

EMPLOYMENT

EMPLOYMENT REFORM

The employment reform was passed on 16 June, through Royal Decree-Law 10/2010, comprising urgent measures for reforms to the job market. The most relevant modifications introduced by this reform are as follows:

1. Open-ended Employment Creation Contract

The workers' groups who may enter into this contract type have been extended.

The compensation which applies to these contracts is 33 days per year of service, with a maximum of 24 monthly payments in the event of unfair objective termination.

2. Temporary Contracts

For temporary contracts, a maximum duration of 3 years for the specific works and services contract has been established, which can be extended for a further 12 months by collective agreement.

Workers who have been hired for more than 24 months within a period of 30 months by means of 2 or more temporary contracts with the same company or group of companies will become full-time.

We should add that compensation due to the end of a temporary contract will gradually change from the current 8 days per year of service to 12 days on 01/01/2015.

3. Training Contracts

These contracts will include a 100% tax allowance; the maximum age (until 31/12/2011) will go from 21 to 25 years; remuneration, previously the Interprofessional Minimum Salary (SMI) proportional to the effective length of time worked during the lifetime of the contract, will now be, for the first year, the remuneration established by the collective agreement, proportional to the effective time worked and, in the second year, the remuneration established by the collective agreement, irrespective of the time spent on theoretical training; in addition, from now on, workers hired by means of a training contract will have their right to unemployment benefit recognised.

4. Allowances

Limits have been placed on the possibility of receiving allowances established for open-ended contracts, as when hiring young people aged between 16 and 30, women aged between 16 and 30, and the over-45s, the time during which they have to be registered as unemployed will change to 12 months and, in the first two cases, they are also required not to have completed compulsory education or hold any professional qualifications.

5. Objective Dismissal

Requirements for access to objective dismissal due to economic, technical, organisational and production reasons have been relaxed and the notice period required if the employment contract is terminated due to objective reasons has been changed from 30 to 15 days.

6. 8-day payment by the Wage Guarantee Fund (FOGASA)

The Wage Guarantee Fund will make a direct payment to the worker affected by an objective dismissal of a sum equivalent to 8 days' salary per year of service, providing that the contract was entered into after 18/06/2010 and that it was for longer than one year; it will cease to be effective once the Capitalisation Fund comes into operation for workers, which is scheduled for 01/01/2012.

There have also been modifications in terms of mobility and modifications to contract conditions and non-observance of agreement salary conditions.

INDUSTRIAL PROPERTY

AN UNEXPECTED RULING: TWO IDENTICAL TRADEMARKS CAN BE USED AT THE SAME TIME BY DIFFERENT ORGANISATIONS

The Civil Court of the Supreme Court has passed an unusual ruling (278/2010, of 13 May 2010) in the Trademark Law, through its endorsement of the coincidence of easily confused trademarks.

The controversial circumstances refer to a unique situation where the opposing parties are each the owners of a number of trademarks that are easily confused due to their distinctive signs and the products that these identify.

The special situation was created with the full awareness of both parties. By the defendant, because when it acquired its trademarks, it was fully aware that others were the property of the above owner, with no withdrawal or waiver of its use and operation; and by the claimant, because when it bought its trademarks from the Settlement Commission of the above holder, it too knew that the defendant was the owner of other trademarks and even tried to buy them.

The Court ruled out the existence of a fraudulent action or one undertaken in bad faith on any of these acquisitions, and thereby ratified the ruling of the Provincial Court of Barcelona, stating that "assumption of the situation of co-existence is inexcusably implicit in the acquisition," whereby the parties have to assume the legal consequences derived from their own actions.

CHAMBERS' AND PARTNERS

In **Cinco Días** and under the heading, "professional life" which lists "the highest profile Spanish lawyers", special mention is also made of the outstanding Pintó Ruiz & Del Valle lawyer **MR JORGE SÁNCHEZ RODRÍGUEZ** for his legal treatment of sport. We should stress that the acclaimed work of this professional, not only the advice he gives, but also his actions at the heart of the fight, deeply rooted in all things legal that he so skilfully dominates to perfection, thanks to his extensive knowledge, his outstanding ability to reason and his unstinting combative tenacity, is based on the four solid pillars that he dominates: Civil Law, Mercantile Law, Administrative Law and Procedural Law. Given this amazing and glowing knowledge at the crux of the legal fray and on a calm reflection of the spirit, it is easy to see why he so successfully dominates the area of Sport, on which these legal categories have an interdisciplinary effect (in an interrelated and intense way).

Mr José Juan Pintó Ruiz
Doctor at Law-Lawyer

Royal Decree 749/2010, of 7 June 2010, was published in the Official Gazette of the Spanish State of 8/6/2010, and states that it has a dual basic aim. On the one hand, to try and solve some of the problems caused by the impact of the financial crisis on the assets of collective investment institutions, and, on the other, to try and introduce improvements that will lead to greater flexibility regarding the activity of these investors, without a reduction in investor protection. As a result, the Royal Decree considers that an alternative to the definitive liquidation of a collective investment institution should be introduced, through the creation of special purpose compartments, known internationally as side pockets, where assets will be stored that have been affected by the exceptional situation that makes it difficult to evaluate them and reduces their liquidity, making it possible for the original collective investment institution or compartment to continue to manage as normal, while the special purpose collective investment institution or compartment is subject to a system that includes evaluation, liquidity and underwriting and disbursements that allows for an orderly liquidation of their assets. Amendments have also been introduced to the Collective Investment Institutions Regulations (Law 35/2003, of 4 November 2003), aimed at making the operational side to collective investment institutions more flexible, by adopting measures such as the following 1.- allowing operations with exchange-traded funds, more commonly known as ETF, in the form of variable capital investment companies; 2.- giving greater flexibility to the system of property collective investment institutions, including listed investment companies in the property market among the assets where their investments may appear; and 3.- providing greater flexibility for certain limits on investments that investment funds have to meet with aims of guaranteed profitability and an improved system for transparency regarding fees.

Finally, amendments to tax regulations have been introduced which exempt income derived from transfers or reimbursements of shares or representative interest of the capital or equity of listed investment funds or listed variable index capital investment companies from the obligation to make withholdings or deposits in an account.

SPORT

MR JOSÉ JUAN PINTÓ WAS ARBITRATOR OF THE AD HOC DIVISION FOR THE SOUTH AFRICA 2010 WORLD CUP

The Tribunal Arbitral du Sport (TAS) is the jurisdictional body responsible for reviewing appeals regarding rulings that FIFA may adopt as a consequence of disputes which may arise during the World Cup. Mr José Juan Pintó Sala, the chairman of our firm, was appointed, along with 20 other colleagues from a number of countries, as arbitrator of the AD HOC DIVISION for the FIFA 2010 World Cup held in South Africa.

An official inauguration ceremony was held at Pintó Ruiz & del Valle's Madrid office to present and celebrate the opening of its new headquarters on Calle Guadalquivir in Madrid's Viso district. The event was attended by the founder partners, Mr José Juan Pintó Ruiz and Mr Javier del Valle Sánchez, as well as the main partners, clients and friends of the firm who enjoyed the occasion to visit the new facilities and learn about the new projects at the practice. Mr Javier del Valle Sánchez, founder partner of the firm and Industrial Property expert, stated that "the inauguration of the new headquarters offers Ruiz & del Valle Madrid the opportunity to strengthen certain areas of the practice, enabling it to offer clients a multidisciplinary and high quality service that will help them generate value."

PANNONE LAW GROUP

A new meeting of the Board of Directors of the international PANNONE LAW GROUP (PLG) group of lawyers, of which our firm is a founder member, was held in Milan (Italy) on 20 June 2010. This Board Meeting was attended by Ms María del Mar Martín and Mr Alfonso Abadía Jordana on behalf of PINTO RUIZ & DEL VALLE. A new meeting of the Board of Directors of the young lawyers of the group (Young PLG) was held on 17 June 2010 and chaired by PINTÓ RUIZ & DEL VALLE lawyer Mr Yago Vázquez Moraga. A number of different work meetings by speciality were also held, running parallel to each Board of Directors meeting. On this occasion, these were attended in person by Ms M^{re} Jesús Yubero in the Employment Law group, Ms Ana Padial and Ms Eva Ochoa in the Intellectual Property group, Mr Yago Vázquez Moraga in the Arbitration group, Ms Cristina Abilleira and Mr Alfonso Abadía Jordana in the Mercantile Law, Mergers and Acquisitions group, the latter being appointed co-chairman of this working group at the meeting. Once again, there was distance participation at these meetings via video conference with Mr Antonio de Quesada and Ms Agnés Satorra in the Arbitration group and Mr Eduardo de Olano in the Mercantile Law, Mergers and Acquisitions group.

REX SPORT

The General Assembly of the Rex Sport Association held on Saturday 17 July in Shanghai was chaired by Mr José Juan Pintó, and attended by experts in sports law from many countries around the world. Guests at the Assembly included Ms Wei Hongxia, Director of the legal department of China's Legal Sports Administration, and Mr Wang Caixing, Head of Shanghai's Sports Department. The Assembly was organised by Boss & Young, a member of Rex Sport in Shanghai, and represented by its Chairman, Mr David Wu. Boss & Young is also a Chinese member of the international lawyers group Pannone Law Group, of which our firm Pintó Ruiz & Del Valle also forms part.

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