops in Spain, which implements one of the core pillars of the Plan for the Reduction in the Use of Nitrogenised Fertilisers for the agricultural sector;
- the 2008 Purine Biodigestion Plan;

- the Spanish Forestry Plan;
- Royal Decree No. 635/2013 implementing the PIMA Sol Environmental Promotion Plan for the tourism sector; and
- the Spanish Climate Change and Clean Energy Strategy, Horizon 2007-2012-2020.

Currently, the targets set by the EU for the period 2020–2030 are considerably more ambitious: at least a 55 per cent cut in greenhouse gas emissions from 1990 levels; at least a 32 per cent share of renewable energy; and at least a 32.5 per cent improvement in energy efficiency.

As previously indicated, Law No. 7/2021 of 20 May, on Climate Change and Energy Transition sets the following legally binding targets for 2030:

- reducing greenhouse gas emissions by 23 per cent compared to 1990 levels;
- 42 per cent of final energy consumption coming from renewable energy sources;
- achieve an electricity system with at least 74 per cent of generation from renewable energy sources; and
- improve energy efficiency by reducing primary energy consumption by at least 39.5 per cent compared to the baseline in accordance with EU legislation.

These limitations also apply to private parties, primarily to those subject to the ETS, in the terms of Law No. 1/2005 of 9 March 2005 regulating the GHG emissions trading scheme.

Law stated - 17 February 2023

GHG emission permits or approvals

Are there any requirements for obtaining GHG emission permits or approvals? If so, describe the main requirements.

All facilities included in Annex I of Law No. 1/2005 that generate the emissions specified in that annex must obtain an authorisation to emit GHGs, unless the facility is considered a small one. The main requirements to obtain the authorisation are:

- identify and certify the ownership of the facility;
- a description of the facility (including its location), the activities carried out, and the technology used;
- identify raw and auxiliary materials used that may emit GHGs;
- identify the sources of gas emissions at the facility;
- develop a monitoring plan that complies with current regulations; and
- compliance with information supply requirements.

If the above requirements are met, the authorisation shall be granted when the relevant authority has evidence that the operator is capable of monitoring and reporting the emissions. Any change in the nature, operating procedures, size of the facilities or any other change entailing a significant enlargement or reduction to the capacity of the facilities, as well as any change affecting the identity or domicile of the operator, must be notified to the authorities.

The content of the authorisation to emit GHGs may be included in the integrated environmental authorisation when this authorisation is required.

Law stated - 17 February 2023

Oversight of GHG emissions

How are GHG emissions monitored, reported and verified?

According to Law No. 1/2005, activities emitting GHGs are obliged to send to the relevant regional authority, before 28 February every year, a verified report on GHG emissions of the previous year evidencing the fulfilment of the requirements of their authorisation. This report will be assessed by the relevant authorities to verify (among other circumstances) that the operator has obtained all the required GHG emission allowances. In addition, together with the above report, a verified annual report on the previous year's activity level data is also required to be submitted by 28 February, for the purpose of making adjustments to the free allocation allowances.

Law No. 1/2005 also provides for certain specific requirements applicable to the aviation operators. These operators must deliver a certified report to the Ministry of Transport, Mobility and Urban Agenda, which will assess the report and, if approved, notify the Ministry for Ecological Transition and Demographic Challenge so that it may record the emissions in the emissions allowances registry.

Law stated - 17 February 2023

GHG EMISSION ALLOWANCES (OR SIMILAR EMISSION INSTRUMENTS)

Regime

Is there a GHG emission allowance regime (or similar regime) in your country? How does it operate?

Yes. Law No. 1/2005 implements the EU Emissions Trading System (ETS) in Spain. Directive (EU) 2018/410 regulating the 2021–2030 trading period has been recently been transposed through Law No. 9/2020 of 16 December amending Law No. 1/2005.

Activities subject to the EU ETS must obtain a specific authorisation to emit GHGs. Regional authorities have the power to issue this authorisation. Once the GHG emissions authorisation is obtained, the operator should request for the allocation of GHG emission allowances it may be entitled to. A GHG emission allowance is defined as the subjective right to emit an equivalent tonne of carbon dioxide from a facility or an aircraft for a given period.

The existing trading period 2021–2030 (Phase IV) started on 1 January 2021. During Phase IV, the trading period 2021–2030 is divided for the purposes of free allocation of allowances and in relation to stationary installations into two allocation periods covering respectively the years 2021–2025 and 2026–2030. Auction remains the main method for the allocation of emissions allowances according to the rules contained in Commission Regulation (EU) No. 1031/2010 of 12 November 2010 (as amended).

In certain cases, Law No. 1/2005 provides for the allocation of free emissions allowances. In these cases, the facility owners should file an application before the Climate Change Spanish Office. Emission allowances will be allocated by the Council of Ministers.

The facilities included in sectors and sub-sectors exposed to a significant risk of carbon leakage will receive free GHG emission allowances covering 100 per cent of their emissions. On the other hand, facilities that do not belong to sectors or subsectors exposed to a significant risk of carbon leakage could receive free GHG emission allowances up to a maximum of 30 per cent of their total GHG emissions, a percentage that will decrease by equal amounts after 2026, with the aim of reaching a level of no free allocations in 2030.

It is important to note that power generators and facilities involved in the capture, transportation and geological storage of carbon would not receive any free allowance except certain high-efficiency cogeneration and urban heating.

The free allowances allocated to each installation shall be adjusted when the level of activity, determined on the basis of a two-year rolling average, has increased or decreased by more than 15 per cent compared to the level of activity initially taken into consideration. Free allowances issued in excess shall be refunded.

Furthermore, certified emission reductions or emission reduction units obtained by means of the flexibility mechanisms could be used to fulfil the obligation of delivering a number of emission allowances equivalent to the figure of verified emissions.

Law No. 1/2005 exempts small-scale installations – those that emit less than 25,000 tonnes of equivalent carbon dioxide and combustion plants with a rated thermal input below 35MW – and hospitals from the previous regime. An alternative scheme is envisaged for these facilities in Royal Decree 317/2019, of 26 April, which defines the mitigation measure equivalent to participation in the emission trading scheme. This regime imposes a minimum 32 per cent reduction of emissions by 2025, with regard to 2005. If actual emissions exceed the previous limit, sanction may be avoided by surrendering emissions allowances for the difference.

Additionally, Royal Decree 18/2019 excludes installations with less than 2,500 tonnes of equivalent carbon dioxide from the ETS. However, they are required to monitor and report their emissions to the relevant authority.

Law stated - 17 February 2023

Registration

Are there any GHG emission allowance registries in your country? How are they administered?

The Spanish GHG emission allowance registry is included in the EU Registry of the Consolidated System of European Registries, which is managed by the European Commission.

Law stated - 17 February 2023

Obtaining, possessing and using GHG emission allowances

What are the requirements for obtaining GHG emission allowances? How are allowances held, cancelled, surrendered and transferred? Can rights in favour of third parties (eg, a pledge) be created on allowances?

Once the authorisation to emit GHGs has been obtained, activities subject to the GHG regime must obtain emission allowances. Auctions should be carried out according to the rules contained in the Commission Regulation (EU) No. 1031/2010 on the timing, administration and other aspects of auctioning of GHG emission allowances pursuant to Directive 2003/87/EC. In addition, emission allowances can be purchased in the market.

The issue, ownership, transfer, surrender, delivery and cancellation of emission allowances must be registered at the Emission Allowance Registry.

The question of pledging the emission allowances is not a settled matter and there is no relevant experience in Spain in this regard. This possibility is not expressly included in the applicable regulation but it is not forbidden either.

Law stated - 17 February 2023

TRADING OF GHG EMISSION ALLOWANCES (OR SIMILAR EMISSION INSTRUMENTS)

Emission allowances trading

What GHG emission trading systems or schemes are applied in your country?

Spain is subject to the EU Emissions Trading Scheme.

Law stated - 17 February 2023

Trading agreements

Are any standard agreements on GHG emissions trading used in your country? If so, describe their main features and provisions.

The standard agreements most commonly used are those of the International Emissions Trading Association and the International Swaps and Derivatives Association.

Clauses typically refer to general obligations, representations and warranties, transfer failure or assignment, among others. In practice, the clauses that usually give rise to negotiations deal with the allocation of risks or the scope of force majeure.

Law stated - 17 February 2023

SECTORAL REGULATION

Energy sector

Give details of (non-renewable) energy production and consumption in your country. Describe any regulations on GHG emissions. Describe any obligations on the state and private persons for minimising energy consumption and improving energy efficiency. Describe the main features of any scheme for registration of energy savings and for trade of related accounting units or credits.

During 2022, the annual demand for electricity was 250.596 GWh, 2.3 per cent lower than in 2021. Renewable technologies produced 42.2 per cent of all electricity in Spain in 2022, from which 72.5 per cent was produced using technologies that do not emit equivalent CO₂. Energy production from renewable sources of energy dropped 4.5 per cent regarding 2021 data. The main energy source was combined cycle power plants (68.18GWh), followed by wind (61.25GWh) and solar (27.380GWh). Nevertheless, both wind and solar generation have beaten historical records, with incremented production of 1.2 per cent and 32.6 per cent regarding 2021 data, respectively.

With respect to its obligations concerning energy efficiency, for instance, the Technical Building Code (Royal-Decree No. 314/2006), the Regulation on the energy efficiency certificate (Royal-Decree No. 390/2021) and the Regulation on energy audits (Royal-Decree No. 56/2016) impose energy efficiency-related criteria for new buildings constructed or refurbished. Therefore, Spain has made a firm commitment to renewable energies and energy efficiency, not only in new buildings but also for existing buildings.

In addition, and within the EU strategy of reducing energy consumption, Royal Legislative Decree No. 14/2022 was approved in order to introduce restrictive measures regarding temperature limits on air conditioning and heating on public and office buildings

Law stated - 17 February 2023

Other sectors

Describe, in general terms, any regulation on GHG emissions in connection with other sectors.

In addition to Law No. 1/2005 and its developing regulations, which affect different economic sectors (power and cement production, tiles, etc), some other sectoral regulations and policies have been passed to contribute to the reduction of GHG emissions. For example:

- the Spanish Forestry Plan provides for initiatives to promote the capture of CO₂ by Spanish forests;
- the Strategic Infrastructure and Transport Plan, encouraging alternative forms of transport to the use of private vehicles;
- Royal-Decree No. 390/2021 regulating the energy efficiency certificate with the aim of guaranteeing the energy efficiency of buildings when constructed;
- Royal-Decree No. 56/2016 on energy efficiency relating energy audits, accreditation of providers of energy services and auditors, and promotion of the efficiency of energy supply; and
- Law No. 24/2013 of 26 December 2013 of the electricity sector and Royal-Decree Law No. 8/2014 of 4 July 2014, which provide for certain efficiency obligations.

In addition, the European Union has set climate standards related to the transport sector and agriculture. Thus, targets have been set for reducing CO₂ emissions for new passenger cars (by 37.5 per cent), new light commercial vehicles (by 31 per cent) and trucks (by 30 per cent) by 2030 (Regulation (EU) 2019/631 of the European Parliament and of the Council of 17 April 2019 setting CO₂ emission performance standards for new passenger cars and for new light commercial vehicles, and 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). Furthermore, each member state shall ensure that emissions from the land use, land use change and forestry (known as the LULUCF sector) do not exceed removals (Regulation (EU) 2018/841 of the European Parliament and of the Council of 30 May 2018 on the inclusion of greenhouse gas emissions and removals from land use, land use change and forestry in the 2030 climate and energy framework).

Law stated - 17 February 2023

RENEWABLE ENERGY AND CARBON CAPTURE

Renewable energy consumption, policy and general regulation

Give details of the production and consumption of renewable energy in your country. What is the policy on renewable energy? Describe any obligations on the state and private parties for renewable energy production or use. Describe the main provisions of any scheme for registration of renewable energy production and use and for trade of related accounting units or credits.

The generation of renewable energy has been strongly promoted by the public authorities by means of special economic conditions (mainly financial incentives). In addition, the strategy REPowerEU has greatly fostered implementation of new renewable installations by simplifying administrative authorisation procedures, as stated on Royal Legislative Decree No. 6/2022.

In 2021, the volume of gross renewable energy production stood at 119.445 GWh (increment of 9.6 per cent regarding 2020 data), this represents a contribution of 48.4 per cent to overall electricity generation. In addition, 58.7 per cent of the total installed power corresponds to renewable energy facilities, having surpassed non-renewable technologies for

the first time.

The main renewable sources are wind power (49.5 per cent), hydroelectric (24.8 per cent), photovoltaic solar (17.2 per cent), thermosolar (3.9 per cent), waste (0.6 per cent) and others (3.9 per cent).

Law stated - 17 February 2023

Wind energy

Describe, in general terms, any regulation of wind energy.

The key pieces of legislation regulating wind energy in Spain are the following:

- Law No. 24/2013 of 26 December 2013 of the electricity sector;
- Royal-Decree No. 413/2014 of 6 June 2014 regulating electricity generation using renewable energy sources, cogeneration and waste;
- Order IET/1045/2014 of 16 June 2014 approving the remuneration parameters for standard facilities applicable to certain facilities generating electricity using renewable energy sources, cogeneration and waste;
- Order IET/1459/2014 of 1 August 2014 approving remuneration parameters and establishing the mechanism for allocating the specific remuneration regime for new wind and photovoltaic facilities in non-mainland electricity systems;
- Royal-Decree-Law No. 9/2013 of 12 July 2013 adopting urgent measures to guarantee the financial stability of the electricity system;
- Royal-Decree-Law No. 2/2013 of 1 February 2013 on urgent measures in the electricity system and the financial sector;
- Royal-Decree-Law No. 1/2012 of 27 January 2012 suspending the procedures for pre-allocation of remuneration and eliminating financial incentives for new facilities generating electricity using renewable energy sources, cogeneration and waste; and
- Royal-Decree-Law No. 6/2009 of 30 April 2009 adopting certain measures in the energy industry and approving energy assistance relief.

The autonomous regions may also have passed regulations of their own.

Facilities for the production of wind energy must obtain an administrative authorisation after following a complex administrative procedure. Pursuant to Royal Decree-Law No. 23/2020 and in order to ensure that authorisations are associated with real projects and to avoid speculative movements, there is a duty to comply with such administrative milestones (environmental impact assessment, prior authorisation, construction authorisation and final operating authorisation) within certain time periods. If the deadlines are exceeded, electric access and connection permits expires.

As stated, new legislation has been passed in order to foster renewable installations and curve the rise in gas prices, such as Royal Legislative Decree No. 17/2021 of 14 September, that approves an auction system for forward power purchase agreements and establishes a mechanism to mitigate the impact of the rise in gas prices on the electricity retail market, or Royal Legislative Decree No. 6/2022, that implements a quicker and simplified authorisation process for renewable energy facilities.

Although there has been a reduction in the public funds devoted to the promotion of this type of energy, operators still receive financial incentives from the authorities according to the specific and complex rules contained in the regulations mentioned above.

Law stated - 17 February 2023

Solar energy

Describe, in general terms, any regulation of solar energy.

The production of solar energy is subject to a very similar regime to wind energy from a legal and economic perspective.

Law stated - 17 February 2023

Hydropower, geothermal, wave and tidal energy

Describe, in general terms, any regulation of hydropower, geothermal, wave or tidal energy.

In addition to the general regulations on the power production industry and renewable energies, there are some specific provisions applicable to the hydropower and wave and tidal energy industries. Specifically, the Law on water approved by Legislative Royal-Decree No. 1/2001, of 20 July, provides for certain specific rules applicable to this kind of power production facilities. Also, Royal Decree No. 849/1986, of 11 April, sets out the specifics of the administrative concession that must be obtained, regulates a procedure for putting state-owned hydroelectric power generation infrastructure out to public tender, and establishes some peculiarities regarding the destination of the infrastructure once the concession ends.

Regarding wave and tidal energy, Royal Decree No. 1028/2007 of 20 July, includes a specific procedure for granting the necessary administrative concessions for the construction and expansion of electricity generation facilities from renewable sources that are physically located in territorial waters and with technology other than wind power.

Regarding the geothermal energy industry, in addition to the general rules on power production, Law No. 22/1973 of 21 July 1973 on mines provides for specific rules that would also apply.

Law No. 7/2021 on Climate Change and Energy Transition promotes the implementation of reversible hydropower plants using renewable technologies. However, this matter needs further technical regulatory development.

Law stated - 17 February 2023

Waste-to-energy

Describe, in general terms, any regulation of production of energy based on waste.

The general rules on the power generation industry may apply; in addition, provisions contained in Law No. 7/2022 of 8 April on waste and polluted soils for a circular economy should be taken into account for this purpose. According to these regulations, the granting of authorisations for operating an incineration or co-incineration plant with energy recovery require a high level of energy efficiency.

Law stated - 17 February 2023

Biofuels and biomass

Describe, in general terms, any regulation of biofuel for transport uses and any regulation of biomass for generation of heat and power.

Law No. 34/1998 of 7 October on hydrocarbons is the main regulation on biofuels in Spain. This law has been complemented by certain additional provisions regarding biofuels, such as:

- Royal Decree No. 372/2022 of 17 May on sustainability criteria and greenhouse gas emission reduction criteria for biofuels, bioliquids and biomass fuels, as well as the system of guarantees of origin for renewable gases;
- Ministerial Order ITC/2877/2008 of 9 October 2008 establishing a mechanism to promote the use of biofuels and other renewable fuels for transport purposes; and
- Royal-Decree No. 61/2006 of 31 January 2006 determining the specifications for petrol, gasoil, fuel oil and liquid petroleum and regulating the use of certain biofuels.

The installation and operation of biomass plants is subject to several administrative and environmental authorisations, as well as registrations within public registries. As with the rest of power generation plants under the special regime, if certain conditions are met a special remuneration system applies. There are different plans, both at national and regional level, promoting the use of biomass, especially those of forestry and agriculture.

Law stated - 17 February 2023

Carbon capture and storage

Describe, in general terms, any policy on and regulation of carbon capture and storage.

Law No. 40/2010 of 29 December 2010 on geological carbon dioxide storage establishes the main regulations on this matter. In addition, the rules contained in Legislative Royal-Decree No. 1/2016 of 16 December 2016 on integrated pollution control should be taken into account.

According to them, the granting of a public concession is required to install and operate a CO₂ storage complex within geological formations. This public domain concession is transferable, prior express approval given by the relevant authority and is subject to the provision of a financial guarantee. The facility is subject to environmental impact assessment and strict monitoring obligations to detect leaks or negative effects on the environment.

In addition, there are government measures on forestry and reforestation, such as the 2002–2032 Spanish Forestry Plan.

Law stated - 17 February 2023

CLIMATE MATTERS IN TRANSACTIONS

Climate matters in M&A transactions

What are the main climate matters and regulations to consider in M&A transactions and other transactions?

Depending on the kind of companies involved in an M&A transaction or in any other transaction, the fulfilment of the obligations related to climate change provisions could be crucial. Certain industrial facilities need to purchase a specific amount of GHG emission allowances to operate. Therefore, in this kind of transaction it is very important to verify that the facilities have obtained the relevant authorisation to emit GHGs, to establish that the amount of GHG emission allowances required every year have been obtained and to verify that the company has fulfilled its obligations of obtaining, registering and returning the GHG emission allowances. Otherwise, large penalties could be imposed and the functioning of the facilities could be affected.

Law stated - 17 February 2023

UPDATE AND TRENDS

Emerging trends

Are there any emerging trends or hot topics that may affect climate regulation in your country in the foreseeable future?

Spain is aligned with the rest of the European countries in climate -related issues, both in terms of legislation and enforcement. There is a complete set of climate legislation that covers a wide range of areas with a reasonable level of enforcement.

Spain is following the path of the European Union, its European Green Deal and the future European Climate Law, which aims to make Europe the first climate-neutral continent by 2050.

Law stated - 17 February 2023

Jurisdictions

	Australia	Johnson Winter Slattery
	European Union	Allen & Overy LLP
	France	Huglo Lepage Avocats
	Germany	Enderle Environmental Law
	India	Shardul Amarchand Mangaldas & Co
	Indonesia	SSEK Law Firm
	Malta	Camilleri Preziosi
	Netherlands	Van der Feltz attorneys
	Portugal	Uría Menéndez
	Spain	Uría Menéndez
	Taiwan	Lee and Li Attorneys at Law
	USA	Beveridge & Diamond PC