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01 URBAN PROPERTY RENTALS

Over the last few weeks, a number of Royal Decrees have come into force outlining complementary measures for boosting the economy and employment with the aim of alleviating the negative effects caused by the Covid-19 pandemic, including Royal Decree-Law 11/2020, of 31st March, and Royal Decree-Law 15/2020, of 21st April, which stipulate measures in relation to leasing residential and non-residential properties.

In the case of rentals of the main residence, these measures can be accessed by tenants with a rental agreement for their main residence signed under the Urban Rentals Act who, as a consequence of the health emergency caused by Covid-19, have become unemployed, have been temporarily laid off or have reduced their working hours for care-related reasons, in the case of the case of business owners, or who are subject to similar circumstances that result in a significant drop in their income, to the extent that the sum total of the incomes of all the members of the household does not reach certain thresholds in the month before applying for the moratorium. Moreover, the total rent for the residential property, plus expenses and basic supplies must account for at least 35% of the net combined income of all the members of the household.

With respect to lease agreements for non-residential properties, the measures are designed to support SMEs and self-employed workers. In the case of the latter, they are eligible to benefit from these measures on the conditions that they were registered for Social Security on 14th March 2020, when the state of emergency was declared. In the case of SMEs, to be eligible for these measures, they must meet the economic requirements stipulated in Article 257.1 of the Capital Companies Act. It either case, the self-employed worker or SME must also have experienced a suspension or significant reduction in their activity.

For their part, SMEs have to demonstrate that, in the last calendar month prior to the month in which they apply for the measures, their turnover fell by at least 75% of the average monthly amount for the same quarter of the previous year.

Tenants that meet the requirements stipulated in the aforementioned Royal Decree-Law can apply to the lessor, if the lessor is a company, public housing institution or major landlord, for the temporary and extraordinary deferral of rental payments, in accordance with the provisions of the Royal Decree-Laws in question. In such instances, the tenants must apply for the deferral within three months of Royal Decree-Law 11/2020 taking effect in the case of rentals of the main residence, and within a month of Royal Decree-Law 15/2020 taking effect in the case of non-residential leases. In the case of rentals of the main residence, the landlord may choose between granting a 50% rent reduction throughout the period in which the state of emergency remains in force, and the following monthly payments if this period is insufficient to alleviate the tenant's situation of vulnerability caused by Covid-19, up to a maximum of four months in all cases, or deferring rental payments and distributing payment of the deferred rent over at least 3 years, and always within the term of the lease agreement or any subsequent extensions. In the case of non-residential leases, the rent deferred over the period of the moratorium will also be repaid by distributing the amount over the rental payments of the following two years, and always within the term of the lease agreement or any subsequent extensions.

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02 GOVERNING BODIES AND GENERAL ASSEMBLIES

On 18th March, the Official State Gazette published Royal Decree-Law 8/2020 on urgent extraordinary measures to tackle the economic and social impact of COVID-19, which, in Articles 40 and 41, and later slightly amended by Royal Decree-Law 11/2020, establishes important provisions with respect to the functioning of the governing bodies and general assemblies of commercial companies affected by the state of emergency. Among other issues, this decree enables commercial companies to hold the meetings of the general assemblies of shareholders, the governing bodies and compulsory or voluntary commissions to be held either by video or telephone conference, even if their by-laws do not specify such as possibility, provided that (i) all people entitled to attend (or their representatives) have the necessary means to do so; (ii) the secretary of the relevant body recognises their identity and specifically states this in the meeting minutes, which they must then send to all the people attending by email. The Decree-Law also stipulates modifications to the deadlines for preparing and approving company accounts, and for the proposed allocation of the results. Companies that have already prepared their annual accounts may replace the proposal for the allocation of the results with an alternative proposal adjusted in response to the health crisis caused by Covid 19. The alternative proposed allocation of results must be approved by the governing body, justifying the modification based on the new economic and health circumstances, all in accordance with the provisions of the Royal Decree-Law. Special rules are also established for listed companies.

03 INSOLVENCY AND CORPORATE MEASURES OF PARTICULAR IMPORTANCE OF ROYAL DECREE-LAW 16/2020, OF 28TH APRIL, ON PROCEDURAL AND ORGANIZATIONAL MEASURES TO TACKLE COVID-19 CONNECTED TO THE ADMINISTRATION OF JUSTICE

- Modifications may be requested to creditors' arrangements or out-of-court payment agreements that are currently in a performance phase, for one year after the state of emergency was declared.
- In the nine months following the declaration of the state of emergency, no insolvency petitions by creditors will be accepted for processing in which non-compliance with the creditors' arrangements or out-of-court payment agreements can be demonstrated. In the event that a creditor submits a petition alleging non-compliance, it must comply with the provisions of Article 8.2 of Royal Decree-Law 16/2020, of 28th April.
- Debtors in the performance phase of credit arrangements do not have the obligation to request the opening of the liquidation phase for one year from the date on which the state of emergency was announced, on the condition that debtor submits a proposal to modify the creditors' arrangements and it is admitted for processing within that period. For this reason, throughout this year-long period, judges will not accept petitions to open the liquidation phase, despite requests from the creditor to do so.

- If the approved or modified arrangement is breached within two years from the announcement of the state of emergency, loans or other business financing commitments in the debtor's favour, from any third-party including parties especially related to the insolvent debtor, will be classified as claims against the insolvency estate.
- With respect to refinancing agreements, in the event that debtor has such an agreement approved by the courts, they are granted one year from the declaration of the state of emergency to notify the court that they have initiated or plan to initiate negotiations with the creditors to modify the current refinancing agreement or reach a new one.
- Within the seven months following the declaration of the state of emergency, no claims will be admitted for processing from creditors alleging non-compliance with the refinancing agreement. In the event that a creditor submits a claim alleging non-compliance, it must do so in accordance with the provisions of Article 10.2 of Royal Decree-Law 16/2020, of 28th April.
- Until 31st December 2020, debtors in a situation of insolvency are not under obligation to apply for the declaration of bankruptcy, regardless of whether or not they have notified the competent court that they meet the criteria specified in Article 5 bis of the Insolvency Act. Until 31st December, no applications for necessary insolvency proceedings will be admitted. During this period, priority will be given to voluntary insolvency proceedings over necessary insolvency proceedings, even if the application for the latter was made first.
- In the event that, before 30th September, a debtor notifies the court of the initiation of negotiations to reach a refinancing agreement or equivalent situation, they will be subject to the general regime established by the Insolvency Act.
- Loans granted to the debtor since the declaration of the state of emergency by persons especially related to them shall be considered ordinary claims, providing the insolvency proceedings are declared in the two years following the state of emergency.
- With respect to the obligation of liquidation for capital companies, in the 2020 financial year, losses that reduce the net assets to less than half the share capital shall not be taken into consideration. This exception does not extend to the 2021 financial year.

04 THE JUSTICE REACTIVATION PLAN

On 29th April, the Official State Gazette published Royal Decree-Law 16/2020, of 28th April, on procedural and organizational measures to tackle Covid-19 connected to the administration of justice.

The decree is intended to lay the groundwork for the Justice system returning to its ordinary activity, introducing measures designed to facilitate an effective solution to the accumulation of proceedings suspended as a consequence of the declaration of the state of emergency, as well as tackling the probable increase in such proceedings due to the litigation arising from the health and economic crisis caused by the pandemic. In particular, the most important measures stipulated by the Royal Decree-Law are as follow:

1. Urgent procedural measures

On an exceptional basis, the days from 11th to 31st August 2020 have partially been declared working days to conduct judicial activities which, furthermore, have been declared urgent.

- All procedural deadlines that were suspended as a result of the declaration of the state of emergency will resume from the start of the period. The first day for calculating a time period will be the working day following the day on which suspension on procedural time periods is lifted,
- A special summary proceeding is introduced in family cases for the resolution of issues directly resulting from the health crisis (re-establishing visiting or shared custody arrangements, reviewing definitive measures, maintenance payments, etc.).
- Contesting Temporary Redundancy Schemes will be dealt with as a collective grievance, expanding the list of parties entitled to bring such a collective grievance.
- Certain proceedings will be given priority and fast-tracked until 31st December 2020. These include:
  - Non-contentious proceedings in which measures are adopted for the protection of minors.
  - Civil procedures related to rent and mortgage moratoria.
  - Insolvency proceedings of debtors who are not entrepreneurs.
  - Contentious-administrative proceedings, such as procedures before the Public Administration that deal with the denial of aid and measures intended to alleviate the economic effects of Covid-19.
  - Social jurisdiction proceedings, such as procedures regarding dismissal or the termination of employment contracts, contesting Temporary Redundancy Schemes or in relation to working from home or adapting working conditions.

2. Organizational and technological measures

- Throughout the period of the state of emergency and up to three months afterwards, on a priority basis, trials, appearances, statements and hearings will be held electronically, except for criminal proceedings regarding serious crimes, when the plaintiff must be present.
- Throughout the period of the state of emergency and up to three months after it finishes, the judicial body may restrict public access to the court.
- Throughout the same period, it will be permitted for medical forensic reports to be based solely on the medical documentary evidence received.
- During the same period, lawyers are not required to wear gowns at public hearings.
- Public enquiries may be handled by telephone or e-mail, except in cases in which attending the court in person is essential.
- Judiciary bodies may be created exclusively for hearings related to matters arising from Covid-19.
- Trainee lawyers are allowed to perform substitution or support duties.
- The working day of Justice Administration staff is to be divided into morning and afternoon shifts.

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05 THE CAS RULES THAT RIVER PLATE BEARS OBJECTIVE RESPONSIBILITY FOR ITS FANS ATTACKING THE BUS OF BOCA JUNIORS

On 4th February, the Court of Arbitration for Sport (CAS) issued its arbitral award in CAS 2018/A/6040 Club Atlético Boca Juniors v. CONMEBOL & Club Atlético River Plate, with the CAS partially upholding the appeal filed by Boca Juniors, which was represented in the proceedings by Lucas Ferrer, Director of our firm's Sports Law Department, against CONMEBOL's Appeals Chamber's Decision of 6th December 2018, which ruled that River Plate bore no objective responsibility for the attack carried out by its fans against the bus of Boca Juniors on its arrival to the Antonio Vespucio Liberti Stadium (also known as the Monumental Stadium) on 24th November 2018.

The bus attack led to the suspension of the return match of the Copa Libertadores tournament between River Plate and Boca Juniors. As a result, the CAS overturned the decision issued by CONMEBOL and ruled that River Plate must be considered objectively responsible for the bus attack in the vicinity of the Monumental Stadium. Consequently, it decided to sanction River Plate with two matches played behind closed doors.

06 CODE OF GOOD PRACTICE IN SPORTS ARBITRATION OF THE CLUB ESPAÑOL DEL ARBITRAJE

The President of our firm, José Juan Pintó Sala, the partners Jordi López and Yago Vázquez, and associate Luis Torres have been appointed as members of the Working Group responsible for drafting the Code of Good Practice in Sports Arbitration of the Spanish Arbitration Club over the coming months, focusing particularly on the sections on the "Arbitration Process" (co-chaired by José Juan Pintó) and "Recognition and Execution of Arbitral Awards in Sports-Related Matters".

Various Spanish and international firms specializing in sports arbitration are taking part in the development of the Code, with the aim of creating a useful procedural tool for agents involved in sports-related disputes.

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07 FIFA ANNOUNCES A SET OF GUIDELINES TO TACKLE THE LEGAL CONSEQUENCES OF COVID-19

On 7th April, FIFA published its Circular nº 1714, which included a number of guidelines designed to attempt to alleviate the effects of Covid-19 on football at a global level. The key measures adopted by FIFA and specified in the Circular include: (1) With respect to contracts that finish at the end of the current season, FIFA proposed the contracts are extended until the date on which the season affected by Covid-19 actually ends. Likewise, it suggests the same measure be taken in relation to contracts starting at the beginning of next season, whereby the effective date of such contracts is postponed to the actual start date of the season; (2) In relation to employment contracts that cannot be performed as the parties originally anticipated, clubs and players are advised to work together to reach agreements and find solutions during the period in which football activity is suspended, within the legal framework of each country; (3) Moreover, FIFA states that it will be flexible and allow the deadlines for transfer windows to be postponed, whereby each association can reschedule the deadline to a date between the end of the current season and start of the nest; (4) Furthermore, FIFA has postponed the entry into force of the new regulations restricting player loans, which was scheduled to come into effect on 1st July; (5) Lastly, without exception, the enforceability of FIFA's decisions is maintained.