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ON 23rd AUGUST, OUR DEAR FOUNDING PARTNER, DR. JOSÉ JUAN PINTÓ RUIZ, PASSED AWAY. TO SHOW OUR ADMIRATION, IN THIS NEWSLETTER, WE WANTED TO SHARE WITH YOU THE UNEDITED TRANSCRIPT OF THE SPEECH HE GAVE WHEN HE WAS ADMITTED INTO THE REAL ACADEMIA DE JURISPRUDENCIA Y LEGISLACIÓN (ROYAL ACADEMY OF JURISPRUDENCE AND LEGISLATION). THE SPEECH HIGHLIGHTS HIS INTEREST IN THE SOURCES OF LAW AND HOW THEY SHAPE THE WAY JURISTS THINK.

The word *Volksgeist* ("spirit of the people") was not coined by SAVIGNY, but rather by his keenest disciple, PUCHTA. While SAVIGNY referred (citing it as being a revelatory element of Law) to social conscience united with knowledge or science, identifying it as social wisdom, PUCHTA, who as well as being a jurist was also a philosopher and disciple of HEGEL and FICHTE, saw something in the production of Law that transcended beyond science. It was not just wisdom, knowledge or awareness of something, but it was also heart; heart and mind as an expression of humanity or, in other words, the spirit of the people (*Volksgeist*), which is an idea or refinement that, as I said, came from PUCHTA, who adored and worked with SAVIGNY so much.

The traditional Catalan school of thought, which could also be attributed to SAVIGNY, embraces the same historical doctrine, but enlightened by the idea of his disciple PUCHTA, and with the addendum that the spirit of the people was interpreted by jurists (as SAVIGNY was). However, the Catalan school adds a note, which it traditionally practises: just think of inheritance, the pact of the family economic unit, the use of old legal instruments for a different modern purpose, etc. The note it adds is that the jurists are the interpreters, but only practical jurists (judges, lawyers, notaries).

It is not a matter of it rejecting professorial or conceptualist law, but rather considering it insufficient. While (FIGA) may organize and perfect empirical observation, it cannot replace the practical vision, which cannot be relinquished (take for example, *cláusula rebus sic stantibus*, reverse accession, etc., as corrections that only experience showed us were necessary).

The first paragraph was shown to me by MARTÍNEZ SARRIÓN. And it convinced me.

José J. Pintó Ruiz.

Barcelona, 21st November 2001.

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01 COMPILATION OF FISCAL CASE-LAW AND JURISPRUDENCE

INHERITANCE AND GIFT TAX: THE CALCULATION OF THE 3 % OF PERSONAL PROPERTY WILL NO LONGER INCLUDE COMPANY SHARES OR OTHER NON-PERFORMING ASSETS

Until now, under the Inheritance and Gift Tax legislation, the calculation of personal property was applied to 3 % of all assets. However, the recent Supreme Court rulings of 10th and 19th March have established case-law whereby the calculation of the value of personal property now excludes the following property and rights: real estate, income-generating assets in accordance with the terms specified by the Court's jurisprudence, assets involved in professional or economic activities and, in particular, money, and commercial and transferable securities.

FORM 720 FOR ASSETS ABROAD: NO CRIMINAL SANCTIONS CAN BE IMPOSED FOR ASSETS IN FINANCIAL YEARS OUTSIDE THE STATUTE OF LIMITATIONS

In its recent ruling on 21st September, the National Supreme Court established that the regulations stipulating the consequences for non-compliance with the obligation to report assets abroad using Form 720 cannot be applied retroactively in terms of imposing sanctions and, therefore, cannot be prosecuted criminally.
Therefore, in the event that money was deposited in an undeclared bank account abroad within a financial year that is no longer within the statute of limitations for Personal Income Tax purposes, the new regulation does not require these "undeclared earnings" to be allocated to the "last period within the statute of limitations". In other words, the new regulation approved in 2012 could not amend the rule of non-retroactivity of the sanctioning regulations. The ruling established that nobody can be convicted or sanctioned for their actions or omissions that did not constitute an offence under the legislation applicable when they took place.

THE SUPREME COURT RULES THAT PENALTY PROCEEDINGS CAN BE INITIATED WITHOUT HAVING GIVEN NOTICE OF SETTLEMENT, BUT WITHIN LIMITS

In its ruling of 23rd July, the Supreme Court ruled that the Tax Authority can initiate penalty proceedings even if they have not yet given notice of the settlement corresponding to the regularization of the inspection undertaken.
However, in the event of initiating proceedings with a proposal for sanctions before giving notice of the settlement, a new sanction proposal must be notified once the liquation that regularized the taxpayer's tax situation has been notified because, otherwise, the prosecution and defence's right to be informed will be breached.

LIMITATIONS TO THE TAX AUTHORITY'S CLASSIFICATION POWERS

The Tax Authority has based its settlements in accordance with Article 13 of the General Taxation Act by classifying or reclassifying the events based on various entities or institutions permitted by the Act: Article 13, in relation to "classification" Article 15, with respect to "conflict in the application of tax provisions" (referred to as "evasion of the law" in the previous regulation); and Article 16, on "simulation".
In its ruling of 2nd July, the Supreme Court established that, once regularization had been initiated based on one of these entities, the Tax Authority cannot later reclassify it within the scope of another entity. As such, for example, if the event was initially classified as a "simulation", it cannot later be reclassified as a "conflict".

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02 INVALIDITY OF CREDIT OPERATIONS USING CREDIT CARDS DUE TO ABUSIVE INTEREST RATES

In its ruling 149/2020 of 26th February, the Civil Chamber of the Supreme Court established that, in order to invalidate credit operations using credit cards due to usurious interest rates, the compensatory interest rate set when the contract was signed must be significantly higher than the average interest rate for this kind of credit operations at the time.

It the case heard, the Supreme Court upheld the ruling of the Santander Provincial Court, which declared the credit card contract signed between the banking institution and the client in May 2012 invalid based on the fact that the interest rate was abusive, with an APR of 26.82 % when, according to the official statistics of the Bank of Spain, the normal average interest rates for credit operations using credit cards when the contract was signed was around 20 %. Therefore, the Supreme Court ruled that this difference proves the existence of an interest rate far higher than the average rate for this kind of loans.

03 REFORM OF THE GOOD GOVERNANCE CODE FOR LISTED COMPANIES

On 26th July, the Comisión Nacional del Mercado de Valores (CNMV, the National Securities Market Commission) announced its approval of the reform of the Good Governance Code for Listed Companies, that had been in force since 2015. The CNMV has updated the Code five years after its original approval, as it announced in its Activity Plan 2019 and after a public consultation phase in which 40 papers were received from firms and stakeholders. The new Code updates and amends a total of 20 of the 64 existing recommendations, with the following four key pillars underpinning the reform:

- Promoting the presence of women on boards of directors, increasing the percentage of female board members that companies should have to 30 % to 40 % by the end of 2022. However, before this deadline, the percentage must not be lower than 30 %. It also urges listed companies to strive to increase the number of female directors.
- Greater importance of non-financial information and sustainability, with a particular focus on environmental, social and corporate governance aspects.
- Clarification of aspects related to the remuneration of Board members.
- Reinforcement of transparency criteria in terms of the resignation or dismal of Board Members by agreement of the Board.
- Greater attention to reputational risk and, in general, non-financial risks and certain control measures to prevent potential irregular practices.

Based on the partial revision of the Good Governance Code for Listed Companies, the CNMV has adapted the templates for both the Annual Corporate Governance Report and the Annual Remuneration Report (Circular 1/2020 of the CNMV, of the 6th October, which modifies Circular 5/2013, of 12th June, in relation to the Annual Corporate Governance Report, and Circular 4/2013, of 12th June, in relation to the Annual Remuneration Report).

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04 PINTÓ RUIZ & DEL VALLE HELP DRAFT THE CODE OF GOOD PRACTICE IN SPORT ARBITRATION

Together with over 60 acclaimed experts, our firm is taking an active role in drafting the Code of Good Practice in Sport Arbitration, a project coordinated by the Spanish Arbitration Club. The aim of the Code is for all participants in the arbitration process to abide by increasingly demanding standards of independence, impartiality, transparency and professionalism. The Code of Good Practice in Sport Arbitration will set out the recommendations that, in the opinion of the group of experts and having consulted with various bodies and other leading professionals in the sector, should be upheld by all the parties involved.

The objective is to raise standards in order to consolidate the growth of sport arbitration. Formed by different specialists in the field, the expert groups currently working on drafting the Code include our President, José Juan Pintó Sala; our Partner and Director, Jordi López; our Partner Yago Vázquez; and our Associate Luis Torres. The Code of Good Practice in Sport Arbitration is scheduled to be presented in mid-2021.

05 FIFA TEMPORARILY AMENDS ITS REGULATIONS IN RESPONSE TO THE IMPACT OF COVID-19 ON WORLD FOOTBALL

On 11th June, in Circular nº 1720, FIFA expanded the guidelines published in Circular 1714 on 7th April 2020 with the aim of alleviating the effects of Covid-19 on world football and tackling its legal consequences. Moreover, FIFA also included a series of amendments to the Regulations on the Status and Transfer of Players (hereinafter, RSTP) and the Rules Governing FIFA's Players' Status Committee and Dispute Resolution Chamber (hereinafter, Procedural Rules). The aforementioned circular temporarily amends the following provisions of its regulations: Article 5(4) of the RSTP, which authorizes players to play in official matches for three clubs during the same season; Article 6(1) of the RSTP, under which unsigned players can be registered outside the registration period, regardless of the date of expiry or termination of their contract; Article 6(2) and Article 5.1 Annex 3 of the RSTP, which allows associations to modify the start and end of the registration periods in order to adapt them to their new calendars; Article 16 of the Procedural Rules, entitling the parties to request deadline extensions of up to 15 days; and lastly, Articles 17 and 18 of the Procedural Rules, which establish that any claim lodged to FIFA between 10th June and 31st December 2020 will be completely free of charge.

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06 FIFA SOIRÉES

On 2nd July, our President, José Juan Pintó Sala, was invited to an internal FIFA event to commemorate the first appeal heard by the Court of Arbitration for Sport (CAS), in relation to a FIFA decision, in which our President was an arbitrator.

Specifically, the case was heard by arbitration panel consisting of José Juan Pintó Sala junto and the arbitrators Margarita Echevarría, from Costa Rica, and Michele Bernasconi, from Switzerland. The arbitral award at the end of the case was issued on 11th November 2003.

07 PLG INTERNATIONAL LAWYERS CHOOSE PINTÓ RUIZ & DEL VALLE AS THE FIRM OF THE YEAR 2020 IN LITIGATION

PLG International Lawyers is an international law group in which over 1,100 lawyers from 27 different firms work, with offices in more than 50 cities in 32 countries across 4 continents. As a founding firm of the group and therefore a member since the very beginning, we are very proud to see the group grow and to form part of the great PLG family. Moreover, this year, we are very proud to be chosen as the firm of the year in litigation. It is a real honour for us to be chosen by our colleagues.