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✓ **INTRODUCTION**

• **The street-vending sector in Spain**

Currently, street vending in Spain is of great importance, although for a long time it was considered to be a marginal activity of a social nature.

The reasons for this view were the result of various factors such as:

- Lack of education of those who practise this activity.
- Economic instability of their business.
- Lack of a legal framework.
- Nomadic nature of their activity.
- And, as a general rule, the origins of the vendors, as most of them were gypsies or came from the poorest groups in society.

Street vending has for a long time been a refuge and a way to access the labour market for thousands of people with a poor education and who have difficulties in finding employment. On the other hand, as it has been previously mentioned, due to its nomadic nature it was also considered not to be a very stable activity, having a poorer image than sedentary or permanently established business.

The lack of a legal regulation also presented a real handicap for the serious consideration of the profession, since the lack of municipal ordinances and a chapter concerning contributions to social security led to the popular belief that this was an activity that the Administration allowed to be performed as a social service to the street vendors. Later studies indicated that it was in fact the street vendors who provided this social service by providing supplies and basic products to the less-populated areas of Spain and reinforcing rural development and human settlement.

To round off this perception of marginality was the fact that most of the vendors were of gypsy ethnicity, and not well regarded by the general population for their business abilities and their lifestyle. Fortunately, with the passage of time this problem has been solved.

It is estimated that, before the profession was regulated, there were around 125,000 street vendors. It is impossible to know the exact figure as they were only registered at the various street markets where they traded. These figures were for municipal use only.

Because of this, we can only know the number of stalls and street markets on that date, on which there were 181,567 stalls and up to 2,854 street markets identified in towns with 300 inhabitants or more.

- **Profile of street vendors in Spain**

The only official census available, dated 1999, cited the number of street markets in Spain as being 2,854, a figure which vendors and employers consider to be “outdated”.

The ‘Economics Yearbook 2011’ of La Caixa ¹ states that the number of commercial street vending activities and street markets is underestimated, as they are frequently registered in the Trade Income Tax (IAE) at a provincial rather than at a municipal level, in such a way that they do not appear to be assigned to a specific place.

The sector accounts for a remarkable economic impact. For the year 2010 (the most recent year for which there are official figures), the National Statistics Institute (INE) estimates its trade volume at 2,033.5 million euros, at a time when there were 38,250 licensed street vendors and 49,114 employees. Without doubt, this figure could easily reach 125,000 according to the Union of Self-Employed Workers and Professionals (UPTA), as they often indicate a single stall managed by various individuals from the same family.

Whatever its strengths, based on price, varied supply and proximity – street vending has many weaknesses, amongst which are a stereotyped image, regulatory dispersion or the lack of an employers' organization for the defense of common interests.

In the paper “Non-sedentary selling in Spain” (1999), written and published by the Ministry of Economy and Finance (MEH) it is estimated that, of the various forms of non-sedentary selling -mobile street vending, mobile vending in public places without a defined periodicity and mobile selling in street markets on a regular basis-, the latter represents around 95%.

It is estimated that there are between 3,500 and 4,000 street markets and 50,000 direct and full-time jobs, located mainly in Andalucía (21.2%), Comunidad Valenciana (15.6%) and Cataluña (11.8%), focusing in urban centres (91%). It is remarkable that, for example, only 15% of full-time street vendors are gypsies (about 7,500), which contrasts with other studies (Mena, 2007).

Sales volume is estimated around 2,5 – 3,5% of total retail trade sales, with an average net profit per street vendor of 2,000,000 pesetas (12,000 Euros) per annum and an actual benefit of 25% over the total costs (MEH, 1999: 254). More than 93% are

¹ “La Caixa” is currently the leading savings bank in Spain and the third-placed financial institute in the country, and carries out its banking activities indirectly via CaixaBank. It has developed the study “Economic Yearbook for Spain 2011”, which is a compendium of statistical information referring to the municipal sphere, with the corresponding aggregations at provincial and regional levels, which allow us to identify and assess the characteristics of the Spanish territory from a dual economic and commercial perspective.

involved in non-sedentary selling, with an average of 1,4 workers per stall (1.22 self-employed and 0.22 employees) who have been doing this for 8,2 years. They sell, on average, in 4,5 street markets per week, travel 18,000 kilometres a year and the average age of their vehicles is 6 years.

The lack of diversification is very clear, as 88% of them sell only one type of product from a few main sectors: textile, food, footwear, crafts and home equipment, which represent an average of 90% of mobile street trading.

As mentioned earlier, representative organisations estimate that 125,000 people work in street vending. In this group we include self-employed, employees and collaborating family members.

However, not all of them are included in Social Security: those who work as collaborating family members -nearly half the total number of street vendors- almost certainly do not pay national insurance and should not be counted. This leaves a population of 49,078 theoretical contributors to a Social Security scheme (self-employed or cooperative members), according to the data provided by the INE, referring to the latest trade annual survey, in 2010.

- ***Organisation of public administration in Spain***

In order to understand the legislation related to street vending, it is important to know how public administration is organised in Spain.

According to the Spanish Constitution, the Public Administration in Spain serves the general interest objectively and acts in accordance with the principles of effectiveness, hierarchy, decentralisation, deconcentration and coordination, fully subject to law.

Spanish Public Administration is organised on three basic levels of independent and autonomous territorial Administrations. Their authority is defined according to the distribution of competences determined by the laws and the Constitution.

These are as follows, from highest to lowest territorial level:

- General State Administration:

The General State Administration is one of the Public Administrations of Spain, characterised by its jurisdiction over the whole country, in contrast to the autonomous regions and local governments.

It consists of the Central Government (Government or Council of Ministers, Delegated Government Committees, Ministries, General Committee of State Secretaries and Sub-secretaries, Interministerial Committees), the Peripheral Administration (Government Delegations in the Autonomous Regions) and External State Administration (embassies and consulates).

Its general system is described in the Article 103 of the Spanish Constitution of 1978 and in Act 6/1997 of 14 April 1997, concerning the Organisation and Operation of the General State Administration, which establishes that the General State Administration, under the direction of the Government and fully subject to the Law, serves the general interest objectively, performing executive functions of an administrative nature.

- Autonomous Administrations

Spain is composed of 17 autonomous regions and 2 autonomous cities, Ceuta and Melilla. An autonomous Administration has a very broad level of jurisdiction, based on the decentralisation of the state via the autonomous regions.

In terms of competence levels, these are not always the same, and they are set out in each Statute of Autonomy for each autonomous region, resulting in some cases in the level of competence being higher than those in a Federal State.

We should also be aware that the autonomous region also has its own legislative body, and that the autonomous administration must behave towards it as towards any other executive power, respecting the laws enacted by its parliament.

The basic bodies common to all the autonomous regions are a Legislative Assembly, elected by universal suffrage; a Governing Council, with executive functions; and a president of the autonomous region, elected by the Legislative Assembly from amongst its members. This is the region's main representative.

The Legislative Assembly of the autonomous regions enjoy legislative powers in addition to other functions: budgetary, monitoring of the autonomous executive, election of the government and the President of the executive, participation in constitutional reforms, monitoring of the constitutionality of Acts and legal provisions and participation in the make-up of the Senate.

The function of the President of the autonomous region is to provide leadership for the Governing Council, hold the highest representation of the region, the representation of the central government in the autonomous region and the promulgation, organisation and publication of the Laws and the nomination of the Judiciary in the region.

- Local Administration

Local Government is the set of Public Administrations of a territorial nature which manages the municipalities and the provinces. The Spanish Constitution of 1978, in Part VIII, established a State organised territorially in autonomous regions, provinces and municipalities. Each of these entities enjoys autonomy in the management of its respective interests.

The different entities included in the Local Government are:

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- The municipality. The Spanish Constitution guarantees the autonomy of municipalities, each with its own legal personality. The Council will be responsible for both government and administration through the Mayor and Councilors.
- The province. The Spanish Constitution indicates that this is a local entity determined by the grouping of municipalities, with its own legal personality, with full authority for the fulfillment of its functions. The Government and administration are the responsibility of the Provincial Council, formed by the President, the Vice President, the Plenary and the Governing Committee.

The municipalities have competences in the following areas:

1. Security in public places
2. Management of vehicular and pedestrian traffic on urban roads.
3. Civil protection, fire prevention and fire-fighting.
4. Regulation, management and implementation of urban planning; housing development and management; parks and gardens, paving of urban public roads and conservation of rural paths and roads.
5. Historic and artistic heritage.
6. Protection of the environment.
7. Supplies, slaughterhouses, fairs, markets and user and consumer protection.
8. Public health protection.
9. Participation in the management of primary health care
10. Cemeteries and funeral services.
11. Delivery of social and advocacy services and social reintegration.
12. Supply of public water and lighting; street cleaning, collection and treatment of waste, sewerage and wastewater treatment.
13. Public transport.
14. Cultural and sport activities and facilities; free time management; tourism.
15. Participation in teaching planning and cooperation with the Education Administration in the creation, construction and maintenance of public learning centres, involvement in their management bodies and participation in the enforcement of compulsory education.

In addition to their own responsibilities, municipalities may carry out complementary activities in matters of education, culture, the advancement of women, housing, health and environmental protection.

To be able to exercise its competences, it has the power of regulation and self-organisation; tax and finances; scheduling or planning; research; expropriation and investigation; demarcation and recovery of property on its own initiative; presumption of the legitimacy and the enforceability of its actions; of enforcement and the imposition of penalties; of review on its own initiative of its actions and agreements; and finally has the same precedence, preference and other privileges recognised to the Public Treasury for its own credits.

• ***INTRODUCTION TO SPANISH LEGISLATION ON STREET VENDING***

Arguably, the regulation of street vending was very poor until the implementation of the Royal Decree 1010/1985 of 5 June, which regulates non-sedentary vending, and, on the part of Local Corporations, Act 7/1985 of 2 April, regulating the Local System Rules (and later 7/1996 of 15 January for the Regulation of Retail Trade). Until then, street vendors had in many cases to obtain permits from the police or the local authorities on a daily or weekly basis. These acts modernised the municipal ordinances and established the contribution per stall or vehicle, but the autonomous tax system and access to Social Security remained up in the air.

At the end of the 1980's it was proposed by the General Workers Union (UGT), and accepted by the Ministry of Social Affairs, that in order to incorporate street vendors into the formal economy, given their limited capacity to join the Self-employed Worker's Social Security Scheme (RETA), they could access it via "cooperatives"². Although this served to legalise the activities of the vendors, little by little the system deteriorated, partly because the cooperatives did not function with a productive aim (the purchase of goods and services) but instead were mainly administrative and managerial, although this cannot be said for the entire cooperative sector. This led also to the fact that, given the advantages of paying social security contributions via cooperatives (which was cheaper than doing it on an individual basis), many vendors were not incorporated into RETA (Fresno, 1999)³.

The Secretary of State for Social Security played a key role, as his sensitivity to the sector favoured the development of Act 27/2009, which established a basic minimum contribution for the self-employed workers who are engaged in hawking in street markets and in direct selling to households, equivalent to 55% of the basic minimum contribution. This was a demand from the most representative organizations in the sector, principally UPTA⁴ and the National Bureau of Itinerant Street Vending, which resulted in the incorporation into RETA of a large number of street vendors who worked informally.

It was in the European Union, in 2004, that a new proposal was developed by the European Parliament and the Council of the European Union on services in the domestic market, which was approved in 2006.

The directive is not intended to establish a specific regulation within the broad service sector: it is proposed as a framework directive, setting only a few very general rules and leaving to member states the decision on how to apply its principles. This is the

² The Associated Labour Cooperatives offer the option of receiving subsidies for the creation of work, are quick and easy to establish, have a fiscal system different from the modular one, the option that the Cooperative can choose the Social Security system (they normally opt for the General Scheme with a contribution per hour) and the taxpayer is the cooperative itself and not the street vendor (Carbonell y Díaz-Merry, 1996).

³ José Luis Fresno, member of the Centre for Social Economy, data from a study carried out in 1999 "The associated labour cooperatives.

⁴ UPTA presented a report prepared by Bajén & Gonzalo Abogados Asociados concerning the **UPTA proposal for the reduction of contributions for vendors on the streets and to households.**

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Bolkestein Directive for the liberalization of services, which will cause various changes in Spanish legislation regarding street vending.

Work was done by the Ministries of Industry, Tourism and Trade, Finance and Employment and Immigration to adapt Spanish legislation. They called major social and business agents and professionals in the sector for consultation to provide the new wording and street vendors to approve it.

The following organizations participated, and still do, in these meetings: the General Workers Union (UGT), Worker's Committees (CC OO), the Spanish Trade Confederation (CEC), the Confederation of Owners of Small and Medium Businesses (CEPYME), the Union of Self-employed Professionals and Workers (UPTA), as well as the various political parties represented in the House of Representatives.

The reform of Act 7/96, of 5 January, 2010 concerning the management of trade (LORCOMIN), was inspired by the principle of free enterprise, and has as its aim the facilitation of the free establishment and practice of commercial distribution and, through various commercial formats, guaranteeing that consumers' needs are adequately satisfied.

It should be noted that the Spanish commercial model is characterised by a high commercial density (establishments per inhabitant), characteristic of Mediterranean countries and by a particular way of structuring urban centres around trade.

The new Act respects the powers of the autonomous regions, as domestic trade is within the exclusive competences of these. Consequently, the autonomous regions regulate the procedure for the establishment of commercial enterprises. In the case of street vending, the duration of licences is limited to guarantee the rotation of competitors due to the shortage of available ground.

After LORCOMIN was published in the Spanish Government Gazette (BOE), the Directorate General of Domestic Trade, in the Ministry of Industry, Tourism and Trade, developed the Royal Decree 199/2010, of 26 February 2010, by means of which the practice of hawking, or non-sedentary street vending, is regulated. In writing the text, the collaboration of UPTA was sought via the Secretary of Social Policy, resulting in a royal decree which established the need to develop regulations in both autonomous regions and Spanish municipalities.

The introduction to this regulation refers to the modification of the authorization requests for stalls, justifying the change on the "intensive use of public land" and the need to prevent damage that may be caused to the public interest.

The Royal Decree stipulates that the various municipalities shall be in charge of determining in each case the duration of the authorization, taking into account the investment made for the activity. Similarly, the requirements for obtaining such approval will also be decided by the aforementioned municipalities, and shall be always "clear, simple, objective and predictable criteria."

- **AUTONOMOUS REGULATION.**

The different autonomous regions may each regulate the subject matter by virtue of their autonomous statutes, and the rules change according to the region in which the vending activity is to be developed.

As a general rule, commercial distribution doesn't require prior authorization, but street vendors use public land and therefore are subject to a series of conditions of public order, safety and health.

Notwithstanding the presence of state and regional regulations, each municipality has regulatory powers in the matter, and while not themselves opposed to higher level standards, in practice they organize their own system of approval for the site according to the trading modalities via municipal ordinances.

As examples of regional regulations, we are going to study those relevant to the regions of Madrid and Castilla - La Mancha, which at the time of the development of the regulations were ruled by different political parties, the conservatives in Madrid and the Socialist Party in Castilla La Mancha. We shall see the different points of view as to the period for which licences are granted (even though in both autonomous regions, these authorizations are given for a period of concession long enough to allow professionals to amortize their investment for the development of such activity).

Castilla La Mancha developed a new Trade Act (Act 2/2010 of May 13, on Commerce in Castilla-La Mancha) which addressed all aspects of trade and also gave municipalities the ultimate responsibility for establishing the time period for licences most appropriate for the amortization of the investments made by street vendors. This had to be negotiated by the municipalities and organisations representing the sector, the state standard being adapted to the needs of municipalities and street vendors and visibly improving the standard framework, protecting not only the interests of the municipality but those of the vendors and consumers alike.

Regarding the regulations developed by the Community of Madrid, one might think that is very favourable to vendors, because it establishes that licences be granted for a period of 15 years, renewable for another 15 more. This measure is very advantageous for professionals who are already practising the activity, as it gives them an assurance of continuity, but prevents access of new professionals and the renovation of street markets.

Madrid regulations are set out in Act 5/2010 (on Taxes for the Promotion of Economic Activities), and adapt the existing act of 1997 to reflect the innovations of the LORCOMIN, but do not improve it. These modifications were made unilaterally, by the General Subdirectorate of Legal and Regulatory Development of the General Technical Secretariat of the Vice President, the regional Ministry of Culture and Sport and the office of the spokesperson of the Government of Madrid. Once the text was developed, it was presented to different regional associations for approval, i.e., it was not a joint editing process which reflected the needs and demands of vendors and those of municipalities in which the street markets take place. Instead it was drafted

without the consensus or approval of the main interested parties, who had to amend the text.

- ***Municipal Ordinances.***

As mentioned above, the involvement and awareness of the Directorate General of Domestic Trade of the Ministry of Industry, Tourism and Trade, with the sector, encouraged the participation of the most representative professional bodies of the sector in the preparation of the regulations.

To this end, UPTA, the most representative self-employed workers' organization in the country, was requested to develop a Municipal Ordinance framework model that was to be presented to the various Boards of Trade in the 17 autonomous regions. These would then forward it to the municipal officials concerned as an ordinance model to develop in the different municipalities.

This ordinance strikes a perfect balance between the rights and duties of street vendors and the development of street markets, providing more certainty for both parties: regarding the protection of the vendors with respect to the amortization of investment and transparency of concessions, and to consumers about the law and consumer safeguards, the fight against unauthorized practice and tax fraud within the public administration.

✓ ***SYSTEMS OF REPRESENTATION FOR NEGOTIATION IN STREET VENDING***

As explained in the introduction, street vending is sufficiently regulated at both state and regional levels. However, and this is very significant, in no way is any system of representation for the negotiation of terms established by law.

Since the establishment of democracy in Spain, the ways of legislating and governing have changed substantially. They have moved from accepting what the legislator decreed, to obtaining agreement on most of the regulations, particularly those applicable to specific sectors.

In this way, different systems of representation and negotiation are established depending on whether it is a state or autonomous legislative level.

So-called "social dialogue" in Spain involves four stakeholders representing the social mass of workers. Two seats in the national social dialogue bureau are reserved for the two most important trade unions, two for the representative organizations of employers and small and medium enterprises, and the deciding seat is reserved for the national government.

This could be considered as the basis for negotiations with government bodies, so that all major proposals and initiatives on any subject arise from so-called "social dialogue".

It is therefore important that all associations, groups, sectors, etc., that originate from the associative movement, are linked either to a trade union or to a business organization, since when the negotiations become more specific, such as in the case of street vending, they give their places to the sector concerned.

The clearest case of 'linking in scale' could be the following. The General Workers Union (UGT), the oldest trade union in Spain and a member of the "social dialogue", formed a state federation of self-employed workers, UPTA Spain, the main organization representing the self-employed. UPTA, in turn, formed the National Bureau of Street Vending, in which organizations and industry associations are represented at regional level. UPTA constituted various regional street vending committees on which municipal vendors' associations are represented.

By way of this pyramidal associative structure, demands and proposals can move from lower levels to higher levels, and in that way the detailed situation of each area, city and region can reach the rulers and heads of ministerial trade areas to enable these to legislate fairly.

But this pyramid framework also occurs in the organs of government, and thus the State transferred powers to the regions, so that the national level can only legislate on minimum and maximum parameters, and in this case it is the regional governments that define and decide within the national parameters.

But what happens when, as in the case of retail and street vending, regional governments transfer their powers to municipalities? It is here, at the local level, where trading systems and more active representation come into play.

- ***Representation and negotiation for street vending in the municipalities.***

Street markets are under the exclusive authority of municipal governments. The Councils must legislate, through Municipal Ordinances, the details of operation of these markets, the conditions for obtaining municipal licenses, the days and hours of vending, the transfer of licenses, etc.

In order to do this, town and city halls use municipal ordinances, decrees and agreements of the Plenary. As a general rule regulations are agreed with stakeholders, in this case the street vendors, using two working tools, the Committee on Trade and the Market Board.

The municipal associations representing the street vending sector are represented on both the Commerce Committee and the Market Board. These associations in the municipal sphere tend to be integrated with, or maintain collaborative agreements with, professional associations belonging to the sector that represent not only the vendors in the municipality but in the whole region. These are, in turn, usually integrated into federations, confederations and national associations representing the collective.

For example, in the next section we will focus on the experience of collective bargaining for the development of the street vending municipal ordinance in the city of Zaragoza. We will see how the members of those boards belong to associations of

street vendors in the local sphere (the Los Chalanés Association, Platform for the Protection of Markets and UZVA), some of which belong to associations of higher levels.

○ *The Trade Commission.*

The trade commission usually deals with those aspects relating to retail trade in general, considering street vending as a retail subsector.

It is generally composed of the most representative retail trade associations, or alternatively by the federation which brings together the largest number of trade associations; labor and business organizations, as issues related to employment and conditions of workers are also discussed in this forum; and consumer associations, a key part in the functioning of trade.

There is no system of representation in place, since being a local forum, everyone knows the specific importance of each of the organizations present at the Commission and the members are usually invited, permanently, by the City Council Trade Area.

The Commission's decisions are prescriptive, but not binding. However, the Commission usually has political clout, as the four partners who make up the previously explained *social dialogue* are usually represented in it through their local structures.

We will study two examples. First, we will consider a small town, like Lugo (Galicia), in which the Commission is composed solely of trade organizations; and second, Zaragoza, capital of Aragon and one of the largest cities in Spain. Here, the commission is composed of the four social dialogue partners.

The website of the City Council of Lugo describes the functions and composition of the Committee on Commerce in this way:

It is an advisory body of the City Council to discuss matters of municipal jurisdiction that are of interest to traders. It is chaired by the Mayor, composed of representatives of trade and catering from Lugo, which also has representation in the Directorate General of Trade.

OBJECTIVES:

- *Achieve greater dynamism and modernisation of trade*
- *Establish itself as a forum for plural and effective discussion*
- *Local coordination and advisory space with the aim of reaching consensus on local policies to promote commercial activities in Lugo*

COMPOSITION:

- *President: Mayor*
- *Members:*
- *President of the Trade Federation*
- *Hoteliers Association*
- *Director General of Trade*

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- Councillor for Economy and Employment
- Councillor for General Services
- Councillor for Culture and Tourism
- Councillor for Infrastructure
- Councillor for the Protection of the Community
- Zone Associations: from time to time, when dealing with matters that affect them directly
- Secretary: Municipal technician

DUTIES:

Advisory body of the Lugo City Council in the following matters:

- Remodelling of, and changes to, community streets and facilities
- Mobility: Parking facilities, accessibility, traffic planning and urban development: parking meters
- Activities in pedestrian zones: development projects, modification and development of streets and pedestrian and commercial zones.
- Urban refurbishment, signposting, commercial signage, lighting
- Training of businesspeople and workers
- Promotion campaigns, studies regarding the commercial situation, revitalisation plans.
- Programs related to new technologies and R & D & I
- Storefront renewal projects
- Street vending: installation of pavements for vending.
- Propose to the City Council as many measures, initiatives and proposals as it deems suitable for the development and advancement of the sector.

The website of the Zaragoza City Council explains this as follows:

The Local Board of Trade is a forum of a consultative and informative nature on matters of local trade, which aims to coordinate and share actions on the promotion of commercial activity in Zaragoza. It is part of the Agreement for Economic and Social Development 2008-11 (AFES) signed by the City Council of Zaragoza, the most representative business organizations in the city, CEZ and CEPYME, and the most representative unions, UGT and CC OO, to promote and coordinate actions for the economic, social and employment development in the city.

*This forum has as its objective the **consideration and critical evaluation of various aspects relevant to defending the general interests of commercial distribution in the city**. It is set up as an organ for information, advice and proposals in the exercise of municipal powers in this area, promoting meetings with the participation of any relevant stakeholders. It also provides a **meeting point** between local businesses and other institutions concerned in trade matters.*

As you can see, the functions of the two Committees are identical, although the composition of these makes that constituted in Zaragoza more legitimate than that in Lugo.

Analysis of the Municipal Trade Committees in Spain reveals disparate compositions, but with some homogeneity in their duties. Obviously if there is anything that unites them all, it is the desire for dialogue by both public authorities and trade organizations.

- *Market Boards.*

As already explained, street vending is considered as a subsector of retail commerce and it has its own idiosyncrasies. Municipalities, usually at the request of the street traders themselves, have decided to form the so-called Market Boards, in order to negotiate optimal working conditions for both parties.

We should not forget that street markets are located on public land, usually owned by the municipality, so that certain standards of habitability, cleanliness, living with neighbors and with the regular merchants, and its use by its rightful owner should be regulated.

Issues discussed on these Boards usually deal with the duration of licenses, their price and transfer, market days, opening hours, the type of products that can be sold, hours of loading and unloading, and most importantly, the temporary or permanent relocation of the market should the City Council need to use that land, and the opening of new areas of municipal land for vending.

In this case, the Boards are composed of City Council technical personnel assigned to the Area of Commerce, and the local associations of street vendors which meet regularly and address outstanding issues, as well as political leaders of the municipal area of commerce.

These Boards deal with very detailed aspects of daily life in the market, and all existing vendors' associations in the city have a voice, provided they are properly constituted and registered in the registry of associations.

A schedule of meetings is established, usually every two months, although this schedule may be altered when there are issues of broad social significance to be addressed.

But given the scattered nature of the associative movement in Spain, it is likely that in towns of considerable size (250,000 inhabitants) there are too many associations for the dialogue to be smooth and efficient. In these cases, some municipalities have decided to introduce a regulated system of democratic and transparent representation, which serves to define the true representativity of partnerships attending.

This is the case again in the city of Zaragoza, which after solving a problem of market location, which we will present later as an example of good practice in negotiation and representation, decided to amend its Municipal Bylaws and establish a system of representation and election of members to the Market Board.

After the process of representation was established in the ordinance by the City Council of Zaragoza, the following associations obtained enough votes to represent the sector:

APAVA: One of the most historic associations in the city, with over 30 years of history. A promoter of popular initiatives such as a Street Trading Act, which was never enacted.

Los Chalanés Association: Composed predominantly of gypsy women, it has a substantial dialogue with government bodies. A promoter of training and employment initiatives for disadvantaged groups, it lost part of its credibility due to the establishment of a cooperative for vendors to contribute less to social security and a confusing management.

UZVA: It belongs to the General Workers Union. Their principles and demands are related to the right to work and the trade union movement.

Los Elegidos: Directed by Evangelist Pastors, this association is constituted within the Church. Its impact is enormous as it often uses the religious services to put forward its message.

Merca-dos: Newly created. Strongly politicized and supported by opposition political groups.

Moroccan Association for Street Vending: Also a new organisation. It was formed to represent the Moroccan street vendors based in Zaragoza, a minority which does not feel that it is represented by existing associations.

Platform for the Protection of the Market: Part of the National Confederation of Aragon, CNT-Aragon was created during the conflict over location in opposition to older associations. It earned a lot of support as it is considered to be an association without weaknesses, whose leaders do not owe the administration favors. It is one of the organisations that received most backing in the voting.

In Chapter II of the Municipal Ordinance of the City Council of Zaragoza, recently approved, is the following:

Chapter II: Concerning the street vending Market Board

Art 19. Nature and objective.

- 1. *The Street Market Board is an advisory body whose aim and objective is to facilitate the participation of vendors in market management by providing a channel for the exposure of their needs and aspirations to the municipal administration, and permitting the coordinated action of both for the better functioning of the market.*

- *2. The Street Market Board is ruled by the provisions of this Regulation, and, in matters not covered by it, by the general rules governing the professional associations that belong to the Board.*

Article 20. Composition.

1. The Street Market Board will be composed of:

- a) A Markets Councillor delegated by the Zaragoza City Council, who shall act as President.*
- b) The Head of the Public Services Department.*
- c) Two of the market's administrators.*
- d) Five representatives of the vending licences holders, democratically elected from amongst these for a term of four years.*

The Head of the Public Domain Unit will serve as secretary with the right to speak but not to vote.

But how are these five representatives of street vendors selected? The City Council chose to legitimize a process of representation which provided the option that all vendors were represented and that also they did not have an obligation to belong to any association. In this democratic process a person, and not an organization, is elected, and this is specified in the Article 20 of the Municipal Ordinance, which reads:

2. The election of Board members representing the traders is subject to the following rules:

- *Any title-holder may vote, and is eligible for election.*
- *Each candidate may submit up to four substitutes to replace him/her in the terms of paragraph 4 below.*
- *A free, direct and secret balloting procedure shall be followed.*
- *Each voter is able to vote for a maximum of three candidates.*
- *The results of the ballot will be announced by the City Council. Then, the five leading candidates will be appointed by decree of the competent authority.*
- *Four years after the previous elections, new elections will be called to appoint members representing the vendors. However, if as a result of the resignation of these members (and despite the substitution mechanisms set out in paragraph 4 of this article) two or more of the five members' seats representing the vendors remain vacant, the City Council may agree to a call for early elections.*

With this system, the City Council ensures transparency because “any title-holder may vote and stand for election” and plurality, as “each elector may vote for a maximum of three candidates.” In this way, and as happened after the first elections, the true sector leaders, those who really have the support of their followers, are those who have access to a place on the Market Board.

✓ ***Experience of collective bargaining in the development of the Municipal Ordinances on street vending in the city of Zaragoza.***

Zaragoza, capital of Aragon and with a population of 696,000 inhabitants, has been holding street markets every Wednesday and Sunday for about 35 years.

Currently there are 453 street market stalls and 234 flea market stalls⁵. It is a general street market (sale of textiles, footwear, handicrafts, hardware, toys, leisure products, antiques, etc.) visited by a regular and loyal clientele estimated at about 50,000 visitors every Sunday and close to 20,000 each Wednesday, despite location changes experienced in recent years.

In the beginning, this market was known as "The Rastro of the Romareda" since it was set up very close to the football stadium of the same name on Wednesdays and Sundays. In 2005, the market was relocated, in order to address traffic and parking issues, noise pollution, waste generation, management of crowds, etc., which occurred on market days.

In this case, the location problem came up because of the growth of the city itself, which is inevitable in a 30 year period, but which must be foreseen and provided for by the city council in question years before it occurs.

As in all newly created markets, the beginnings of the Romareda market were very difficult, as the market, and the soccer field that gave it its name, were located on the outskirts of the city. There was no public transportation, no appropriate access, and it lacked basic services such as toilets, cafes, restaurants, etc. There were very few houses around its location. Some vendors who are still active, such as Jose Hernandez ("the panther"), Miguel Lerios, Jose Claveria ("the fortune") or Pilar Claveria ("the scab") recall their beginnings in the market.

Over the years, and with much suffering, sellers held their positions, making a living with difficulty and with little relationship with the City Council. We must keep in mind that at that time (and although democracy had already emerged in Spain) there were still the vestiges of more than 40 years of dictatorship.

Gradually the area was populated and provided with public transport, hospitals, services and, most importantly, houses, buildings and people. For the residents of the city, the market in La Romareda was not far away and sales began to increase, making it one of the most profitable markets in the region.

Many years passed, and the boom in the market resulted in the gradual expansion of the area devoted to trade, and therefore the number of licenses, doubled within 20 years.

⁵ The difference between stalls at the street market and the flea market is due to the types of products offered. Flea market stalls are mainly dedicated to the sale of antiques and objets d'art.

But everything has a beginning and an end, and the chain of events led to neighborhood protests against the location of the market. There were too many vendors, too many visitors, too many vans parked nearby, too much rubbish on the ground, too much hassle to access private garages, too many problems in entering the hospital and too much noise.

All this was coupled with the proliferation of public events such as concerts and exhibitions that were held on the football field, which were incompatible with the activity in the market. However, for many years, all these issues were solved through negotiation.

With no regulated negotiating tools, only the will of the parties concerned during this time solved the little problems. If a concert was scheduled at the football field and vendors could not exercise their trade, they were compensated well with two extra vending days, or with a reduction in contributions.

But there was an insurmountable stumbling-block in 2004 which marked the beginning of the real problems for the market. The city's football team, Real Zaragoza, was relegated to the second division and the games began to be played on Sunday morning, making the coexistence of the two activities at once impossible.

This was the first time that negotiations between the City Council and the vendors were no longer smooth, and changed into long and arduous meetings in pursuit of a deal that was never realised, because each party was defending its position in the belief that they were in the right.

But, at the same time, encouraged by the neighborhood protests, the City Council raised for the first time the possibility of relocating the market. This idea, however, did not materialise, as the football team returned to the top division a few months later and life returned to normal.

Almost two years later the problem became serious. Zaragoza was to be the organizer of the International Expo in 2008, and major refurbishment of the city was expected in order to host the shows. The city hoped for the arrival of millions of tourists and decided work should begin.

With the pretext of the International Exposition, the City Council proposed to remodel the football field and the areas adjacent to it, and the first project also included the remodeling of the field, the building of a shopping center and commercial premises in the lower part of the stadium, the reconstruction of the plaza and the construction of two luxury apartment buildings. It was evident that the area was to be revalued and that the market had no place in it.

That is when the group of vendors began to organize, enhanced partnerships formed years before, but that had not been very active, and began the first negotiations with the City Council.

The meetings were long, and often tense. The City Council did not have a bargaining tool and considered all organizations to be equal. But new people appeared that did not feel that they were represented by their old associations and who also wanted to

participate in the negotiation meetings. There came a time when, because of the number of attendees, these meetings were converted into authentic assemblies, composed of countless people whose primary objective was to safeguard their private interests and not those of the collective, and the negotiations did not make any headway.

The city council proposed a change of location of the market with only two months notice, and the spaces offered were not to the liking of everyone. They suggested moving it just a few blocks away, but the neighbours opposed this, as they wanted the market to disappear from their area completely. They were not willing to accept such relocation.

The new space that the City Council proposed was again to be found on the outskirts of the city, and the older vendors refused this because they did not want to go back to the origins of the market, in an unpopulated area without communications.

A group of vendors proposed that the new location should be the Parque Grande, the largest green area in the city and the pride of the neighborhood. The neighborhood movements again opposed this, this time with support from the media and opposition political groups, so that the proposal did not continue.

Time was short and there was no consensus among the parties. The city council did not want to negotiate with vendors under these conditions, as the meetings were fruitless, and sought a solution by decree of the Municipality. However, given that one of the associations, the Zaragoza Street Vendors Union (UZVA), was part of the Union of Self-Employed and Professionals from Aragon (UPTA), and this in turn was part of the first trade union in the region, UGT, the city council agreed that UPTA should be the representative. There was only one condition: this appointment had to be confirmed by the rest of the members of the market. The authorization came in an assembly held a few days later in the auditorium of the Chamber of Commerce.

The negotiations for the move commenced and it was decided that the City Council would make a space available within the city. The City Council signed an agreement to consider the move as temporary, and promised to relocate the market either in its original area, or in another better prepared space.

To promote the new location, the City Council agreed to:

- Include the market as a tourist event in the tourist guides of the city.
- Double the frequency of urban transport on market days.
- Discount 100% of the contributions for the use of public space while the market was at the current location.
- Finance Sunday recreational events that would enhance attendance at the market.
- Start the search for alternative sites to which to relocate the market.
- Propose that there be extra market days.

- Amend the Municipal Ordinances.

The intervention by UPTA with the City Council resulted in resolving a difficult situation, and the understanding that, although the solution was not the best, at least it would satisfy a number of role players. For the City Council it was also a positive experience, because in a short period of time agreement was reached, something impossible to achieve months earlier.

However, the location was not the most suitable. The space was irregular, smaller, and did not provide equal opportunities for all vendors, as some stalls were not easily accessible. Also, on market days, one entrance to the city, as well as an exit from the city of considerable importance, were closed to traffic, so the neighbourhood movement began to make their demands, supported by some opposition political groups.

During that period of time, approximately two years, meetings continued to be held in order to amend the Municipal Ordinances on Street Vending and to seek a permanent location for the market, involving the sector, which again led to a situation of misunderstanding caused by the huge number of participants in the meetings. The City Council therefore again proposed the involvement of UPTA, as a trade union and as a representative of the self-employed workers, in the meetings.

UPTA proposed to the City Council the creation of a Market Board, whose members would be democratically elected. As a result, the City Council included this in the modification of the Market Regulations (in place since 1996) by a Municipal Ordinance in the year 2008.

Finally, after the staging of the 2008 International Exhibition, the parties managed to sign the biggest and most favourable agreement for all vendors. The market would move to the Expo site, a strategic location because of its proximity to the train station for long distance trains, local trains and a regular bus service, as well as urban transport, which come to the area on more than 7 lines from all parts of the city.

We can now say that the market formerly known as the Romareda, is one of the best established and probably most profitable in Spain, with the appropriate number of vending stalls, perfectly located, a Market Board protecting it, and a regulation adapted to requests made by the EU. Attached is the Municipal Ordinance as an example of good practice.

✓ **LESSONS**

All the aspects that promote and facilitate the development of representative systems for vendors and negotiations with government bodies are listed below.

It is necessary to produce an environment in which all players feel identified, represented and involved, in articulating tools for dialogue that enable the making of agreements to come to fruition.

To foster partnerships of associations, thereby strengthening and unifying the voice of the sector.

To carry out democratic actions which permit the recognition of the associations' capacity for representation.

To prioritize the needs on which to start negotiating and to sequence the development of active policies to meet those needs.

It is very important that the persons or entities that will be involved in negotiating or in the system of representation be flexible to allow adaptation of the demands and actions to the real current situation in the sector.

APPENDIX: Regulations for the control of the Zaragoza Street Market

MUNICIPAL LAW

REGULATIONS FOR THE CONTROL OF STREET VENDING

Initial approval by the City Council plenary – 30.11.2011

Published in Zaragoza Government Gazette nº 284 on 13.12.2011

Final approval by the City Council plenary – 01.03.2012

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ANNEXURES

Preamble

The Regulations for the Zaragoza Street Vendors Market were finally adopted by the plenary agreement of July 26, 1996.

Since then, several events have affected the operation of the market, determining changes in the reality that was the subject of the regulations that required corresponding changes to the regulatory text.

Thus, on one hand, the issues arising from the change of location, from that existing in the vicinity of La Romareda at the time of the adoption of the previous regulations, to the current location in the area provided corresponding to the south parking lot of the Expo Zaragoza 2008.

And, on the other hand, the establishment and effective functioning of the Market Board, which in the course of its own development has revealed a number of issues that require specific regulation.

In another vein, there have also been major changes in the regulations at national and regional level, affecting the issue of street vending, which need to be addressed in local regulatory standards. Most notably, the impact should be cited of Directive 2006/123/EC of the European Parliament, and the Council, of 12 December 2006, in relation to services in the domestic market, whose transposition into domestic law indicated, among others, changing aspects of the street trading.

II

The text of the regulation includes five headings, with a total of twenty-nine articles, plus a transitional provision, a repeal provision and a final provision.

Heading I covers general rules, and incorporates the amendments relating to change of location, including the name of the market and the number of stalls.

Heading II, concerning the carrying out of activities, includes improvements and update details.

Heading III, relating to licences, presents important new innovations resulting from the necessary adaptation to the provisions arising from Directive 2006/123/EC.

In particular, it accepts the transferability of licences, with a validity period determined according to the amortization period of the investment and fair return on capital, which is generally fixed at ten years. In accordance with the logic of the new regulation, it also accepts a system based on the reduction of a priori administrative controls and its replacement by the signed declaration of the interested party and the subsequent administrative verification.

Heading IV, concerning the administration of the site, discusses in detail the regulations of the Market Board, including the regulations for matters which, in practical operation, have proved to require classification, such as the reasons for cessation and replacement of members, term of office and duties of the Chairperson and the Secretariat, amongst others.

Heading V deals with offenses and penalties. It includes their necessary adaptation to material changes in the relevant regulations and the option of voluntary acknowledgment of responsibility and reduction in the penalty, in order to increase the adaptability and effectiveness of procedures.

The single transitional provision provides a solution to the impact of regulatory change on current licences, automatically transforming them into new licences for a period of fifteen years.

The sole repeal provision repeals the Regulation approved by the resolution of July 26, 1996, and, lastly, the final provision provides for the coming into force of the Act fifteen days after publication in the BOPZ⁶.

HEADING I

Chapter I: General Rules

Article 1: Objective

- *1. This Regulation is intended to establish the legal framework for street vending activities, carried out in the form of a periodic market in the town of Zaragoza, by means of setting the requirements for its practice, the conditions for carrying out the roles and duties of the Administration and the Market Board, and the determination of the applicable penalty system for failure to comply with its requirements, all in accordance with the provisions of the regulations governing commercial activity in Aragon.*
- *2. The use of public property that this represents shall be governed by current legislation on this matter. In this regard, it considers its use as a normal propriety use, as it does not require fixed or permanent installations, and because the plot of land is specifically designed for that purpose, with its use consequently being subject to license, the granting of which is the responsibility of the City Council.*

Article 2. Location

The location of the activity will be that indicated on the plan attached as Appendix I to this Regulation. Notwithstanding the foregoing, the Government of Zaragoza retains the power to vary the location temporarily or permanently, if and when reasons of public use or public interest so require, without, in any instance, giving rise to the right to compensation for loss or damages to the holders of stalls affected. The relocation agreement shall require a mandatory preliminary report from the Market Board.

Chapter II: Nature and character of street vending

Article 3. Legal framework.

- *1. The commercial activity carried out in the street vending market is governed by this Regulation, and, in matters not covered by it, by the ordinances governing the exercise of commercial activities on public land in force in the municipality of Zaragoza, and by the provisions of regulations on street vending and commercial activity in Aragon, without prejudice to that which results because of the protection and defense of consumers and users.*

⁶ BOPZ is the abbreviation for the Zaragoza Official Gazette.

- *2. The former street market "The Romareda" was renamed "Zaragoza Street Market". It operates as a retail trade activity outside of permanently established business premises, using mobile facilities. The number of street market stalls in Zaragoza is fixed at 453. This maximum number may be amended by agreement of the competent municipal body.*
- *3. Holders of licenses to sell are fully subject to the abovementioned legislation, and to this Regulation as well as any provisions or resolutions that may be applicable, as provided for in the above.*

HEADING II: THE CARRYING OUT OF ACTIVITIES.

Article 4. Items offered for sale.

- 1. All kinds of new items may be sold in the Zaragoza street vending market.*
- 2. As an exception, the sale of foodstuffs or edible products of any kind and in whatever form (natural, packaged, canned, fresh, frozen, etc.) is not allowed. However, the installation of up to six stalls for the sale of dried fruit is allowed. They must meet the sanitary and hygiene requirements for opening and operating established by the current regulations, and hold the necessary licences. Similarly, the sale of animals is prohibited.*

The City Council may, however, authorize the sale of other items or services and establish the conditions thereof, in accordance with current legislation.

- *3. The sale of used items is prohibited in all cases.*

Article 5. Facilities

- *1. Vending outside the stalls is not allowed on site or in the vicinity. Without prejudice to that established in Article 2 of this Regulation, the provision of stalls may only be varied during the term of a licence by specific resolution of the competent body.*
The layout and individual measurements, as well as their allocation by specialty, where applicable, will be that listed in Annex I of this text.
- *2. In no event shall the space occupied by the stall structure, including any accessories or decorative items, be higher than three metres, or affect tree branches, wires, or objects or elements which pass over the stall.*
- *3. All stalls and facilities shall be capable of being dismantled. It is strictly forbidden to insert any object into the ground or use any type of anchor point that could damage the pavement, or is supported by or leaning on trees, poles, street lights, walls, fences or other installations on the premises.*
- *4. The City Council, at its discretion, may provide a standard type of stall for the entire market, with holders being required to install these in the established time frame.*
- *5. Vending "in large quantities" on the ground or from vehicles is strictly prohibited. However, it may be authorized in the case of vehicles and trailers approved for display and sales.*

- *6. The dimensions of the stalls in the Street Market will be six and eight meters wide and three metres deep. Each will have an annex with a parking space with the same linear metres of frontage and two and a half metres maximum depth.*

Article 6. Vending days and timetables

1. The days of operation of the Informal Market will be Wednesday and Sunday of each week.

2. The business hours will be:

- *On Wednesdays from 10:00 to 13:30; on Sundays and Wednesdays which fall on a bank holiday, from 10:00 to 14:30.*
- *When it is necessary to replace days lost due to unforeseen circumstances or to force majeure, the day of operation may be a day other than those established, and business hours will be from 10:00 to 14:30.*
- *The installation of stalls and the unloading of goods will take place between 7:30 and 9:45 am; carrying out such operations after this time is forbidden. The removal of the stalls will take place in any event before 16:30 hours, by which time the occupied area should be completely free and clear.*

3. Notwithstanding the contents of the preceding paragraphs, schedules other than those established may be set by resolution of the competent municipal body when circumstances in the public interest so warrant.

4. Vehicular access to the site, and presence in the same is only allowed during the hours of assembly of stalls and the unloading of goods, as well as the removal of stalls; access is strictly forbidden at any other time –including vending hours – except for when, in case of inclement weather, it is advisable to suspend the operation of the market and the administrators so choose. In this case the removal of stalls may be carried out before the stated time. Entry of vehicles which exceed the maximum authorized mass of 3,500 kilos is prohibited under the same terms. At all times it is necessary to observe all signals displayed by the market administrators and local police officers, in order not to hinder the passage of other vehicles or the installation of stalls.

5. Except in the case of an early suspension of the operation of the market, the removal of stalls before closing -which shall, in turn, be authorized by the directors- shall be made by hand, including all the elements, installations and products. Vehicles will not be allowed into the premises.

Article 7. Removal of waste and packaging.

Each stall must be equipped with a receptacle for the deposit of discarded packaging and waste that may result. It is strictly prohibited to deposit these outside the containers. Once full, or at the end of the day, such waste shall be deposited in the general containers installed for that purpose.

HEADING III: THE LICENCES

Chapter I: Licences

Article 8. Duration and revocation of licences.

- *1. The validity of licences for vending, taking into account the reasonable period of amortization of the investments required to develop the vending activity and the fair remuneration of the capital, is ten years. However, when the principal investment made by vendors so warrants, licenses may be granted for a longer and more appropriate term for the due repayment of the same.*
- *2. Notwithstanding the foregoing, licences may be revoked unilaterally by the City Council at any time for reasons of public interest, without creating a right to compensation, when these are incompatible with general conditions approved subsequently; when they prevent its use for activities with a higher public interest or undermine general use.*

However, in the case of cancellation due to the occurrence of unexpected circumstances, through no fault of the owner, where investments are made by the owner or those under his responsibility which have to revert to the public domain, the licensee shall be entitled to compensation under the terms established by law.

- *In addition, temporary suspension of the activities they perform may be ordered due to work on public roads or services, traffic conditions or any other reasons of public interest. In these cases, days lost due to suspension may be recovered on other days as determined by the City Council.*

Article 9. Requirements.

- *1. No one may hold more than one licence for a stall.*
- *2. Only individuals who meet the following requirements may be licence holders:*
 - *a) He/she must be of legal age. However, a person under eighteen may be a licensee where permitted by the applicable regulations.*
 - *b) He/she must not fall within any of the categories of incapacity or conflict of interest established by law.*
 - *c) In the case of foreigners, the person must be in possession of the relevant residence permits and be self-employed, or be employed in the case of members of cooperative societies.*
 - *d) Not hold any other vendor's license for a periodic market authorised by the City Council of Zaragoza.*
 - *e) He/she must be up to date with the payment of fees for private use of public property in respect of the installation of the stall in the market.*

This is without prejudice to the fulfillment of their obligations under current tax and Social Security laws and any other laws which may apply. Should the licensee fail to comply with any of these requirements, the licence will be revoked.

Article 10. Concession procedure.

- *1. It is the responsibility of the Council to convene the concession of licenses when there are vacancies.*

The concession of stalls shall be implemented following a tender procedure that includes all the applications of individuals who meet the requirements of this

regulation and that are submitted within the specified time period. The announcement will be made once agreed by the competent municipal body, which will determine the number of licences concerned and their characteristics, as well as the selection procedure, which shall always be based on objective, non-discriminatory, clear and known criteria. When the setting of such criteria is not possible or appropriate, the award shall be made by drawing lots.

The announcement may also establish requirements for technical competence and financial solvency for the acceptance of applications. For accreditation of technical competence, a certain amount of experience in the street vending activity is required, and the availability of adequate means. It can also call for the possession of badges or certificates of quality or other suitable means of recommendation. Financial solvency may be proved through generally accepted methods in accordance with existing rules.

- 2. Applications for positions shall be made on a prescribed form which shall contain:
 - a) Name, surname, age of applicant and national identity card number (DNI) or, for non-Spanish citizens, the foreigner's identity number (NIE).
 - b) Address of applicant.
 - c) Products or items that he/she wants to sell.

The application shall be accompanied by the documentation, if any, specified by the announcement, which is required to prove technical competence and economic solvency.

- 3. A signed declaration must also be provided, in which appears, at least:
 - a) Compliance with the established requirements.
 - b) That he/she is in possession of the documentation required for accreditation, stating this from the beginning of the activity.
 - c) To maintain compliance during the term of the licence.
 -
- 4. The contents of the signed statement shall include, in addition, the following information:
 - a) The provider must be registered in the relevant section of the business tax base and be up to date with the payment of the fee. If exempt, he/she must be registered in the census of taxpayers.
 - b) The provider must be up to date with the payment of contributions to Social Security.
 - c) Providers from non-EU countries must certify their compliance with the obligations laid down in current legislation on residence and work permits.
 - d) Must satisfy the conditions required by the regulations for the product being sold by itinerant or non-sedentary vending.
 - e) Have taken out liability insurance covering the risks arising from the commercial activity performed.

- 5. If the application does not meet the requirements set forth in the preceding paragraph the applicant shall be required, within ten days, to remedy the lack or attach the required documents, indicating that if he fails to do so he shall be

considered to have abandoned the filing of his petition outright. Only those applications that meet the requirements of the preceding paragraphs, and demonstrate the technical competence and economic solvency required (if applicable), shall be admitted to the selection process.

- *6. Once the adjudication has been completed, the incumbent will have fifteen days (and, in any case, before starting the activity) to provide, at his option, documentary proof of being registered in the business tax base with effect to carry out this activity in Zaragoza, personally or on behalf of a cooperative of which he is a partner (in this case, he must also confirm his current membership of the cooperative); or a document authorizing the municipal administration to obtain the data necessary from the agency to verify tax compliance.*
- *7. Documentary evidence will not apply to other requirements detailed in the signed declaration, without prejudice to the power of inspection which the City Council may exercise.*
- *8. The City Council shall effect such verifications as are appropriate to verify compliance by the licensees to all the conditions referred to in this Article, as well as those relating to payment of the fee derived from market activity. If the verification indicates a breach of such conditions, the revocation consequences provided for in art. 25 of these Rules will result.*

Article 11. Vendors registration.

- *1. The City Council shall establish a register of holders of the market vending licences.*
- *2. The registration will take place at the time of the granting of a licence, or at the time of transfer, according to the information contained in the signed declaration.*
- *3. Registration does not enable vending, as only the ownership of a licence is valid for that purpose.*
- *4. A record of the assistants or partners will also be created, indicating the licence holder for whom they work.*
- *5. The data contained in the records will be updated ex officio.*

Article 12. Transfer of vending licences.

The licence may be transferred with prior notice to the City Council, which may check and inspect, at any time, the events, activities, transfers and other circumstances of the licence granted and the compliance by the new assignee with the required conditions, all without prejudice to the ability to notify, as appropriate, to regional bodies any facts which would contravene the anti-trust law of which it has knowledge gained in the exercise of its functions.

The new title holder must submit the signed declaration referred to in art. 10.3.

Article 13. Assistants

- *1. Stall title holders in the Zaragoza Street Market may be assisted or, where appropriate, replaced occasionally, in their duties, by a maximum of four assistants,*

collaborators or people who have a family relationship to the second degree of consanguinity or affinity (spouse, father / mother, son / daughter, brother / sister). Such relationships will be always considered with regard to the licensee.

- *2. For the purposes of administrative control, said assistants must be registered in the Registry kept by the Market Administration, once it has been certified they also meet all requirements. They will be provided with a photo card identifying them as such.*
- *3. The provisions of this Article are without prejudice to the need for compliance with the provisions of existing legislation on labour and social security matters.*

Chapter II: Rights, obligations and restrictions of stall title holders

Article 14. Mandatory performance of vending activity

- *1. The stall title holders are required to vend at their stands every Sunday on which the market is held, pursuant to the provisions of Heading V of this Regulation. Failure to attend the Wednesday market will not be subject to sanctions.*
- *2. The stall title holder must notify the Administration when he intends to take leave, stating the intended period. His absence from his work must not exceed one month's duration. During this period the stall shall remain vacant and inactive. However, in stalls in the Zaragoza Street Market, a substitute accredited assistant will be allowed to perform this work during the holder's holidays.*
- *3. The administrator shall be notified of the absence of the title holder due to force majeure. When absence from the market does not exceed one day, notification by verbal communication will be allowed. If more days are required, the notification shall be in writing with a description and justification of the cause that motivates the request.*

Article 15. Vacancies

Without prejudice to Article 14.2, the stalls that are vacant on open market days due to the absence of the title holder, shall remain vacant, not allowing its use by other vendors or the expansion of nearby or adjacent stalls.

However, the Market Administration may, at its discretion, authorize the use by vendors of different stalls other than those for which they hold licenses, when, as a result of there having been a high number of absences on particular days, it is convenient to group the occupied stalls to avoid excessive dispersion and improve the commercial operation of the market.

Article 16. Obligations of licence holders.

The duties of title holders are:

- *a) To comply with these rules and all the provisions and orders affecting them, and to ensure that those under their control comply with these, both with reference to the facilities and the products they sell, and to comply with the orders of the Market Management and Local Police agents.*

- *b) To personally carry out the activity and have duly accredited assistants or partners, if any, and they must comply with the terms established in this Regulation.*
- *c) The stalls that sell products by weight or measure shall have as many instruments as necessary for verifying measurements or weight. Such weighing or measuring instruments will necessarily be authenticated and use the decimal system.*
- *d) To be registered in the business tax base, in the General Business Registry of the Regional Council of Aragon and to be affiliated with Social Security.*
- *e) To be up to date with the payment of any municipal taxes that apply to their market activity.*
- *f) To have available the last receipt of payment of the municipal tax for the activity, a weights and measures certificate, proof of enrollment in the General Business Register and other items required by the current provisions, and to show these, when required, to the administrator or local police officers.*
- *g) To have in the stall the documents or bills of origin of the items they sell, addressed to the title holder, and to show these when required to do so by the competent authority.*
- *h) To display in a place visible to the public the accreditation of the title holder and assistants at the stall, and where applicable, the document containing the authorisation of the relevant local authority, and an address at which any possible complaints can be received.*
- *i) The assembly, dismantling and maintenance of stalls in a safe and clean condition, as well as the removal and depositing of waste in the receptacle referred to in Article 7. Once this is filled, and also at the end of the day, this must be deposited in the containers provided for that purpose, leaving the space occupied by the stall perfectly clean after dismantling.*
- *j) To be liable for any damages that may arise to the facilities and items in their care.*
- *k) To comply with all obligations and requirements of applicable regulations.*

Article 17. Restrictions.

In addition to those contained in these rules, it is also prohibited on site:

- *a) To sell used items or any other non-authorized products.*
- *b) To make noise, use loud voices, utter cries or use loudspeakers.*
- *c) To keep animals in the stalls.*
- *d) Extend facilities or place items outside the limits of the stall position.*
- *e) Install items that hinder placement of other stalls or that might disturb or hinder transit through the site.*
- *f) Start fires.*
- *g) Leave the packaging and waste generated during the sale outside the containers installed for this purpose.*
- *h) Use the annexed parking space as a sales or display area, as it would represent an increase beyond the authorized commercial area.*

HEADING IV: MARKET MANAGEMENT

Chapter I: Concerning administrators

Article 18. Appointment and functions

1. Market managers are appointed by the City Council, in accordance with current regulations regarding personnel.

2. The functions of the Administration are:

- a) To ensure compliance with these rules, as well as other provisions which are applicable, and with municipal orders and resolutions.
- b) Maintain a registry of title holders and assistants of stalls.
- c) Resolve any incidents that occur in the pursuance of market activity and its facilities, and communicate these to the competent authority.
- d) Monitor the good order of the market, and to seek, if necessary, the assistance of local police to report any violations committed.
- e) To keep note of unoccupied stalls.
- f) To maintain a book for the annotation of claims, record those made, and to make this available to the public and holders of vending licences.
- g) To report to the Delegation of Markets of all incidents occurring during the operation of the market, taking the minutes and writing reports as required.
- h) Act as the municipal representative to the staff of contracting companies who offer services in the market.
- i) They are entrusted with whatever issues concerning administrative procedures result from this Regulation, provided that they fall within the scope of their competence.

Chapter II: Street Market Board

Article 19. Nature and purpose.

- 1. The Street Market Board is an advisory body whose aim and objective is to facilitate the participation of vendors in market management by providing a channel for exposure of the needs and aspirations of the traders to the municipal administration, and permitting coordinated action by both for the benefit of the better functioning of the market.
- 2. The Street Market Board is governed by the provisions of this Regulation, and, in matters not covered by it, by the general rules governing the professional associations that belong to the Board.

Article 20. Composition.

- 1. The Informal Market Board shall consist of:
 - a) A Markets Councillor delegated by the Zaragoza City Council, who shall act as President.
 - b) The Head of the Public Services Department.
 - c) Two of the market's administrators.
 - d) Five representatives of the holders of vending licences, democratically elected from amongst these for a term of four years. The Head of the Public Domain Unit will serve as secretary, with voice but no vote.

2. The election of Board members representing the sellers is subject to the following rules:

- Any title-holder may vote, and is eligible for election.
- Each candidate may submit up to four substitutes to replace him/her in the terms of paragraph 4 below.
- A free, direct and secret balloting procedure shall be followed.
- Each voter is able to vote for a maximum of three candidates.
- The results of the ballot will be announced by the City Council. Then, the five leading candidates will be appointed by decree of the competent authority.
- Four years after the previous elections, new elections will be called to appoint members representing the vendors. However, if as a result of the resignation of these members (and despite the substitution mechanisms set out in paragraph 4 of this article) two or more of the five members' seats representing the vendors remain vacant, the City Council may agree to a call for early elections.

3. Members of the Board will leave their posts for the following reasons:

- a) Death.
- b) Unexpected default on the requirements, including possession of a vending licence in the market, for which reason reference is made to members on behalf of the vendors, or, in the case of municipal representatives leaving an office that determines membership of the Board.
- c) Cancellation of the election, or of the proclamation as a member, by court order.
- d) Declaration of incapacity or disqualification by a court judgment.
- e) Resignation filed with the Chairperson of the Board.
- f) Call for new elections in the case of members representing the vendors.

4. The departing members are replaced as follows:

- a) Members representing the City Council are replaced in accordance with the provisions of the legislation governing municipal organization and public office, as appropriate.
- b) Representatives of the vendors are replaced by the substitute who was named on his application for candidacy, as an alternate, if applicable. If no substitute was included in the bid, or if alternates included have been exhausted, because of previous substitutions, the vacancy shall be filled by the candidate who received the next highest number of votes in the elections. In both cases, it is a precondition to meet the requirements for membership.

5. If unable to attend the meeting, the members may be substituted:

- a) The representatives of the City Council, as provided for in the rules for substitution in their respective posts or work positions.
- b) Representatives of the vendors, by delegation on behalf of their respective alternates, if any, or any other member on behalf of the vendors attending the

session. The delegation must be lodged with the Secretary of the Board at any time before the beginning of the session.

Article 21. Meeting regulations.

- *1. The meetings of the Board shall be ordinary or extraordinary. Ordinary meetings are held twice a year. Any extraordinary meetings will take place as proposed by the Chair, officially, or at the written request of one third of its members.*
- *2. The announcement of ordinary meetings shall be made by the Chairperson with seven calendar days notice, and this shall include the agenda and, if applicable, its documentation. For the extraordinary meetings, the minimum advance notice shall be forty-eight hours. The announcement can be made by ordinary post, e-mail or by fax.*
- *3. The Board shall be validly constituted on first announcement when attended by an absolute majority of the legal number of members.*
- *If at first call there is no quorum, as set forth in the preceding paragraph, the meeting will automatically be deemed to be constituted on the second call, fifteen minutes later; this will be valid regardless of the number of attendees. Both first and second calls require the attendance of the chairperson and the secretary, or persons who legally replace them.*

Article 22. Concerning the adoption of agreements.

- *1. The agreements of the Street Market Board shall be of an advisory nature and will not be binding on the municipal governing bodies. The Board may in no case adopt agreements of a resolutive nature. Its functions will refer to whatever matters affect the operation of the market.*
- *2. The resolutions of the Board are taken by simple majority of those present, and in the event of a tie the President's casting vote will decide the outcome.*
- *3. Because of the advisory nature of the Board, members may provide individual opinions.*
- *4. The agreements will be documented by records in the minutes of the meeting, without prejudice to the possibility of issuing an individual declaration.*

Article 23. Concerning the Chairmanship of the Board.

1. The chair of the Market Board will be filled by a Markets councilor delegated by the City Council.

2. The duties of the Chair are:

- *a) To chair and coordinate the actions of the Board.*
- *b) To establish the agenda, convening, chairing and moderating the meetings.*
- *c) To ensure compliance with the aims of the Board and the adequacy of its performance as provided for in current regulations.*
- *d) To represent the Board in that which is deemed necessary.*

3. The chairperson may create up to a maximum of three vice chairpersonships, who will replace him, in case of vacancy, illness or absence, and may assume the performance of his duties by delegation.

Any person may be nominated as Vice Chairperson, whether or not he is a member of the Board. If not a member, the vice Chairpersonship confers membership of the Board for all purposes, with full voting rights.

Section 24. The Secretary of the Board.

1. The position of Secretary of the Street Market Board shall be occupied by the head of the Public Domain Unit of the Legal Service of Public Services.

2. The duties of the Secretary are:

- a) To provide notices of meetings.*
- b) To take the minutes of the meetings.*
- c) To issue certification of the resolutions adopted.*
- d) To act as custodian of the book of minutes.*
- e) To issue the instruments in which to document inaugurations, appointments, delegations and other legal acts relevant to the Board.*

PART V: OFFENCES AND PENALTIES

Chapter I: Reasons for revocation of a vending licence

Article 25. Revocation of licences.

1. The following are reasons why the City Council may revoke licences:

- The assignment, transfer, or lease to a third party of the activity or the transfer of a vending licence without prior communication to the City Council.*
- Lack of attendance at the market by the licence holder, in terms of this regulation, that has created one of the following two situations:*

2.1. Four or more absences on consecutive Sundays, except with just cause.

Eight or more absences every other Sunday in a six month period, except with just cause. For this purpose, the term 'six month period' is understood to mean the periods 1 January to 30 June, and July 1 to December 31 of each year.

- Non-payment of fees for operating in the market.*
- Any breach occurred in regard to the conditions for the granting of a licence, pursuant to art. 9.2 of the Regulation, as well as non-compliance with tax and Social Security contribution obligations.*
- Continuing failure to fulfill the health obligations by reason of the activity pursued, as well as those violations of sectoral regulations applicable in each case under the provisions of these which carry with them revocation of the license.*
- The repeated breach of his obligations under Article 16 of this Regulation.*

2.2. In the procedure which will then be conducted due to the infringement, the interested party should be given an audience. Also, with the consent of the interested party, a report of the proceedings will be sent to the Market Board.

Chapter II: Characterization and classification of offences

Article 26. Characterization and classification of offences

1. Minor offenses are:

- a) *Disobedience of orders and instructions from the Administration of the market which do not seriously disrupt the functioning of the activity.*
- b) *The breach of duty or violation of prohibitions where they do not constitute a serious or very serious infraction or cause for revocation.*
- c) *Making noise, use loud voices or utter cries and the use of loudspeakers.*

2. The following constitute grave breaches:

- a) *The vending of products other than those authorized.*
- b) *The keeping of animals.*
- c) *The extension of facilities, or placing of items outside the limits of the stall.*
- d) *The installation of items that hinder placement of other stalls or that might disturb or hinder transit through the site.*
- e) *Starting fires.*
- f) *Lack of respect for market administrators. This shall be understood to mean any conduct directed at causing personal offense with intent to hinder or undermine their authority on the site and thus prejudice the proper exercise of their functions. If such conduct was directed against Local Police officers, State regulation of public safety would be applicable, without prejudice in either case to the possible existence of criminal wrongdoing.*
- g) *Not to be in possession of, or not to show, delivery slips indicating the origin of the goods, receipts or invoices for the items they sell in the Zaragoza Street Market.*
- h) *Failure to maintain the stall in a safe and clean condition, not having a receptacle for the deposit of waste, or failure to deposit waste in this receptacle or in the containers provided for that purpose by the city council, leaving at the stall site or its vicinity after removal of the same, any waste, packaging or other items or, in general, not leaving it perfectly clean.*
- i) *Not displaying the municipal licence, and accreditation of the holder and stall assistants, if any, or the address for claims, unless this is due to force majeure which shall be reported to the Market Management .*
- j) *The use of the annex parking space as a vending and/or display area.*
- k) *A breach of the conditions and hours of assembly and removal of the stalls.*
- l) *The movement of vehicles outside the authorized hours.*

3. The following constitute very serious infringements:

- a) *Causing damage through fraud, fault or negligence on the pavement or in any premises or parts of premises, subject to the required compensation.*

- *b) The title holder of the stall site occupying the place intended for another which is vacant in the absence of the owner or for other reasons, unless authorized by the Market Administration.*
- *c) Having assistants without complying with the established requirements.*
- *d) Selling counterfeit or illegally obtained goods, without prejudice to criminal liability that might arise.*
- *e) Not exercising the activity personally, without prejudice to the concurrence of the cause for revocation of the authorization contained in Article 25.*

Chapter III: Sanctions

Article 27. Sanctions.

1. *These are as follows:*

- *A) For minor offenses: A fine of up to 60 euros.*
- *B) For a serious offense:*
 - *a) A fine from 61 to 150 euros.*
 - *b) Suspension of the licence for up to one month and, as a result, the closure of the stall during that same period.*
- *C) For very serious offenses:*
 - *a) A fine of between 151 and 300 euros.*
 - *b) Suspension of the licence for up to three months and consequent closure of the stall.*

2. *Notwithstanding the responsibility of the title holder, in the event of failures attributable directly to employees, they may be punished as provided in this Article, as provided for in paragraph a) of Article 16.*

3. *When imposing the sanction, care should be taken for to find a balance between the severity of the act constituting the offence and the penalty imposed. The following are considered as valid criteria for adjusting the penalty to be applied:*

- *The degree of intent of the offender.*
- *Repetition.*
- *The nature of the harm caused.*
- *Recurrence.*

4. *Voluntary early payment of the penalty is permitted, prior to the initiation of administrative disciplinary proceedings, in which case a fifty percent reduction in the amount of the penalty or the duration of the suspension to be imposed in each case.*

Chapter IV: Sanctions Procedures.

Article 28. Procedure.

- 1. The sanctioning authority shall be exercised following the steps established in the Rules of Procedure for the exercise of disciplinary powers in the Autonomous Region of Aragon, approved by Decree 28/2001 of 30 January, of the Government of Aragon.
- 2. The Government of Zaragoza, or any body appointed by it, if agreed, as provided in the Act Regulating the Basis of the Local System, shall have jurisdiction in the proceedings.
- 3. At any time during the proceedings, the parties are entitled to know their processing status and to access and obtain copies of the documents contained therein, and to the proper observance of the rights recognized to this effect by the law on common administrative procedure. Access to documents held and to completed disciplinary proceedings shall be governed by the provisions of the rules on administrative procedure and the protection of personal data.
- 4. Infractions and sanctions will prescribe according to that set out in the legislation on common administrative procedure, according to their classification as minor, serious or very serious.
- 5. In the application of that set out in the current regulation, the time-scale established for the resolution and notification of the sanctions procedure is six months. Once this has elapsed it shall be understood to have lapsed. To this effect it shall be understood that the first day in the calculation of the time-scale referred to is that corresponding to the initiation date of the resolution adopted by the competent body.

Article 29. Precautionary measures

In accordance with the provisions of Article 136 of Law 30/1992 of 26 November on the Public Administrations Legal System and Common Administrative Procedure; Article 4 of Decree 28/2001 of 30 January, by the Government of Aragon, by which the Rules of Procedure for the exercise of disciplinary powers are approved, and Article 68 of Law 9/1989 of October 5, Management of Commercial Activity of Aragon, the measures which Local Police carry out, such as the removal of goods, components, resources, instruments or objects because of the pursuit of prohibited activities or sales, because of poor sanitary conditions or because of risk to the consumer, have the nature of provisional measures whose implementation is expected to be adequate in order to prevent continuation of the effects of the offence and for the protection of public interests, the system being applicable in respect of the common administrative procedure legislation.

Single transitional provision

The annual licences existing at the time when this Regulation came into force shall be automatically converted into licences with a term of fifteen years, beginning on January 1, 2012.

Repeal

Upon the coming into force of this Regulation, the Regulation for the Street Market of Zaragoza, approved by the Hon. Full City Council on July 26, 1996, is repealed.

Unique final disposition

This Regulation shall come into force fifteen days from the day following its publication in the BOPZ.

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✓ **INTERVIEWS UNDERTAKEN**

- Octavio Granado. Secretary of State for Social Security, 2004-2011.
- Teresa Sánchez de Armas. Director General of Commerce, 2010-2011.
- César García Arnal. Organising Secretary of the Association of the Self-employed Workers of Aragon. 2000-present. Secretary of UPTA Sector Policy. 2005-present.
- Nicolás Rodríguez García. Secretary General of AMTAS and of APRODECA.
- José Hernández Alvira. APAVA president.
- Jesús Carbonell. President of the Platform for the Advocacy of Market Rights in Zaragoza.
- Pedro Jato del Real. Markets Councilman of the City Council of Zaragoza. 2003-2007.
- Antonio Becerril. Deputy Mayor of Citizen Participation in the City Council of Zaragoza. 2007-present.