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MORTGAGE ENFORCEMENT

On 13 September, after studying a question posed by the Spanish Supreme Court to the Court of Justice of the European Union (CJEU) and four more similar cases, the Advocate General at the CJEU, Maciej Szpunar, came to the conclusion that early expiry clauses included in mortgage contracts that allow mortgage enforcement to be initiated in light of the existence of a single non-payment should be annulled as being abusive and may not be subsequently softened or amended. Now, the CJEU has to issue a final ruling in

the coming weeks after hearing the opinion of the Advocate General.

In the text, Szpunar proposes to the CJEU that, in its future ruling, it should declare that European legislation is opposed to a national jurisdictional body that has discerned the abusive nature of a clause that allows the early expiry of a mortgage agreement to be declared being able to maintain the partial validity of it through the removal of the cause that makes it abusive.

02

SECURITY OF NETWORK AND INFORMATION SYSTEMS: TRANSPOSITION OF DIRECTIVE (EU) 2016/1148

Through Royal Decree Law 12/2018, the Spanish government has agreed to transpose Directive (EU) 2016/1148 of the European Parliament and Council of 6 July 2016, concerning measures aimed at ensuring a high common level of security of network and information systems across the Union, known as the NIS Directive, and also as the SRI Directive, which was adopted in the European framework for the development and implementation of a cybersecurity strategy necessary for driving forward the Single Digital Market.

The Royal Decree Law consists of 42 articles, divided into seven titles, plus four additional provisions and another four final ones, and its aim is to regulate the security of the

network and information systems used for the provision of essential services and digital services, and to establish an incident notification system.

It is because of this that its scope of application is limited to the necessary services for the maintenance of the basic social functions and digital services provided by the essential service operators established in Spain, and those offered through a permanent establishment located in Spain by operators that are resident or domiciled in another member state and the service provided by any digital services providers that have their headquarters in Spain.

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CAS JURISDICTION CLAUSES IN FIFA AND UEFA STATUTES DO NOT CONSTITUTE AN ARBITRATION CLAUSE ACCORDING TO BELGIAN LAW

On 29 August, the Brussels Court of Appeal published its ruling declaring that according to Belgian law, the clauses submitting to the Court of Arbitration for Sport (CAS) contained both in the FIFA statutes and in the UEFA statutes, cannot be recognised as arbitration clauses in Belgium. The Circular informs members of the significant changes made in the section on contractual stability between professional footballers and clubs.

The court's decision is part of the legal battle begun in 2015 by Belgian club RFC Seraing and Doyen Sports due to the ban issued by FIFA on the use of investment funds (TPO), extending their claim to issues such as the legality of the UEFA Financial Fair Play Regulations and the legitimacy of the CAS as a body for appeals.

It is in relation to this last aspect on which the Court of Appeal has established that the arbitration system imposed by the clauses of sport federations breaches Article 1681 of the Belgian Code Judiciaire, which establishes that an arbitration agreement is one whereby the parties submit to arbitration a dispute between them with regard to a specific legal relationship. In light of this, the ruling of the Court of Appeal, against which an appeal may be lodged with the Belgian Court of Cassation, considers that the arbitration clauses of the FIFA and UEFA regulations make no reference to a specific legal relationship, but instead establish a general submission to the CAS, and can therefore not be recognised as arbitration clauses according to Belgian law.

04

“FOOTBALLERS’ CONTRACTS: MAKING THEM AND BREAKING THEM” – 6th AIAF CONGRESS IN LAUSANNE, AND “INTERNATIONAL SPORT ARBITRATION” – 7th CONFERENCE CAS & SAV/FSA IN LAUSANNE

The International Association of Football Lawyers (AIAF) chose Lausanne this year, on 18 and 19 September, to celebrate the 6th edition of its Annual Congress, where the main topic of discussion were professional footballers' contracts. The Congress tackled this issue, which is of crucial importance in football today. Specifically, it looked at such aspects as pre-contracts, negotiating contract terms, and how to terminate them and the consequences of this. Lucas Ferrer (Director of the Sports Law Department at Pintó Ruiz & Del Valle) submitted pre-contracts, minors' contracts and options for future transfers to debate. Sharing the

round table with Lucas Ferrer were Daniel Cravo (lawyer – Brazil), Ricardo de Buen (lawyer and CAS arbitrator – Mexico) and Dennis Koolard (lawyer – Netherlands).

After the Congress, 21 and 22 September saw the 7th edition of the CAS “International Sport Arbitration” Seminar, which was also held in Lausanne. In the Seminar, the CAS debated current issues in the field of international sport arbitration, including the limits of doping sanctions, the latest developments in the FIFA Regulations on the Status and Transfer of Players, and the legality of regulations adopted by sports federations.

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05 PLG YOUNG LAWYERS SEMINAR

Between 17 and 21 September, both inclusive, under the chairmanship of José Juan Pintó Sala, a seminar was held in Lisbon of the PLG international lawyers group, aimed at recognising the young lawyers in the group.

The seminar included a class given by partner and member of the Board of Directors of our firm, Mr Yago Vázquez.